

AUCTIONEERS BOARD MEETING
TENTATIVE Agenda
DPOR 1st Floor Training Room
May 17, 2023, 10:00 a.m.
Department of Professional & Occupational Regulation
804-367-8514

1. Call to Order
2. Emergency Evacuation
3. Announcements
4. Approval of Agenda
5. Approval of Minutes: October 4, 2022 Board Meeting
6. Public Comment Period*
7. Universal License Recognition
8. Exam Scores
9. Statutory Review
10. Continuing Education Comments
Where is auctioneer CE needed? Everywhere...
North Carolina Auction Association
11. Auctioneer Comments
12. Licensed Population
13. Review of Financial Statements
14. Other Business
15. Conflict of Interest / Travel Vouchers
16. Adjourn

NEXT MEETING TENTATIVELY SCHEDULED FOR July 11, 2023

* Five minute public comment, per person, with the exception of any open disciplinary or application files.

** Agenda materials made available to the public do not include disciplinary case files or application files pursuant to §54.1-108 of the Code of Virginia.

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8510 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.

- **Call to Order**
- **Emergency Evacuation**
- **Announcements**

DRAFT AGENDA

Materials contained in this agenda are proposed topics for discussion
And are not to be construed as regulation or official board position

AUCTIONEERS REGULATORY REVIEW MEETING MINUTES

The Virginia Auctioneers Board met on October 4, 2022, at 10:00 a.m. at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia 23233.

The following members were present for all or part of the meeting:

Betty Bennett (Auctioneer)
Douglas Sinclair (Auctioneer)
Linda Terry (Auctioneer)

Board member, Angela Smith-Mackey, was not present with regrets.

Staff present for all or part of the meeting were:

Demetrios Melis, Director
Stephen Kirschner, LRPD Deputy Director
Kate Nosbisch, Executive Director
Bonnie Davis, Board Operations Administrator
Breanne Henshaw, Administrative Coordinator

Elizabeth Peay, Assistant Attorney General was present from the Office of the Attorney General.

Ms. Bennett, Vice Chair, called the meeting to order at 10:03 a.m.

Call to Order

Ms. Bennett advised the Board of the emergency evacuation.

**Emergency
Evacuation**

Ms. Davis congratulated Ms. Bennett for her reappointment to the Board. Ms. Davis introduced Steve Kirschner to the Board as he is the new Deputy Director for the Licensing and Regulatory Programs Division.

Announcements

Mr. Sinclair moved to approve the agenda. Ms. Terry seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Terry.

**Approval of
Agenda**

Ms. Terry moved to approve the July 12, 2022 Board meeting minutes and September 13, 2022 Regulatory Review meeting minutes. Mr. Sinclair seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Terry.

**Approval of
Minutes July 12,
2022 and
September 13,
2022**

There were no members of the public present to comment.

**Public Comment
Period**

Ms. Bennett read the following resolution for consideration by the Board:

**Resolution –
Andrew W.
Smith**

Resolution for

Andrew W. Smith

WHEREAS, Andrew W. Smith, did faithfully and diligently serve as a member of the Auctioneers Board from 2016 to 2022;

WHEREAS, Andrew W. Smith, did devote generously of his time, talent and leadership to the Board;

WHEREAS, Andrew W. Smith, did endeavor at all times to render decisions with fairness and good judgment in the best interest of the citizens of the Commonwealth and the profession; and

WHEREAS, the Auctioneers Board wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Auctioneers Board this fourth day of October 2022, that Andrew W. Smith, be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

The Board members agreed to the resolution by consensus and thanked Mr. Smith for his service.

Ms. Davis presented the 2023 meeting dates.

**2023 Board
Meeting Dates**

January 10, 2023
April 11, 2023
July 11, 2023
October 3, 2023

Ms. Terry made a motion to accept the 2023 meeting dates. Mr. Sinclair seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Terry.

Ms. Davis provided the licensee counts as of September 1, 2022: Auctioneers 1,020 and Auctioneer Firms 235.

**Licensed
Population**

Board members were provided financial statements for informational purposes.

**Review of
Financial
Statements**

The Board completed a line-by-line review of the regulations using the Regulatory Review Matrix Flowchart in order to determine the relevance of each regulation with Board Counsel. The Board reviewed regulation 18VAC 25-21-170 through 18VAC25-21-190. The Board agreed to hold on revising 18VAC25-21-185 as Ms. Nosbisch and Mr. Kirschner will contact other DPOR Boards for input if this language could be streamlined and placed in state for all boards per Director Melis' suggestion. During the review, there was discussion regarding the necessity of Continuing Education (CE). Director Melis inquired whether the CE in place assisted in protecting the health, safety, and welfare of the public as the regulations are intended to do. The Board discussed CE and agreed by consensus that it was not a necessity for licensure as it does not assist in protecting the health, safety, and welfare of the public.

Regulatory Review

Mr. Sinclair made a motion to support the elimination of the CE requirement that exists within statute § 54.1-603.1., as it does not help protect the health, safety, and welfare of the public. Ms. Terry seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Terry.

The Board took a recess from 11:25 a.m. to 11:36 a. m.

Recess

The Board continued to complete a line-by-line review of the regulations with guidance from Board Counsel. The Board reviewed regulation 18VAC25-21-190 through 18VAC25-21-280.

Regulatory Review Continued

Ms. Terry made a motion for the Board to submit a Notice of Intended Regulatory Action (NOIRA) for the line-by-line revised regulations. Mr. Sinclair seconded the motion which was unanimously approved by members: Bennett, Sinclair, and Terry.

Ms. Terry provided a link to a court audio recording for educational purposes as it provided information on absolute auctions and reserve auctions.

Other Business

Conflict of Interest forms and Travel Vouchers were completed by all members present.

Conflict of Interest Forms / Travel Vouchers

There being no further business, the meeting adjourned at 1:24 p.m.

Adjourn

Betty Bennet, Vice Chair

Demetrios Melis, Secretary

➤ **Public Comment**

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VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 3

An Act to amend the Code of Virginia by adding in Chapter 2 of Title 54.1 a section numbered 54.1-205, relating to Department of Professional and Occupational Regulation; universal license recognition.

[S 1213]

Approved March 3, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 2 of Title 54.1 a section numbered 54.1-205 as follows:

§ 54.1-205. Universal license recognition.

A. The regulatory boards within the Department of Professional and Occupational Regulation shall, upon application by an individual, recognize licenses or certificates issued by another state as fulfillment of qualifications for licensure or government certification in the Commonwealth if the following conditions are met:

1. The individual holds a current and valid professional or occupational license or government certification in another state in a profession or occupation with a similar scope of practice, as determined by the board in the Commonwealth;

2. The individual has held the professional or occupational license or government certification in the other state for at least three years;

3. The board in the other state or state of original licensure required the individual to pass an examination and to meet certain standards related to education, training, or experience;

4. There are no pending investigations or unresolved complaints against the individual, and the board in the other state holds the individual in good standing;

5. The individual does not have a disqualifying criminal record as determined by the board in the Commonwealth in accordance with § 54.1-204;

6. No board in another state has imposed discipline on the licensee, except for discipline involving only a financial penalty and no harm to the health or economic well-being of the public; and

7. The individual pays all applicable fees.

B. The regulatory boards within the Department of Professional and Occupational Regulation shall, upon application by an individual, recognize work experience in another state as fulfillment of qualifications for licensure or government certification in the Commonwealth if the following conditions are met:

1. The individual worked in another state that does not use a professional or occupational license or government certification to regulate a profession or occupation, but the Commonwealth uses a professional or occupational license or government certification to regulate a profession or occupation with a similar scope of practice, as determined by the board;

2. The individual has worked in the profession or occupation for at least three years;

3. The individual passes any examination required by the board of applicants for licensure or certification; and

4. The individual satisfies the conditions outlined in subdivisions A 5, 6, and 7.

C. The regulatory boards within the Department of Professional and Occupational Regulation may require an individual seeking a professional or occupational licensure or government certification pursuant to this section to pass a jurisprudential examination specific to relevant state laws and administrative rules that regulate such profession or occupation if such an examination is required of other applicants for the same license or certification.

