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# STATUTES (LAWS)

# TITLE 37, CHAPTER 42
# AUCTIONEER LICENSING BOARD

## PART I. GENERALLY

**LA RS 37:3101. Declaration of purpose**

A. The Legislature of Louisiana declares that requiring the licensure of qualified auctioneers and auction houses is in the best interest of the citizens of this state.

B. The purpose of this Chapter is to require qualifying criteria in a presently unregulated occupational field in which unqualified, irresponsible, or unscrupulous individuals may injure the public. The requirements of this Chapter shall contribute to the safety, health, and property of the people of Louisiana in the transfer of property by auction.

**§3102. Short title**

This Act shall be known as and may be cited as the "Auctioneers Licensing Law."

**§3103. Definitions of terms**

A. As used in this Chapter, these terms shall have the definitions ascribed to them, unless the context indicates otherwise:

(1) "Applicant" means any person applying for a license under this Chapter.

(2) "Apprentice" means any person who is employed, either directly or indirectly, by an auctioneer to deal or engage in auctions or who is studying to become an auctioneer.

(3)(a) "Auction" means the sale by competitive bid by means of a verbal exchange, regular mail, telecommunications, or the internet of any property which sale consists of a series of invitations for offers to purchase property made by the auctioneer or offers to purchase made by members of the audience culminating in the acceptance by the auctioneer of the highest or most favorable bid.

(b) "Auction" includes but is not limited to all of the following:

(i) Live auctions.

(ii) Online auctions.

(iii) Real-time auctions.

(iv) Extended auctions.

(v) Any similar events as may be devised with the development of technology.

(vi) Any combination of the Items provided in this Subparagraph.

NOTE: Paragraph (4) eff. until Jan. 1, 2021. See Acts 2020, No. 306 and 327.

(4)(a) "Auction house", "auction company", and "auction business" are synonymous and interchangeable terms and mean any entity, whether a sole proprietorship, partnership, limited liability partnership, limited liability company, corporation, or any other legal entity defined by the board, which arranges, manages, sponsors, advertises, or carries out two or more auctions within any twelve-month period and which regularly represents that goods are sold at auction. The terms include entities defined in this Subparagraph which conduct business on an internet-based platform.

(b) A public livestock auction business which exclusively auctions livestock and which is regulated as a livestock market by the Louisiana Board of Animal Health pursuant to R.S. 3:2091 et seq. shall not be defined as an auction business for purposes of this Chapter.

(5) "Auctioneer" means any person who, for another, with or without receiving or collecting a fee, commission, or other valuable consideration, sells or offers to sell property at an auction.

(6) "Board" means the Louisiana Auctioneers Licensing Board created in this Chapter.

(7) "Department" means the office of the governor.

(8) "Internet-based platform" means a company that provides a forum through the internet for a person to sell the person's immovable or movable property via the submission of silent bids using a computer or other electronic device.

(9) "Licensee" means any person holding a license under this Chapter.

(10) "Person" means an individual, partnership, company, corporation, association, or group however organized.

(11) "Property" means any property, tangible and intangible, real, personal, or mixed.

(12) "Secured party" means a person holding a security interest.

B. The board may define terms in the regulation of licensing of auctioneers only pursuant to and consistent with the provisions of this Chapter.

**§3104. Exclusions**

The provisions of this Chapter shall not apply to the following:

(1) A sale conducted by order of any United States Court pursuant to Title 11 of the United States Code relating to bankruptcy.

(2) A sale conducted by an employee of the United States or the state of Louisiana or its political subdivisions in the course and scope of his employment.

(3) A sale conducted by a charitable or nonprofit organization.

(4) A sale conducted by an individual of his own property if such individual is not engaged in the business of selling such property as an auctioneer on a regular basis.

(5) A foreclosure sale of realty conducted personally by a trustee under a recorded deed of trust.

(6) A foreclosure sale of personal property conducted personally by the mortgagee or other secured party or an employee of such mortgagee or other secured party acting in the course and scope of his employment under a recorded chattel mortgage or other security or agreement.

(7) A sale conducted by sealed bid.

