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- (c) The board may use funds in excess of five hundred thousand dollars (\$500,000), whether from the auctioneer's education, research, and recovery fund fees or accrued interest thereon, for any of the following purposes:
1. To advance education and research in the auction field for the benefit of those licensed under the provisions of this chapter and to improve and make more efficient the auction industry;
  2. To underwrite educational seminars, caravans, and other forms of educational projects for the general benefit of licensees;
  3. To establish an auction chair or courses at Kentucky state institutions of higher learning for the purpose of making college or university level courses available to licensees and the general public;
  4. To contract for a particular research project in the auction field for the Commonwealth of Kentucky;
  5. To sponsor, contract for, and to underwrite all other educational and research projects that contribute to the advancement of the auction field in Kentucky;
  6. To cooperate with associations of auctioneers and any other groups for the enlightenment and advancement of Kentucky licensees;
  7. To increase the level of the auctioneer's education, research, and recovery fund above five hundred thousand dollars (\$500,000); and
  8. To augment the regular trust and agency account of the board.

**Study Tip-** What is the purpose of the Education, Research and Recovery Fund? What is the limit that can be paid out against a licensee and when can this be paid? Know the minimum level the Board must maintain for recovery and the ways which the Board can use the excess.

- (3) (a) If a licensee is found guilty of one (1) or more provisions of this chapter or of violating one (1) or more of the administrative regulations of the board, and if the amount of the money lost by the aggrieved party or parties is in dispute or cannot be determined accurately, then the amount of damages shall be determined by the Circuit Court in the county where the alleged violation took place, provided that the board has previously determined that a violation of the license laws or of the administrative regulations has occurred and a final order has been entered.
- (b) If an order has been entered and the license rights of the licensee have been finally adjudicated, then the local Circuit Court shall determine the monetary damages due from the aforesaid violation or violations.
- (c) When a final order has been entered by the Circuit Court, Court of Appeals, or Supreme Court, and upon certification to the board, the aggrieved party or parties shall be paid an amount not to exceed fifty thousand dollars (\$50,000) by the board, and the license held by the licensee against whom the claim was made by the aggrieved party shall be suspended at least until the licensee has reimbursed the auctioneer's education, research, and recovery fund for all amounts paid to the aggrieved party due to the violation of the licensee.
- (d) When, upon the final order of the court, the board has paid from the auctioneer's education, research, and recovery fund any sum to the aggrieved party, the board shall be subrogated to all of the rights of the aggrieved party to the extent of the payment and the aggrieved party shall, to the extent of the payment, assign his right, title, and interest in the judgment to the board.
- (e) All claims for monetary damages or relief from the auctioneer's education, research, and recovery fund shall be made in writing and submitted to the board within twelve (12) months of the act of the auctioneer giving rise to the loss. Failure to file a claim within the twelve (12) month period shall bar the claim. Additional evidence shall be submitted by the claimant if required by the board.

- (f) Notwithstanding any other provisions of this chapter, no unreimbursed amount greater than fifty thousand dollars (\$50,000) shall be paid by the board on account of any one (1) licensee, no matter over how long a time, or for how many claims, and no matter what the number of claimants be or the size of such claims, individually or in the aggregate. Should the licensee reimburse the fund for all amounts paid, then future claims timely filed with the board concerning different matters may be received pursuant to this section.
- (g) No claims shall be approved under this section for amounts which, in the aggregate, exceed the maximum payable on account of any one (1) licensee in effect at the time of the act or acts of the licensee giving rise to the claims, except to the extent of said maximum. Statutory increases in the maximum set out in this section do not apply retroactively.
- (4) All categories of licensees under this chapter are covered under the provisions of this section for the benefit and protection of the public.
- (5) This section is not intended to substitute for, circumvent, or duplicate other remedies existing at law or otherwise for claimants or potential claimants, but constitutes a last resort for aggrieved persons who would not, but for the provisions of this section, be able to recover their losses by any other means available. The board shall have full discretion to require that claimants exhaust all other remedies prior to proceeding under this section, including, but not limited to, the remedy of obtaining a judgment by all diligent and appropriate means.

**Study Tip-** Section 3 gives the limits that can be paid out per licensee and to any one person and how the excess can be invested. What is the time limit for filing a proof of loss form?

