

MINUTES

South Carolina Auctioneers' Commission Meeting

9:30 a.m., September 2, 2020
Virtual/Teleconference Commission Meeting

Wednesday, September 2, 2020

1. Meeting Called to Order

Victor J. Avendano, Chairperson, of Mount Pleasant, called the conference call meeting of the South Carolina Auctioneers' Commission to order at 9:42 a.m. Other commissioners present for the meeting included: Matthew Holiday, Vice Chairperson, of Spartanburg; Joseph B. Burns, of Swansea; and Julian R. Dixon, Jr. of Sumter.

Staff members participating in the meeting included: Georgia Lewis, Advice Counsel, Office of Advice Counsel; Shayla Hayes, Disciplinary Counsel, Office of Disciplinary Counsel; Amy Holleman, Administrator; and Norma McAllister, Program Assistant

Members of the public attending the meeting: There were no public members in attendance.

A. Public Notice

Mr. Avendano announced that public notice of this meeting was properly posted at the SC Auctioneers' Commission office, Synergy Business Park, Kingstree Building, and provided to all requesting persons, organizations, and news media in compliance with Section 30-4-80 of the South Carolina Freedom of Information Act. In accordance with the Governor's directive regarding social distancing, the meeting will be held via teleconference. Members of the public who wish to attend may do so by telephone. For telephone logon information, please email contact.auctioneer@llr.sc.gov.

2. Introduction of Commission Members

The Commission members introduced themselves.

3. Approval of Excused Absences

All members of the Commission were present.

4. Regulations

Ms. Lewis presented the draft of the Commission's approved proposed regulatory changes: DRAFT of changes approved 8.11.2020 (**Also see changes to Chapter 10 fees below**)

14-1. Examinations.

A. Examinations for licensure as required by statute for apprentice auctioneers, auctioneers and auction firms shall be administered as approved by the Commission ~~for auctioneers and apprentice auctioneers are to be held in the months of March, June, September and December, unless there are no applications received for a particular examination period. Special examinations shall be administered upon majority vote of the Commission in exceptional circumstances to be determined in the discretion of the Commission.~~

B. A completed initial application for licensure must be received with a non-refundable application fee and approved for examination prior to the scheduling of the examination.

~~Applications for an examination must be received in proper form in the Commission office at least two weeks prior to the date of a scheduled examination.~~

~~C. The examination fee is non-refundable. Applicants are responsible for the non-refundable examination fee as set by the examination provider.~~

D. The examination shall test the applicant's knowledge of:

1. Fundamentals of auctioneering, auctioneer contracts, bid calling, advertisement, ethical practices and mathematics relating to the auction business;
2. The South Carolina Auctioneer Commission's law statutes and regulations;
3. The South Carolina Uniform Commercial Code as it relates to auction and bulk sales.
4. ~~Regulations of the South Carolina Auctioneers' Commission.~~

~~E. Any applicant who shall fail to pass the examination may be re-examined, but no applicant shall be allowed to take the examination within six months after having failed it a second time. Such applicants must submit an application form and pay the required fee.~~

~~F. — An applicant who takes and fails to pass the examination, may, within fifteen days after he receives the results thereof, request permission to inspect his examination book, together with his examination questions. All requests for permission to inspect examination books shall be in writing and addressed to the Administrator of the Auctioneers' Commission. Within five days of receipt of such request the applicant shall be notified of the date and time when inspection will be permitted. No applicant shall be permitted to copy or remove the examination questions, the sample answers or the examination. Examinations are not contestable. All examination papers shall remain the property of the South Carolina Auctioneers' Commission. No applicant who passes the examination shall be permitted to inspect his examination, examination questions or the sample answers.~~

~~G. The applicants who have passed the examination shall be considered for licensing. The Commission will consider any information before it, including references, with respect to the good moral character of the applicant. In the event the information is not adequate for determination, the Commission may request additional references or information from an applicant, conduct an independent investigation, or request the applicant to appear before the Commission. Action of the Commission will be deferred until it affirmatively appears that the applicant is possessed of the required good moral character. Evidence of less than good moral character would include but is not limited to conviction of any felony or revocation of any professional license.~~

HISTORY: Amended by State Register Volume 25, Issue 5, Part 2, eff May 25, 2001.

14-2. Reporting of Continuing Education.

A. ~~Four~~ Eight hours of continuing education credit must be reported on each biennial renewal application on a form ~~to be~~ provided by the Commission. All credits must be earned during the previous licensing year period and at Commission ~~pre-~~ approved classes. Individuals who have completed auctioneer's school within two-one ~~years~~ of the renewal application will be deemed to have four hours of continuing education hours.