**§3105. Auction regulations generally**

A. No person, firm, auction house, or corporation, or combination thereof shall sell, dispose of, or offer for sale at public auction or cause or permit to be sold, disposed of, or offered for sale at any public auction any property of whatsoever nature unless said auction is conducted by a duly licensed auctioneer and if such sale takes place at an auction house, by a duly licensed auction house, if the owner of the auction house is not a licensed auctioneer.

B. Notwithstanding any other provision of law to the contrary, a person, firm or corporation, or combination thereof, may sell, dispose of, or offer for sale at any public auction any property of whatever nature without the necessity of any other license, provided that the auction is conducted by a person who is a duly licensed Louisiana auctioneer or Louisiana livestock auctioneer or Louisiana apprentice auctioneer working under the supervision of a Louisiana licensed auctioneer, whichever is applicable, or otherwise meets the exceptions in accordance with the provisions of this Chapter.

C. Auction houses which conduct business solely through internet-based platforms are not required to employ a licensed auctioneer to call the auction. Any live, real-time, or simulcast auction is required to employ a licensed auctioneer to call the live, real-time, or simulcast auction.

D. Auction houses which conduct any auction through an internet-based platform are responsible for the actions of that platform and its employees or agents in the conduct of that auction.

**§3106. Rules and regulations adoption; procedure; oaths**

A. The board may make reasonable rules and regulations relating to the form and manner of filing applications for licenses; the issuance, denial, suspension, and revocation of licenses; and the conduct of hearings consistent with the provisions of the Administrative Procedure Act, R.S. 49:951 et seq.

B. The board or other person authorized by the board may administer oaths and hear testimony in matters relating to the duties imposed on the board pursuant to this Section.

**§3107. Complaints; penalties**

A. The board may upon its own initiative and shall upon the written complaint of any person investigate alleged violations of this Chapter by any licensed or unlicensed auctioneer, auction house, any applicant, or any apprentice auctioneer or applicant.

B. Whoever violates any provision of this Chapter shall be subject to the penalties provided in R.S. 37:3123.

## PART II. LICENSING OF AUCTIONEERS AND AUCTION BUSINESSES

### §3111. Board creation; qualification; domicile; term of office; confirmation; oath of office; compensation

A. The Louisiana Auctioneers Licensing Board is hereby created as an agency of the state government in the office of the governor. No member of the board shall be held liable as an individual in any suit against the board.

B. The board shall be composed of seven persons, five of whom shall be auctioneers; one selected from each public service commission district, and two of whom shall be consumers from the public at large, all appointed by the governor. Each appointee shall be a citizen of the United States of America, a resident of Louisiana, and at least thirty years of age. The governor shall designate one member of the board to serve as chairman. The board shall elect a vice chairman annually by majority vote of the total membership of the board.

C. The board shall be domiciled in Baton Rouge, but shall be authorized to meet elsewhere in the state.

D. Each appointed member shall serve at the pleasure of the governor for a term concurrent to the term of office of the governor appointing him, except that each member shall serve until his successor has been appointed and begins serving. Each appointment by the governor shall be submitted to the Senate for confirmation. In the event of the death, resignation, or disability of a member of the board, the governor shall fill the vacancy by appointing a qualified person for the remainder of the unexpired term.

E. Each member of the board shall receive a certificate of appointment from the governor, and before beginning his term of office, shall file with the secretary of state his written oath or affirmation for faithful discharge of his official duty.

F. Members of the board may receive a per diem or compensation when actually attending a meeting of the board or any of its committees and for the time spent on behalf of the board on official business. Additionally, members may be reimbursed for actual and necessary travel, incidental, and clerical expenses incurred in carrying out the provisions of this Chapter when and if funds are available from the board's funds.

### §3112. Powers, duties, authorities, and responsibilities; meeting, quorum

A. The board shall perform the following duties:

(1) Examine each applicant desiring to be licensed as an auctioneer in the state of Louisiana.

(2) Administer a written examination for licensing at least four times each year in the city of Baton Rouge.

(3) Adopt rules and regulations to govern auctioneers and auction houses in the state of Louisiana.

(4) Issue, suspend, modify, or revoke licenses to do business in the state of Louisiana.

(5) Report to the attorney general of the state of Louisiana all persons violating the provisions of this Chapter.