**330.200 Municipal right to license auctioneers and auction house operators.**

No municipality or other political subdivision shall regulate, tax, or license any licensee except for those administrative regulations, taxes, or licenses which may be reasonably imposed or required among all persons engaged in business generally.

**Study Tip-** Know how local governments can and cannot tax or license auctioneers and auction house operators.

**330.210 Sale of horses by auction.**

- (1) Notwithstanding any contrary provisions of law and in furtherance of the policies set forth in KRS 355.2-328, at any auction sale of horses, the auctioneer:
  - (a) May receive bids from the seller, consignor, or his agent, disclosed or undisclosed, if notice has been given in the terms and conditions governing the sale, or otherwise, that liberty for such bidding has been reserved by seller;
  - (b) Shall conduct the sale with respect to each lot or parcel on a with-reserve basis unless the seller has authorized the auctioneer, in writing, to conduct the sale on a without-reserve basis, in which event the auctioneer shall announce, in explicit terms, that the goods are being sold without reserve; and
  - (c) Shall not be required to announce at any with-reserve sale when the reserve is attained.
- (2) Notwithstanding any other provision of this chapter, the following shall not apply to auctions or auctioneers participating in an auction regarding the sale, lease, or exchange of an equine as defined in KRS 230.357(1):
  - (a) The advertising requirements set forth in KRS 330.230(1), (2), and (7);
  - (b) The causes justifying disciplinary action set forth in KRS 330.110(12), (13), (14), and (15); or
  - (c) The provisions regulating absolute auctions and reserve auctions set forth in KRS 330.220(5) and (7).

**330.220 Lots or parcels subjects of separate sales -- When auction is complete -- "Absolute auction" defined -- Presumption of reserve auction -- Bids by seller -- Avoidance of sale -- Prohibitions.**

- (1) If real or personal property is offered in lots or parcels in a sale by auction, each lot or parcel shall be the subject of a separate sale. This subsection shall not preclude real or personal property from being offered for bidding individually or in some form or combination.
- (2) Unless otherwise provided in the conditions of sale for auctions regarding horses or any interests therein, a sale by auction is complete when the auctioneer so announces by the fall of the hammer, announcing the item sold, and the successful bidder's identification or in other customary manner. If it becomes immediately apparent at

the close of the bidding that the auctioneer and a bid assistant or ringman have acknowledged the same bid from different bidders, the auctioneer may continue the bidding between the disputed bidders. When a bid is made while the auctioneer is in the process of completing the sale by auction, the auctioneer may continue the bidding or declare the real or personal property sold under the bid on which the hammer was falling.

