



DIRECT FROM THE DIRECTOR



Kenneth Hill
KBA Executive Director

Greetings to all our valued Auction Licensees, and welcome to our Summer Newsletter/Legal Bulletin. As always, I thank each of you for the opportunity to serve you as the Executive Director of this Agency. Soon, I will celebrate my second year in this position. It is hard to believe that much time has slipped by so quickly. All of the success I have achieved has come only with great support of this Board, and from Licensees across the Commonwealth. I truly appreciate each of you.

The past few months have been extremely busy, and July brought several chapters to a close.

- HB 148 is now enrolled into KRS Chapter 330, and all changes are now part of our auction law. You will find a link to the statutes further in this publication.
- We completed a successful renewal period, and held onto 1960 licensees, as compared to just over 1800 at the same time last year. With newcomers to the profession and late renewals, we now have 2030 Licensees.
- The new requirements for Apprentice Auctioneers and Auction House

Operators are now in effect, and the early response has been very good. Our Education Providers are scrambling to get the new classes up and running, and the entire 12 hours should soon be available both in a live setting and an online version.

We will be mailing this newsletter to Licensees who do not have electronic mail, so everyone will be up-to-date on the recent changes.

Contact us anytime. Our phone lines are clear, our email is logged in, and our doors are open.

Need a Little Help Around the Office?

The new changes in education requirements will make it easier to get those Apprentice Auctioneers licensed, and pitching in with your upcoming auctions.



All applicants for an Apprentice Auctioneers License, or an Auction House Operator's License are required to attend twelve (12) hours of pre-license education. Those 12 hours must consist of the Kentucky Core Course, and the new, 6-hour, Kentucky Auction Basics course. The two courses may be taken in a live classroom setting, or from a Board approved online CE provider. This 12 hours of pre-license education will allow applicants to apply for the examinations, which are given in our office on a monthly basis. Once licensed, Apprentice Auctioneers may work under a Principal Auctioneer for as long as they choose. They are no longer required to obtain a Principal Auctioneer's License within five years.

Apprentices, who do want to become Principal Auctioneers may make application, and take the Principal Auctioneer Examination after completing a one year apprenticeship, and participating in ten auctions.

Take a chance on an apprentice. You may be surprised what you will learn while teaching.

What Changed in KRS Chapter 330?

On June 24, 2015, House Bill 148 officially became part of KRS Chapter 330. The following changes are now in place, and can be found on our website. A printable version is available by clicking here: [KRS 330 Booklet](#). Copies will not be mailed, so we highly recommend downloading the statute for quick reference.



These are the changes, enacted to KRS Chapter 330 on June, 24, 2015:

- Auction house managers, and non-auctioneer co-owners, who are "active" participants in the operation of the business will need a separate Auction House

license. This change is designed to eliminate the practice of an individual obtaining an Auction House Operator's License, and then allowing multiple business partners, or employees to operate under that license. If an employee, or co-owner is going to be accepting consignments, reviewing/signing contracts, or performing other duties that would require a working knowledge of KRS Chapter 330, then that person should be licensed. No one would want a medical examination from someone, whose only qualification was that they had a friend, or family member who was a doctor, nor would anyone want medical advice from the office receptionist. The same holds true when a customer is consigning their valuable items at an auction house. They should have confidence that the person behind the counter knows what they are doing.