(6) Repealed by Acts 1997, No. 923, §2.

(7) Adopt its official seal.

(8) Furnish, upon request, a copy of Louisiana auction laws and also an accurate list of those states having reciprocity with Louisiana.

B. The board is authorized to and shall do the following:

(1)(a) Adopt and enforce rules and regulations, bylaws, and rules of professional conduct as the board may deem necessary and proper to regulate auctions and auction houses under its jurisdiction in the state of Louisiana.

(b) To provide for the efficient operation of the board; and

(c) Otherwise to discharge its duties and powers under this Chapter.

(2) Repealed by Acts 2009, No. 411, §1.

(3) Authorize any member of the board to make any affidavit necessary to the issuance of any injunction of other legal process authorized under this Chapter or under the rules and regulations of the board.

(4) Authorize and issue subpoenas to require attendance and testimony and the production of documents for the purpose of enforcing the laws relative to auctions and securing evidence of violations thereof.

(5) Maintain a current list of licensed auctioneers.

(6) Except for the position of chairman, select its officers annually.

C. The board is authorized and may do the following:

(1) Appoint a qualified executive secretary.

(2) Employ clerical assistance necessary to carry out the administrative work of the board.

(3) Employ legal counsel to carry out the provisions of this Chapter, provided that the fees of such counsel and the costs of all proceedings, except criminal prosecutions, are paid by the board from its own funds.

(4) Incur all necessary and proper expenses.

(5) Select and appoint investigators to assist the board in investigating complaints filed against any licensed auctioneer. Such investigators may serve subpoenas, gather data, and investigate complaints in the scope and manner and within the authority prescribed by the board.

D. The legal counsel of the board, or in his absence any other member of the board, may administer oaths in the taking of testimony upon any matter appertaining to the duties and powers of the board.

E. The board shall meet bimonthly at regular meetings each year. A special meeting may be held at such time and place as specified by the executive secretary on call of the chairman or four members. The executive secretary shall give written notice of all meetings to the members of the board and the interested public.

F. Four members of the board constitute a quorum for all purposes including the granting or issuance of licenses and the rulemaking and adjudicative functions of the board.

**§3113. Qualifications of applicants**

A. The board shall base determination of satisfactory minimum qualifications for licensure as an auctioneer on whether the applicant:

(1) Is of good moral character.

(2) Is a citizen of the United States or a legal resident of the state of Louisiana.

(3) Is at least eighteen years of age.

(4) Has completed one of the following:

(a) A series of studies at a school of auctioneering licensed or approved by the board.

(b) An apprenticeship of one year working with and under an auctioneer duly licensed in the state of Louisiana.

B. The board shall base determination of satisfactory minimum qualifications for licensure of an entity as an auction business on the following requirements:

(1) That the entity employs or will employ an auctioneer licensed pursuant to this Chapter to conduct auctions in this state.

(2) If the entity is a foreign corporation, partnership, or limited liability company, that the entity is authorized to do business in this state by and is registered with the secretary of state pursuant to Title 12 of the Louisiana Revised Statutes of 1950.

(3) The applicant for licensure, excluding those who conduct wholesale motor vehicle auctions in compliance with R.S. 32:794, shall designate a qualifying party who shall be the legal representative for the auction business relative to the provisions of this Chapter. The board may deny approval of the qualifying party for good cause, which may include the ability of the proposed principal owner or owners, principal shareholder or shareholders, or qualifying party to engage in the auction business as demonstrated by his prior auction business experience. Evidence which may be considered by the board shall be limited to any legal proceedings against the qualifying party or businesses where the qualifying party was in a position of control at the time a problem arose and the ultimate disposition of such proceedings, any financial history of bankruptcies, unpaid judgments, insolvencies, or any similar evidence. When the qualifying party terminates employment with the licensee, the board shall be notified in writing within thirty days of the 20 disassociation, and another qualifying party shall qualify within sixty days. The qualifying party or parties are any individual licensed as an auctioneer pursuant to the requirements in this Chapter and are one or more of the following:

(a) An applicant sole proprietor or spouse of an applicant sole proprietor.

(b) Any employee of an applicant who has been in full-time employment for one hundred twenty consecutive days immediately preceding the application. The employee may be allowed to be the qualifying party for the licensed company and related entities.