B. Licensees may apply to the Commission for continuing education credit for activities of service to the industry including, but not limited to, writing articles for professional publications, teaching courses on professional subjects and serving as a hearing officer for professional matters. The burden of demonstrating that the activity is the equivalent of classroom education is placed upon the licensee.

HISTORY: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001.

14-3. Change of Address.

Licensees shall notify the Commission in writing of each change of address or change of business trade name within ten days of such change. ~~The change of address notification must include a change of address fee.~~

HISTORY: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001.

14-4. Display of License and Advertising

- (A) All licensees shall prominently display their licenses at their business address and the pocket card shall be carried by the licensee whenever he is conducting auction business.
- (B) All advertisements for an auction shall contain the name and license number of the auctioneer or firm conducting the auction and shall clearly indicate that it is the advertisement of an auctioneer or auction firm.
- (C) An auctioneer employed by a licensed real estate broker-in-charge must include the name and auctioneer license number in all advertisements.
- (D) An apprentice auctioneer shall not advertise without the approval of the auctioneer-supervisor. Such advertisements must include not only the name and license number of the apprentice auctioneer but also the name and license number of the auctioneer-supervisor.

~~14-5. Advertising--(Combined Above)~~

~~Misleading and untruthful advertising by licensees is prohibited. All advertisements for an auction shall contain the name and license number of the auctioneer or firm conducting the auction. Every advertisement shall clearly indicate that it is the advertisement of an auctioneer or auction firm. An apprentice auctioneer shall not advertise without the approval of the auctioneer-supervisor. Such advertisements must include not only the name and license number of the apprentice auctioneer but also the name and license number of the auctioneer-supervisor.~~

~~HISTORY: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001.~~

~~14-6. Allowing Unlicensed Bid Callers. Licensees Prohibited from Using Unlicensed Bid Callers.~~

~~Licensees are prohibited from allowing an unlicensed bid caller (auctioneer) to cry bids at an auction.~~

~~HISTORY: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001.~~

14-7. Repealed.

HISTORY: Former Regulation, titled Professional Standards, had the following history: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001. Repealed by SCSR43-5 Doc. No. 4846, eff May 24, 2019.

14-8. Repealed.

HISTORY: Former Regulation, titled Falsification of Documents, had the following history: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001. Repealed by SCSR43-5 Doc. No. 4846, eff May 24, 2019.

14-9. Repealed.

HISTORY: Former Regulation, titled Declaratory Rulings, had the following history: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001. Repealed by SCSR43-5 Doc. No. 4846, eff May 24, 2019.

14-10. Appeal.

A person aggrieved by a final action of the Commission may appeal the decision to the Administrative Law Court in accordance with the Administrative Procedures Act and the rules of the Administrative Law Court.

HISTORY: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001; SCSR43-5 Doc. No. 4846, eff May 24, 2019.

14-11. Written Agreements and Escrow Accounts Relating to Auctions.

A. The Commission shall have the authority to demand a copy of any written agreement or records of an auction which the licensee is required to maintain by 40- 6-290, Code of Laws of South Carolina, 1976, (as amended). If the documents relate to an auction being conducted or to be conducted within ten days of demand, the licensee must produce such documents before the auction can proceed. If the documents relate to any other auction, the licensee must produce such documents within ten days of the demand. Failure to produce such documents in accordance with this regulation shall be grounds for disciplinary action, suspension or revocation of the license.

B. The Commission shall have the authority to demand copies of escrow account records as required to be maintained by 40-6-300. The licensee must produce such records within 10 days of the demand. Failure to produce such escrow records in accordance with this regulation shall be grounds for disciplinary action, suspension or revocation of the license.

HISTORY: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001.

14-12. ~~Late Fees.~~ Renewal Applications and Lapsed Licenses

A. All applications for renewal of licenses pursuant to ~~40-6-240, Code of Laws of South Carolina, 1976 (as amended)~~ shall be filed with the Commission on or before June 30 of each the renewal period year. A late fee of ~~twenty-five dollars~~ shall be paid thereafter for a license renewal application received on or before July 31 of the renewal period that year.

B. A late fee of ~~one hundred dollars~~ shall be paid after July 31 of the renewal period that year and on or before September 30 of the renewal period. that year.

C. After September 30 of the renewal period that year any license of an auctioneer, apprentice auctioneer, or auction firm that has not been renewed shall be lapsed. Any licensee in lapse status must make application for a new auctioneer, apprentice auctioneer or auction firm license and must be in accordance with 40-6-220, 40-6- 230, or 40-6-235, as applicable, Code of Laws of South Carolina, 1976, (as amended).