D. For purposes of this section, "other state" or "another state" means any state, territory, possession, or jurisdiction of the United States.

E. This section shall not apply to any professional services, as defined in § 2.2-4301.

Auctioneers	2020	2021	2022	Total
by Exam	21	25	23	69
by Reciprocity	23	22	28	73
Total	44	47	51	142

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Included in this booklet are relevant excerpts from the *Code of Virginia*. Please note that the Virginia General Assembly is responsible for creating and amending the *Code*, not the Auctioneers Board. The version contained herein contains all changes, if any, that have been made by the General Assembly through the 2016 session. Any changes made during the 2016 session became effective July 1, 2016, unless otherwise noted. It is your responsibility to stay informed of revisions to the regulations and the statutes governing your profession or occupation. Please consult the General Assembly or your local library for annual changes.

AUCTIONEERS LICENSE ACT, §§ 54.1-600 THROUGH 54.1-607

§ 54.1-600. Definitions.

As used in this chapter, unless the context requires a different meaning:

"*Absolute auction*" means an auction where at the time of the auction sale the real or personal property to be sold will pass to the highest bidder regardless of the amount of the highest and last bid.

"*Auction*" means the sale of goods or real estate by means of exchanges between an auctioneer and members of his audience, the exchanges consisting of a series of invitations for offers made by the auctioneer, offers made by members of the audience, and acceptance by the auctioneer of the highest or most favorable offer.

"*Auction firm*" means any corporation, partnership or entity, except a sole proprietorship, performing any of the acts of an auctioneer as defined in this section.

"*Auctioneer*" means any person who conducts or offers to conduct an auction.

"*Board*" means the Auctioneers Board.

"*Director*" means the Director of the Department of Professional and Occupational Regulation.

"*Goods*" means any chattels, merchandise, real or personal property, or commodities of any form or type which may be lawfully kept or offered for sale.

"*Person*" means any natural person, association, partnership, or corporation, and the officers, directors, and employees of a corporation.

"*Virginia licensed auctioneer*" means any auctioneer who meets the requirements for licensure as prescribed by the Board.

§ 54.1-601. Exemptions.

The provisions of this chapter and the terms "Virginia licensed auctioneer," "auctioneer" or "auction firm," as defined in § 54.1-600, shall not apply to:

1. Any person who auctions his own property, whether owned or leased, provided his regular business is not as an auctioneer;
2. Any person who is acting as a receiver, trustee in bankruptcy, guardian, conservator, administrator, or executor, or any person acting under order of a court;
3. A trustee acting under a trust agreement, deed of trust, or will;
4. An attorney-at-law licensed to practice in the Commonwealth of Virginia acting pursuant to a power of attorney;

5. Sales at auction conducted by or under the direction of any public authority, or pursuant to any judicial order or decree;
6. Sale of livestock at a public livestock market authorized by the Commissioner of Agriculture and Consumer Services;
7. Leaf tobacco sales conducted in accordance with the provisions of § 3.1-336;
8. Sale at auction of automobiles conducted under the provisions of § 46.2-644.03 or by a motor vehicle dealer licensed under the provisions of Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2;
9. Sale at auction of a particular brand of livestock conducted by an auctioneer of a livestock trade association;
10. Sales conducted by and on behalf of any charitable, religious, civic club, fraternal, or political organization if the person conducting the sale receives no compensation, either directly or indirectly, therefor and has no ownership interest in the merchandise being sold or financial interest in the entity providing such merchandise;
11. Sales, not exceeding one sale per year, conducted by or on behalf of (i) a civic club or (ii) a charitable organization granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code; or
12. Sales of collateral, sales conducted to enforce carriers' or warehousemen's liens, bulk sales, sales of goods by a presenting bank following dishonor of a documentary draft, resales of rightfully rejected goods, resales of goods by an aggrieved seller, or other resales conducted pursuant to Titles 8.1A through 8.10 and Chapter 23 (§ 55-416 et seq.) of Title 55.

§ 54.1-602. Auctioneers Board; membership, meetings and powers.

A. The Auctioneers Board shall be composed of five members as follows: three shall be Virginia licensed auctioneers and two shall be citizen members. Board members shall serve four-year terms. The Board shall meet at least once each year for the purpose of transacting business. Special meetings of the Board may be held at the discretion of the Director.

B. The Board shall have the following authority and responsibilities:

1. Establish regulations to obtain and retain licensure of auctioneers.
2. Make all case decisions regarding eligibility for initial licensure and renewal thereof.
3. To fine, suspend, deny renewal or revoke for cause, as defined in regulation, any license.
4. To examine auctioneers for licensure.

§ 54.1-603. License required; requirements for licensure; nonresident applicants.

A. Unless exempted by § 54.1-601, no person or firm shall sell at auction without being licensed by the Board.

B. Any auctioneer desiring to obtain a license may apply to the Board and shall establish to the satisfaction of the Board that he:

1. Is a resident of Virginia and meets the application fee requirements set by the Board;
2. Is covered by a surety bond, executed by a surety company authorized to do business in this Commonwealth, in a reasonable amount to be fixed by the Board, conditioned upon the faithful and honest conduct of his business or employment;
3. Has successfully completed a course of study at a school of auctioneering which has obtained course approval from the Board or an equivalent course; and

4. Has passed the Virginia Licensed Auctioneer's Examination, administered by the Auctioneers Board.

C. A nonresident of the Commonwealth may be licensed as an auctioneer by meeting one of the following requirements: (i) conform to the provisions of this chapter and regulations of the Board with reference to resident auctioneers or (ii) hold a valid auctioneer's license or certificate in another state with which reciprocity has been established by the Board. Nonresident applicants shall also file with the Board an irrevocable consent that service of process upon the Director is as valid and binding as service of process upon the applicant.

Any process or pleading served upon the Director shall be filed by the Director in his office and a copy thereof immediately forwarded by registered mail to the main office of the auctioneer at the last known address.

§ 54.1-603.1. Continuing education.

A. The Board shall promulgate regulations governing continuing education requirements for auctioneers licensed by the Board. Such regulations shall require the completion of the equivalent of at least six hours of Board-approved continuing education courses for any license renewal or reinstatement, except that no continuing education shall be required for any auctioneer licensed by the Board for 25 years or more and who is 70 years of age or older. The Board shall establish criteria for continuing education courses including, but not limited to (i) content and subject matter of continuing education courses; (ii) curriculum of required continuing education courses; (iii) standards and procedures for the approval of courses, course sponsors, and course instructors; (iv) methods of instruction for continuing education courses; and (v) the computation of course credit. Any continuing education courses completed by an auctioneer pursuant to a requirement of the Certified Auctioneers Institute or participation in the educational programs sponsored by the National Auctioneers Association or Virginia Auctioneers Association shall satisfy the continuing education requirement of this section.

B. The Board may grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship.

§ 54.1-604. Repealed by Acts 1991, c. 299.

§ 54.1-605. Taxation of auctioneer.

An auctioneer may not have a local license tax imposed by any county, city, or town except that in which his office is maintained. If a branch office is maintained elsewhere in Virginia, a local license tax may be imposed by the county, city or town in which the branch office is located, pursuant to §§ 58.1-3707 and 58.1-3709.

§ 54.1-606. Unlawful to advertise as an auctioneer.

It shall be unlawful for any person not licensed under the provisions of this chapter to advertise that he is in the auction business or to hold himself out to the public as an auctioneer.

§ 54.1-607. Advertising; absolute auctions involving real property.

A. No advertisements for any auction sale of personal or real property shall contain false, misleading, or deceptive statements, with respect to types or conditions of merchandise offered at auction, why merchandise is being sold, who has ownership, where the merchandise was obtained, or the terms and conditions of the auction and sale.