(c) Any stockholder, officer, or director of an applicant corporation.

(d) Any partner of an applicant partnership.

(e) Any member or manager of an applicant limited liability company.

(4) If the entity intends to conduct auctions wherein vehicles will be auctioned as defined by R.S. 32:1, the entity shall hold a valid dealer license pursuant to R.S. 32:1254 unless a valid dealer license is not required by the regulating agency.

C. An applicant for licensure as an auctioneer shall fill out and file with the board an application form provided by the board. The form shall require relevant information about the applicant's character, knowledge, and experience in application of that knowledge. Among the data required on the application form, the applicant shall submit the following information:

(1) Educational background.

(2) Previous occupational experience in the auction business.

(3) Three references, including their business addresses, who attest to the applicant's reputation and adherence to ethical standards.

D.(1) An applicant for licensure of an entity as an auction business shall submit the following information on an application form designated by the board:

(a) The name of each owner of the entity and the length of time each such person has been an owner.

(b) Each business address of the entity.

(c) Each auctioneer licensed by the date of application who has been employed by the business for more than one auction in the previous calendar year.

(d) The nature of the business and the product sought to be sold.

(e) Two references who shall be auctioneers currently licensed in this state in good standing with the board.

(f) A copy of the auctioneer license of the qualifying party.

(g) A copy of the dealer license for those entities conducting auctions of vehicles if such license is required.

(2) An auction business may operate at more than one location; however, it shall only operate under the name on its license issued by the board.

E. If, in the opinion of the board, the applicant provides inadequate information to allow the board to ascertain whether the applicant satisfies the qualifications for licensure, the applicant shall be required to provide additional information for purposes of the application or may be required to present himself for an interview for this purpose.

**§3114. Examination; failure; passage; hearing; prior qualification**

A. The board shall determine the scope, form, and content of the examinations for licensure which shall be written and shall include questions on Louisiana auction law and sound business practices.

B. The board shall issue a numbered license to an applicant who meets the requirements of this Chapter, passes satisfactorily the examination administered by the board, and pays the fee to be a licensed auctioneer.

C. An applicant failing in an examination may be examined again upon filing a new application and the payment of the reexamination fee fixed by this Chapter.

D. The board within ten days and in writing shall notify any applicant who is denied licensing of the reason therefor. Within thirty days after receipt of notice, such applicant may make written request to the board for a hearing which, if granted, shall be conducted under the Administrative Procedure Act.

**§3115. Renewal of license, certificate; penalty**

A.(1) Each original license issued by the board shall be valid throughout this state from the date of issuance until the last day of December next succeeding the date upon which said license was issued unless the license shall have been revoked or suspended for cause as provided in this Chapter.

(2) All bonds and licenses issued under the provisions of this Chapter shall expire on December thirty-first following the date of issuance and shall be nontransferable. Each renewal license shall be valid throughout this state from January first of each year to December thirty-first of each year. All applications for renewal of auctioneers' licenses shall be submitted to the board by November first of each year, and licenses shall be issued by January tenth of each year. If application for renewal of license has not been made, the license shall expire on December thirty-first and it shall be illegal for any person to represent himself and act as an

auctioneer thereafter. Any auctioneer who submits a renewal application after January first shall be subject to a late penalty of seventy-five dollars, which shall be paid to the Louisiana Auctioneers Licensing Board. Any auctioneer having a previous annual license shall be presumed to be a renewal applicant unless that auctioneer has allowed the license to lapse for more than one year from the date of renewal. If such license has lapsed for twelve continuous months or more, then the auctioneer shall be deemed unlicensed and shall only be licensed by completing the same requirements as a new applicant. This requirement may be waived and restoration of the license granted if, in the board's discretion, the circumstances surrounding the auctioneer's failure to renew timely so warrant.

(3) The board shall notify the auctioneer of the need for renewal at the latest known address at least sixty days in advance of the expiration and send such forms for renewal as required by law. The board shall require in such application, or otherwise, information relating to the following:

(a) The name of the applicant.

(b) The street address of applicant's principal place of business and each additional place of business.

(c) The type of business organization of applicant.