- (3) No auction shall be advertised as "absolute" nor shall any advertising contain the words "absolute auction" or the word "absolute" or words with similar meaning nor shall any licensee offer or sell any real or personal property at absolute auction unless:
- (a) There are no liens or encumbrances on the real or personal property, except property tax obligations, easements, or restrictions of record, in favor of any person, firm, or corporation other than the seller, or unless each and every holder of each and every lien and encumbrance, by execution of the auction listing contract, or otherwise furnishing to the auctioneer written evidence of a binding commitment therefore, shall have agreed to the unqualified acceptance of the highest bid for the property, without regard to the amount of the highest bid or the identity of the high bidder; or, alternatively, that a financially responsible person, firm, or corporation, by execution of the auction listing contract or by otherwise furnishing to the auctioneer written evidence of a binding commitment therefore, shall have absolutely guaranteed the forthwith and complete discharge and satisfaction of any and all liens and encumbrances immediately after the sale or at the closing, without regard to the amount of the highest bid received, or the identity of the high bidder; and
  - (b) There is the bona fide intention at the time of the advertising and at the time of the auction to transfer ownership of the real or personal property, regardless of the amount of the highest and last bid, to the high bidder, that intent existing without reliance on any agreement that any particular bid or bid level must be made or be reached, below which level the real or personal property would not be transferred to the high bidder; and
  - (c) The auction listing contract contains a binding requirement that the auction be conducted without reserve, and includes an acknowledgment that the seller, or anyone acting upon behalf of the seller, shall not bid at the absolute auction, or otherwise participate in the bidding process.
- (4) Compliance with subsection (3) of this section shall not prohibit:
- (a) A secured party or other lienholder who is not the seller from bidding at an absolute auction, providing that such bidding does not constitute, nor is it tantamount to the direct or indirect establishment or agreement to the establishment of a reserve price on the real or personal property by the seller or by the auctioneer, or by anyone aiding or assisting, or acting upon behalf of, the seller or the auctioneer; or
  - (b) Any individual party to the dissolution of any marriage, partnership, or corporation from bidding as an individual entity apart from the selling entity, on real or personal property being sold at auction pursuant to that dissolution; or
  - (c) Any individual party or heir of a deceased person's bona fide estate from bidding as an individual entity, apart from the selling entity, on real or personal property being offered at auction pursuant to that estate settlement; or
  - (d) The inclusion of nonmisleading advertising of certain real or personal property to be sold at "absolute auction" and the nonmisleading advertising of certain real or personal property to be offered at auction with reserve, within the same advertisement, or for sale at the same date and place, providing that advertisement shall make clearly apparent through equal or appropriate emphasis, which real or personal property is being offered by each method.
- (5) Any auction sale is, without requirement of announcement at any time, presumed to be with reserve unless the real or personal property is in explicit terms offered at absolute auction. An auction without reserve means an absolute auction. An auction with reserve means the real or personal property may be offered subject to the seller's confirmation or subject to a certain reserve price. In an auction with reserve, the auctioneer may withdraw the real or personal property at any time until he or she announces completion of the sale. In an absolute auction, after the auctioneer calls for bids on an article, lot, or parcel, that article, lot, or parcel shall not be withdrawn unless no bid is made within a reasonable time. At both reserve auctions and without reserve auctions, the auctioneer may establish reasonable bid increments once an opening bid has been offered.
- (6) (a) The provisions of this chapter shall not prohibit any licensee from bidding on his or her own behalf at any auction sale, whether absolute or with reserve, if his or her option to do so has been fully disclosed, including disclosure to the seller.

- (b) Except as provided in subsection (4) of this section, the seller may not bid at an absolute auction, nor may anyone bid upon his or her behalf. No licensee shall knowingly receive a bid by or on behalf of the seller at an absolute auction.
- (c) Bids may be made by the seller, or upon the seller's behalf, at any auction with reserve, provided that full disclosure has clearly been made that liberty for bidding is retained. No licensee shall knowingly receive a bid in the absence of full disclosure. If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures a bid and notice has not been clearly given that liberty for bidding is reserved, the buyer may avoid the sale or take the real or personal property at the price of the last good faith bid prior to the completion of the sale.
- (d) There shall be no requirement that the reserve be announced when it is attained.
- (e) Nothing in this subsection shall be construed to alter or diminish the provisions of KRS 330.210.
- (7) (a) At any absolute auction, any advertisement or representation of a minimum or suggested starting bid is prohibited.
- (b) At any reserve auction, any advertisement or representation of a minimum or suggested starting bid is prohibited unless:
  1. The minimum or suggested starting bid advertised or represented is sufficient to satisfy the auction listing contract stated reserve or confirmation amount; and
  2. The auction listing contract contains a binding acknowledgment by the seller that permission has been granted for disclosure.

**330.230 Auction advertising.**

- (1) Any advertising pertaining to an auction shall include the name of the managing principal auctioneer for the auction and indicate that he or she is an auctioneer, except that any advertising pertaining to an auction conducted at an auction house operated by a licensed auction house operator shall include the name of the auction house operator and indicate that he or she is an auction house operator or "AHO." The advertising requirements in this subsection shall not apply to directional signs if a sign with the name of the managing principal auctioneer for the auction or the auction house operator is placed so that it can be easily observed and clearly read by anyone entering the auction site.
- (2) The existence and amount of any buyer's fee or buyer's premium shall be clearly disclosed in all terms and conditions included in any advertisements for a particular auction and in all terms and conditions presented or made available prior to the start of a particular auction.
- (3) (a) An auction shall not be advertised as "Court Ordered" or use similar wording implying court action unless:
  1. At least seventy-five percent (75%) of the items or lots in the auction are being offered pursuant to one (1) or more federal, state, or local court orders; and
  2. The items or lots were clearly not purchased or attained for the purpose of resale at auction.
- (b) The advertising shall clearly contain an explanation of the court order including identification of the court.
- (c) If less than one hundred percent (100%) of the items or lots being offered at the auction are pursuant to one (1) or more court orders, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.
- (d) This subsection shall not prohibit clear, non-misleading advertising of the inclusion of specific real or personal property being offered pursuant to a federal, state, or local court order in an auction if that real or personal property is offered pursuant to a federal, state, or local court order and was clearly not purchased or attained for the purpose of resale at auction.
- (4) (a) An auction shall not be advertised as a "Bankruptcy Auction" or "Items from Bankruptcy" or use similar wording or any combination thereof unless:
  1. The auction consists of at least seventy-five percent (75%) of items or lots to be offered for one (1) or more open and working bankruptcies under the jurisdiction of the United States Bankruptcy Court;
  2. The items or lots were clearly not purchased or attained for the purpose of resale at auction; and
  3. The advertising clearly includes the United States Bankruptcy Court case number or numbers.

