

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

2017 JUN 29 AM 11:27

STATE OF WEST VIRGINIA
ADMINISTRATIVE LAW DIVISION

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Department of Agriculture TITLE NUMBER: 61

CITE AUTHORITY: WV Code Chapter 19, Article 2-C

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 11 B

TITLE OF RULE BEING AMENDED: Auctioneers

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

2017 JUN 23 AM 11:27
STATE DEPARTMENT OF AGRICULTURE

TITLE 61
LEGISLATIVE RULE
STATE DEPARTMENT OF AGRICULTURE

SERIES 11B
AUCTIONEERS

§61-11B-1. General.

- 1.1. Scope. -- This legislative rule establishes general procedures for the licensing of auctioneers.
- 1.2. Authority. -- W. Va. Code '19-2C-5.
- 1.3. Filing Date. -- ~~April 13, 1994.~~
- 1.4. Effective Date. -- ~~April 15, 1994.~~

§61-11B-2. Declaration Of Policy.

2.1. This rule is for the purpose of implementing W. Va. Code '19-2C-1 et seq. pertaining to the licensing of auctioneers.

§61-11B-3. Application.

3.1. The Commissioner shall, within thirty (30) days ~~after~~ after receipt of an application, notify the applicant of his/her eligibility to be examined. The thirty (30)-day period for action by the commissioner shall not commence until all necessary information has been submitted by the applicant.

3.2. The application shall contain sufficient information to allow the commissioner to determine the applicant's eligibility for an auctioneer or apprentice auctioneers license and shall include a statement by two (2) individuals testifying to the applicant's character.

3.3. Applicants for an apprentice license or auctioneer license must be a minimum of 18 years of age.

3.4. Applicants for auctioneer or apprentice auctioneer license must present a photo I.D. before participating in examinations.

§61-11B-4 Bond Requirements.

4.1. The amount of bond required ~~under W. Va. Code '19-2C-4~~ is five thousand dollars (\$5,000) for an apprentice auctioneer and ten thousand dollars (\$10,000) for an auctioneer. Corporate surety bonds shall be on forms provided by the commissioner.

4.2. All corporate surety bonds shall be executed by a company authorized to do business in the State of West Virginia as determined by the Secretary of State

4.3. Apprentice auctioneer applicants are not required to have a bond in place prior to testing; however, a properly executed bond must be submitted to West Virginia Department of Agriculture before the license will be issued.

§61-11B-5. License.

5.1. The license numbers issued ~~tinder~~ under W. Va. Code '19-2C-1 et seq. are permanent, subject to annual renewal.

5.2. All licenses issued under W. Va. Code '19-2C-1 et seq. expire on December 31 of each year unless revoked or suspended.

5.3. Licenses issued at the successful completion of the examination held in October shall be considered as licensure for the upcoming calendar year and no additional fee shall be collected for that year.

§61-11B-6. License Renewal.

6.1. All materials required by the commissioner shall be submitted to the Department of Agriculture before the commissioner shall renew a license. Requests which do not contain all of the necessary information shall ~~be considered to have been submitted on the date when the first application for renewal is received~~ result in delays in the issuance of the license.

6.2. ~~On the January 1, 1996~~ All auctioneers must provide the commissioner with proof of completion of at least ~~three~~ six (3) (6) hours of continuing education within the previous year. All auctioneers shall complete ~~three~~ six (3) (6) hours of continuing education each subsequent year in order to qualify for license renewal. All continuing education programs must be approved as to subject matter by the commissioner or his designee before credit will be granted. Requests for approval must include the name of course, the course provider, the date of instruction, an outline of the course, the instructor or sponsor and their qualifications for teaching the class, the instructor or sponsor's address and the number of hours of instruction. Curricula should be approved in advance, and in the case of group instruction, the instructor or course provider ~~may~~ shall provide a certified list of those completing the course. Continuing education may include, but is not limited to, seminars, correspondence courses, certified home study and formal course work offered through vocational programs, extension programs, colleges and universities, or certified auction schools.

6.3 An auctioneer must complete six (6) hours of continuing education each calendar year in order to qualify to renew his or her license for the next year.

6.3.1. Only classes taught by course providers approved by the commissioner or his designee qualify for credit

6.3.2. At least three (3) hours of the required six (6) hours of class must be from core subjects. Core subjects are:

- a. West Virginia statutes and rules governing auctioneering;
- b. Federal statutes and rules governing auctioneering;
- c. Auctioneering ethics;
- d. Escrow, trust and custodial accounts;
- e. Advertising;
- f. Contracts; and
- g. Other subjects approved by the commissioner.