(d) The applicant's financial standing.

(e) The applicant's business integrity.

(f) Whether the applicant has an established place of business and is engaged in the pursuit, avocation, or business for which a license is applied for.

(g) Whether the applicant is able to properly conduct the business for which a license is applied for.

(4) All applications for renewal shall be accompanied by the appropriate fee or fees in accordance with the schedule as provided in this Chapter. In the event any application for renewal is denied and the license applied for is not issued, the initial license fee only shall be refunded.

B. The board shall issue the same number for the renewed license as that number issued for the original license.

**§3116. Fees**

A. Except as otherwise provided in Subsections B and C of this Section, the board may assess the following schedule of fees:

(1) Application fee - $75.00

(2) Examination fee - $75.00

(3) Reexamination fee - $50.00

(4) Initial license fee for an auctioneer - $150.00

(5) Annual license renewal fee for an auctioneer - $150.00

(6) Restoration fee for a license - $100.00

(7) Replacement fee for a lost, destroyed, or mutilated license - $25.00

(8) Delinquent renewal fee - $75.00

(9) Apprentice fee - $100.00

(10) Annual certification of a licensed auctioneering school or a school offering auctioneering courses - $150.00.

(11) Initial license fee for an auction business - $300.00.

(12) Annual license renewal fee for an auction business - $300.00.

B. The fee for initial licensure or annual renewal of licensure of a nonresident auctioneer licensed or to be licensed by reciprocity pursuant to R.S. 37:3117 shall be the greater of either:

(1) The sum of one hundred fifty dollars.

(2) The amount of such fee assessed an auctioneer licensed in Louisiana for licensure by reciprocity in the licensing jurisdiction of such nonresident auctioneer.

C. The fee for initial licensure or annual renewal of licensure of an auction business owned by a nonresident auctioneer shall be the greater of either:

(1) The sum of three hundred dollars.

(2) The amount of such fee assessed an auction business owned by a Louisiana auctioneer in the licensing jurisdiction of such nonresident auctioneer.

D. All fees shall be paid by certified check or money order made payable to the board and shall not be refundable.

**§3117. Reciprocity; licensure without examination**

A. A person holding a license to engage in auctions issued to him by a proper authority of a state, territory, or possession of the United States of America or the District of Columbia having licensing requirements comparable to Louisiana and who in the opinion of the board otherwise meets the requirements of this Chapter may upon application be licensed without further examination.

B. Nothing in this Section shall prevent the conduct of an auction in this state by a nonresident auctioneer from another licensing jurisdiction if such auctioneer is duly licensed by such other jurisdiction and the other jurisdiction through reciprocity permits a resident of this state who is an auctioneer duly licensed to conduct auctions in this state to conduct auctions in such other jurisdiction without being required to obtain a license in such other jurisdiction.

C. Notwithstanding any other provision of law to the contrary, no person duly licensed as an auctioneer in any other jurisdiction and temporarily present in this state shall conduct an auction in this state unless he acts in association with an auctioneer duly licensed in this state if the jurisdiction in which the nonresident auctioneer is licensed requires such an association with an auctioneer licensed in that jurisdiction before an auctioneer duly licensed in Louisiana may conduct an auction in that jurisdiction.

D. Every nonresident applicant for a license under this Chapter shall file with the board as part of the application for a license a written irrevocable consent that any cause of action growing out of any transaction subject to this Section may be commenced against the licensee in the proper court of any parish of this state in which the cause of action may arise or in which the plaintiff may reside by a service of process upon the board as the licensee's agent and stipulating and agreeing that such service of process shall be taken and held in all courts to be as valid and binding as if due service has been made upon the person according to the laws of this or any other state. Such instrument shall be in such form and supported by such additional information as the board may by rule require.

**§3118. Bond requirements**

A.(1) Each applicant for licensure as an auctioneer or apprentice auctioneer shall deliver to and deposit with the board at the time of application either the sum of ten thousand dollars in cash or a surety bond in the amount of ten thousand dollars. Each applicant for licensure as an auction business shall deliver to and deposit with the board at the time of application either the sum of twenty-five thousand dollars in cash or a surety bond in the amount of twenty-five thousand dollars. Such bond shall:

(a) Be executed by the applicant as principal and by a surety company qualified to do business in the state as a surety.