B. No auctioneer shall advertise an auction sale of real property as "absolute" unless all lots included in the sale meet that criteria.

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AUCTIONEERS EXEMPTION FROM REAL ESTATE LICENSING, § 54.1-2103.A.8

NOTE: This statute is from the Real Estate license law and exempts licensed auctioneers from obtaining a real estate license under the following circumstances -

§ 54.1-2103. Exemptions from chapter.

A. The provisions of this chapter shall not apply to: ...

8. Any auctioneer licensed in accordance with Chapter 6 (§ 54.1-600 et seq.) of this title selling real estate at public auction when employed for such purpose by the owner of the real estate and provided the bidding at such auction is held open for no longer than forty-eight hours. An auctioneer shall not advertise that he is authorized to sell real estate. An auctioneer may advertise for sale at public auction any real estate when employed to do so as herein provided, and may advertise that he is authorized to auction real estate at public auction.

UNIFORM COMMERCIAL CODE - SALE BY AUCTION, § 8.2-328

§ 8.2-328. Sale by auction.

(1) In a sale by auction if goods are put up in lots each lot is the subject of a separate sale.

(2) A sale by auction is complete when the auctioneer so announces by the fall of the hammer or in other customary manner. Where a bid is made while the hammer is falling in acceptance of a prior bid the auctioneer may in his discretion reopen the bidding or declare the goods sold under the bid on which the hammer was falling.

(3) Such a sale is with reserve unless the goods are in explicit terms put up without reserve. In an auction with reserve the auctioneer may withdraw the goods at any time until he announces completion of the sale. In an auction without reserve, after the auctioneer calls for bids on an article or lot, that article or lot cannot be withdrawn unless no bid is made within a reasonable time. In either case a bidder may retract his bid until the auctioneer's announcement of completion of the sale, but a bidder's retraction does not revive any previous bid.

(4) If the auctioneer knowingly receives a bid on the seller's behalf or the seller makes or procures such a bid, and notice has not been given that liberty for such bidding is reserved, the buyer may at his option avoid the sale or take the goods at the price of the last good faith bid prior to the completion of the sale. This subsection shall not apply to any bid at a forced sale.



Linda Williamson Terry 3



Posts

Reels



You, Janet Williamson Knese and 50 others

17 comments



Love



Comment



Share



Linda Williamson Terry

Dec 9 · 🌐

To my Virginia Auctioneer friends: this may stir up controversy, but we are reviewing all auction regulations with an eye to reducing and simplifying; the question has come up: do auctioneers really need a continuing education requirement? Unlike real estate, where laws and disclosures are updated on a fairly regular basis, not much changes with regard to selling at auction. If you don't think that continuing education should be a requirement for license renewal, please take a few minutes to email/write your state representative to express your opinion. It's easy, just look up your rep online and email them. Just takes a few minutes. This is how rules get changed.

11 comments



Like



Comment



Share



Linda Williamson Terry

Dec 9 · 🌐

Such a wise move for 2 homegrown firms! Planning for the future and staying strong. Best wishes for continued success, Rick Jarvis and Rhonda Howlett Carroll!

Text copied to clipboard



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Most relevant ▾



Mike Brandly

It's not just that the laws are slow to change, but new people entering the business, and auctioneers forgetting... CE should be required.

2w Like Reply

1



Linford Berry

CE is very important in our industry. I would argue that we actually have more change in our industry than real estate agents deal with(I am a licensed real estate agent and auctioneer). The reason I say that, is because we interact with lots of different industries. Firearms, motor vehicles, real estate, taxidermy, estate and tax laws, and so much more.

2w Like Reply

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Linda Williamson Terry

good feedback that I will take back to the Board-- keep it coming. Does the CE that you take actually help with all those areas, or do you seek answers from targeted experts in the various fields as part of your job to well represent your clients?

2w Like Reply



Linford Berry Linda Williamson Terry Yes and bo...



Anne Nouri

As a licensee in FL as well as VA , FL has no CE requirements and many are in favor of lobbying for them to be required. It helps to keep members current. It's absolutely worthwhile in maintaining. What is harm other than paperwork?

2w Like Reply

2

Write a comment



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Linford Berry

[Linda Williamson Terry](#) Yes and both. The Virginia Auctioneers Association within the past 18 months has offered CE that included the ATF and VA state police to address changing firearms sales laws, specialists with motor vehicle transactions and things auctioneers needed to know, specialists that offered guidance on how to authenticate various items we might sell or be asked to sell, real estate professionals, as well as classes on new digital technology and legal issues.

Write a comment...

2w Like Reply

1 



Ken Garner

I don't think it should be required. I think if an auctioneer wants to take classes to further his or her education then let them but don't make it mandatory on every licensee. Continuing Education is usually pushed by those that teach it for a profit. I am a graduate of CAI and AARE but I chose to do those on my own free will. When I received those designations CE wasn't required to maintain them. Now it is and I am totally opposed to it. That's my two cents worth.

2w Like Reply

1 



Linda Williamson Terry

Ken, Thanks for a valid opposing point of view. Self-initiated additional education can give a professional edge. I truly love thoughtful discussion.

2w Like Reply



Mike Brandly Linda & Ken. I'm not advocating fo...



Ken Garner Linda Williamson Terry you are the B...



Linford Berry

Another thing that I might add as it relates to VA auctioneers specifically is in regards to the other professions which require CE that we overlap with. In the state of VA, auctioneers can sell real estate without a real estate agents license. Auctioneers can facilitate the sale of automobiles without a dealers license. Both real estate agents and motor vehicle dealers (I am also one of them) are required to get CE. Why should an auctioneer that is selling real estate or cars be treated any different?

2w Like Reply

Write a comment





Mike Brandly

<https://mikebrandlyauctioneer.wordpress.com/2017/06/08/where-is-auctioneer-ce-needed-everywhere/>

STAT

MIKEBRANDLYAUCTIONEER.WORDPRESS....

Where is auctioneer CE needed?
Everywhere ...

2w Like Reply

1



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Write a comment...

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Mike Brandly, Auctioneer Blog ~ A trusted auctioneer and auction expert witness — with unmatched knowledge of both auction law and customary practice.

Where is auctioneer CE needed? Everywhere ...

08 Thursday, Jun 2017

POSTED BY MIKE BRANDLY, AUCTIONEER, CAI, CAS, AARE IN AUCTION LAW, AUCTION SCHOOL, AUCTIONS, NATIONAL AUCTIONEERS ASSOCIATION, REAL PROPERTY AT AUCTION

≈ 2 **COMMENTS**

Tags

auction, Auction Law, auctioneer, auctioneers, auctions, CE, classes, client, commission, continuing education, knowledge, mandatory, National Auctioneers Association, seller, seminars, State of Ohio



THE OHIO STATE UNIVERSITY

In 2015 The Ohio State University (OSU) and I completed a study on auctioneer continuing education (CE) producing this document titled, "Ohio Auctioneer Continuing Education Feasibility Study." The results of this study were presented to the Ohio Auctioneer's Commission in late 2015.

Brad Bergefurd, OSU Extension Educator & Horticulture Specialist, Charissa McGlothlin, OSU Agriculture & Marketing Program Assistant and myself were specifically charged with gathering information and forming a recommendation concerning the prudence of Ohio requiring continuing education for their licensed auctioneers; currently, Ohio auctioneers are not required to complete *any* continuing education.

Our advice to the Ohio Auctioneer's Commission was that Ohio pass a law requiring every Ohio auctioneer to complete 12 hours of continuing education every two years.

In our study, we found that about 70% of licensed auctioneers in the United States are required to take some sort of periodic auctioneer-related continuing education. We also noted that in Ohio, about 1,600 (about one half) of licensed auctioneers take absolutely no continuing education at all ... where the others with a real estate license do take 30 hours of CE every three years (9 hours after age 70,) obtain some sort of CE in other states, or per some other requirement.

