

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #1

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF PUBLIC HEARING ON A PROPOSED RULE**

AGENCY: Department of Agriculture TITLE NUMBER: 61

RULE TYPE: Legislative; CITE AUTHORITY Chapter 19-2C

AMENDMENT TO AN EXISTING RULE: YES X NO     

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

TITLE OF RULE BEING AMENDED: Regulation Governing Auctioneers

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:                     

TITLE OF RULE BEING PROPOSED:                     

DATE OF PUBLIC HEARING: May 26, 1993 TIME: 1:00 p.m.

LOCATION OF PUBLIC HEARING: Room 202 - J. T. Johnson Conference Room  
WV Department of Agriculture  
4720 Brenda Lane  
Charleston, West Virginia 25312

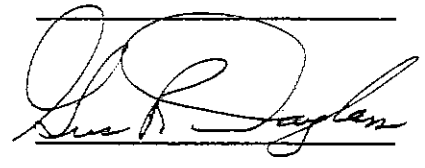
COMMENTS LIMITED TO: ORAL     , WRITTEN     , BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: WV Department of Agriculture  
1900 Kanawha Boulevard East  
Charleston, WV 25305

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL



3.80

The rules governing the licensing of auctioneers as required in Chapter 19, Article 2C, include information on application procedures, procedures for renewal of license, including guidelines for continuing education, procedures for the examination of applicants, the accreditation of auction schools and for the suspension/revocation/expiration of the supervising auctioneers license. It also sets up requirements for out-of-state residents to receive the West Virginia auctioneers license by reciprocity and the procedures and requirements for the waiver of the apprenticeship. The rule also requires certain contract inclusions and establishes the procedures for review of a complaint by the Board of Review.

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Regulations Governing Auctioneers

Type of Rule:  Legislative  Interpretive  Procedural

Agency Department of Agriculture Address 1900 Kanawha Boulevard East  
Charleston, West Virginia 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates: No additional cost to the agency will be realized. Current personnel will handle, as routine, any additional paperwork.

3. Objectives of these rules: To establish the procedures for issuing and administering the licensing of auctioneers and apprentice auctioneers.



WEST VIRGINIA LEGISLATIVE REGULATIONS  
STATE DEPARTMENT OF AGRICULTURE

Chapter 19-2C

SERIES 11B

TITLE: Regulations Governing Auctioneers

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Section 1. General.

1.1 Scope - These legislative regulations establish general procedures for the licensing of auctioneers.

1.2 Authority - W. Va. Code 19-2C.

1.3 Filing Date - August 3, 1983.

1.4 Effective Date - January 1, 1984.

Section 2. Declaration Of Policy.

2.1 These regulations are for the purpose of implementing article two-c, chapter nineteen of the State Code of West Virginia pertaining to the licensing of auctioneers.

Section 3. Regulations: Application.

3.1 ~~Applications~~ - The thirty (30) day period for action by the commisioner shall not commence until all necessary information has been submitted by the applicant.

~~3.2 Bond requirements - All property bonds shall be accompanied by a justification of surety showing that said real estate has an unencumbered assessed value of at least ten thousand dollars (\$10,000) for an auctioneer's license and five thousand dollars (\$5,000) for an apprentice auctioneer's license. Said property shall be located within the State of West Virginia and said bond shall be recorded in the office of the Clerk of the County Commission of the county wherein the property is located. All corporate surety bonds shall be executed by a company authorized to do business in West Virginia.~~

3.2 The application shall contain such information as to allow the commissioner to determine the applicants eligibility for an auctioneer or apprentice auctioneers license and shall include a statement by two individuals testifying to the applicants character.

#### Section 4 Bond requirements.

4.1 The amount of bond required shall be \$5,000 for an apprentice auctioneer and \$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.

#### Section 5 License.

~~3.3 License~~ 5.1 The license numbers issued under this Act shall be permanent, subject to annual renewal.