- (b) If less than one hundred percent (100%) of the items or lots being offered at the auction are for one (1) or more bankruptcies, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.
  - (c) This subsection shall not prohibit clear, non-misleading advertising of the inclusion of specific real or personal property being offered for a bankruptcy in an auction if that real or personal property is being offered for one (1) or more open and working bankruptcies under the jurisdiction of the United States Bankruptcy Court, was not purchased or attained for the purpose of resale at auction, and the advertising clearly includes the United States Bankruptcy Court case number or numbers.
- (5) (a) An auction shall not be advertised as a "Seized Property Auction," "Confiscated Property Auction," or "Forfeiture Property Auction" or utilize similar wording or any combination thereof implying governmental action unless:
- 1. The auction contains at least seventy-five percent (75%) of the items or lots to be offered pursuant to one (1) or more federal, state, or local governmental actions in which the real or personal property is being offered directly for the federal, state, or local governmental entity;
  - 2. The items or lots were clearly not purchased or attained for the purpose of resale at auction; and
  - 3. The advertising clearly contains an explanation of the governmental action, including identification of the governmental entity.
- (b) If less than one hundred percent (100%) of the items or lots being offered at the auction are from one (1) or more governmental actions, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.
  - (c) This subsection shall not prohibit clear, non-misleading advertising of the inclusion of specific real or personal property being offered pursuant to a federal, state, or local governmental action in an auction if the real or personal property is offered directly for a federal, state, or local governmental entity and was clearly not purchased or attained for the purpose of resale at auction.
- (6) (a) An auction shall not be advertised as a "Liquidation Auction," "Surplus Auction," "Inventory Reduction Auction," or "Going Out of Business Auction" or use similar wording or any combination thereof unless:
- 1. The auction contains at least seventy-five percent (75%) of the items or lots to be offered for one (1) or more liquidation, surplus, inventory reduction, or going out of business situations in which the real or personal property belongs to a company or other business entity and is being offered as "out of stock"; and
  - 2. The items or lots were clearly not purchased or attained for the purpose of resale at auction.
- (b) If less than one hundred percent (100%) of the items or lots being offered at the auction are from one (1) or more liquidation, surplus, inventory reduction, or going out of business situations, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.
  - (c) This subsection shall not prohibit clear, non-misleading advertising of the inclusion of specific real or personal property being offered for a liquidation, surplus, inventory reduction, or going out of business situation, or similar wording or any combination thereof, in an auction if the real or personal property is being offered for a liquidation, surplus, inventory reduction, or going out of business situation in which the real or personal property belongs to a company or other business entity, is being offered as "out of stock," and was clearly not purchased or attained for the purpose of resale at auction.
- (7) (a) An auction shall not be advertised as an "Estate Auction," "Estate Settlement," or "To Settle the Estate of ... Auction" or use similar wording or any combination thereof unless:
- 1. At least seventy-five percent (75%) of the items or lots in the auction are being offered for one (1) or more estates in which the real or personal property belongs to the estate of one (1) or more deceased persons and is being offered by the direction and authority of the authorized executor or administrator, or by court order, or by the direction and authority of one (1) or more direct heirs; and
  - 2. The items or lots were clearly not purchased or attained for the purpose of resale at auction.
- (b) If less than one hundred percent (100%) of the items or lots being offered at the auction are from one (1) or more estates, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.