The central question we posed to the Ohio Auctioneer's Commission was, "*Given Ohio licenses auctioneers in order to protect the public, does Ohio then merely investigate complaints or endeavor to prevent complaints?*" Our conclusion was that without continuing education, the State is not taking prudent steps to adequately protect the public.

Essentially, our study suggested that any state that bothers to license auctioneers should *bother* to require periodic CE, and otherwise without mandatory periodic CE, why license auctioneers at all? In fact, I might offer in the spirit of "protecting the public" that auctioneer continuing education is just as important as auctioneer pre-licensing education.

Ohio is not alone in requiring auctioneer pre-license education but no CE; however 13 states with robust auction activity similar to Ohio [*Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, North Carolina, South Carolina, Tennessee, Texas, Virginia, West Virginia and Wisconsin*] (as of 2015) require CE and/or some sort of pre-license education.

Earlier in 2015, we wrote about the concept of state license regulators prosecuting crimes versus preventing crime: <https://mikebrandlyauctioneer.wordpress.com/2015/03/25/two-types-of-auctioneer-regulators/>. The main issue with merely prosecuting crimes is the public is already harmed at that point, and if we can prevent crimes we better protect the public from those crimes.

Lastly, we regularly receive calls and are retained to assist in auction litigation. There is no question that there is a correlation between the lack of auctioneer licensing and continuing education, and the number and severity of those legal proceedings. You can think auctioneers should not be licensed (as we discussed in more detail here: <https://mikebrandlyauctioneer.wordpress.com/2009/12/25/auctioneer-licensing-good-or-bad/>) but there is no debate that *suitable* licensing and *quality* CE better protects the public.

Where is auctioneer CE needed? Everywhere ... there are auctioneers.

Mike Brandly, Auctioneer, CAI, AARE has been an auctioneer and certified appraiser for over 30 years. His company's auctions are located at: [Mike Brandly, Auctioneer](#), [RES Auction Services](#) and [Goodwill Columbus Car Auction](#). He serves as Distinguished Faculty at [Hondros College of Business](#), Executive Director of [The Ohio Auction School](#) and Faculty at the [Certified Auctioneers Institute](#) held at [Indiana University](#).

thoughts on “Where is auctioneer CE needed? Everywhere ...”

1. Pingback: [What the lack of auctioneer licensing causes ... | Mike Brandly, Auctioneer Blog](#)
2. Pingback: [More auction licensing hypocrisy | Mike Brandly, Auctioneer Blog](#)

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JANUARY 2023 NCALB ALERT

FREE CONTINUING EDUCATION COURSES

NCALB is funding multiple continuing education opportunities that are free for licensed NC Auctioneers and Designated Persons of licensed NC Auction Firms to attend. 4-hour programs will be conducted in-person in Albemarle, Conover, and Williamston in March and April. One of those is also available to licensees online via Zoom. 6 other 2-hour CE courses will be available via Zoom on various dates between late February and late April. The CE sponsor conducting these free CE opportunities for NCALB is the **Auctioneers Association of North Carolina**. Registration information is available through AANC's website at

<https://www.northcarolinaauctioneers.org/events/>

CONTINUING EDUCATION EXEMPTION: Auctioneers who are at least **65 years old** and have been continuously licensed in North Carolina **for at least the previous five years** are exempt from Continuing Education requirements for annual license renewal purposes. *Eligible Auctioneers are certainly welcome and encouraged to take CE courses, regardless of the exemption.*

The CE exemption does not apply to Auction Firm Designated Persons, unless they are otherwise exempted licensed Auctioneers, as described above.

Additionally, any licensed Auctioneer or Auction Firm Designated Person experiencing a hardship may submit a written request to the Board for a CE waiver for the next license renewal period. Waiver requests must be in written form and detail the reason(s) for the request. Waiver requests are considered by the Board on a case-by-case basis.

PLEASE BE PRUDENT IN YOUR BUSINESS RELATIONSHIPS

Already in 2023, the NCALB office has received numerous inquiries from licensed auctioneers regarding solicitations they have received for auction assistance that appear suspicious. Any invitation asking licensees to "**just be the auctioneer of record**" for live or online auctions should be cautiously investigated. Previous examples involved "luxury" personal property. The most recent issue involves potential auctions of real estate.

An immediate red flag sometimes arises when a recruiter tells auctioneers that they will "**pay you to use your license**" for advertisements, or again, "**just be the auctioneer of record.**" Inquiries have been made regarding both personal property and real property auction sales. An early concern should be whether or not the person or entity seeking to engage a licensee is also required to possess a license in North Carolina. Under 21 NCAC 04B .0404(a)(5), it is a violation to engage in auctioneering activity on behalf of an unlicensed auction firm.

Regarding active NC licensees in good standing:

1 - You are responsible for your own license. Whether opportunities emerge in a manner similar to the scenarios above or otherwise, please always be careful to ensure that you follow North Carolina's laws and rules regarding auctioneering, and that you do not find yourself in a situation where issues may develop involving your auction - with or without your direct knowledge.

2 - If you encounter something suspicious, please let us know. You are encouraged to call the NCALB office at (919) 567-2844 anytime with questions. Though we cannot give legal advice, staff will be happy to discuss general questions with you and point you to the applicable laws/rules. Of course and as always, you may also wish to consult your own legal counsel.

Name	Comment	Response
Mark Mast	<p>I am asking that you would consider postponing the proposed SB 1480, currently within your committee, or omitting the changes to the current Auctioneer licensing law from this bill to give myself and my fellow Auctioneers time to consider and more fully respond to this proposed legislation as it would have far-reaching effects from public safety, to state licensure reciprocity, to real estate, to the auto industry, to those not fully even understood at this time.</p> <p>Auctioneers act in a fiduciary capacity unlike most other occupations regulated by Virginia Department of Professional and Occupational Regulation. None of the other occupations selected for deregulation are so heavily fiduciary in nature. This aspect of our profession has a specific connection to the protection of the public interest. Our clients (the sellers) put their utmost trust in us as Auctioneers to help protect and oversee the sales of their most valued assets, and in some cases, their livelihoods. With scamming becoming more and more prominent in today's society, deregulating Auctioneers will most definitely open those doors further. Our licensing regulations were put in place as a safeguard in which the public could put their trust.</p> <p>Additionally, licensed Auctioneers are currently allowed to sell real estate without a broker's license. If this deregulation happens, it will require many Auctioneers to acquire additional licenses, which will in fact undermine the purpose of this proposed bill - to reduce the burden of licensure and regulation on small business owners.</p> <p>Other questions arise as well regarding deregulation of the auction industry. Currently, licensed Auctioneers are authorized to facilitate the sale of motor vehicles for private sellers and businesses without a dealer's license provided they are a licensed Auctioneer. What happens when the Auctioneer license law is repealed? These are the types of considerations that must be taken into account before a change like this is made.</p> <p>Under the proposed Universal Licensing Recognition, out-of-state professionals may find it easier to do business in the Commonwealth of Virginia; however, deregulation has the potential to have the opposite effect for Auctioneers based in Virginia. Due to our regulation and education requirements our license reciprocates to other states.</p> <p>Without these requirements, those reciprocal licenses may be in danger. As you can understand, proposed SB 1480 would have a significant impact within our industry and for the protection of the public citizenry. I ask that you consider postponing adding it to the docket at this time or omitting the changes that apply to Auctioneers, so we can engage in a discussion to enhance the auction industry as a whole in Virginia.</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>
Jim Weigl, Blue Box Auction Gallery	<p>As a licensed auctioneer in Virginia, I'm writing to let you know that, on behalf my clients, future clients, and Virginia citizens overall, I am <i>strongly opposed</i> to removing regulation for our industry.</p> <p>The protection DPOR Regulation provides is "necessary for the protection or preservation of the health, safety, and welfare of the public" (§ 54.1-100).</p> <p>We are:</p> <ul style="list-style-type: none"> pro-business pro-competition and most importantly pro-clients (the public citizens of Virginia)! 	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this</p>

