

Notice of Rulemaking Hearing

Tennessee Auctioneer Commission

There will be a hearing before the Tennessee Auctioneer Commission to consider the promulgation of rules and amendments pursuant to Tenn. Code Ann. § 62-19-106(b) and Chapter 724, Public Acts of 2008, Section 8. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. §4-5-204, and will take place in the conference room located on the 2nd Floor of the Andrew Johnson Tower, located at 710 James Robertson Parkway in Nashville, Tennessee at 9:00 a.m. (Central Time) on September 15, 2008 at 9:00 a.m.

Any individuals with disabilities who wish to participate in these proceedings (to review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date the party intends to review such filings), to allow time for the Department of Commerce and Insurance to determine how it may reasonably provide such aid or service. Initial contact may be made with Don Coleman, the Department's ADA Coordinator, at 500 James Robertson Parkway, 5th Floor, Nashville, Tennessee 37243 and (615) 741-6500.

For a copy of this Notice of Rulemaking Hearing, contact Lynn McGill, 500 James Robertson Parkway, 6th Floor, Nashville, Tennessee 37243, Tennessee Auctioneer Commission, (615) 741-3600.

Substance of Proposed Rules

Chapter 0160-1 Regulations of Auctioneers

New Rules

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0160-1-.25 Public Automobile Auction and Public Automobile Auctioneer License

0160-1-.25 Public Automobile Auction and Public Automobile Auctioneer License

- (1) Any individual desiring a license as a public automobile auctioneer shall submit an application on a form prescribed by the commission, accompanied by a nonrefundable application fee, along with satisfactory proof that the applicant has:
 - (a) Reached at least twenty-one (21) years of age;
 - (b) Served as an auctioneer for a period of two (2) years; and
 - (c) Successfully completed, in addition to the education required by T.C.A § 62-19-111(a)(2), thirty (30) hours of rigorous classroom instruction in automobile auctioneering approved by the commission.
- (2) An applicant for a public automobile auction license shall submit an application on a form prescribed by the commission, accompanied by a nonrefundable application fee, and accompanied by satisfactory proof that:

- (a) The public automobile auction has a letter of compliance with local ordinances from the local zoning authority;
- (b) The public automobile auction has garage keeper's legal liability insurance in an amount not less than five hundred thousand dollars (\$500,000);
- (c) The public automobile auction has a surety bond of fifty thousand dollars (\$50,000) issued by a licensed bonding company;
- (d) The public automobile auction has a compiled financial statement prepared in accordance with generally accepted accounting principles by a certified public accountant or public accountant dated not earlier than twelve (12) months prior to the date of the application;
- (e) The public automobile auction has a minimum net worth of one hundred thousand dollars (\$100,000);
- (f) The public automobile auction has a business telephone land line in the public automobile auction's name;
- (g) The public automobile auction has a permanently installed professional business sign with letters which are at least eight (8) inches in height.
- (h) The public automobile auction has a current business tax license as required by local law;
- (i) The public automobile auction has displayed on its premises a valid motor vehicle dealer license from the Tennessee Motor Vehicle Commission; and
- (j) The public automobile auction has displayed on its premises a valid license from the Tennessee Auctioneer Commission.

Authority: T.C.A. §§62-19-106(b), 62-19-111(b) and (s), 62-19-116 and Chapter 724 of the Public Acts of 2008, §§ 3, 4 and 8.

Amendments

Rule 0160-1-.06 Dates of Examinations is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0160-1-.06 Dates of Examination. The Commission shall, in conjunction with the current contractor, administer the examination on the dates provided by the contractor five (5) days a week with the exception of holidays. Provided, however, that no examination shall be administered to an applicant who lacks more than sixty (60) days completing the two (2) year apprenticeship.

Authority: T.C.A. §62-19-106(b).

Rule 0160-1-.10 Auction Schools is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0160-1-.10 Auction Schools.

- (1) In order to be approved by the Auctioneer Commission (for the purpose of providing instruction required by T.C.A. § 62-19-111 for an apprentice, auctioneer, or firm license), an auction school must:
 - (a) execute an application on the form prescribed by the Commission, accompanied by a description of the school's curriculum;
 - (b) have a permanent business location;
 - (c) conduct a minimum of eighty (80) hours of instruction, including at least forty (40) hours under the supervision of a licensed auctioneer with at least five (5) years of experience;
 - (d) for applicants applying for upgrade from apprentice to auctioneer, conduct a minimum of thirty (30) hours of instruction, including at least fifteen (15) hours instruction given by a licensed auctioneer with at least five (5) years of experience;
 - (e) maintain a pass/fail grading system, with a supplementary "good/fair/poor" designation;
 - (f) provide instruction in public speaking, bid calling, sales management, advertisements, contracts, closing statements, license law, uniform commercial codes, bulk sales and firearms;
 - (g) demonstrate every two (2) years that it has met the requirements of the Tennessee Higher Education Commission (or the equivalent thereof in another state).