6.3.3 At least three (3) hours of the required six (6) hours of class may be from elective subjects.

Elective subjects are:

- a. Real estate law;
- b. Auction management;
- c. Bid calling;
- d. Public speaking;
- e. Business law; and
- f. Other subjects approved by the commissioner.

6.4. Auctioneers who have not conducted any auctions in the previous twelve (12) months are exempt from the continuing education provisions for renewal of license for the following year. A notarized statement in a form prescribed by the commissioner must be submitted with the request for exemption. When an auctioneer resumes conducting auctions, he or she must then comply with the provisions of this section and provide proof of continuing education to the commissioner.

6.5. Apprentice auctioneers are not required to complete a continuing education program for ~~license~~ renewal of an apprentice license, but are encouraged to do so for their own benefit.

§61-11B-7. Receipts.

7.1. ~~Upon demand,~~ Each auctioneer shall provide a buyer or purchaser with a receipt that includes:

7.1.1. ~~The date on which the purchase was made~~ of the sale;

7.1.2. A description of the item or lot;

7.1.3. The price paid for the item or lot purchased; and

7.1.4. The name, license number and permanent address of the auctioneer. This information shall be provided to each ~~customer~~ buyer or purchaser only once, upon demand.

7.2. The auctioneer shall retain a copy of issued receipts for his or her records for a minimum of six (6) months.

§61-11B-8. Examination ~~of~~ of Applicants.

8.1. The written examination shall test the applicant's knowledge of the West Virginia Auctioneer Law, W. Va. Code '19-2C-1 et seq., rules promulgated thereunder, and other fundamentals of the auctioneering profession.

8.2. The oral examination shall test the auctioneer's competency in conducting an auction, and their knowledge of all applicable laws, state and federal.

§61-11B-9. Accredited Auctioneering Schools.

9.1. The commissioner shall annually issue a list of accredited auctioneering schools.

9.2. Any school wishing to be included on the list of accredited auctioneering schools shall submit to the commissioner a complete curriculum, a course schedule, a list of the instructors, credentials of the instructors,

the location of the school, the cost and any other information considered necessary by the commissioner for a decision on the qualifications of the school to be accredited in West Virginia.

§61-11B-10. Suspension, Revocation, Expiration or ~~Rermination~~ Termination of Supervising Auctioneer's License.

10.1. The suspension, revocation, expiration or termination of a supervising auctioneer's license shall automatically suspend the license of any apprentice auctioneer sponsored or employed by the suspended auctioneer. However, apprentice auctioneers may retain apprentice licenses by transferring to the ~~employment~~ employment or sponsorship of another licensed auctioneer: Provided, ~~T~~ that the request for the transfer is made in writing and according to the procedures outlined in W. Va. Code ' 19-2C-6, and approved by the commissioner or his designee.

§61-11B-11. Reciprocity.

11.1. Any out-of-state resident who holds a valid auctioneer's license in ~~another~~ a reciprocal state may be granted a West Virginia license: Provided, That ~~the~~ their resident state in which he or she is licensed provides similar recognition to a licensee of this State, and that the licensing requirements of ~~the other~~ their resident state are at least equal to those of the State of West Virginia. The commissioner shall annually issue a list of states with whom reciprocity has been formally approved.

§61-11B-12. Waiver of Apprenticeship.

12.1. The commissioner may, with the concurrence of the Auctioneer's Board of Review, grant a wavier of the apprenticeship requirements. For an applicant ~~for licensure~~ to be granted a wavier, he or she must petition the commissioner for a waiver and provide certified documentation as to the qualifications of the candidate to be an auctioneer without serving an apprenticeship. This documentation ~~should~~ shall include formal training in the profession, exceptional practical training such as verification of conducting charity or other types of auctions which are exempt from the licensing requirements, ~~a description of the candidate's efforts to secure sponsorship~~ and any other information to assist the commissioner in making a ruling. The commissioner ~~will~~ may grant a waiver only under exceptional circumstances, after receiving concurrence from the Auctioneer Board of Review, and will not consider them a routine matter. Under no circumstances shall the commissioner grant a wavier if it is determined that experience in the profession has been gained as a result of auctioneering which was not in compliance with the laws and rules of the State of West Virginia or the State where the experience was gained.

§61-11B-13. Advertising.

13.1. Any circular or other printed material advertising a sale shall contain the name and license number of the auctioneer conducting the sale, ~~and~~ the name and license number of any apprentice auctioneer assisting with the sale, and the date, place and exact time of the auction.