	<p>Auctioneers handle estates, assets, and escrow accounts for Virginia families and welcome the DPOR regulation to hold us accountable and keep out bad actors. DPOR regulation, licensing, and the continuing education required each year allow us to serve our clients and their families effectively.</p> <p>Some highlights to consider:</p> <p>Auctioneers maintain an escrow account and maintain care, custody, and control of client’s assets and money. How could we not regulate individuals and firms with this responsibility?</p> <p>Without proper regulation, it’s near certain, we could breed a series of bad actors affecting the longstanding history and success we have held as an industry.</p> <p>According to DPOR our auctioneer board is among the lowest of complaints. It’s working as it is!</p> <p>Unlike most other occupations regulated by Virginia DPOR, Auctioneers act in a fiduciary capacity to their clients.</p> <p>There are 973 current licensed professional auctioneers in the state of Virginia, some solely public facing bid-callers, many being full-time auction firms handling client’s assets and family finances.</p>	<p>session, but it is potentially reducing regulatory requirements.</p>
<p>Mark W. Craig, Mark W. Craig Auctions</p>	<p>By this letter, I’m submitting to the Board my comments on the IRA. By way of background, I’m a licensed Virginia auctioneer (#2905002160) doing business in the Shenandoah Valley since 1995. I conduct approximately 60 auctions each year, auctioning both personal property (including motor vehicles, farm equipment, coins, firearms, furniture, and household goods) and real property.</p> <p>First and foremost, the NOIRA has no text, or any link to the text, of whatever amendments to the Regulations the Board is considering; indeed, the Virginia Regulatory Town Hall website(townhall.virginia.gov) states that the NOIRA was submitted without any “preliminary draft text” of the amended Regulations. I’m informed by a friend of mine, who’s both an active Virginia lawyer and an avid auction-goer (and who helped me prepare these comments), that he’s been in touch with you by telephone and email, and that you’ve advised him that, after comments on the IRA are received and considered, the Board will publish for public comment the full text of the proposed amended Regulations. I’m trusting that this advice is correct and, if so, please be assured that I’ll have comments on the proposed amended Regulations if they’re warranted.</p> <p>That being said, what is posted on the Virginia Regulatory Town Hall website is an Agency Background Document (the “ABD”) for the NOIRA, which identifies 22 out of the 30 provisions of the Regulations that the Board is considering for amendment or deletion. (The eight provisions that apparently are to be left intact are 18VAC25-21-10, ?30, -70, ?95, -120, -170, -185, -260). The Board’s proposed actions <i>vis-à-vis</i> these 22 provisions fall into several distinct categories, which I address in no particular order:</p> <p>1. The ABD identifies four provisions (18 VAC25-21-40, -100, -230, -250) proposed to be “repealed as [their provisions are] specified/repeated in the statute”. I don’t think that’s a good idea. Considering the IRA’s announced purpose, these four provisions aren’t “overly burdensome or no longer applicable requirements” and their removal doesn’t “clarify [or] consolidate regulations.” Rather, in my opinion, their removal</p>	<p>The Board will take this information into consideration at the proposed stage.</p>

detracts from the nature of the Regulations as a comprehensive and comprehensible body of rules that benefits not just the public but also auctioneers, by enhancing their notice of, and thus their compliance with, those rules. Indeed, my lawyer friend mentioned above, who practiced federal administrative law for almost 40 years, tells me that regulations commonly and deliberately incorporate statutory language for that very purpose. In short, removing all statutory language from regulations may well save on paper and ink, but it has a significant downside.

2. The ABD identifies six provisions (18 VAC25-21-20, -50, -110, -140, -150, -190) for which “the language is [proposed to be] reworded and clarified”. Since the IRA doesn’t explain how their language is proposed to be reworded or clarified, I await publication of the full text of any proposed amendments to the Regulations before commenting.

3. The ABD proposes to repeal 18VAC25-21-60, regarding the auctioneer’s examination, because “it is repeated in another regulation”. That other regulation isn’t identified, and I can’t find it. The one that comes closest is 18VAC25-21-200, but that regulation specifies the subjects that a school of auctioneering must teach, not those that an auctioneer’s examination must cover.

4. The ABD proposes to amend two provisions (18VAC25-21-80, -90) because “a portion of their information is redundant”. What language is deemed redundant isn’t specified, so I await publication of the full text of any proposed amendments to the Regulations before commenting.

5. The ABD identifies five provisions (18VAC25-21-130, -180, -240, -270, ?280) that are proposed to be repealed/deleted, in whole or in part, “because [they are] unnecessary”. I disagree with that assessment. Specifically:

- a. 18VAC25-21-130: As I understand it, the proprietor of every licensed business in Virginia must display the business license in the principal place of business or carry it if mobile; auctioneers should be no different.
- b. 18VAC25-21-180: How is it unnecessary for the Regulations to specify the grounds for disciplinary action against an auctioneer? And what particular grounds for disciplinary action does the Board deem unnecessary?
- c. 18VAC25-21-240, -270, -280: Speaking as a licensed auctioneer who regularly attends auctioneering continuing education courses, the requirements embodied in these provisions are very necessary if continuing education, as essential in auctioneering as it is in any other regulated profession or business, is to be effective and enforceable.

6. The ABD identifies four provisions that are proposed to be repealed because their substance is “better suited” to be incorporated into other provisions that are proposed to be “reworded and clarified”. Specifically, 18VAC25-21-160 is to be incorporated into revised 18VAC25-21-140, while three provisions (18VAC25-21?200, -210, -220) will be incorporated into revised 18VAC25-21-190. Absent the proposed reworded/clarified language of the provisions that will receive the substance of the provisions proposed for repeal, I can’t meaningfully comment at this time.

Finally, I think it’s important for the Board to take a step back from the details of its proposed amendments to the Regulations and consider

	<p>generally the essential purpose of legislative statutes and administrative regulations, and specifically the vogue currently enjoyed by efforts to consolidate, streamline, and otherwise “reduce” them. In the abstract, everyone (except, perhaps, a few lawyers, politicians and functionaries) would like to see our legislatures and agencies simplify the complex, shorten the verbose, remove the redundant, and do away with the unduly burdensome and the unnecessary. But these aren’t to be done for their own sake; rather, they’re the surest means to a desirable end – that being, in our particular context, crafting a set of intelligible rules and requirements that are conducive, if not essential, to the honest, economical and effective conduct of auctioneering. I respectfully urge the Board to stay focused on achieving that goal rather than “reducing” the Regulations at all costs.</p>	
<p>Wendy Grimm</p>	<p>I am a licensed Virginia auctioneer and Vice President of the Virginia Auctioneers Association.</p> <p>As a professional in the auction industry, I understand the desire to reduce costs and unnecessary business regulations in Virginia per Governor Youngkin’s initiative. However, it is important to consider the potential consequences of deregulation of the auction industry. While it may appear to reduce barriers to entry, the reality is that eliminating the statewide auctioneer’s license would, in fact, result in greater obstacles for those entering the profession. As with other fields, licensing and continuing education requirements ensure a minimum standard of competence for professionals and serve as a safeguard for the public. Eliminating the auctioneer licensing requirement would not reduce regulation for auctioneers, nor would it reduce barriers to entry into the profession. In fact, it would increase the burden on auctioneers by requiring them to obtain additional licenses for selling real estate and motor vehicles for estates, trusts, and businesses. Currently, licensed auctioneers can sell real estate without a broker's license and can facilitate the sale of motor vehicles or trailers without a motor vehicle dealer's license. Furthermore, without a statewide license, auctioneers would be required to obtain business licenses in multiple jurisdictions where they conduct auctions, adding significant regulatory burden. Importantly, without the auctioneer license law, individuals without proper training may conduct auctions without collecting and remitting sales tax appropriately. This could result in lower state revenues and increased enforcement expenses. The auctioneer license law requires licensed auctioneers to collect sales tax for all taxable sales they conduct, ensuring proper management of state funds.</p> <p>The elimination of the auctioneer license law would also affect license reciprocity with other states, increasing the regulatory burden on Virginia auctioneers and making it harder for them to conduct business outside of the state. This is because Virginia auctioneers currently have reciprocity with 14 out of 27 states that license auctioneers. Without a license law, Virginia auctioneers would have no reciprocity with other states that require licensure.</p> <p>Auctioneers hold a major fiduciary responsibility for their clients and are accountable for managing millions of dollars of assets annually. The auctioneer license law requires the use of an escrow account and timely disbursement of funds, ensuring accountability for these funds. The auctioneer licensing law also require that auctioneers be properly</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>

