**TITLE 812 INDIANA AUCTIONEER COMMISSION**

**Proposed Rule**
LSA Document #14-386

DIGEST

Amends 812 IAC 1-1-1, 812 IAC 1-1-13, 812 IAC 1-1-16, 812 IAC 1-1-16.1, 812 IAC 1-1-24, 812 IAC 1-1-35, 812 IAC 1-1-38, 812 IAC 1-1-39, 812 IAC 1-1-40, and 812 IAC 1-1-41 to remove references to auction houses and remove outdated fees. Amends 812 IAC 2-6-1, 812 IAC 2-7-4, 812 IAC 2-7-12, 812 IAC 2-7-14, and 812 IAC 3-1-8 to remove references to auction houses. Repeals 812 IAC 1-1-14 and 812 IAC 1-1-17. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

**812 IAC 1-1-1; 812 IAC 1-1-13; 812 IAC 1-1-14; 812 IAC 1-1-16; 812 IAC 1-1-16.1; 812 IAC 1-1-17; 812 IAC 1-1-24; 812 IAC 1-1-35; 812 IAC 1-1-38; 812 IAC 1-1-39; 812 IAC 1-1-40; 812 IAC 1-1-41; 812 IAC 2-6-1; 812 IAC 2-7-4; 812 IAC 2-7-12; 812 IAC 2-7-14; 812 IAC 3-1-8**

SECTION 1. 812 IAC 1-1-1 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 1-1-1 Applications and other forms; availability**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1-2-5**

Sec. 1. Applications and all other pertinent forms are available at the Indiana Auctioneer Commission, office of the Indiana Professional Licensing Agency, Indiana Government Center **South,** Indianapolis, Indiana, or will be mailed upon request of person seeking to be licensed as auctioneer ~~auction house,~~ or auction company.

*(Indiana Auctioneer Commission; Rule 2; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 166; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1950; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236; readopted filed Jul 19, 2007, 1:00 p.m.: 20070808-IR-812070044RFA; readopted filed Nov 25, 2013, 9:20 a.m.: 20131225-IR-812130278RFA)*

SECTION 2. 812 IAC 1-1-13 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 1-1-13 Notice of operation or discontinuance of auction company by licensed auctioneer**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1-3-4**

Sec. 13. An individual who is a licensed auctioneer operating an auction ~~house and/or auction~~ company shall notify the commission of such operation in duplicate on prescribed forms provided by the commission. Said licensee shall notify the commission in writing of the discontinuance of such operation ~~and/or~~ **or** operations.

*(Indiana Auctioneer Commission; Rule 14; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 167; filed Nov 18, 1980, 8:55 a.m.: 4 IR 53; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236; readopted filed Jul 19, 2007, 1:00 p.m.: 20070808-IR-812070044RFA; readopted filed Nov 25, 2013, 9:20 a.m.: 20131225-IR-812130278RFA)*

SECTION 3. 812 IAC 1-1-16 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 1-1-16 Change of licensee address or business or trade name; notice**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1-3-4**

Sec. 16. All licensees shall notify the commission in writing within ten (10) days of the following:
(1) Change of address.
(2) Change of business or trade name.
(3) For auction ~~houses and auction~~ companies, change of ownership as described in section 16.1 of this rule.

*(Indiana Auctioneer Commission; Rule 17; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 168; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1950; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236; readopted filed Jul 19, 2007, 1:00 p.m.: 20070808-IR-812070044RFA; readopted filed Nov 25, 2013, 9:20 a.m.: 20131225-IR-812130278RFA)*

SECTION 4. 812 IAC 1-1-16.1 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 1-1-16.1 Change in ownership; auction company**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1-3-2**

Sec. 16.1. All changes in ownership of an auction ~~house or auction~~ company cause the auction ~~house or auction~~ company license to terminate. In order to operate the auction ~~house or auction~~ company, the new owner must obtain a license. Changes in ownership include:
(1) sale;
(2) changes of business organization; and
(3) changes in the identity of the partners in a partnership;
of an auction ~~house or auction~~ company.

