

KENTUCKY BOARD OF AUCTIONEERS



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SPECIAL POINTS OF INTEREST:

- Retirement
- Appointments
- New Appointment
- License Stats

INSIDE THIS ISSUE:

- KY Core Course 2
- Educational Updates 2
- KY Sales Tax Update 3
- Seller's Acknowledgment 4
- Audits 4

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Commissioners: J. Randall Bush, Chairman, Stephen D. Lewis, Vice-Chairman; E. Glenn Birdwhistell; Clarence A. Yancey; Joseph R. Gribbins
 Administrative Staff: Marilyn Kennedy, Executive Director; Lavonne Bowling, Executive Secretary
 Compliance Officers: Larry Mahoney & Kenneth Hill
 Legal: Stephen Van Zant

Retirement - Samuel Ray Godby



In 2012 Commissioner Samuel Ray Godby retired from the Kentucky Board of Auctioneers after 23 years of service. The Kentucky Board of Auctioneers wants to thank Commissioner Godby for his many years of service and dedication to the Board of Auctioneers and the auction profession. Commissioner Godby exemplified professionalism and continuously worked to advance the auction profession to the highest standards.

REAPPOINTMENTS

Commissioners J. Randall Bush of Elizabethtown and Clarence A. Yancey of Louisville were reappointed as Commissioners.

APPOINTMENT

Joseph R. Gribbins of Jeffersontown was appointed as Commissioner.

Licensee Statistics

As of 3/20/2013 there are 2,291 licensees:

- 2,148 Active Licensees
- 143 in escrow

Out of the 2,148 active licensees:

- 1,188 Principals
- 399 Apprentices
- 87 Auction House Operators
- 20 Livestock
- 91 Non-Resident
- 363 Reciprocal

The Board had 19 formal complaints in 2012:

- 7 Dismissed
- 3 Fined
- 2 Suspended
- 5 Ongoing
- 1 Revoked
- 1 Surrendered

KY Core Course

No Licensee is Exempt!

Apprentice and Auction House Operators are now required to complete 6 (six) hours of CE

Real Estate hours no longer accepted



Reciprocal Licensees

KY Core Course Every Four Years

As most of you know by now, the Kentucky Board of Auctioneers is now requiring all licensees to take a Kentucky Auction Core Course once every 4 years beginning with the 2013 renewal year. No one is exempt from this course. The schedule is based on the licensee's birth date.

The schedule is as follows:

BIRTHMONTH RENEWAL YEAR

January, February, March
2013

April, May, June
2014

July, August, September
2015

October, November, December
2016



The Core Course providers are listed on our website: <http://auctioneers.ky.gov>.

Note: A licensee may take the Core Course in a year other than their required year and the course will satisfy the normal educational requirement for that year; however, that licensee will still be required to take and complete the required Core Course during their assigned year.

Other Educational Updates

Apprentice and Auction House Operators Update - **NOTICE** - all **non-exempt Apprentice Auctioneers and Auction House Operators are now required to complete 6 hours of continuing education annually** starting July 1, 2012 through June 30, 2013. Those providers are listed on our website: <http://auctioneers.ky.gov>.

The CE requirement stays the same if you were licensed prior to 1980.

And, effective July 1, 2010, an applicant for an apprentice auctioneer license has to complete at least 80 hours of approved classroom instruction from a board-approved auction education provider, listed on our website: <http://auctioneers.ky.gov>

Real Estate Continuing Education hours are no longer accepted by the Kentucky Board of Auctioneer starting this current education year, 2012.

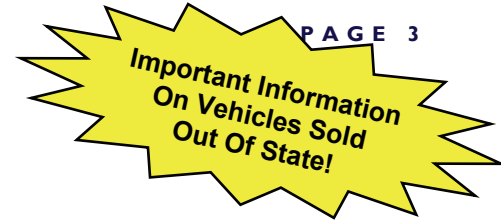
Continuing Education for Reciprocal Licensees - If a reciprocal licensee is licensed through a state that has CE requirements then that licensee is exempt from additional CE. If the reciprocal licensee is licensed through a state that does NOT have CE requirements, then that licensee is required to complete 6 hours of CE from an auction school listed on our website: <http://auctioneers.ky.gov>.

Reciprocal licensees and the core course - Currently Indiana is the only state with which Kentucky has a reciprocal agreement regarding the core course. If an individual has a reciprocal Kentucky license through their Indiana license and they satisfy Indiana's requirement for core, that will also satisfy the Kentucky core requirement. Conversely, if an individual has a reciprocal Indiana license through their Kentucky license and they satisfy Kentucky's requirement for core, that will also satisfy the Indiana core requirement.

Failure to obtain required continuing education or core course - If a required continuing education or core course has not been completed by June 30th the licensee will not be able to renew until they pay a \$300 late education penalty fee, along with the regular renewal fee, and complete the required continuing education or core course during the next license year in addition to their normal continuing education.

KY Sales Tax Vehicles, Boats, Trailers & Mobile Homes

Current March 2013



Recently the Kentucky Board of Auctioneers has received inquiries from licensees regarding Sales Tax on vehicles and boats. Any specific questions regarding Kentucky Sales and Use Tax should be addressed to the Kentucky Department of Revenue, Division of Sales and Use Tax, 501 High Street, Frankfort, KY 40602-0181, 502-564-5170 or KRCWEBResponseSalesTax@ky.gov.