	<p>bonded in case an issue arises. Having these regulations within the auction industry ensure the protection of the public, their assets, and their funds.</p> <p>The elimination of the auctioneer license law would also open the door to unscrupulous persons in the business, as there is already a proliferation of unlicensed tag sale, estate sale, and online auction companies that have taken advantage of unsuspecting people trying to settle estates or downsize, whereas licensed auctioneers are held to a higher standard of professionalism and accountability.</p> <p>To summarize: Eliminating the statewide auctioneer's license would INCREASE barriers to entry into the profession. Without a license, auctioneers would need to apply for ADDITIONAL LICENSES to sell real estate and motor vehicles. Deregulation would INCREASE regulatory burden and require auctioneers to obtain business licenses in multiple jurisdictions. Unlicensed individuals may conduct auctions without collecting and remitting sales tax appropriately, leading to LOWER STATE REVENUES and INCREASED ENFORCEMENT EXPENSES. Eliminating the license law would affect LICENSE RECIPROCITY with other states. Licensed auctioneers hold a fiduciary responsibility for their clients and are accountable for managing MILLIONS of dollars of assets annually. Licensing and continuing education requirements ensure a minimum standard of competence for auctioneers, just like other licensed professionals. In conclusion, I urge you to consider the negative consequences that would arise from eliminating the auctioneer license law in Virginia. Doing so would increase regulatory burdens, decrease state revenues, and lower the standard of professionalism for the auction industry. Retaining the auctioneer license law is crucial to ensuring accountability, competence, and trust in the auction profession for the benefit of both professionals and consumers. Let's work together to maintain this essential regulation.</p>	
<p>Joshua Puffenbarger</p>	<p>I am a 12 year licensed auctioneer in the Commonwealth as well as a Virginia Auction Firm license holder. I'm also the Chairman of the Board for the Virginia Auctioneers Association which represents the largest collective group of auction professionals in the state.</p> <p>I understand that DPOR has been tasked with reducing regulations but at what cost? The first and most important thing is consumer protection! The consumer in our industry is the seller. We as auctioneers take our sellers assets and sell them, collect and hold the their money, and then pay them after a brief period. If this is not regulated what keeps a immoral person acting in the capacity of an auctioneer from taking someone's lifetime worth of assets (sometimes several hundred thousand or more) and never paying the seller? We auctioneers currently maintain an escrow account and maintain care, custody, and control of client's assets and money. How could we not regulate individuals and firms with this responsibility?</p> <p>Secondly, the initiative is "to amend regulations that are determined to be overly burdensome or no longer applicable and provide clarity and/or combine other regulations."-DPOR. There is nothing burdensome about</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>

	<p>our industry! It's very easy to become an auctioneer! There is very little capital investment to get started, very little time investment needed to get started, and very little time and capital investment need to maintain a license. In the event that the current license law is abolished it would require more regulations, more investment of time and money, for auctioneers as we would need to get a licensed to sell real estate and titled units that fall under the Motor Vehicle Dealers Board. It doesn't make sense to deregulate one industry in order to fulfill the Governor's initiative when, in fact, it creates more regulations.</p> <p>I hope the DPOR will consider these things when moving forward. I would also like to invite the director and other leaders at DPOR to reach out to the Virginia Auctioneers Association to see how we can work together moving forward. I/we understand that you have a task in front of you and we are in the trenches of the industry everyday; I believe we could help each other reach a resolution that works for everybody.</p>	
<p>Linford Berry</p>	<p>I am a licensed auctioneer and auction firm owner in Virginia. I also hold an auctioneer license in WV and TN. In addition, I am a licensed real estate agent in VA and a licensed Motor Vehicle Dealer in VA. I currently serve on the board of directors for the Virginia Auctioneers Association and am an active member of the National Auctioneers Association, The West Virginia Auctioneers Association, and The Auctioneers Association Of Maryland.</p> <p>I am opposed to deregulation of the auctioneer profession in the State of VA for the following reasons.</p> <ol style="list-style-type: none"> 1. Auctioneers act in a fiduciary capacity for estates, trusts, businesses, municipalities, and individuals. Auctioneers like myself sell many millions of dollars of assets annually and hold these funds in an an escrow account until disbursed to our sellers. The auctioneer license law requires the use of an escrow account and timely disbursement. There are very few professions in the state that handle more of other people's money in a fiduciary capacity than auctioneers. <p>Deregulation of the auctioneer profession would not result in a net regulation reduction for auctioneers and neither would it reduce the barriers to entry into the profession. If auctioneers were not licensed in VA then they would need to apply for additional licenses in order to sell real estate and motor vehicles for estates etc. (Currently licensed auctioneers can sell real estate without a brokers license. They can also facilitate the sale of a motor vehicle or trailer etc. without a motor vehicle dealers license).</p> <p>There is also the issue of license reciprocity with other states. If Virginia did not have an auctioneer license law it would make it exponentially more difficult for auctioneers based in VA to acquire a license to work in another state. Currently 27 states license auctioneers and VA auctioneers have reciprocity with 14 of those states. Without a license law we would have no reciprocity with other states that require licensure.</p> <p>Business license and taxes. Currently licensed auctioneers are required to have a business license and pay business license tax only in their home county or city. Without a license law they would also be required to apply for business licenses in multiple jurisdictions in which they might conduct auctions instead of only the jurisdiction that their</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>

business is based in. This would be a significant regulatory burden for many auctioneers in VA.

Sales Tax: Licensed auctioneers are required to collect sales tax for all taxable sales they conduct. Without license law there may very well be an increase in individuals conducting auctions without collecting and remitting sales tax appropriately. This would result in lower revenues for the state and increased enforcement expenses.

License law and associated continuing education requirements are a good way to maintain a minimum standard of competence for professionals in any field and auctioneers are no exception. We expect car dealers, real estate agents, attorneys, accountants, and other professionals to be licensed and maintain continuing education. Why should auctioneers be treated differently especially since we perform tasks that are similar and overlap many other professions?

There is already a proliferation of unlicensed tag sale, estate sale, and online auction companies which have in many cases taken advantage of unsuspecting people who are simply trying to settle their parents estate or downsize. Auctioneers are held to a higher standard and rightfully so. Eliminating the license law would make it harder for auction professionals to set themselves apart in the marketplace as professionals who have a license at stake. It would open the door to "bad actors" in the business.

In addition to these objections, I would offer some suggestions for improving the auctioneers license law so that it would be more effective. I realize that some of these suggestions may require legislative changes that go beyond the scope of the DPOR.

Update the license law to require a license for online only auctions. Online only auctions are functionally no different than an auction conducted by live-outcry auctioneers in terms of their fiduciary responsibilities to sellers. As an online only auctioneer I could sell millions of dollars of other people's assets and not be required to have a license but as soon as I open my mouth and ask for a bid verbally I am required to have an auctioneers license. It makes no sense at all. Online auctions are the way the industry is headed. Exponentially more dollars are exchanged in online only auctions in VA than in live outcry auctions and that trend will only continue. Currently NC, WV, TN, PA, and many other states do require licenses for online only auctions. It is time VA updates its laws to regulate online auctions.