- Applicants for an Apprentice Auctioneer License will now have to complete twelve (12) hours of pre-license education before taking the examination. This 12 hours will consist of the Kentucky Core Course, which most Licensees have now attended, and a new "Auction Basics Course". These two 6-hour courses are designed to give the applicant a basic knowledge of auction law, practical auction operation, and ethical considerations. Both courses will soon be available from several of our education providers, and applicants will have the choice of either online, or live classes.
- Apprentice Auctioneers, who wish to become Principal Auctioneers, will now be required to serve only a one year apprenticeship, and must "actively and materially" participate in ten (10) auctions, AND complete at least 80 hours of approved classroom instruction from a board-approved provider. Apprentice Auctioneers licensed prior to July 01, 2010, or after June 24, 2015 must take the Principal examination. Those licensed between those dates need only to complete the application, submit proof of participation for the ten auctions, and request to be elevated to a Principal Auctioneer.
- Apprentice auctioneers are no longer required to obtain a Principal Auctioneer License within five (5) years, and may hold an apprentice license for as long as they desire.
- Effective on July 01, 2016, Licensees with twenty-five (25) years of continuous licensure will be exempt from the requirement that they attend the Core Course every four (4) years. Licensees are cautioned that this will not exempt Licensees from yearly continuing education requirements. All Licensees, who obtained their licenses prior to January 01, 1980 will, once again, be exempt from all CE requirements. Other Licensees, even those with twenty-five (25) years of licensure, must still attend six (6) hours of CE each year, but the Core Course will not be required.
- Before activating an escrowed license, the Licensee must attend the Core Course. Previously, only six (6) hours of CE was required.
- The maximum fine the Board can assess is now capped at \$5000.00 for a single incident. The maximum fine is still \$2000.00 per charge, but many complaints involve numerous charges.
- Licensees must present any requested information, subsequent to a request from the Board's Executive Director. Previously, only a Compliance Officer, or the Board's Legal Counsel could request auction related information. This change brings our statute in line with the practical operation of the Board Office.
- Principal Auctioneers may be subjected to disciplinary action for failing to supervise their Apprentice Auctioneers. This has always been a Board Policy, but was never written into the statute.

To further clarify the right of Auctioneers to work in conjunction with licensed real estate brokers for the sale of real property, a new section was added to our statute, and to KRS Chapter 324, which governs the Kentucky Real Estate Commission. This section was taken verbatim from previous opinions from Kentucky's Attorneys General, and reads as follows:

330.032 License required for real estate sales at auction -- Collaboration between auctioneer and real estate broker.

- (1) A licensed auctioneer shall not sell real estate at auction without a real estate broker's license.
- (2) A licensed real estate broker shall not sell real estate at auction without an auctioneer's license.
- (3) Notwithstanding the provisions set forth in KRS 426.522, an auctioneer and real estate broker may collaborate in conducting the sale of real estate at auction. When an auctioneer and real estate broker collaborate in the conduct of a sale of real estate at auction, a real estate broker shall be paid for services rendered as a broker, and an auctioneer shall be paid for services rendered as an auctioneer.

YOUR BOARD

Your Kentucky Board of Auctioneers, pictured in the photo from left to right: Chairman - J. Randall Bush, Joe Gribbins, Vice-Chairman - E. Glenn Birdwhistell, Stephen Lewis, and Clarence Yancey.



J. Randall "Randy" Bush, our current Board Chairman, was first appointed to the Board in 1996. He is a nationally recognized livestock auctioneer, who specialized in selling, of all things, goats! Randy retired from the Kentucky State Police in 1984, began auctioneering full-time, and never looked back. He has sold everything from real estate, to tobacco, to livestock, all over 20 states, and has held licenses in 17 states. As the Board Chairman, Randy is closely involved with the day-to-day operation of the Board Office. His encyclopedic knowledge of auction law is much admired and appreciated by Board staff. Randy has semi-retired to Russell County, Kentucky, and spends as much time as possible on nearby Lake Cumberland.

Mr. Joe Gribbins is our junior Board Member, but he is well-known to most auctioneers through his work as a CE Instructor. Joe has worked with the Board for many years on education and legislative projects, and is the principal author of the Kentucky Auction Core Course and the Kentucky Sales and Use Tax Guide for Auctioneers. He is a third generation Auctioneer, and a second generation Board Member, following in the footsteps of his late father, Commissioner Aleck Gribbins. Joe serves as the Principal Broker for Wardlow Auctions in Louisville. He is a past-president of the Kentucky Auctioneers Association, and a KAA Hall Of Fame Auctioneer. Auctions are his business, but teaching is his gift. He continues to teach auction education across the state, and is an instructor for the National Auctioneer Association's "Certified Estate Specialist" designation course.

Mr. E. Glenn Birdwhistell is the President, Principal Broker, and Auctioneer for Birdwhistell & Perry Realty and Auction Company in Lawrenceburg, KY. Despite the fact that he has been a Real Estate Broker since 1956, and an Auctioneer since before the Board of Auctioneers was formed, he shows no sign of slowing down, and recently opened a new facility just up the road from his downtown office. Glenn is a past-president of the

Kentucky Auctioneers Association, and a KAA Hall of Fame Auctioneer. In addition to his successful auction career, Mr. Birdwhistell served 41 years in the U.S Military, retiring from the Kentucky National Guard in 1992 as a Chief Warrant Officer 4. He remains active with several community organizations, and is a 32nd Degree Mason.