§61-11B-14. Contracts.

14.1. All contracts between an auctioneer and a seller shall meet, at a minimum, the following guidelines:

14.1.1. The contract shall be executed in duplicate; and

14.1.2. The original contract shall be retained by the auctioneer for a period of six (6) months; ~~and~~

14.1.3. One copy of the contract must be furnished to each person entering into the contract; and

14.1.4. The contract shall specifically state the amount of time to settle the account with the consignors, which is within fourteen (14) calendar days of the sale unless otherwise stated in the contract

14.2. An apprentice auctioneer may not contract directly with a client, ~~but only through his or her sponsoring auctioneer~~

§61-11B-15. Board of Review.

15.1. The board of review shall meet at the call of the commissioner, or his designee, to review the findings of an investigation resulting from a verified complaint received by the department or an investigation initiated by the department's own actions.

15.2. The board of review shall review these findings, all of the material related to the investigation, and any other material considered by the board to be appropriate. The Board of review shall make a recommendation, in writing, to the commissioner as to the course of action for the commissioner on the complaint. Board decisions shall be majority decisions of those members present. A quorum of two (2) members is required for board action.

15.3. ~~when~~ When considered appropriate by the commissioner, or his designee, the board may meet via telephone conference call, but shall only provide a recommendation after receiving and reviewing all hard copies of the material pertinent to the complaint.

15.4. A member of the staff of the department, appointed by the commissioner, shall serve as staff for the board and shall be responsible for the presentation of each complaint. The staff member shall not participate in the discussions beyond the reasonable explanation of the facts of the complaint.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Auctioneers

Type of Rule: Legislative Interpretive Procedural

Agency: Department of Agriculture

Address: 1900 Kanawha Boulevard, East
Charleston, WV 25305

Phone Number: 304/558-3550 Email: smarinacci@ag.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

N/A - The rule changes, as listed below, will have no financial impact on the Department of Agriculture.

Changes include the following:

1. Technical clean-up
2. Increasing the continuing education requirements to maintain reciprocal status with surrounding states.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			

Rule Title: _____

Rule Title: Auctioneers

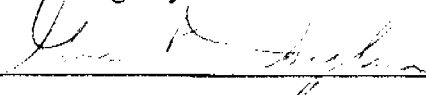
3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: June 29, 2007

Signature of Agency Head or Authorized Representative



QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: June 29, 2007

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Department of Agriculture

1900 Kanawha Boulevard, East

Charleston, WV 25305 Phone: 304/558-3550

LEGISLATIVE RULE TITLE: Auctioneers

1. Authorizing statute(s) citation Title 61, Series 11B Auctioneers

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

April 26, 2007

b. What other notice, including advertising, did you give of the hearing?

State-wide news release
Posted on the WVDA website

Letters to all WV Auctioneer Associations
Letters to Exam panelist members

c. Date of Public Hearing(s) *or* Public Comment Period ended:

May 31, 2007

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached X No comments received

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

June 29, 2007

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Janet Fisher, Deputy Commissioner

1900 Kanawha Boulevard, East

Charleston, WV 25305

Phone: 558-3550; Fax: 558-0451; Email: jfisher@ag.state.wv.us

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

N/A

- 3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

**Department of Agriculture
List of Comments Received
on proposed Rule Changes – Auctioneers**

Associated Auctioneers of America – Lewis Woodard, Executive Director
Blake Auction Company – Barbara and Danny Blake
Riverbend USA LLC – Randy Burdette
John “JD” Compton
Gary Connell Auction Company – Gary Connell
Jeanie’s RE, Auctions and Appraisals LLC – Jeanie Davis
Martha Fleshman
Goldman Associates, Inc. – Jay Goldman
Lowell Goff
Leonard Hardway
Hostetter Auctioneers – Sherman Hostetter
Nelson Robinson
Mary Staples
Brady Stephens
Al Thompson
West Virginia Auctioneers Association – Randy Burdette, Executive Director
West Virginia Professional Auctioneers Association – Madison Williams, President

Department of Agriculture
Summary of Comments
on proposed Rule Changes – Auctioneers

Over 53% of all respondents agreed with all the proposed rule changes.

There were a number of respondents that were opposed to an increase in the amount of bond required for apprentice auctioneers and auctioneers. After considering the reasons for the opposition it was agreed not to change the amount of the bonds.

Due to comments received, additional wording was added to 14.1.4 to clarify the settlement time in which the auctioneer must settle with consigners.