Update the regulations and the test for the auctioneers license to make it more relevant to modern auctioneering. Many of the questions on the test are not applicable to what modern auctioneers deal with on a regular basis. Some of the regulations such as those surrounding advertising and contracts for auctions also need to be updated.

Create a separate category for auctioneers who only conduct benefit auctions and do not sell other people's real or personal property. These auctioneers do not generally operate in a fiduciary capacity and the current requirements of the auction law are not applicable to their work in many cases.

Create an enforcement mechanism for the auctioneer law. Currently the maximum extent of enforcement by the DPOR Auctioneers Board is the revocation or suspension of a license. The DPOR and auctioneers board has no enforcement mechanism for an unlicensed individual conducting auctions. When I reported an unlicensed auctioneer to DPOR, I was told

	<p>to contact my local commonwealths attorney or law enforcement. When I contacted local law enforcement and the commonwealth's attorney they said that it wasn't their jurisdiction and I should contact DPOR. Many other professions in VA have an enforcement mechanism. Auctioneers should too.</p> <p>In summary, I would respectfully ask that any changes to the auctioneers license law and/or regulations be carefully vetted by industry stakeholders and consumer protection agencies before being pushed forward by DPOR. These laws were designed to protect the public and they have worked very well in most cases. In my opinion, it would be reckless to eliminate the auctioneers license law and it would have many unintended consequences for auction professionals and the general public.</p>	
<p>William Austin; Double A Auction & Realty</p>	<p>The de-regulation of the auctioneer licensing regime in Virginia will not have positive results. Licensing promotes a basic level of competency and accountability and will diminish the value brought forth by licensed professional auctioneers and lower the public's trust in the profession. Auctioneers maintain an escrow account and maintain care, custody, and control of client's assets and money. This is a large responsibility and there needs to be accountability.</p> <p>I believe removal of licensing regulations will have a detrimental effect on Virginia's auction industry.</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>
<p>Jarrold Hines, CAI, CES Owner/President- Farmer Auctions Director-Virginia Auctioneers Association Director-West Virginia Auctioneers Association Licensed Realtor</p>	<p>Once again, I write to you on behalf of my clients and the citizens of Virginia, in STRENUOUS opposition to the elimination of auctioneer licensing. During the last legislative session, Senate Bill 1480 was introduced which would've abolished all licensure for auctioneers, in addition to abolishing the right for a licensed auctioneer to sell real estate at public auction without having to have a real estate salesperson's license. This bill was soundly defeated in committee as many of those affected by the bill appeared before the committee to voice common sense opposition to the bill. Unfortunately there appears to be a renewed effort to implement these directives and we as taxpayers are once again required to invest precious time explaining the many shortcomings and obvious pitfalls to this irresponsible proposed initiative.</p> <p>As a licensed professional and FIFTH GENERATION auctioneer, current Director of the Virginia and West Virginia Auctioneers Associations and member of the National Auctioneers Association, I feel I am appropriately qualified to testify regarding the many repercussions that are certain to follow should auctioneer licensure be eliminated and should auctioneers lose the ability to sell real estate at auction without a salesperson's license..</p> <p>It was my sincere hope that sensibility would prevail and that the overwhelming defeat of Senate Bill 1480 would be the ultimate demise of efforts to eliminate auctioneer licensure, but unfortunately, despite our best efforts, it was not. Therefore, allow me to elaborate, once</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>

again, on why the passage of any legislation eliminating auctioneer licensure would be so grossly irresponsible.

First, please know that I realize that the elimination of licensure for auctioneers is an attempt to reduce costs in the wake of Governor Younkin's initiative. I understand the precarious position in which the DPOR and members of the state legislature find themselves, and do not envy their positions. That being said, I stand firm that elimination of licensure of auctioneers will act to put the consumer at great risk. I am certain that you are aware that, unlike many of the other professions regulated by DPOR, auctioneers maintain an escrow account. We act as a fiduciary for our clients and maintain care and custody of MILLIONS of dollars of tangible assets annually and that the sale of these assets results in auctioneers also maintaining care and custody of MILLIONS of dollars in liquid funds annually through their escrow accounts. In comparison, I would offer that the amount of liquid funds handled annually by real estate brokerages does not even remotely approach this level due to the fact that many earnest money deposits submitted as consideration in a real estate brokerage transaction are held by a closing attorney or other closing agent. It seems grossly irresponsible that the legislature and DPOR would relinquish governance and regulation over any profession required to handle their clients' liquid funds and maintain an escrow account in which to place these funds. I struggle with the fact that intelligent people serving in our state agencies and representing the citizens of Virginia do not grasp this very simple concept.

In addition, professional licensure, at its core, acts to identify a qualified agent/professional no matter the profession. How else could we be completely assured that the attorney, the physician, the general contractor, etc. had initially and continuously met the minimum requirements and standards necessary to perform his/her duties. What would be the standard of reference without some level of regulation and licensure? This same sensible logic would also apply to the issuance of a driver's license, either standard or commercial.

The protection that DPOR regulation provides is "necessary for the protection or preservation of the health, safety, and welfare of the public" (§ 54.1-100). The elimination of licensure for auctioneers would also, without any doubt, permit those with a revoked license to resume their nefarious business practices with no safeguard for the consumer.

In the absence of proactive measures, such as licensure, to protect the consumer from these bad actors, the consumer would merely be left at the mercy of the court system to pick up the pieces and attempt to rectify any criminal activity, when the activity could have likely been prevented had the requirement for licensure not been eliminated.

Elimination of licensure would also allow anyone to portray themselves as an "auctioneer" thus blurring the lines between those of us that serve professionally and a community of charlatans simply trying to make a quick buck, who do not possess the qualifications necessary to serve the public in that capacity. The consumer would have no means to officially validate the qualifications of any person portraying themselves as an "auctioneer" and would in turn suffer damages as a result. This is not a hypothetical, it is no doubt a relative certainty.

According to DPOR representatives to whom we have spoken, the data supports the fact that the Auctioneers Board receives a minimal number

of complaints when compared to other regulated professions. Therefore, the system is working as designed. I simply do not understand the current campaign to change it. Professional auctioneers are not a burden to the DPOR budget in that they do not have to allocate substantial resources to deal with complaints from our ranks. This is hard, factual data, not guesswork.

In contrast, members of the general public portraying themselves as "estate sale" or "tag sale" agents are completely unlicensed and unregulated and the newspapers and news websites are FILLED with stories of their criminal exploits. These everyday citizens portray themselves as "qualified experts" to assist with the liquidation of personal property. They have no oversight...no licensure...no transparency...no escrow requirements....no continuing education requirements...no professional trade organizations....yet they are permitted to perform many of the same duties as that of a professionally licensed auctioneer, much to the detriment of their unwitting clients. This is a shining example of the importance of licensure for agents engaged as a fiduciary. I would gladly supply links to media content to support my statements. Alternate to the repeal of licensure for auctioneers, it seems to make sense that some form of regulation be written to govern and legislate these "estate sale" and "tag sale" companies to ensure that the consumer is protected from unqualified individuals who are not bound to act in their clients' best interests. Alternatively, we propose that there are two ways to balance a budget...cut costs...or increase revenue. We propose that the Senate take an alternative path and consider an INCREASE in the licensure fees for professional auctioneers. The majority of FULL-TIME, PROFESSIONAL auctioneers that I have polled support a 300% - 400%, or greater, increase in the licensure fee, in lieu of the irresponsible elimination of licensure. Perhaps it's time to pivot to this more sensible resolution to this matter.

Before I address my next concern, let me start by informing the reader that I am also a licensed realtor, with one of the top selling brokerages in SWVA, and that I sell many properties through brokerage listing annually.

However.....