(b) Be in a form approved by the board.

(c) Be conditioned upon compliance by the applicant with the conditions of any written auctioneer's contract made by such applicant in connection with a sale or auction in which he is a party.

(d) Be conditioned upon the assurance that the applicant shall not violate any provision of this Chapter or state law in the conduct of the business for which he is licensed.

(e) Be made payable to the board for the use, benefit, and indemnity of any person who suffers any loss as a result of a violation of this Chapter and for the proper disposition of all funds, taxes, and registration fees.

(f) Be for the period of licensure on a calendar year basis.

(2) The bond shall be maintained throughout the period of licensure. If the bond is canceled for any reason, the license shall be revoked as of the date of cancellation unless a new bond is furnished prior to that date.

(3) A new bond or a proper continuation certificate shall be delivered to the board at the beginning of each period of licensure. However, the aggregate liability of the surety in any one year shall not exceed the sum of the bond.

B. The board may promulgate rules to require a cash deposit or surety bond not to exceed an amount equal to that as required by Paragraph 25 (A)(1) of this Section as a condition of reinstatement of a license revoked, canceled, suspended, or otherwise restricted pursuant to R.S. 37:3121.

C. The board may promulgate rules to require a cash deposit or surety bond not to exceed ten thousand dollars of a nonresident auctioneer either licensed in or conducting an auction in Louisiana under the reciprocity provisions of R.S. 37:3117 if a bond is required of a Louisiana auctioneer for licensure or the conduct of an auction in the licensing jurisdiction of such nonresident auctioneer.

D.(1) An auction business which is owned by a nonresident auctioneer and which receives its license through the reciprocity provision of R.S. 37:3117 shall, prior to being licensed by the board, post a surety bond in an amount which shall be the greater of either:

(a) Twenty-five thousand dollars.

(b) The amount of the bond required of an auction business owned by an auctioneer licensed in Louisiana in the licensing jurisdiction of such nonresident auctioneer.

(2) Such bond shall name the board as beneficiary.

**§3120. Adoption of rules**

The adoption of any rule or regulation, guideline, substantive procedure, or code of conduct shall be subject to the provisions of the Administrative Procedure Act.

**§3121. Causes for nonissuance, suspension, revocation, or restrictions; fines; reinstatement**

A. The board may refuse to issue or may suspend, revoke, or impose probationary or other restrictions on any license issued under this Chapter for any of the following causes:

(1) Conviction of a felony or entry of a plea of guilty or nolo contendere to a felony charge under the laws of the United States of America or of any state.

(2) Deceit or perjury in obtaining any certificate or license issued under this Chapter.

(3) Providing false testimony before the board.

(4) Efforts to deceive or defraud the public.

(5) Incompetency or gross negligence.

(6) Rendering, submitting, subscribing, or verifying false, deceptive, misleading, or unfounded opinions or reports.

(7) The refusal of the licensing authority of another state to issue or renew a license, permit, or certificate in that state or the revocation or suspension of or other restriction imposed on a license, permit, or certificate issued by such licensing authority.

(8) Aiding or abetting a person to evade the provisions of this Chapter or knowingly combining or conspiring with an unlicensed person or acting as an agent, partner, associate or otherwise, of an unlicensed person with intent to evade provisions of this Chapter.

(9) Violation of any provision of this Chapter or any rules or regulations of the board or rules of conduct promulgated by the board.

(10) Indebtedness to the state or to any municipal corporation for any tax as an auctioneer or for any license or commission that he has neglected to pay after final judgment has been rendered against him for it.

(11) Selling goods at an auction before the auctioneer or auction house has first entered into a written contract with the owner or consignor of the goods when the minimum price for such goods has been set or requested at a value above five hundred dollars.

(12) Failing for a period of seven calendar days after notice is given to make good a check which has been returned for insufficient funds (NSF check) or bank draft remitted to the owner or consignor of auctioned goods in settlement pursuant to R.S. 37:3125.

B. The board may require any auctioneer who has been charged with a complaint, or any citizen deemed to have raised a frivolous complaint before the board, to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees.