Approximately 11% of the respondents were opposed to providing receipts to all patrons at the end of the sale. As long as the “tickets” have the auctioneer’s name, license number and permanent address printed on them the tickets would constitute a receipt. Providing receipts for purchases is a standard business practice.

ASSOCIATED AUCTIONEERS OF AMERICA, INC.

497 JUDITH AVENUE
FRUITLAND PARK, FL 34731



6/4/07
Approved.
jly

Phone Number: (352) 326-3246

Fax Number: (352) 326-3246

Web Address: aaoa.freeyellow.com

Email: leww@phreego.com

FAX TRANSMITTAL FORM

To: **Sandy Marinacci**

From: LEWIS WOODARD

Name:

CC:

Date Sent: MAY 24, 2007

Phone: (304) 558-3550

Number of Pages: 4 (INCLUDES COVER PAGE)

Fax: (304) 558-0451

Dear Sandy,

This is to let you know AAOA plans an Auctioneering Continuing Education Seminar on Sunday ~~MAY~~ ^{June} 24, 2007, 11:30 A.M, at the Ponderosa Steakhouse, 3100 RT. 60 East, Huntington, WV. We are requesting Auctioneer Continuing Education Credit from the Department.

A Schedule of the Seminar is included in this fax.

With this fax is a information about Col. Fred McComas and Chief Jim Scheidler. Materials to be used will be from the West Virginia Code, info from the Department's book containing Laws, Rules and Regulations concerning auctioneers. Pass outs from previous Seminars will also be used. Please let us know of confirmation by email or by calling Rick Woodard at 304-736-8414 at your earliest convenience.

We would also like to say the proposed rule changes the Department has sent to the Secretary of State is a job well done!

Sincerely,

Lewis
Lewis R. Woodard, Executive Director: AAOA

leww@phreego.com



Blake Auction Co.

2015 Unity Rd.
Princeton, WV 24740
304-384-7684

May 29, 2007

Janet L. Fisher, Deputy Commissioner
WV Dept of Agriculture
1900 Kanawha Blvd, East
Charleston WV 25305

Dear Ms. Fisher:

I am writing to you concerning the proposed changes to the WV Auctioneer Rules.

My husband and I are both licensed auctioneers in the state of WV as well as the state of Virginia. We have long felt that the continuing education requirements needed to be increased in order to keep reciprocity with the state of Virginia as they have just instituted a requirement of six hours of continuing ed. The proposed changes to the surety bond is sorely needed as the amount required would not cover most auctions conducted in the state.

One of the proposed changes that we do not agree with is the amount of time to settle the account with the consignors. We feel that 14 calendar days is insufficient time to allow for checks that we take to clear the bank. As late as last month, we had a check returned to us (NSF) that had been written two weeks prior. This time frame will not give us time to try to recover the check prior to settling with our consignor.

All in all, the proposed changes are long overdue.

I thank you for your kind consideration of this letter.

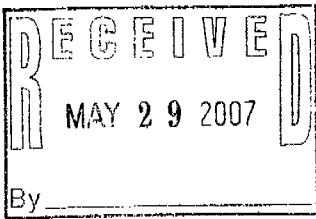
Sincerely,

Barbara Blake

Barbara Blake
WV #1464

Danny Blake

Danny Blake
WV #1570



Riverbend USA LLC
P.O. Box 800 Alderson, WV 24910
(304) 445-2897 or 1-800-726-2897
Email: sold@riverbendauction.com
www.riverbendauction.com

To: State of West Virginia
Department of Agriculture
1900 Kanawha Blvd., East
State Capitol, Room E-28
Charleston, WV 25301-0170
Phone (304)-558-3550

May 25, 2007

Re: Auctioneers – Advancement of CE hours

To: Whom it concerns,


This letter is in regard to the increasing requirements of continued educational hours from the present 3 hours to advancement of 6 hours to hold a West Virginia auctioneers license.

Higher education requirements will only help to make the auctioneers who hold a West Virginia auctioneers license the opportunity to become more aware of the changing laws and government requirements we are subject to when offering goods to the public through the auction method.

For the West Virginia auctioneers to keep reciprocity with our neighboring states and other surrounding states it is imperative that we raise our standard of educational requirements to keep in good standing with these other states.

So, it is with our greatest intent to obtain higher education for the auctioneers of West Virginia and promote professionalism in the auction profession that we ask for your sincere consideration in this matter.