*(Indiana Auctioneer Commission; 812 IAC 1-1-16.1; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1950; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236; readopted filed Jul 19, 2007, 1:00 p.m.: 20070808-IR-812070044RFA; readopted filed Nov 25, 2013, 9:20 a.m.: 20131225-IR-812130278RFA)*

SECTION 5. 812 IAC 1-1-24 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 1-1-24 Unprofessional conduct**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1-6-1; IC 25-6.1-6-2**

Sec. 24. A licensee shall conduct ~~his~~ professional activities in a professional manner that will reflect credit upon himself **or herself,** the auction profession, and auctioneers. Unprofessional conduct includes, but is not limited to, the following:
(1) Failure of a licensee to account to and pay over all monies and tangible personal property coming into his **or her** possession which belong to others including buyers at auction as well as consignors no later than thirty **(30)** days from the date that the obligation arises to remit or deliver the said monies or tangible personal property.
(2) A licensee's payment of compensation in money or other valuable thing to any person other than a licensee for the rendering of any service or the doing of any of the acts by this act forbidden to be rendered or performed by other than licensees.

*(Indiana Auctioneer Commission; Rule 25; filed Oct 7, 1977; 3:25 p.m.: Rules and Regs. 1978, p. 169; filed Nov 18, 1980, 8:55 a.m.: 4 IR 54; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236; readopted filed Jul 19, 2007, 1:00 p.m.: 20070808-IR-812070044RFA; readopted filed Nov 25, 2013, 9:20 a.m.: 20131225-IR-812130278RFA)*

SECTION 6. 812 IAC 1-1-35 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 1-1-35 Fees charged by commission**

**Authority: IC 25-1-8-2; IC 25-6.1-2-5**
**Affected: IC 25-6.1-3-5**

Sec. 35. (a) The following fees shall be charged by and paid to the commission by applicants and licensees:

| | |
|---|---|
| (1) Examination and reexamination as an auctioneer | $35 |
| (2) Application for licensure as an auctioneer per examination | $70 |
| (3) Application for licensure as an auctioneer per reciprocal agreement | $70 |
| ~~(4) Application for licensure as an auction house~~ | ~~$70~~ |
| ~~(5)~~ **(4)** Application for licensure as an auction company | $70 |
| ~~(6) Application for licensure as an auctioneer per temporary permit~~ | ~~$25~~ |

| | |
|---|---|
| ~~(7)~~ **(5)** Quadrennial renewal of registration as an auctioneer | $70 |
| ~~(8) Quadrennial renewal of registration as an auction house~~ | ~~$70~~ |
| ~~(9)~~ **(6)** Quadrennial renewal of registration as an auction company | $70 |
| ~~(10)~~ **(7)** License renewal reinstatement fee | $50 |
| ~~(11)~~ **(8)** Duplicate license ~~where the original license is lost or destroyed, and an affidavit thereof, submitted to the commission or reissuance of a license involving change~~ **or pocket card** | ~~$5~~ **$10** |
| ~~(12) Duplicate pocket card, where the original card is lost or destroyed and an affidavit thereof, submitted to the commission~~ | ~~$5~~ |
| ~~(13)~~ **(9)** Certification of status of license | ~~$5~~ **$10** |

(b) Every auctioneer ~~auction house,~~ and auction company holding a license issued by the commission shall renew their license quadrennially on or before February 28 of the fourth even-numbered year.

*(Indiana Auctioneer Commission; Rule 36; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 170; filed Nov 18, 1980, 8:55 a.m.: 4 IR 52; filed Mar 21, 1988, 1:30 p.m.: 11 IR 2870; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3098; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236; readopted filed Jul 19, 2007, 1:00 p.m.: 20070808-IR-812070044RFA; filed Jun 26, 2009, 2:17 p.m.: 20090722-IR-812080758FRA; readopted filed Nov 25, 2013, 9:20 a.m.: 20131225-IR-812130278RFA)*

SECTION 7. 812 IAC 1-1-38 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 1-1-38 Advertising**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1-6-5**

Sec. 38. In addition to the requirements under IC 25-6.1-6-5, all advertisements of auctions shall disclose the following:
(1) The name and license number of the principal auctioneer involved in the auction.
~~(2) The name and license number of the principal auction house involved in the auction.~~
~~(3)~~ **(2)** The name and license number of the principal auction company involved in the auction.