- (c) This subsection shall not prohibit clear, non-misleading advertising of the inclusion of real or personal property offered for an estate in an auction if the real or personal property is being offered for an estate as set forth in this subsection.
- (8) (a) An auction shall not be advertised as a "Living Estate Auction" or "To Settle the Living Estate of ... Auction" or use similar wording or any combination thereof unless:
  - 1. At least seventy-five percent (75%) of the items or lots in the auction are being offered for one (1) or more living estates in which the real or personal property belongs to a household that is in transition due to a life-changing situation, including but not limited to one (1) or more members of the household moving into a retirement home, nursing home, or assisted living home or combining the household with another; and
  - 2. The items or lots were clearly not purchased or attained for the purpose of resale at auction.
- (b) If less than one hundred percent (100%) of the items or lots being offered at the auction are from one (1) or more living estates, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.
- (c) This subsection shall not prohibit clear, non-misleading advertising of the inclusion of real or personal property being offered for a living estate in an auction if the real or personal property is being offered for a living estate pursuant to this subsection.

**330.990 Penalties.**

- (1) Any person engaging in auction activities regulated by this chapter without a license shall be guilty of:
  - (a) For the first offense, a violation with a fine up to two hundred fifty dollars (\$250);
  - (b) For the second offense, a Class B misdemeanor with a fine up to two hundred fifty dollars (\$250) and up to ninety (90) days imprisonment; and
  - (c) For the third and subsequent offenses, a Class A misdemeanor with a fine up to five hundred dollars (\$500) and up to twelve (12) months imprisonment.
- (2) The board or its authorized representative may apply for injunctive relief to the Circuit Court of the county in which the alleged violation occurred to enjoin any person or entity from committing an act in violation of this chapter. The injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies in this chapter. In an action for injunction, the board may demand and recover a civil penalty of fifty dollars (\$50) per day for each violation, reasonable attorney's fees, and court costs.

**Study Tip-** This section is very important. Be sure you know and understand this section in detail. Refer to the Study Guide section on auction law and auction types for assistance. Also, know the penalties for violating KRS330.

## Kentucky Administrative Regulations

**201 KAR 3:005. Name required on advertising.**

Section 1. Any advertisements pertaining to a particular auction sale must contain the name of the principal auctioneer and indicate that he is an auctioneer.

**201 KAR 3:025. Reciprocity requirements.**

Section 1. Due to the fact that some states do not require licensees to serve an apprenticeship, reciprocity with any state that does not require an apprenticeship shall be granted only after a licensee in that state who is a nonresident of Kentucky has held his license for a minimum of one (1) year.

### **201 KAR 3:035. Real estate sales by auction.**

Section 1. Pursuant to an Opinion of the Attorney General, OAG-759, dated October 20, 1965, which held that a licensed real estate broker may not sell real estate at auction without an auctioneer's license; and a licensed auctioneer may not sell real estate at auction without a real estate broker's license, it shall be considered improper dealing for an auctioneer to engage in any practice to obtain or negotiate a contract for the sale of real estate at auction, or advertise, or conduct a sale of real estate at auction without a license issued by the Kentucky State Real Estate Commission. However, nothing contained in this administrative regulation shall prevent a licensed real estate broker and a licensed auctioneer from participating jointly in such transactions for the sale of real estate at auction.

### **201 KAR 3:045. Recordkeeping and accounting.**

RELATES TO: KRS 330.110(5)

STATUTORY AUTHORITY: KRS 330.050(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 330.050(8) authorizes the Board of Auctioneers to promulgate administrative regulations concerning recordkeeping and accounting. This administrative regulation establishes requirements to protect the public through adequate recordkeeping and accounting.

Section 1. Proceeds of a personal property auction not disbursed to the owner on auction day shall be deposited in an auction escrow account by the auctioneer or auction firm no later than three (3) banking days following the date of auction or sale of the goods, whichever occurs first.

Section 2. Auctioneers and auction firms shall use federally insured depositories in the Commonwealth of Kentucky.

Section 3. Proceeds due from the sale of goods, other than real property, shall be disbursed to the owner no later than thirty (30) days after the date of each auction.

Section 4. Funds from a real estate auction shall be held in escrow until settlement in accordance with the agreement of sale.

Section 5. If the owner's goods are not sold in a single auction, proceeds due shall be disbursed to the owner within thirty (30) days after each auction for goods, other than real property, or in accordance with the agreement of sale for the sale of real property. Notice shall be given to the owner of the tentative date of auction of the remaining goods.