Mr. Stephen Lewis is our longest serving Board Member, having been first appointed in 1985. Stephen in the President, Broker, and Principal Auctioneer for the C. Roger Lewis Agency in Morehead, KY, which was founded by his late father, who also served the Kentucky Board of Auctioneers as a Board Member. Stephen is a Hall of Fame Auctioneer with both the Kentucky Auctioneers Association, and the National Auctioneers Association, and has served in various positions in both of those great organizations. He serves his community through his membership in various charitable organizations, and is currently a Morehead State University Fellow, and Chairman of the Claire Regional Medical Center Foundation.

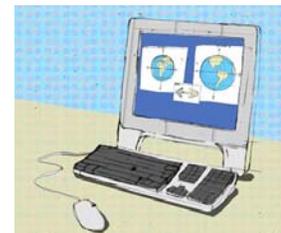
Mr. Clarence Yancey is our "Consumer" Member, and the only member of our Board, who is not an auctioneer. Since his retirement from the City of Louisville Sanitation Department Mr. Yancey has operated a successful catering operation, and can often be seen at high profile political events. He is famous for his great food, and he has never met a stranger. He gives back to his community by strongly supporting youth programs and area Little League teams throughout the West End of Louisville.

Our Board Meetings are generally held on the second Wednesday of each month. The next meeting will be held at the office in Elizabethtown, KY on October 14th, at 9:00 A.M. E.S.T. Visitors are always welcome, but those wishing to address the Board must submit a request at least ten (10) days prior to the meeting. Requests can be made via email to auctioneers@ky.gov, and should include your name, address, and the topic of interest.

Technology and You

By: Ken Hill

If this is the first time you have read a bulletin from the Kentucky Board of Auctioneers in several years, this segment is for you!



We are mailing this Legal Bulletin to Licensees without email addresses, but with the rising costs of printing and postage, we can no longer afford to mail items on a regular basis, and must rely on other, less expensive forms of communication. As a government agency, we are prohibited from mailing newsletters unless, like this one, they contain information of utmost importance. We have recently begun to use "robo-calls" for brief messages, but email remains the best method of delivery for the majority of our communications.

We send a newsletter, similar to this bulletin, on a quarterly basis, and we often send shorter

publications as the need arises. Each publication is sent to the over 2000 email addresses in our database. The best open rate we have ever achieved is just over 50%. So, only half of our Licensees are reading the important information in the newsletters and bulletins. Half! While this puts us well above the industry standards for readership, it is still disappointing to know that we are only reaching half of our target audience, and that a great many Licensees are missing out on vital information. Not receiving the information does not relieve a Licensee of the duty to know and follow laws and regulations. Ignorance of statutory requirements will not be a defense.

Please keep your email addresses up-to-date with the Board Office. There is absolutely no charge for changing, or updating an email address. We will happily handle this transaction by telephone if you will just give us a call. Also, we know that many of the email addresses in our database belong to Licensees, who never open an email. If this describes you, then maybe you should consider providing us with another email address for someone, who will open the email and keep you informed. Most everyone has a secretary, co-worker, friend, or family member, who will pass along the contents of the dozen, or so emails we send each year. We will enter whatever email address you provide. Just make sure the recipient has agreed to the arrangement.

Email will continue to be the chief method of communication, and your need for information will only grow in the future. Please take the necessary steps to ensure that you stay updated.

From the Chairman
J. Randall Bush, KBA Chairman



We are now past the halfway point of 2015, and already this has been one of the most productive years in the history of our Board. We revamped our statutes, reinvigorated our entire agency, and moved to a more suitable location. I feel confident that the future is bright for both our agency, and our industry. We will continue to pursue and enforce policies that make the auction industry stronger, while protecting the citizens on the Commonwealth, and keeping the door open to new people and new ideas.