*(Indiana Auctioneer Commission; 812 IAC 1-1-38; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1951; filed Oct 16, 2000, 10:17 a.m.: 24 IR 687; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236; readopted filed Jul 19, 2007, 1:00 p.m.: 20070808-IR-812070044RFA; readopted filed Nov 25, 2013, 9:20 a.m.: 20131225-IR-812130278RFA)*

SECTION 8. 812 IAC 1-1-39 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 1-1-39 Posting auction sign**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1-2**

Sec. 39. (a) Each licensee shall jointly be responsible for posting a sign at either the main entrance of the auction, the place of registration, or by the cashier that states the following:
(1) The name and license number of all auctioneers involved in the auction.
~~(2) The name and license number of all auction houses involved in the auction.~~
~~(3)~~ **(2)** The name and license number of all auction companies involved in the auction.
~~(4)~~ **(3)** That the persons identified in this subsection are licensed by the Indiana auctioneer commission.
~~Indiana Government Center, Indianapolis, Indiana 46204.~~

(b) The sign required under subsection (a) shall be no smaller than twenty-four (24) inches by thirty (30) inches, and the letters and numbers appearing on the sign must be of adequate size so that they may be readily seen by an individual with normal vision when viewing them.

*(Indiana Auctioneer Commission; 812 IAC 1-1-39; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1951; filed Oct 16, 2000, 10:17 a.m.: 24 IR 687; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236; readopted filed Jul 19, 2007, 1:00 p.m.: 20070808-IR-812070044RFA; readopted filed Nov 25, 2013, 9:20 a.m.: 20131225-IR-812130278RFA)*

SECTION 9. 812 IAC 1-1-40 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 1-1-40 Auctioneer; records and accounts**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1-6**

Sec. 40. (a) The requirements of IC 25-6.1-6-1, IC 25-6.1-6-2, and IC 25-6.1-6-3 apply to auctioneers conducting auctions for auction ~~houses or auction~~ companies.

(b) The records and accounts required under IC 25-6.1-6-3 shall include the following:
(1) Name, license number, and address of auction company. ~~or auction house.~~
(2) Date of sale.
(3) Location of sale.

*(Indiana Auctioneer Commission; 812 IAC 1-1-40; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236; readopted filed Jul 19, 2007, 1:00 p.m.: 20070808-IR-812070044RFA; readopted filed Nov 25, 2013, 9:20 a.m.: 20131225-IR-812130278RFA)*

SECTION 10. 812 IAC 1-1-41 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 1-1-41 Auction company; records and accounts**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1-6-3**

Sec. 41. Each auction company licensee, ~~and auction house licensee,~~ in addition to the requirements under IC 25-6.1-6-3, shall keep and maintain for a period of not less than four (4) years the:
(1) name;
(2) license number;
(3) address; and
(4) date of auction sale;
of all auctioneers employed to conduct the auctions.

*(Indiana Auctioneer Commission; 812 IAC 1-1-41; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236; readopted filed Jul 19, 2007, 1:00 p.m.: 20070808-IR-812070044RFA; filed Jul 31, 2009, 8:37 a.m.: 20090826-IR-812080757FRA; readopted filed Nov 25, 2013, 9:20 a.m.: 20131225-IR-812130278RFA)*

SECTION 11. 812 IAC 2-6-1 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 2-6-1 Subject areas; number of course hours**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1**

Sec. 1. (a) Auctioneer courses offered by an approved course provider must include no fewer than the minimum number of hours in each of the subject areas as listed in subsection (b).

(b) The subject areas and corresponding minimum hourly requirements for an auctioneer course are as follows:
(1) A minimum of sixty (60) hours must be accrued in the following subjects with the minimum hourly requirement for each subject being equal to the number of course hours listed:

| Subject Area | Number of Course Hours |
|---|---|
| Bid calling/public speaking | 8 |
| Ethics | 3 |
| Sale advertising | 5 |
| Accounting procedures/mathematics | 3 |

| | |
|---|---|
| Sale summary/closing statements | 3 |
| Firearms | 2 |
| Auction law, including sales tax law and environmental law pertaining to auctioneering | 15 |
| UCC and bulk transfers | 2 |
| Contracts and legal matters | 5 |
| Bankruptcy | 2 |
| Appraising | 5 |
| Sale preparation, set-up, and clean-up | 7 |
| | 60 |

(2) A minimum of eleven (11) hours must be accrued in the following subjects, with a minimum of one (1) hour in each subject listed:
**(A)** Antiques.
**(B)** Art, rugs, and jewelry.
**(C)** Automobiles.
**(D)** Cattle and livestock.
**(E)** Computers.
**(F)** Estate sales.
**(G)** Farm machinery.
**(H)** Furniture.
**(I)** Heavy equipment.
**(J)** Insurance.
**(K)** Tobacco.
(3) A minimum of nine (9) hours must be accrued in the following subjects, with a minimum of three (3) hours in each subject listed:
**(A)** Auction ~~house~~ **company** operation.
**(B)** Real estate.
**(C)** Ring work.