Sincerely,


Randy S. Burdette – Auctioneer 927

Sandy Marinacci

From: Janet Fisher [jfisher@ag.state.wv.us]
Sent: Tuesday, June 05, 2007 4:14 PM
To: 'Sandy Marinacci'
Subject: FW: Auction law

Found this one in my junk mail folder. Let's add it to the list. Thanks.
Janet

-----Original Message-----

From: twocomptons@verizon.net [mailto:twocomptons@verizon.net]
Sent: Wednesday, May 30, 2007 10:00 PM
To: jfisher@ag.state.wv.us
Cc: riverbendauction@verizon.net
Subject: Auction law

I support all the proposed changes in the auction law.

John (JD) Compton
Professional Auctioneer and resident of West Virginia

~~C Sandy M.~~
C Sandy M.

Gary Connell Auction Company

Gary Connell, Owner / Auctioneer – WV 1313

Post Office Box 429

Buckhannon, West Virginia 26201

304-472-9249 / Fax 304-472-1218

gconnell@jawsbbq.com

Janet Fisher, Deputy Commissioner
WV Department of Agriculture
1900 Kanawha Boulevard
Charleston, WV 25305-0170

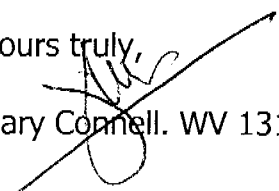
Dear Janet,

I would like to make a few comments on the Auctioneer Rule changes. They are as follows:

1. I agree that the minimum age for an apprentice should be 18. I would favor 21 if given a choice.
2. I also agree with increasing the continuing education to 6 hours. However the workshops need to be organized. Your department (WVDA) should be in-charge of them and conduct them so they are the same each time across the state. Some are outstanding and some are a waste of time the way it is set up now.
3. I have a concern on raising the bond from \$5,000 to \$10,000. The reason is we as auctioneers will have to get new bonds and there is a hassle in doing so. I would grandfather the ones at \$5,000 and increase the new ones going forward.

All in all I can and will live with the changes and thank you for keeping an eye on this industry in WV and trying to regulate it with a professional approach.

Yours truly,


Gary Connell. WV 1313

Janet Fisher

From: Sandy Marinacci [smarinacci@ag.state.wv.us]
Sent: Tuesday, May 29, 2007 9:03 AM
To: 'Janet Fisher'
Subject: FW: smarinacci@ag.state.wv.us

-----Original Message-----

From: Jeanie Davis [mailto:ajdavis@mountain.net]
Sent: Friday, May 25, 2007 9:52 PM
To: smarinacci@ag.state.wv.us
Subject: smarinacci@ag.state.wv.us

May 25, 3007

WV Department of Agriculture
c/o Sandy Marinacci
1900 Kanawha Boulevard
East State Captial Room E-28
Charleston, WV 253050170

To Whom It May Concern:

I WOULD LIKE TO URGE YOU TO SUPPORT THE PROPOSED CHANGES IN OUR WV
AUCTIONEER
LAW. THESE ARE NEEDED CHANGES AND LONG OVER DUE.

THANK YOU,
JEANIE DAVIS
JEANIE'S REAL ESTATE, AUCTIONS & APPRAISALS LLC
WV LIC # 1108
304-587-2158

Sandy Marinacci

From: Martha J. Fleshman [fleshmanlaw@verizon.net]
Sent: Thursday, May 31, 2007 11:45 PM
To: smarinacci@ag.state.wv.us
Subject: Proposed Changes to Auctioneer Rules

Ms. Marinacci,

As the attorney for the West Virginia Auctioneer's Association, I wish to lend my support to the proposed changes to the auctioneer rules as contained in Title 61, Legislative Rules of the State Department of Agriculture, Series 11B.

At our state convention in February, our Board of Directors discussed some of these matters including that of increasing the requirement for continuing education hours from three to six. It is my understanding that our Board of Directors concurs with this increase.

I believe that it is important for West Virginia auctioneers to maintain a level of excellence in their operations which can be relied upon by those individuals choosing to utilize such services. Other professions have much more extensive continuing education requirements, and auctioneers should be held to a comparable level of achievement.

The "technical cleanup" changes also appear to be needed corrections, and they will make the rules easier to interpret.

If you have any questions or I can provide additional information, please contact me at (304) 645-4590, (304) 667-3196 or by return e-mail.

Sincerely,

Martha J. Fleshman
Attorney at Law

Goldman Associates, Inc.