C. Four concurring votes of the board shall be required for the revocation of any license. Four concurring votes shall be required for suspension of any license or the imposition of costs or fines in excess of five hundred dollars.

D. Any certificate or license suspended, revoked, or otherwise restricted by the board may be reinstated by majority vote of the board.

**§3122. Cease and desist order; injunctive relief**

A. In addition to or in lieu of the criminal penalties and administrative sanctions provided in this Chapter the board is empowered to issue an order to any person or firm engaged

in any activity, conduct, or practice constituting a violation of any provision of this Chapter directing such person or firm to cease and desist from such activity, conduct, or practice. Such order shall be issued in the name of the state of Louisiana under the official seal of the board.

B. Upon a proper showing by the board that such person or firm has engaged in any activity, conduct, or practice proscribed by this Chapter, the court shall issue a temporary restraining order restraining the person or firm from engaging in unlawful activity, conduct, or practices pending the hearing on a preliminary injunction, and in due course a permanent injunction shall issue after hearing commanding the cessation of the unlawful activity, conduct, or practices complained of, all without the necessity of the board having to give bond as usually required in such cases. A temporary restraining order, preliminary injunction, or permanent injunction issued hereunder shall not be subject to being released upon bond.

C. If the person or firm to whom the board directs a cease and desist order does not cease and desist the proscribed activity, conduct, or practice within ten days from service of such cease and desist order by certified mail the board may cause to issue in any court of competent jurisdiction and proper venue a writ of injunction enjoining such person or firm from engaging in any activity, conduct, or practice proscribed by this Chapter.

**§3123. Violations; penalties**

A. Any person who engages in auctions without a valid license violates this Chapter.

B. Any person who violates any provisions of this Chapter or any rules and regulations adopted under its authority shall be fined not more than five hundred dollars or imprisoned not more than six months, or both, for each such violation. Each individual sale or act in connection with the conduct of an auction in violation of any provisions of this Chapter shall constitute a separate offense and violation of this Chapter.

**§3124. Compensation of auctioneers**

A.(1) No auctioneer shall demand or receive a higher compensation for his services on judicial sales of immovable property made under order of court than a commission of seven percent on the amount of each adjudication made by him.

(2) On sales of succession property in which minors have an interest, property belonging to minors or in which they have an interest, and of property surrendered by insolvents made pursuant to an order or decree of any court of the state, the auctioneer shall not demand or receive a commission on each adjudication of more than four percent on the first ten thousand dollars and two percent on the excess. However, in cases where minors are interested, these lower rates shall be charged only on their proportionate share of the property, reserving to the auctioneer the right to receive the regular rate on the remainder of the interest involved.

(3) Upon sales of movables, the commission shall not be more than ten percent as to judicial sales.

B. On all sales made by the representative of a succession or syndic or an insolvent, there shall be a commission of no more than two percent.

C.(1) The auctioneer shall include in all advertisements, including but not limited to newspaper, radio, television, and brochures, the amount of any buyer's fee that will be charged.

(2) The auctioneer shall post in writing at the registration desk, in a conspicuous place, the amount of any buyer's fee.

(3) Upon opening an auction, the auctioneer shall verbally announce the amount of any buyer's fee, explain what the fee is, how such fee will be paid, and how the fee will work.

**§3125. Payments and accounts**

A. All funds derived from an auction sale paid to an auctioneer licensed in this state or to a person, corporation, firm or combination thereof which conducted the sale, shall be deposited in one or more identifiable bank accounts maintained in the state in which the auctioneer is situated and no funds belonging to the auctioneer shall be deposited therein except as follows:

(1) Funds reasonably sufficient to pay bank charges may be deposited therein.

(2) Funds belonging in part to the person who employs the auctioneer and in part to the auctioneer must be deposited therein, but the portion belonging to the auctioneer may be withdrawn when due unless the right of the auctioneer to receive it is disputed by the person who employs the auctioneer, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

B. Every auctioneer shall pay the consignor within thirty days from the receipt of funds, or within sixty days from the date of sale at auction, whichever is lesser, or alternatively return to the consignor by that time, all property purchased but not yet paid for, except as provided in Paragraph (A)(2) of this Section, and render a full account of all sales and all property entrusted to him for sale by anyone employing his services whenever the owner of such money or property demands an accounting. Each auctioneer, surety on his bond, and auction house shall be liable in solido to the owner of goods thereof for all money and property coming into the auctioneer's hands or the hands of the auction house which is unaccounted for.