*(Indiana Auctioneer Commission; 812 IAC 2-6-1; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3092; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221; readopted filed Sep 26, 2008, 10:48 a.m.: 20081015-IR-812080335RFA; readopted filed Dec 2, 2014, 10:09 a.m.: 20141231-IR-812140387RFA)*

SECTION 12. 812 IAC 2-7-4 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 2-7-4 Accounting procedures; mathematics**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1**

Sec. 4. The following are concepts that must be emphasized when teaching accounting procedures ~~and/or~~ **or** mathematics, **or both:**
(1) General record keeping for auctioneers **and** auction companies. ~~and auction houses.~~
(2) Escrow accounting.
(3) Real estate math.

*(Indiana Auctioneer Commission; 812 IAC 2-7-4; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3093; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221; readopted filed Sep 26, 2008, 10:48 a.m.: 20081015-IR-812080335RFA; readopted filed Dec 2, 2014, 10:09 a.m.: 20141231-IR-812140387RFA)*

SECTION 13. 812 IAC 2-7-12 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 2-7-12 Auction company operation**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1**

Sec. 12. The following concepts must be emphasized when teaching auction ~~house~~ **company** operation:
(1) Accounting and bookkeeping requirements.
(2) Consignor requirements.

(3) Auction procedures.
(4) Liability concerns.

*(Indiana Auctioneer Commission; 812 IAC 2-7-12; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3094; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221; readopted filed Sep 26, 2008, 10:48 a.m.: 20081015-IR-812080335RFA; readopted filed Dec 2, 2014, 10:09 a.m.: 20141231-IR-812140387RFA)*

SECTION 14. 812 IAC 2-7-14 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 2-7-14 Insurance**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1**

Sec. 14. The following concepts must be emphasized when teaching insurance:
(1) Policy types.
(2) Determining adequate coverage for auctions.
(3) Case studies involving recent insurance claims involving auctions **or** auction companies. ~~or auction houses.~~

*(Indiana Auctioneer Commission; 812 IAC 2-7-14; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3094; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221; readopted filed Sep 26, 2008, 10:48 a.m.: 20081015-IR-812080335RFA; readopted filed Dec 2, 2014, 10:09 a.m.: 20141231-IR-812140387RFA)*

SECTION 15. 812 IAC 3-1-8 IS AMENDED TO READ AS FOLLOWS:

**812 IAC 3-1-8 Instructors; prohibitions**

**Authority: IC 25-6.1-2-5**
**Affected: IC 25-6.1**

Sec. 8. An auctioneer continuing education sponsor is prohibited from hiring, or retaining in its employ, an instructor who has:
(1) had an auctioneer **or** auction company ~~or auction house~~ license revoked or suspended by any jurisdiction;
(2) obtained or used, or attempted to obtain or use, in any manner, Indiana auctioneer licensing examination questions to be used on future examinations unless authorized by law;
(3) been convicted of a crime that has a direct bearing on the individual's ability to competently instruct, including, but not necessarily limited to, violations of auction laws and abuse of fiduciary responsibilities;
(4) falsely certified hours of attendance or grades for any student; or
(5) unless allowed by law, refused to appear ~~and/or~~ **or** testify, **or both,** under oath at any hearing held by the commission.

*(Indiana Auctioneer Commission; 812 IAC 3-1-8; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3096; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221; readopted filed Sep 26, 2008, 10:48 a.m.: 20081015-IR-812080335RFA; readopted filed Dec 2, 2014, 10:09 a.m.: 20141231-IR-812140387RFA)*

SECTION 16. THE FOLLOWING ARE REPEALED: 812 IAC 1-1-14; 812 IAC 1-1-17.

Notice of Public Hearing

*Posted: 12/24/2014 by Legislative Services Agency*
An html version of this document.