Commercial and Industrial Real Estate

1014 Bridge Road • P.O. Box 271
Charleston, West Virginia 25321

Telephone (304) 343-5695
FAX (304) 343-5694

C. Sandy

MAY 31 2007

May 30, 2007

Janet L. Fisher, Deputy Commission
West Virginia Department of Agricultural
Executive Division
1900 Kanawha Boulevard, East
Charleston, WV 25305

Re: Proposed Rule Changes

Dear Ms. Fisher:

In response to your posting of the proposed rule changes on the West Virginia Department of Agricultural website, I am in support of those changes. However, under §6.3.2, I believe real estate law should be a core class rather than an elective subject as shown under §6.3.3.

Under West Virginia Code §61-11B-14.1.2, it shows that the original contract shall be retained for a period of six (6) months. I believe this may be in slight conflict with real estate contracts under the West Virginia Real Estate Commission section. You may wish to keep the six (6) months, but say that it should be in compliance with West Virginia Real Estate Commission Code and retain the contracts for the longer period of time.

If you should have any questions, please let me know and I appreciate your continued interest in upgrading these regulations.

Sincerely yours,

GOLDMAN ASSOCIATES, INC.



Jay Goldman, President

JG:csm

C Sandy M

May 22, 2007

Lowell Goff-- Auctioneer #330
1024 Liberty Ave.
Harrisville, WV 26362

MAY 24 2007

Janet Fisher
Deputy Commissioner
WV Dept. of Agriculture
1900 Kanawha Boulevard
East Charleston, WV 25305

Dear Janet:

This letter is being written with regard a couple of the proposed changes in the auctioneer laws or requirements and who is requesting the changes.

One pertains to the increase in **bond**. Is the state getting stuck with having to pay for a lot of losses not covered by present bonding? If so, I know the state does not want to get in to the bonding business, but I would rather pay the extra amount we will have to pay the bonding company into a state slush fund to cover the losses and increase the fines and pentalties to the offenders.

The other item is the **receipts**. Is this request generated by the **BIG TIME AUCTIONEERS** that are now computerized and have all this information available? The law now says **upon demand**, The auctioneer will provide a receipt, with the date, description, price and name, license number, and address of the auctioneer. This is a reasonable request if the customer wants or needs one. But if **we have** to do this and make a **copy of the receipt** for our file, for every customer that buys a \$2 item, this will just add another 100 pages or so to each file and double or triple the check out time for the cashier. The larger auction firms are mostly computerized and all this information is readily available with out any extra effort. As you probably know, a lot of us simply give the customer an adding machine tape with a copy of the clerk tickets showing the buyer number, description of item sold and the amount they paid for each item. How can we make another copy of the clerk ticket then? Some stub their check as example (Fisher Auction) which has the date etc. Either way, we would have the original clerk ticked on file if we ever needed a back up. To me and a lot of the other auctioneers that I have talked to, we would prefer to leave this part as is **UPON DEMAND**.

The other changes are beneficial, the schooling, the increase in bond if necessary but having to duplicate a receipt appears to be a big burden and expense to the smaller auction firms.

Sincercly,

Lowell Goff

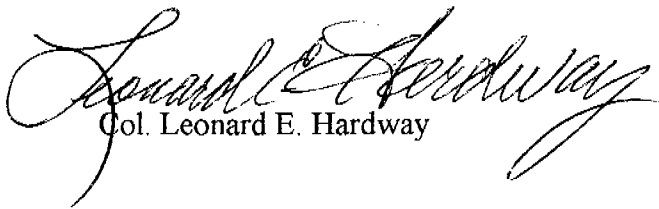
May 17, 2007

MAY 21 2007

Dear Janet Fisher,

I do not feel that a bond increase or hours of continued education increase would be of any benefit to the auctioneer profession. I have been a licensed auctioneer since 1970 and have attended seminars at the WV Auctioneers Association, Mid-Ohio Valley Auctioneers Association and the WV Professional Auctioneers Association. As for the education, it's more time consuming than education, so why spend more time for no reason.

Sincerely,



Col. Leonard E. Hardway



C Sandy

06-04-2007 RCVS

State of West Virginia
Department of Agriculture
1900 Kanawha Blvd., East
State Capitol, Room E-28
Charleston, WV 25301-0170
Phone (304)-558-3550

Date: May 25, 2007

Re: Auctioneers – Advancement of CE hours from 3 to 6

To: Whom it concerns,

I am writing you to ask for your assistance with increasing the continuing educational hours from the present 3 hours to 6 hours to maintain a West Virginia auctioneers license.


For the West Virginia auctioneers to continue reciprocity with our neighboring states and regional states, it is imperative that we raise our standard of educational requirements to keep in good standing with these other states.

The West Virginia Auctioneers Association Board of Directors voted in favor of raising the annual hours of continuing education at the April 2007 board meeting in Charleston.