As always, I appreciate the opportunity to serve you. - Randy

NEW BOARD POLICY

The recent changes in KRS 330 have, for some reason, caused several long-term Apprentice Auctioneers to take a second look at becoming Principal Auctioneers. After reviewing the matter closely, the Board has decided that Apprentice Auctioneers, who held their licenses prior to 2010 when the 80 hour education requirement was adopted, may apply to take the Principal Auctioneer Exam without meeting the education requirement. Such applicants will still need to comply with the requirement that they assist with 10 auctions. No longer will prospective applicants be required to submit a written request for consideration by the Board.

A FINE LINE

By, Ken Hill



Like all boards and commissions, the Kentucky Board of Auctioneers must walk a fine line between protecting the public, and merely protecting the profession. I happen to think this Board does an excellent job of balancing the two competing interests, and I know that public protection is first, and foremost in all decisions made by the Board. This issue came to the forefront recently, when I received a call from Jim Waters of the Bluegrass Institute for Public Policy. Mr. Waters was writing an article on licensing, and was referred to me by one of our Licensees. Waters' bias against licensing was obvious from his choice of questions, but this Board, and this office has nothing to hide, so I answered each to the best of my ability. The article "[Tear Down Kentucky's Licensing Walls](#)" can be found at www.bipps.org. I thought Waters was entirely fair with his treatment of the Kentucky Board of Auctioneers in his article, and I appreciate his honest approach to journalism.

Mr. Waters' questions had the positive effect of forcing me to consider my responses, and I even learned a few things from him. For instance, before our most recent changes to KRS Chapter 330, Kentucky was the third most restrictive auctioneer licensing board in the country. I don't know what we are ranked now, but Waters seemed to like our changes. I agreed with him on several issues, and everyone at this agency understands that any action, designed solely to decrease competition, or to limit markets, is completely unacceptable.

What is the purpose of the Kentucky Board of Auctioneers? Well, the simple answer to that is found on the homepage of our website - "As an agency of the Commonwealth of Kentucky, the primary purpose of the Kentucky Board of Auctioneers is to protect the public. This is accomplished through examination, licensure, and regulation of auctioneers, apprentice auctioneers, limited livestock auctioneers and auction house operators". First, and foremost, we are a public protection agency. All the regulations, and statutes designed to manage and educate auctioneers is done for the benefit of the consumer. While there are a great many professional groups and organizations, whose function it is to improve auctioneering and business skills, our agency is primarily concerned with the portions of the auction industry that affect each auction-goer. We are much more concerned with a licensee's ability to understand and manage an escrow account than we are with their bid calling skills. No customer ever lost money because of a bad chant. This explains why the Board dropped bid calling as part of the examination.

In addition to ensuring Licensees understand basic money management principles, we also serve as an entry point for consumer information and complaints. Anyone, who has ever been a part of the American Judicial System knows that our courtrooms are not for the faint of heart. Complaints often linger for years, and victims and defendants share the same uncomfortable seating in cramped waiting rooms with endless delays. In fact, our court systems have become so overburdened that many parties are now turning to mediation as a means of resolving many issues. We might not have used the term "mediator", but the Kentucky Board of Auctioneers has been serving that function since 1962. We offer a simple process for consumers, who feel they have been misled by Licensees. Once the complaint is properly filed, our statute guarantees a review by the Board. The complainant will receive a response, and if necessary one of our Compliance Officers will travel to speak with them. This personal service is not duplicated in any courtroom throughout the Commonwealth. As the complaint progresses through the investigative

process we are always available to answer questions, or to provide further information to complainants. We even offer a remedy that no court can match - we can reimburse the consumer for losses if all the necessary criteria are met.

Finally, this Board attempts to protect the "process" of auctioneering. For literally hundreds of years, few things are as pure as a "free market" auction. Bidders should be able to travel from one end of the Commonwealth to the other, knowing that they will be treated fairly, and their bid can be placed with confidence. The auction process can only be protected when all auctioneers work from a similar set of rules and regulations, and when each understands the process to the fullest.

We, here at the Board of Auctioneers, are ever mindful of our responsibility both to the consumer and to the Licensee. Our goal is to always treat each with respect and dignity. We are fully aware of a growing segment of the population that feels licensure is only designed to limit market competition. THAT is not, nor has it ever been the goal of this Board, and as I told Mr. Waters in our conversation, "any Board that does that is wrong". Just the opposite is true, as we hope the recent changes in our laws will increase the number of licensees in the future. More Licensees, who are better trained, is the key to a successful future.