The other matter at hand is the elimination of the legislation that permits licensed auctioneers to sell real property at auction without having a real estate salesperson's license. The proposed legislation goes even further in its requirement by proposing that an auctioneer possess a real estate BROKER'S license in order to sell real property at auction. Given the fact that licensed auctioneers have been permitted to sell real property at auction in the state of Virginia for DECADES, we are all greatly puzzled by this proposed legislation. This proposed change does nothing in the way of helping to reduce costs. It appears to merely be an attempt by the realtor lobby to stifle competition and reduce the options the consumer has to sell his/her real property. The auction method of marketing and sale of real property is a powerful and effective strategy for clients to realize fair market value for their property, as buyers engage inactive competition to own it. If it weren't, realtors wouldn't engage in strategies borrowed from the auction profession such as "escalation clauses" which permit a buyer's agent to increase the buyer's offer should a higher offer be received and

	<p>"accelerated listings" in which agents receive multiple offers over a span of several days and then help their buyer select the best offer based not only on price, but on the contingencies contained in those offers as well. We find these methods of imitation flattering and as proof that the auction method of sale carries substantial merit. Any attempt to stifle its existence is also nonsensical and irresponsible.</p> <p>Once again, we are unaware of any complaints of any substance regarding an auctioneers selling real property at auction. Therefore, we do not feel that this sales strategy acts to increase the need for additional resources within the DPOR. Professional auctioneers serve their clients ethically and professionally regarding the sale of their real property and offer a viable alternative to a brokerage listing. The evidence is crystal clear on this point nationwide. We have a decades long case study here in the state of Virginia that supports that fact. There is absolutely no evidence to support the additional burden of a salesperson's or broker's license upon an auctioneer in order to sell real property at auction. Period. The genesis of this legislation is puzzling indeed, and the requirement is extremely unnecessary and stifling to open market competition.</p> <p>I trust that these very salient opposing positions are simple and easy to understand. I also trust that the readers have the best interests of the consumers of Virginia at heart, and will no doubt see to it that this irresponsible promulgation of law does not reach the legislature for any form of consideration.</p> <p>I am available at any time for further discussion regarding this matter. You may reach me at 540-250-2964 or at jarrod@farmer-auctions.com. In the name of consumer protection, I look forward to common sense prevailing in this matter.</p>	
<p>C. Shields Jones, Jr.</p>	<p>The notice of intended regulatory action published in vol. 39, issue 13 of the Virginia Register provided notice of regulatory action based on Governor Youngkin's ED One which SB1480 provided legislative authority. With SB1480 dying in committee, the legislative authority to enact SB1480 was suspended.</p> <p>The regulatory authority provided by SB1480 had many far reaching negative impacts for the auction industry outside of reducing a minimum amount of regulatory burden particularly for a program which the legislative impact statement revealed that it was projected to add money to the state treasure rather than have a negative impact. Testimony at the Senate Committee hearing revealed that SB1480 would have resulted in many negative impacts to the auction industry and the citizens of the Commonwealth. Moreover, any reduction in regulatory burden would more than likely not exist because similarly to before the current legislation was passed every town, city, county, or other jurisdiction had its own licensing authority. Removing the Commonwealth's legislative preemption over local jurisdictions is not a correct path to be followed.</p> <p>When this issue is revisited or other issues are being reviewed that will impact the auction industry and the citizens of the Commonwealth, it is suggested and recommended that DPOR consult and involve stakeholders for their input and assistance at the earliest time.</p>	<p>This regulatory action to deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>
<p>Rita S. Smith, Auctioneer</p>	<p>I am writing today to ask DPOR to please keep our Virginia Auctioneering License regulations intact. Virginia auctioneers have a</p>	<p>This regulatory action to</p>

	<p>fiduciary responsibility to our clients that far outweigh Licensee's of many other regulatory boards. We collect large amounts of money at the end of auctions, money that belongs to others. This money is placed in escrow accounts (maintained by us) until paid out within a required time period. We take possession of valuable items such as jewelry, coin collections, firearms, antiques etc. and keep them safe until auctions are completed. We go into people's homes and evaluate items they may want to auction or otherwise dispose of and people feel more comfortable with licensed professionals coming into their homes.</p> <p>When COVID came about many of us invested a great deal of money in online platforms, websites and interactive Apps to keep our businesses afloat when our brick & mortar auction houses were closed. I'm not referring to Facebook market places and all the other avenues people have to sell their items licensed or not. I am talking about software programs and hosting companies built for the auctioneering business that allow us to maintain integrity in online auctions but are not cheap to maintain. If anyone can be an auctioneer without licensing regulations then the public is at risk of being swindled, cheated, robbed and otherwise harmed which will in turn give us all a bad name and end the auction system in Virginia as we know it.</p>	<p>deregulate certain professions including auctioneers was not approved by the General Assembly this session, but it is potentially reducing regulatory requirements.</p>
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➤ **Licensed Population as of 4/1/23**

- **Auctioneers 990**
- **Auctioneer Firms 230**

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**Department of Professional and Occupational Regulation
Statement of Financial Activity**

**Auctioneers Board
954170**

2022-2024 Biennium

March 2023

	March 2023 Activity	Biennium-to-Date Comparison	
		July 2020 - March 2021	July 2022 - March 2023
Cash/Revenue Balance Brought Forward			0
Revenues	3,560	38,290	37,430
Cumulative Revenues			37,430
Cost Categories:			
Board Expenditures	346	3,590	4,778
Board Administration	2,236	14,445	14,670
Administration of Exams	19	892	227
Enforcement	91	575	630
Legal Services	23	119	92
Information Systems	1,034	10,120	8,018
Facilities and Support Services	396	4,161	3,304
Agency Administration	1,559	6,684	9,869
Other / Transfers	0	0	(15)
Total Expenses	5,702	40,585	41,573
Transfer To/(From) Cash Reserves	(1,311)	0	(4,143)
Ending Cash/Revenue Balance			0

Cash Reserve Beginning Balance	99,588	0	102,421
Change in Cash Reserve	(1,311)	0	(4,143)
Ending Cash Reserve Balance	98,278	0	98,278

Number of Regulants

Current Month	1,220
Previous Biennium-to-Date	1,408

Department of Professional and Occupational Regulation
 Supporting Statement of Year-to-Date Activity
 Auctioneers Board - 954170
 Fiscal Year 2023

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Fiscal YTD Charges	Planned Annual Charges	Current Balance	Projected Charges at 6/30	Projected Variance Favorable (Unfavorable)	
																	Amount	%
Board Expenditures	646	449	966	891	384	616	193	288	346	0	0	0	4,778	11,630	6,852	6,223	5,407	46.5%
Board Administration	2,347	1,613	1,563	782	1,433	2,464	789	1,443	2,236	0	0	0	14,670	24,571	9,900	18,264	6,306	25.7%
Administration of Exams	37	25	27	13	25	41	13	28	19	0	0	0	227	2,056	1,830	191	1,866	90.7%
Enforcement	98	70	69	34	69	105	32	63	91	0	0	0	630	1,003	372	788	215	21.5%
Legal Services	0	0	0	0	0	0	46	23	23	0	0	0	92	92	0	123	-31	-33.3%
Information Systems	640	1,022	785	529	889	807	904	1,409	1,034	0	0	0	8,018	12,726	4,708	10,399	2,327	18.3%
Facilities / Support Svcs	240	413	507	304	383	378	298	384	396	0	0	0	3,304	6,292	2,988	4,316	1,976	31.4%
Agency Administration	1,169	831	1,655	768	1,036	1,450	460	941	1,559	0	0	0	9,869	14,581	4,712	12,536	2,045	14.0%
Other / Transfers	0	0	0	0	0	0	-15	0	0	0	0	0	-15	0	15	-20	20	
Total Charges	5,177	4,423	5,572	3,321	4,220	5,860	2,720	4,578	5,702	0	0	0	41,573	72,951	31,378	52,819	20,132	27.6%

- **Other Business**
- **Conflict of Interest Forms /
Travel Vouchers**
- **Adjourn**

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