I believe the WVAA has and will continue to offer various seminars throughout the year to obtain the needed continued educational courses that are approved by the Department of Agriculture. Assisting the West Virginia licensed auctioneers in obtaining the 6 hours CE with very little expense to the auctioneers.

Proper continuing education requirements promote better auctions (which helps the profession) and better service for the consumers (which helps both buyer's and seller's).

So, it is with the best intent and the best interest of the auction profession that I ask for your sincere consideration in this matter of promoting higher educational requirements for the auctioneers of West Virginia.

Sincerely,

Sherman Hostetter CAI/AARE
Licensed Auctioneer in WVA



2210 Washington Street, East
Charleston, West Virginia 25311

(304) 342-3769
(304) 343-4251 Fax

Nelson B. Robinson, Jr.

Government Relations

May 29, 2007

C. Sandy

Janet L. Fisher
Deputy Commissioner
West Virginia Department of Agriculture
1900 Kanawha Boulevard, East
State Capitol, Room E-28
Charleston, WV 25305-0170

MAY 31 2007

Dear Ms. Fisher *Janet*

This correspondence is in response to "WVDA AUCTIONEER RULE CHANGES" dated April 27, 2007. I respond as follows:

(1). 61-11B-4 Bond Requirements-

I write in opposition to the increase in the bonding requirements. The proposed increase will double the amount of monies required for a licensee to obtain bonding. If you determine a need for the increase in bonding you should add language that the new bonding requirements would be required only upon the expiration of current bonding agreements. In other words if I currently hold a 3-year bond, the increase would be required upon renewing the bond for relicensing..

(2). 61-11B-6.4 License Renewal-

While I would qualify for this exemption, why offer it? Regardless of conducting auctions or not in the previous year, a person should be kept up-to-date regarding the rules, regulations and other matters pertinent to conducting an auction. I recommend eliminating this provision.

(3). 61-11B-13

Recommend adding provisions that require the property owner or owners to be disclosed in all auction advertisements. In the case of a consignment auction it should be appropriately stated as such.

(4). 61-11B-14-1.3

Recommend retaining a contract for a minimum of (3) three years instead of 6 months. This simply protects the auctioneer in matters of dispute.

Sincerely,

Nelson B. Robinson
No-123

Janet Fisher

From: Sandy Marinacci [smarinacci@ag.state.wv.us]
Sent: Tuesday, May 29, 2007 9:03 AM
To: 'Janet Fisher'
Subject: FW: Support for Auctioneer Law Changes

FYI

-----Original Message-----

From: mns119@verizon.net [mailto:mns119@verizon.net]
Sent: Saturday, May 26, 2007 12:01 PM
To: smarinacci@ag.state.wv.us
Subject: Support for Auctioneer Law Changes

Sandy,

This is Mary Staples, No. 1756. Please show my support for the new WV Auctioneer Law changes.

Thank you.

Mary

Sandy Marinacci

From: Janet Fisher [jfisher@ag.state.wv.us]
Sent: Wednesday, May 23, 2007 3:13 PM
To: 'Brady Stephens'
Cc: 'Sandy Marinacci'
Subject: RE: [SPAM] - Proposed auctioneer law changes - Sending mail server found on sbl.spamhaus.org

Mr. Stephens: Thank you for your comments regarding proposed changes to the Auctioneer rules. I believe our Agency will need to become more involved in the planning and subject matter of CE training, as I have heard other comments similar to yours. The public comment period closes May 31, so you will be receiving a more formal response from me after the comments are all evaluated. Thank you for your input. Regardless of whether or not the rule changes are approved, it's always good to know the issues on your mind. Will you please send me your mailing address so that a letter may be sent to you after May 31? Thanks again. Janet Fisher

From: Brady Stephens [mailto:brady@homelandchurch.org]
Sent: Wednesday, May 23, 2007 1:57 PM
To: jfisher@ag.state.wv.us
Subject: [SPAM] - Proposed auctioneer law changes - Sending mail server found on sbl.spamhaus.org

Dear Ms. Fisher,

I have reviewed the proposed changes in the auctioneer law. I believe most of the changes are practical and should be passed.

I ask that you consider keeping the annual continuing education at 3 hours instead of the proposed 6. The last 3 hour class I attended had about 30 minutes worth of good, relevant material. I applaud your efforts to make these classes better and I believe 3 quality hours is plenty. Those who are required to attend these are usually very busy people. To add the additional hours basically makes it an entire day away from their business. My auctioneer friends in Ohio tell me they have no continuing education requirements. Please contact me if you would like to speak further.