Financial Statement of Auctioneer's Education, Research and Recovery Fund (As required by KRS 330.192(d))

Balance 7/1/14	504,605.00
Revenue FY 2015	26,985.00
Transfers to Operating Budget	278,005.00
Claims Paid	3,581.00
Balance 6/30/15	250,003.00
Statutory Minimum Balance per KRS 330	250,000.00



The Most Frequently Asked Questions

Q: I paid my license renewal fees online. When are you going to mail my license?

A: Nothing will be mailed. Use of the online renewal system requires users to download and print their own licenses. If you failed to print yours, simply return to the [RENEWAL SYSTEM](#), enter your license number (with no letters or extra characters), and the last four digits of you Social Security number. ***No additional fees will be assessed.*** Once you return to the system you should be immediately directed to the "Download License" link.



Q: I renewed my license through the mail, and all I received was this little pocket card. Why did I not get a license to hang on my wall?

A: KRS 330.070(9) states "The Board shall prepare and deliver to each licensee a pocket license." Since Auctioneers are not required to display a license, none is mailed. Licensees, who renew online are given the option to print a wall license, along with the pocket license. This is an unintended "bonus" feature for our online customers.

Licensees can also order an 11X14, non-expiring display license. This license is printed on heavy parchment paper, and looks great on any wall in your home, or office. Contact the Board Office for more information.

WE ARE OPEN MONDAY - FRIDAY, FROM 8:30 A.M. - 4:30 P.M.



Kentucky Board of Auctioneers
2819 Ring Road, Suite 200
Elizabethtown, KY 42701
Office - (270) 360-0736
Fax - (270) 360-0917

Compliance Division
Officer Larry Mahoney
Officer Dennis Benningfield



Our Compliance Officers remind everyone that all "principally involved" owners and managers of auction houses, who are not auctioneers, must possess an auction house operator's license. This is a new requirement in KRS 330, but one that was long overdue. Auction house employees, who regularly accept consignments, or negotiate contracts should contact the Board Office to arrange an exam date. 12 hours of pre-license education (The Core Course and Kentucky Auction Basics) is required.



DISCIPLINARY ACTIONS

14-015 KBA v. Trey Thomas Greenwell, Lic. #P-3040.

Auctioneer Greenwell signed an agreed order to pay a \$2000.00 fine, and acknowledge improper conduct in violation of:

a. KRS 330.110(6) - Allowing an unlicensed individual to sign an auction listing contract and therefor aiding and abetting an unlicensed person acting in violation of this chapter. Additionally, this action resulted in a violation of KRS 330.110(12) that requires a "binding written auction listing auction contract with the seller".

b. KRS 330.220(3) - Auction was advertised as "absolute", but was supposed to be with reserve.

A \$2000.00 fine was assessed.

14-016 KBA v. Bobby McMMain, Lic. #P-3632

Auctioneer McMMain signed an agreed order to settle the case. In that order, McMMain acknowledged that his conduct violated:

a. KRS 330.110(10) - any conduct of a licensee which demonstrates bad faith, dishonesty, incompetence, or untruthfulness.

b. KRS 330.110(11) - conduct that constitutes improper, fraudulent, dishonest, or negligent dealings.

KRS 330.110(4) - failure to provide a written descriptive inventory.

McMMain paid a fine of \$2000.00, and refunded \$600.00 to complainant for tent rental fees not included in a contract. Additionally, McMMain's Principal Auctioneer License was suspended for 60 days.

Would you like to see your article in our newsletter?

We are always looking for quality information, and articles to improve our newsletter. If you are interested in submitting an article for publication, please contact KBA Executive Director Ken Hill. If you are not the writing type, but have an issue you would like to see addressed, just let us know. We are always looking for ideas.

THE LAST WORD...

"There are two kinds of people in the world: givers and takers. The takers may eat better, but the givers sleep better"

- Danny Thomas

VISIT OUR WEBSITE

(270) 360-0736
auctioneers@ky.gov
<http://auctioneers.ky.gov>



You are receiving this publication as a valued member of the auction community. If you are not the intended recipient, or have received this communication in error please unsubscribe below. Licensees, who wish to change their email address should contact out office.

Copyright © 2013. All Rights Reserved.

