

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: Alabama State Board of Auctioneers

Rule No.: 150-X-1-.11

Rule Title: Violations

_____ 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-.11 Violations

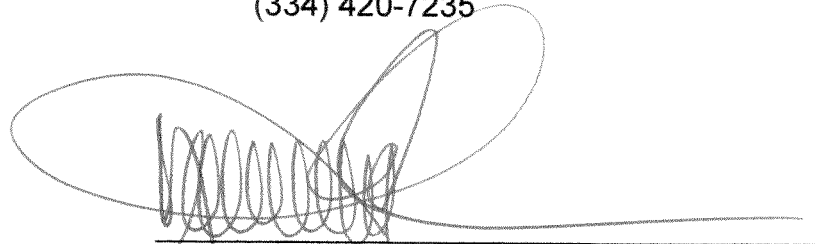
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Board proposes to amend this rule to include violations for unlicensed auction houses and/or companies.

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 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 large, stylized handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

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

150-X-1-.11 VIOLATIONS.

(a) The board may revoke or suspend licenses and/or levy and collect administrative fines for serious violations of the Alabama Auctioneers Licensing Act or the rules and regulations of the board of not less than two hundred dollars (\$200) and not more than five hundred (\$500) for each violation, as provided in Section 34-4-29, Code of Alabama, 1975.

(b) Before denying an application for licensure or suspending or revoking any license, the board shall hold a hearing and shall, at least twenty-one (21) days prior to the date set for the hearing, notify the applicant or licensee in writing of the charges made or the question to be determined, including notice of the time and place of the hearing, and afford the applicant or licensee an opportunity to be present, be heard in person or by counsel, and to offer evidence orally, or by affidavit or deposition. Written notice may be served by delivery of the notice personally to the applicant or licensee or by mailing the notice by registered or certified mail to the last known mailing address of the applicant or licensee. If the applicant or licensee is an apprentice auctioneer, the board shall also notify the auctioneer employing him or her, or whose employ he or she is about to enter, by mailing notice by registered or certified mail to the auctioneer's last known address. The hearing shall be held at a time and place prescribed by the board.

(c) Upon a finding of a violation(s) of the Alabama Auctioneers Licensing Act or the rules and regulations of the board following proper notice and a hearing, which shall be conducted in accordance with the provisions of the Alabama Administrative Procedure Act, a license may be denied, suspended or revoked and/or an administrative fine levied for any of the following:

- (1) Making any substantial misrepresentation.
- (2) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising an auction to be an absolute auction, but conducting it as an auction with reserve or otherwise.
- (3) Accepting valuable consideration as an apprentice auctioneer for the performance of any of the acts specified in the statutes, rules and regulations of the board from any person other than his or her employer auctioneer.
- (4) Failing to account for or remit, within thirty (30) days, any money belonging to others that comes into the licensee's possession, commingling funds of others with those of the licensee, or failing to keep funds of others in an escrow or trustee account.
- (5) Paying valuable consideration to any person for services performed in violation of the statutes, rules and regulations of the board.
- (6) Being convicted in a court of competent jurisdiction of this or any other state of a criminal offense involving moral turpitude or a felony.
- (7) Violation of any rule or regulation promulgated by the board.
- (8) Failure to furnish voluntarily at the time of execution copies of all written instruments prepared by the auctioneer or apprentice auctioneer.
- (9) Any conduct of a licensee that demonstrates bad faith, dishonesty, incompetency, or untruthfulness.

- (10) Any conduct of a licensee that demonstrates improper, fraudulent, or dishonest dealings.
- (11) Having had any license to practice a business or profession revoked, suspended, annulled, or sanctioned, or otherwise having had any disciplinary action taken by any other licensing authority in this or any other state against the licensee.
- (12) Failing prior to the sale at public auction to enter into a written contract with the owner or consignee of any property to be sold containing the terms and conditions upon which the licensee received the property for sale.
- (13) Failure to display the name and license number of the auctioneer conducting an auction in the advertising for such auction.
- (14) Presenting a worthless check to the board.
- (15) Any pattern of frivolous unfounded complaints filed with the board by a licensee.
- (16) Knowingly making any misleading, false, or deceptive statement on any application for a license.
- (17) Use of abusive, vulgar, profane or threatening language by a licensee while conducting auction business.
- (18) Failure to produce requested documents, books, records, or copies thereof, within thirty (30) days of a request for inspection by the board or its authorized representative.
- (19) Making any false, deceptive, misleading and untruthful statements in advertising.
- (20) Failure to cooperate with the board during an investigation of a verified complaint in writing filed with the board by not furnishing required documentation or responding to a request for information or a subpoena issued by the board or its authorized representative.
- (21) Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats, retaliation, or harassment against anyone.
- (22) Any false information, statements or testimony given to the Alabama State Board of Auctioneers or its agents by a licensee or applicant. The board may suspend or revoke any license which has been issued based on false or fraudulent representations.

(d) The board may also levy and collect administrative fines against non-licensees for determined violations of the Alabama Auctioneers Licensing Act or the rules and regulations of the board following proper notice and a hearing held in accordance with the provisions of the Alabama Auctioneers Licensing Act, the Alabama Administrative Procedure Act, and the rules and regulations of the board, of not less than two hundred dollars (\$200) and not more than five hundred (\$500) for each violation, as provided in Section 34-4-29, Code of Alabama, 1975.

(e) Conducting Auction Business for Unlicensed Companies. Any individual or auction house who conducts auction business, as defined in this chapter and the Auctioneers License Act, must be properly licensed. Auction houses must name a

licensed auctioneer to whom authority to transact business in the company's name is limited, as required under Section 34-4-28, Code of Ala. 1975, or require their owners or employees to become licensed auctioneers. Auctioneers who cry bids for auction houses that have not obtained a license from this Board and are otherwise ineligible for an exemption under Rule 150-X-1-.02 shall be subject to disciplinary action by this Board, as provided under its law, rules and regulations. (34-4-20, 34-4-28).