Sincerely,
Brady Stephens
(304)428-4689

May 29, 2007

Gus Douglass
Agriculture Commissioner
Charleston, WV

Dear Mr. Douglass

I have reviewed the proposed changes to the Auctioneer Laws, i.e.: WV Code 19-2C-5.

I must commend your department for their diligent work regarding the auction profession.

These rule changes are in great need in order for our state to come abreast of other states requiring continuing education.

[West Virginia was the very first state requiring continuing education]. I'm very proud of that accomplishment. Now we need to catch-up with our neighbors! Today's market place requires an auctioneer to be professional in every respect such as law, bookkeeping, accounting and many other facets of our ever growing business world of auctioneering.

I am strongly recommending approval of all the rule changes you have proposed.

Sincerely

Albert L. Thompson
CAI GPPA Master Appraiser

To: State of West Virginia
Department of Agriculture
1900 Kanawha Blvd., East
State Capitol, Room E-28
Charleston, WV 25301-0170
Phone (304)-558-3550

May 25, 2007

Re: Auctioneers – Advancement of CE hours

To: Whom it concerns,

This letter is in regard to the increasing of continued educational hours from the present 3 hours to advancement of 6 hours to hold a West Virginia auctioneers license.


For the West Virginia auctioneers to keep reciprocity with our neighboring states and other surrounding states it is imperative that we raise our standard of educational requirements to keep in good standing with these other states.

Our board of directors voted in favor of raising the annual hours of continuing education at the April 2007 board meeting in Charleston.

The West Virginia Auctioneers Association has and will continue to offer various seminars throughout the year to obtain the needed continued educational courses, approved by the Department of Agriculture, so that auctioneers can obtain these 6 hours and with very little expense to them.

So, it is with our greatest intent to promote higher education to the auctioneers of West Virginia that we ask for your sincere consideration in this matter.

Sincerely,


Randy S. Burdette
Executive Director - WVAA

West Virginia Professional Auctioneers Association

2311 Vaughan Avenue, Parkersburg, WV 26101
1-304-428-4967

C Sandy
MAY 31 2007

May 29, 2007

BY TELECOPIER AND CERTIFIED MAIL

Ms. Janet L. Fisher
Deputy Commissioner
West Virginia Department of Agriculture
1900 Kanawha Blvd, East
Charleston, WV 25305

Re: Auctioneer Rule Changes

Dear Ms. Fisher:

Thank you for the opportunity to make comments on the proposed changes to the Auctioneer Rules. The West Virginia Professional Auctioneers Association (WVPAA) met May 20, 2007 to discuss these proposed changes and have the following comments:

§61-11B-4, Rule 4.1: We do not think the bond amounts should be raised to \$10,000.00 and \$20,000.00 as it will result in an excessive financial burden especially for smaller businesses or to those auctioneers working in rural areas. On possible alternative is a staggered or stepped up bonding system that increases the amount of bond based on sales or revenue etc.

§61-11B-6, Rule 6.3.2: Regarding increasing the CE requirement to 6 hours, we do not oppose this but do oppose requiring that 3 of the 6 hours be in "core subjects." Quite frankly, it is hard to come up with enough material to cover 3 hours in these subjects. We would propose 2 hours of CE in the core subjects like many other States already require.

§61-11B-7, Rule 7.1 and 7.1.4: We disagree with the proposed changes to the information required on receipts. Specifically, we would like to see the "upon demand" requirement left in this rule. It would be to burdensome and costly to list each one of these items on each and every receipt (many of us would have to change all our clerking tickets). We also have some privacy concerns with putting our permanent address on each and every receipt.

§61-11B-14, Rule 14.1.4 and 14.2: We strongly oppose changing the time to settle an account with a consignor to no longer than 14 days after sale. The amount of time to settle should be a matter of contract between the auctioneer and consignor and should be

required to be specified in the contract – just not arbitrarily limited to 14 days. Many times, things beyond our control would prevent us from settling in 14 days such as in the case of the sale of real estate where you may be waiting on the buyers attorney for the closing to be ready. We would ask that this sentence be changed by simply putting a period after the word consignor and leaving the rest of the sentence out.

§61-11B-15, 15.1-15.4: We would like to see the Board of Review eliminated in favor of the establishment of an Auctioneer Commission. Many other States have this type of Commission such as Ohio.

Thank you for your consideration and if you have any questions let me know.

Sincerely,

A handwritten signature in cursive script that reads "Madison Williams".

Madison Williams, President