

APA-1  
11/96

### TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control \_\_\_\_\_ Department or Agency: Alabama State Board of Auctioneers

Rule No.: 150-X-1-01

Rule Title: Definitions

\_\_\_\_\_ New X Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference

Would the absence of the proposed rule significantly  
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's  
Police power and the protection of the public health,  
Safety, or welfare? Yes

Is there another, less restrictive method of regulation  
Available that could adequately protect the public? No

Does the proposed rule have the effect of directly or  
Indirectly increasing the costs of any goods or services  
Involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public  
Than the harm that might result from the absence of  
The proposed rule? No

Are all facets of the rulemaking process designed solely  
For the purpose of, and so they have, as their primary  
Effect, the protection of the public? Yes

\*\*\*\*\*  
Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be  
accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-  
22-23, Code of Alabama, 1975.

\*\*\*\*\*

#### Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the  
requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all  
applicable filing requirements of the Administrative Procedure Division of the Legislative  
Reference Service.

Signature of certifying officer  \_\_\_\_\_

Date: June 4, 2013

(DATE FILED)  
(STAMP)

**Alabama State Board of Auctioneers**

**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Alabama State Board of Auctioneers

**RULE NO. & TITLE:** 150-X-1-.01 Definitions

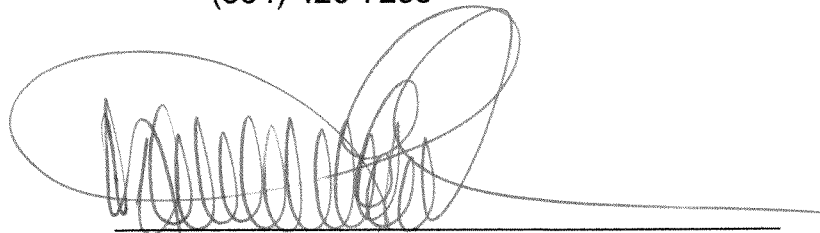
**INTENDED ACTION:** Amend

**SUBSTANCE OF PROPOSED ACTION:** The Board proposes to amend the current definitions of auction business, auction company and auction without reserve to conform with more up to date business practices.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** Written comments will be received by the Board until 4:00 p.m. on Friday, August 2, 2013. Comments should be directed to Keith E. Warren, Executive Director at 2777 Zelda Road, Montgomery, AL 36106 or via electronic mail at [keith@warrenandco.com](mailto:keith@warrenandco.com) or via telephone at 334-420-7238.

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:**  
Friday, August 2, 2013.

**CONTACT PERSON AT AGENCY:** Keith E. Warren  
*Executive Director*  
2777 Zelda Road  
Montgomery, AL 36106  
(334) 420-7235

A handwritten signature in black ink, appearing to read 'Keith E. Warren', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke extending to the right.

Keith E. Warren, *Executive Director*  
Alabama State Board of Auctioneers

**150-X-1-.01. Definitions.**

(1) Auction: A public sale of property to the highest bidder.

(2) Auction Business or Business of Auctioneering: The sale, either directly or through agents, of real or personal property at auction or the arranging, sponsoring, managing, promoting, conducting or advertising of auctions.

(3) Auction Company: Any legal business entity, including a sole proprietorship, that engages in the business of auctioneering.

(24) Absolute Auction: An auction without reserve. See Auction Without Reserve.

(35) Auction With Reserve: An auction in which the seller or his agent reserves the right to establish a minimum bid, to accept or reject any and all bids and to withdraw the property at any time prior to the completion of the sale by the auctioneer.

(46) Auction Without Reserve: An auction in which property put up for sale is sold to the highest bidder; where no minimum price will limit the bid; where the seller may not withdraw the property from the auction after the auctioneer calls for bids thereon, unless no bid is made within a reasonable time; and where the seller may not nullify the sale by bidding himself or through an agent. "Auction Without Reserve" is equivalent to the term "Absolute Auction." The Practice of deliberately misleading customers/buyers by marketing a property as "absolute" for the sole purpose of obtaining a pre-auction bid which is sufficient to meet or exceed the actual reserve of the seller, with the intention of either converting to a reserve auction or canceling the sale if the strategy is unsuccessful, is strictly prohibited and may be grounds for disciplinary action against the licensee.

(57) Estate Auction: An auction in which all the property advertised and sold is the property of a specified deceased person or the property of a specified living person's estate. (34-4-4)

**Author:** J.O. Blandenburg

**Statutory Authority:** Code of Ala. 1975, § 34-4-4.

**History:** New Rule: Filed July 12, 1995; effective August 16, 1995. Amended: Filed January 18, 2002; effective February 22, 2002. Amended: Filed January 29, 2003; effective March 5, 2003. Amended: Filed \_\_\_\_\_; effective \_\_\_\_\_.

auction company, to be designated in the application and named in the license. Each other officer or member of such auction company desiring to act as an auctioneer in connection with the business of the auction company, or otherwise, shall be required to make application for and take out an individual license in his/her own name. An apprentice auctioneer cannot satisfy this requirement. Written notification of a change in the auctioneer authorized to transact business under the license shall be provided to the Board within thirty (30) days of such change.

(f) Prior to the issuance of a license, each auctioneer or auction company responsible to account for or remit funds of others that come into its possession shall provide the name of the bank and the account number of any escrow or trustee account wherein the funds of others held by the auctioneer or auction company are maintained. Any licensed auctioneer in Alabama who works directly for an auction company or who works directly for another licensed auctioneer who maintains an active escrow account may use that escrow account and number in all applications for licensure or renewal, provided that the escrow account is used solely for the purpose of holding funds of others in relation to auctions.

(g) Authority to transact business as an auctioneer under any license issued by the Board shall be restricted to the person named in such license and shall not inure to the benefit of any other person.

(h) Incomplete applications will be returned to the applicant with a letter describing deficient items to be completed and returned to the board. Incomplete applications will be considered expired after one (1) year from the first date of notification of such deficiencies. (34-4-4)

(i) Upon the expiration of a license in good standing due solely to licensee's failure to renew, the Board may reissue the same license number to said licensee upon his/her written request therefor and successful completion of all requirements for re-licensure within 365 days from the date of expiration of the unrenewed license. The Board shall not reissue the same license number to any former licensee who does not successfully complete the licensure requirements within said period, despite any request therefor.

**Author:** J.O. Blandenburg

**Statutory Authority:** Code of Ala. 1975, § 34-4-25.

**History:** New Rule: Filed July 12, 1995; effective August 16, 1995. Amended: Filed January 29, 2003; effective March 5, 2003. Amended: Filed July 23, 2007; effective August 28, 2007. Amended: Filed October 20, 2008; effective November 24, 2008. Amended: Filed November 3, 2010; effective December 8, 2010. Amended: Filed \_\_\_\_\_; effective \_\_\_\_\_.