5.2 All licenses issued under this act shall 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 renewal fee shall be collected for that year.

#### Section 6 License renewal.

6.1 All materials required by the commissioner shall be submitted to the Department before a license shall be renewed. 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.

6.2 On the next renewal date, one year after the approval of these regulations, all auctioneers must provide the commissioner with proof of completion of at least seven (7) hours of continuing education within the previous year. All auctioneers shall be required to complete seven (7) 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 before credit will be granted. Requests for approval must include name of course, course provider, date of instruction, outline of course, instructor or sponsor, instructor or sponsor's address and number of hours of instruction. Curricula should be approved in advance and in the case of group instruction the instructor may provide a certified list of those completing the course. Continuing education may include, but is not limited to seminars, correspondence course, certified home study and formal course work offered through vocational programs, extension programs, colleges and universities, or certified auction schools.

6.3 Apprentice auctioneers are not required to complete a continuing education program for renewal.

## Section 7 Receipts.

~~3.4 Receipts~~ 7.1 Upon demand, each auctioneer shall provide a buyer or purchaser with a receipt that includes:

~~3.4.1~~ 7.1.1 The date on which the purchase was made;

~~3.4.2~~ 7.1.2 A description of the item or lot;

~~3.4.3~~ 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.

7.1.5 The auctioneer shall retain a copy of receipts so issued for his records.

~~3.4.4~~ The name, license number and permanent address of the auctioneer. The auctioneer shall retain a copy of receipts so issued for his records.

## Section 8 Examination of applicants.

~~3.5 Examination of applicants~~ 8.1 The written examination shall test the applicant's knowledge of the West Virginia Auctioneer Law, rules and regulations promulgated thereunder and other fundamentals of the auctioneering profession. ~~The oral examination shall test the auctioneer's competency in conducting an auction.~~

8.2 The oral examination shall test the auctioneer's competency in conducting an auction.

## Section 9 Accredited auctioneering schools.

~~3.6 Accredited auctioneering schools~~ 9.1 The commissioner shall annually issue a list of accredited schools.

9.2 Any school wishing to be included on the list of accredited schools shall submit to the commissioner a complete curriculum, a course schedule, list of instructors, credentials of instructors, location of school, cost and any other information deemed necessary by the commissioner for a decision on the qualifications of the school to be accredited in West Virginia.

**Section 10 Suspension, revocation, expiration or termination of supervising auctioneer's license.**

~~3.7~~ ~~Suspension, revocation, expiration or 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 or sponsorship of another licensed auctioneer: Provided, That the request for the transfer is made in writing and according to the procedures outlined in section six of the Act.

**Section 11 Reciprocity.**

~~3.8~~ ~~Reciprocity~~ — 11.1 Any out-of-state resident who holds a valid auctioneer's license in another state may be granted a West Virginia license: Provided, That the state in which he is licensed provides similar recognition to a licensee of this State, and that the licensing requirements of the other 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.

**Section 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 a candidate for licensure to be granted such a wavier he/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 include formal training in the profession, exceptional practical training, description of the candidate's efforts to secure sponsorship and any other information to assist the commissioner in making a ruling. Waivers will only be granted under exceptional circumstances and will not be considered as a routine matter. Under no circumstances shall a waiver be granted 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 regulations of the State of West Virginia or the State where the experience was gained.

**Section 13 Advertising.**

~~3.9~~ ~~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, any apprentice auctioneer assisting with the sale, and the date, place and exact time of the auction.

## **Section 14 Contracts.**

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

14.1.1 The contract shall be made in duplicate;

14.1.2 The original contract shall be retained by the auctioneer for a period of six months;

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

14.1.4 The contract shall include a prominent statement indicating that the auctioneer is licensed by the Department of Agriculture and bonded in favor of the State of West Virginia.

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

## **Section 15 Board of review.**

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

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

15.3 When deemed appropriate by the commissioner, the board may meet via telephone conference call, but shall only provide a recommendation after receiving and reviewing all 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.