HISTORY: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001.

14-13. ~~Conditions for Apprentice; Exceptions.~~

~~No applicant, pursuant to 40-6-230, Code of Laws of South Carolina, 1976 (as amended), shall be deemed to have satisfactorily completed an apprenticeship until the applicant has participated in eighty hours of supervised training including forty hours of auctioneering, ten hours of auction ringing, twenty hours of clerking, and ten hours of cashiering. Such training must be completed in not less than one year nor more than two years. This section does not apply to apprentice auctioneers under supervising tobacco auctioneers. (Combine with below)~~

HISTORY: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001.

14-14. Repealed.

HISTORY: Former Regulation, titled Duplicate Wall or Pocket Card License; Fees, had the following history: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001. Repealed by SCSR43-5 Doc. No. 4846, eff May 24, 2019.

14-15. ~~Supervision of Apprentice Auctioneer.~~ Apprentice Auctioneer's Supervision, Requirements, Exception and Termination

A. An apprentice license is valid only while the licensee has a licensed auctioneer who serves as the licensee's duly appointed supervisor. No apprentice auctioneer may enter into an agreement to conduct an auction without the express approval of the supervisor.

B. No licensed auctioneer shall serve as the supervisor of an apprentice auctioneer pursuant to 40-6-220, Code of Laws of South Carolina, 1976 (as amended), unless that person shall have held a valid South Carolina auctioneering license for three consecutive years preceding the date on which that licensed auctioneer is appointed as supervisor of the apprentice.

C. The supervising auctioneer assumes responsibility for the compliance of the apprentice with all laws and regulations governing the practice of auctioneering. The auctioneer-supervisor shall review the records of the apprentice auctioneer before each monthly report to the Commission. ~~Upon termination of such association, the auctioneer-supervisor shall immediately endorse the back of the apprentice's license, showing date of termination and return same to the Commission for cancellation or transfer.~~

D. No applicant, pursuant to 40-6-230, Code of Laws of South Carolina, 1976 (as amended), shall be deemed to have satisfactorily completed an apprenticeship until the applicant has participated in eighty hours of supervised training including forty hours of auctioneering, ten hours of auction ringing, twenty hours of clerking, and ten hours of cashiering. Such training must be completed in not less than one year nor more than two years. This section does not apply to apprentice auctioneers under supervising tobacco auctioneers.

E. Upon termination of such association, the auctioneer-supervisor shall immediately endorse the back of the apprentice's license, showing date of termination and return same to the Commission for cancellation or transfer.

HISTORY: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001.

14-16. Auctioneer, Apprentice Prohibited From Working For Unlicensed Firm; Exception; Penalty. No licensed auctioneer or apprentice auctioneer shall be employed as an auctioneer or apprentice auctioneer by an auction firm unless that firm holds a valid auction firm license issued by the Commission or unless the firm is otherwise not required to hold an auction firm license pursuant to Section 40-6-235, Code of Laws of South Carolina, 1976 (as amended). A violation of this regulation shall be grounds for disciplinary action, suspension or revocation of an auctioneer or apprentice auctioneer license pursuant to Section 40-6-110 and 120, Code of Laws of South Carolina, 1976 (as amended.)

HISTORY: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001.

14-17. Repealed.

HISTORY: Former Regulation, titled License Certification, had the following history: Amended by State Register Volume 25, Issue No. 5, Part 2, eff May 25, 2001. Repealed by SCSR43-5 Doc. No. 4846, eff May 24, 2019.

Amendments to Regulation 10-5:

Amend any exam fee from \$25.00 to the fee being “as set by the examination provider.”

Amend to reflect the late fees for renewal as provided in 14-12 (A) and (B)

In addition to the presented changes, the Commission agreed to add an Auction Firm exam fee stating “Examination fee as set by the provider”.

Mr. Avendano, after confirming that the Commission concluded the discussion for regulatory proposed changes was complete, called for a motion in this matter.

MOTION

Mr. Dixon made a motion that the Commission approves the changes as presented with the modifications as discussed. Mr. Holiday seconded the motion, which carried unanimously.

5. Executive Session (if needed)

6. Return to Public Session

7. Adjournment

Mr. Avendano called for a motion to adjourn the meeting.

MOTION

Mr. Dixon made a motion to adjourn the Commission meeting. Mr. Holiday seconded the motion, which carried unanimously.

Mr. Avendano, after ensuring there being no further business to discuss, adjourned the September 2, 2020 conference call meeting of the South Carolina Auctioneers’ Commission at 10:05 a.m.

The next scheduled Commission meeting for the South Carolina Auctioneers’ Commission is November 17, 2020.