- (2) In order to be approved by the Auctioneer Commission (for the purpose of providing instruction required by T.C.A. § 62-19-111 for an automobile auctioneer license), an auction school must:
 - (a) execute an application on the form prescribed by the Commission, accompanied by a description of the school's curriculum;
 - (b) have a permanent business location;
 - (c) conduct a minimum of thirty (30) hours of rigorous classroom instruction in automobile auctioneering including instruction in ethics of automobile auctions, registration and licensing of motor vehicles, transfers of title and registration, and rules and statutes relating to public automobile auctions.
 - (d) demonstrate every two (2) years that it has met the requirements of the Tennessee Higher Education Commission (or the equivalent thereof in another state).

Authority: T.C.A. §§ 62-19-106(b), 62-19-111(b) and (s) and Public Chapter 724 of the Public Acts of 2008 §§ 3 and 8.

Rule 0160-1-.11 Civil Penalties is amended by deleting the text of paragraph (1) in its entirety and substituting instead the following language so that, as amended, the paragraph shall read:

- (1) With respect to any person, partnership, firm, association or corporation required to be licensed by the Commission, the Commission may, in addition to or in lieu of any other lawful disciplinary action, assess civil penalties against such person for each separate violation of a statute, rule or order pertaining to the Commission in accordance with the following schedule:

Violation	Penalty
T.C.A. § 62-19-102(a)(1)	0 - \$1,000
T.C.A. § 62-19-102(a)(2)	0 - \$1,000
T.C.A. § 62-19-102(a)(3)	0 - \$1,000
T.C.A. § 62-19-102(b)	0 - \$1,000
T.C.A. § 62-19-112(b)(1)	0 - \$1,000
T.C.A. § 62-19-112(b)(2)	0 - \$1,000
T.C.A. § 62-19-112(b)(3)	0 - \$1,000
T.C.A. § 62-19-112(b)(4)	0 - \$1,000
T.C.A. § 62-19-112(b)(5)	0 - \$1,000
T.C.A. § 62-19-112(b)(6)	0 - \$1,000
T.C.A. § 62-19-112(b)(7)	0 - \$1,000
T.C.A. § 62-19-112(b)(8)	0 - \$1,000
T.C.A. § 62-19-112(b)(9)	0 - \$1,000
T.C.A. § 62-19-112(b)(10)	0 - \$1,000
T.C.A. § 62-19-112(b)(11)	0 - \$1,000
T.C.A. § 62-19-112(b)(12)	0 - \$1,000
T.C.A. § 62-19-112(b)(13)	0 - \$1,000
T.C.A. § 62-19-128(b)	0 - \$1,000
T.C.A. § 62-19-128(c)	0 - \$1,000
T.C.A. § 62-19-128(d)	0 - \$1,000
T.C.A. § 62-19-128(e)	0 - \$1,000
T.C.A. § 62-19-128(f)	0 - \$1,000

Authority: T.C.A. §§ 56-1-308, 62-19-106(b), 62-19-116 and 62-19-126 and Chapter 724 of the Public Acts of 2008, § 8.

Rule 0160-1-.14 Fees is amended by deleting the text of the rule in its entirety and substituting instead the following language so that, as amended, the rule shall read:

0160-1-.14 Fees.

- (1) Each application for licensure shall be accompanied by a non-refundable application fee of fifty dollars (\$50.00).
- (2) Fees for the issuance of initial licensure and the renewal thereof shall be as follows:

Auctioneer License.....	one hundred seventy-five dollars (\$175)
Apprentice Auctioneer License.....	one hundred twenty-five dollars (\$125)
Principal Office Firm License.....	one hundred twenty-five dollars (\$125)
Gallery License.....	one hundred seventy-five dollars (\$175)
Auction Firm Branch License.....	seventy-five dollars (\$75)
Gallery Branch License.....	seventy-five dollars (\$75)
Auctioneer Education and Recovery Account Fee.....	fifty dollars (\$50)
Public Automobile Auctioneer License....	one hundred seventy-five dollars (\$175)
Public Automobile Auction License.....	one hundred seventy-five dollars (\$175)

Licenses are valid for two (2) years from the date of their issuance and may be renewed within the sixty (60) days immediately preceding their date of expiration.

- (3) A licensee shall pay a one-time fee of one hundred fifty dollars (\$150.00) for the retirement of an auctioneer, apprentice auctioneer, or public automobile auctioneer license. An application or activation of a retired license shall be accompanied by an application fee of one hundred dollars (\$100.00), the applicable license fee and the Auctioneer Education and Recovery Account fee.
- (4) An applicant who fails a license examination shall pay a fee as set by contract with the Auctioneer Commission license examination administrator for each subsequent re-examination.
- (5) The fee for a replacement license and pocket card is thirty-five dollars (\$35.00).
- (6) Any notification of change of information pursuant to rule 0160-1-.24 made to the Commission more than sixty (60) days after the effective date of the new information shall result in a penalty of one hundred dollars (\$100.00).

Authority: T.C.A. §§62-19-106(b), 62-19-111 and 62-19-116 and Chapter 724 of the Public Acts of 2008, § 8.

The notice of rulemaking hearing set out herein was properly filed in the Department of State on this the 31st day of July, 2008. (FS 07-25-08; DBID 888)