**§3128. Production of mortgage certificates**

No immovable property shall be sold by public auction without the production and reading by the auctioneer of a certificate of mortgages and encumbrances against the property offered. No such certificate is necessary in extrajudicial sales.

**§3129. Shills**

A. No person acting as auctioneer shall purchase, either directly or indirectly, any property at a sale made by him except as provided in R.S. 37:3130. Any such sale is null.

B. No person shall act at any auction sale as bidder or what is commonly known as "capper," "booster," or "shill" or place or offer to place any false bids or offer to buy or pretend to buy any property sold or offered for sale by auction.

C. Nothing in this Part shall be construed to prohibit the taking of bids in any auction sale by telephone or by other electronic means.

**§3130. Absentee bidder; consignor or property owner; public notice required**

Notwithstanding any provision of this Chapter to the contrary, an auctioneer may bid on behalf of an absentee bidder for the protection of a consignor or owner of property sold or offered for sale at an auction. Prior to the commencement of the auction, the auctioneer shall provide public notice of the right and intention of the auctioneer to bid by printing such notice in the auction catalogue, other printed matter on the auction, or any newspaper advertisements publicizing the event or by announcing at the opening of the auction the intention to bid. In addition to the requirement for prior notice of intention of the auctioneer to bid as provided herein, written notice of the intention of the auctioneer to bid at an auction shall be openly

displayed on the auction premises during the auction. Failure to provide this notice or to make the announcement shall nullify the sale.

**§3131. Property struck off to highest bidder**

All property sold at auction shall in all cases be struck off to the highest bidder except such as may be limited. When the owner or any person employed by him is the highest bidder, he is subject to the same duties as if the property had been struck off to any other person.

**§3132. Representation as to quality and price**

At all such sales by auction any licensee shall at all times truly and correctly represent to the public attending the auction the actual facts in respect to the quality and manufacture of the items being offered for auction. It shall be a violation of this Chapter for any licensee hereunder to place what is popularly known in the trade as fictitious price tags on items sold at any such auction.

**§3133. Conduct of auction**

At any auction to be conducted pursuant to this Chapter, the auctioneer, prior to offering the goods for sale, shall announce in a loud, clear voice the identifying inventory number of each article and shall again immediately after it is sold announce its identifying number and state the amount for which the item is sold. No auctioneer shall sell or offer for sale at any such sale by auction any goods, wares, or merchandise that have been falsely described or concerning which any untruthful statement has been made as to the character, quality, kind, description, or cost.

## PART III. LIVESTOCK AUCTIONEERS

**§3134. Livestock auctioneers**

The provisions of this Chapter shall not apply to and the board shall not have jurisdiction over auctioneers who are engaged in the auction business exclusively as an employee or agent of a Louisiana livestock market which is regulated by the Louisiana Board of Animal Health and who are registered with that board as required by R.S. 3:571.

## PART IV. ADVERTISING AUCTION SALES

**§3140. Statement in proces verbal of manner, time, and place of making advertisement**

In all auction sales made by sheriffs, auctioneers, or others authorized to sell at public auction that are required by law to be preceded by advertisement, the officer making the sale in his proces verbal or act of sale shall state the manner, time, and place of making the advertisements. This statement shall be proof of the manner, time, and place of making the advertisement.

**§3141. Information required in advertisement**

Any licensed auctioneer who advertises to hold or conduct an auction shall indicate in such advertisement his name, business addresses, license number, and such other reasonable information as may be required by rule.

**§3142. Sale as prima facie evidence of legal advertisement**

When any question arises out of any public sale made by any person authorized to sell at public auction and the sale was required by law to be preceded by advertisements, the sale being proved, shall be prima facie evidence that the legal advertisements were regularly made.

**§3143. Failure to advertise; liability for damages**

If any person authorized by law to sell at public auction fails to advertise as required by law he shall be personally liable for all damages which result therefrom and shall be subject to the discipline of the Louisiana Auctioneers Licensing Board.