Section 6. The auction escrow account shall be used solely for the preservation and guarantee of auction proceeds until disbursed at settlement. Funds for any other purpose shall not be commingled with the auction escrow account. Moneys due to the auctioneer or auction firm shall not be withdrawn from the auction escrow account until final settlement is made with the owner.

Section 7. Auction records, including lists of buyers and their addresses, and clerk sheets showing the items sold including the buyers' numbers or names and the selling prices, and the final settlement papers, shall be

retained for a period of five (5) years from the date of settlement. These business records shall be available for inspection by the board or its designees.

**201 KAR 3:055. Apprenticeship residency requirements.**

Section 1. In the absence of a showing of special circumstances satisfactory to the board, no principal auctioneer shall sponsor an apprentice whose residence is located outside a fifty (50) mile radius of the principal auctioneer's main or branch office.

**201 KAR 3:065. Maintaining a license while on active military duty.**

Section 1. Any individual holding a valid apprentice or principal Kentucky auctioneer license who enters the military service of the United States shall not be required to contribute to the Auctioneer Education Research and Recovery Fund or maintain his license during the period that he is on active duty for said military service. Within sixty (60) days of such individual's honorable discharge from the service, he may request reinstatement of his license and said request shall be granted by the board.

**201 KAR 3:090. Administrative Fees for Applications and Services.**

Section 1. License Application and Renewal Fees.

(1) The license fee for each new applicant with the Kentucky Board of Auctioneers shall be \$100.

(2) The license renewal fee shall be paid as of June 30th of each year.

(a) The license renewal fee shall be \$100 if paid by June 30th of each year.

(b) The license renewal fee during the six (6) month grace period after June 30th shall be \$100, in addition to a late fee of \$100.

(c) The license renewal fee after the six (6) month grace period, but paid prior to June 30th of the following year, shall be \$100, in addition to a late fee of \$100.

(3) The license renewal and late fees for apprentice auctioneers shall be equal to the fees set forth in subsection (2) of this section.

Section 2. Late Continuing Education Completion. A licensee who has failed to complete the required continuing education credits in the time period set forth by KRS 330.070 shall remit a fee of \$300, and in addition, shall complete twice the amount of continuing education credits set forth by statute within the following year.

Section 3. Replacement of License or Pocket License.

(1) The fee for replacement of a license shall be fifteen (15) dollars.

(2) The fee for replacement of a pocket license shall be fifteen (15) dollars.

Section 4. Reactivation of License. The fee to reactivate a license which has previously been placed in escrow status shall be \$100. In addition, the licensee shall have completed the continuing education credits set forth by KRS 330.070 for the current year.

Section 5. Change of Address Fees.

(1) The fee for a Residential Change of Address shall be fifteen (15) dollars.

(2) The fee for a Business Change of Address shall be fifteen (15) dollars.

Section 6. Education, Research, and Recovery Fund. The Kentucky Board of Auctioneers may assess each new applicant and each renewal licensee an initial recovery fee and a renewal recovery fee, respectively, of thirty (30) dollars per year for the Education, Research, and Recovery Fund.

## **EXCERPT FROM UNIFORM COMMERCIAL CODE**

### ARTICLES ON SALES

#### KRS 355.2-328 Sale By Auction.

- 1) In a sale by auction if goods are put up in lots each lot is the subject of a separate sale.
- 2) A sale by auction is complete when the auctioneer so announces by the fall of the hammer or in other customary manner. Where a bid is made while the hammer is falling in acceptance of a prior bid the auctioneer may in his discretion reopen the bidding or declare the goods sold under the bid on which the hammer was falling.
- 3) Such a sale is with reserve unless the goods are in explicit terms put up without reserve. In an auction with reserve the auctioneer may withdraw the goods at any time until he announces completion of the sale. In an auction without reserve, after the auctioneer calls for bids on an article or lot, that article or lot cannot be withdrawn unless no bid is made within a reasonable time. In either case a bidder may retract his bid until the auctioneer's announcement of completion of the sale, but a bidder's retraction does not revive any previous bid.
- 4) If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures such a bid, and notice has not been given that liberty for such bidding is reserved, the buyer may at his option avoid the sale or take the goods at the price of the last good faith bid prior to the completion of the sale. This subsection shall not apply to any bid at a forced sale.

**End of Study Guide**