Motor Vehicles: Motor vehicles, including motorcycles, which are licensed for highway uses, are not usually subject to Sales or Use Tax (KRS Chapter 139) when sold at retail. These vehicles are subject to Motor Vehicle Usage Tax (KRS Chapter 138) when transferred and registered at the local county clerk's office. In other words, for motor vehicle usage tax purposes, the Auctioneer does not collect the tax on vehicles, the county clerk's office will do so at the time of transfer.

Out of State Purchasers: Motor vehicles sold in Kentucky to a nonresident of one of eight states are subject to KY Sales Tax. It is the responsibility of the Auctioneer to collect and remit the KY Sales Tax on any vehicle sold to a resident of Indiana, Arizona, California, Massachusetts, Michigan, South Carolina, Washington, or Florida, unless the vehicle is being purchased for resale (with a Resale Certificate) or by a non-profit charitable, educational, or religious institution (with a Purchase Exemption Certificate) (KRS 139.470-21b).

Note: The Motor Vehicle Usage Tax does not apply to boats, boat trailers, or other types of trailers. They are subject to Sales Tax, to be collected by the Auctioneer.

Boats: Personal and recreational boats and boat trailers are taxable and are treated like any other tangible personal property. Even if the boat and/or boat trailer is/are "registered" or "with title," the Auctioneer (not the county clerk's office) is responsible for the collection of the Sales Tax, unless the boat is being purchased by a boat dealer for resale (with a Resale Certificate). Commercial ships and vessels may qualify for exemption from the Sales and Use Tax with the issuance of an exemption certificate-watercraft industry (Form 51A143) if they are to be used to transport property or persons for hire.

Trailers: Trailers designed to be attached to a bumper or trailer hitch are subject to Sales Tax regardless of whether or not the trailer is "with title" or "licensed." It is the responsibility of the Auctioneer (not the county clerk's office) to collect the Sales Tax on all non-exempt trailers sold at auction.

Semi-trailers: The sale of a semi-trailer or a trailer designed to be supported by a mounting placed in the bed of a pick-up truck is exempt and not subject to Sales Tax. A semi-trailer/trailer is defined by KRS 189.010 to mean a vehicle:

Designed to have its front-end supported by a motor truck or truck tractor, and

Intended for the carrying of freight or merchandise, and

Having a load capacity of over one thousand (1,000) pounds.

Based on this definition, a goose neck (fifth wheel) trailer intended for carrying freight/merchandise would be exempt from the Sales and Use Tax. The exemption does not apply to travel trailers and combination trailers. Whether or not a semi-trailer is "with" or "without" title, and whether or not a semi-trailer is going to be used "on" or "off" the road is immaterial. All semi-trailers which conform to the above definition, including semi-trailers used for storage, are exempt from Sales Tax.

Mobile Homes: Manufactured homes (mobile homes) that have been placed on blocks or a foundation are considered real property when being sold as a part of the land. If the buyer is required, as a condition of the sale of the manufactured home to move the manufactured home from its location, then the transaction is considered a sale of tangible personal property and Sales Tax applies.

Does your Absolute Auction Listing Contract include the required Seller's Acknowledgment?

Seller's
Acknowledgment in
Absolute Auction
Contracts

One of the most frequent areas of questions and complaints from Sellers to the Kentucky Board of Auctioneers is Absolute Auctions. Kentucky auction statutes (KRS 330.220 Parg. 3) requires that no auction shall be advertised as "absolute", or with similar wording, unless the auction listing contract contains a "binding requirement that the auction be conducted without reserve", in other words the Seller must explicitly agree, in the auction listing contract, that the auction is to be without reserve (absolute); and includes an acknowledgement by the Seller, that neither the Seller nor anyone acting on the Seller's behalf shall bid or otherwise participate in the bidding.

The absence of this wording in auctioneers contracts has resulted in disciplinary actions. Check your contract to be sure this "binding requirement" and the "Seller's Acknowledgment" are included. And YES, it is the responsibility of the licensee to fully explain, and be sure the Seller understands, the difference between a reserve auction and an absolute auction. If you have any questions please contact the Kentucky Board of Auctioneers.

Audits

The Kentucky Board of Auctioneers has been informed that the Kentucky Department of Labor and the Kentucky Division of Unemployment Insurance have been visiting and auditing Kentucky Auctioneers. The Kentucky Board of Auctioneers has no jurisdiction in these matters, but as a service to its licensees would like to inform all licenses of these visits and audits.

The Kentucky Department of Labor audits have been for Workers Compensation insurance. The Dept. of Labor is informing these Auctioneers that they must carry Workers Comp. Insurance for all employees (this includes all part time "contract" labor). They are informing these Auctioneers that failure to obtain Workers Comp. Insurance will result in fines.

The Kentucky Division of Unemployment Insurance is auditing Auctioneers to be certain that the Auctioneer is paying in Unemployment for all employees (again this includes all part time "contract" labor). If the Auctioneer has not paid in this Unemployment Insurance (they can go back several years) they are assessed for the cost of the past insurance that should have been paid plus interest and penalties.

Note: Many Auctioneers consider set-up labor, clerks, cashiers, ringmen and other part time help as "contract" labor, not employees; however, the above mentioned agencies, and other government agencies, consider them employees and as such subject to Workers Comp., Unemployment Insurance, and withholding taxes.

Note: As with the Sales Tax audits, these visits and audits seem to be targeted to large auction companies and small independent Auctioneers.

Questions: If you have any questions regarding these visits and audits, please contact the Kentucky Department of Labor and the Kentucky Division of Unemployment Insurance.

Kentucky Department
of Labor

Kentucky Department
of Unemployment
Insurance