

IC 25-6.1-3

Chapter 3. Licensing

IC 25-6.1-3-1

Coverage

Sec. 1. Coverage. (a) Except as provided in subsection (b) of this section, no individual may act as an auctioneer and no person may operate an auction house or an auction company without obtaining and having in full force and effect a valid license issued by the commission in accordance with this chapter.

(b) The requirements of this article do not apply to:

- (1) An auction of goods or real estate conducted exclusively by individuals who personally own such goods or real estate and who did not acquire such goods or real estate for resale.
- (2) An auction conducted by or under the direction of any public authority.
- (3) An auction conducted pursuant to any judicial order or to the settlement of a decedent's estate.
- (4) A sale conducted by or on behalf of any political party, church, charitable corporation or association if the individual conducting the sale receives no compensation and does not, by advertising or otherwise, hold himself out as being available to engage in the sale of goods or real estate at auction.

As added by Acts 1977, P.L.270, SEC.1. Amended by P.L.8-1993, SEC.374.

IC 25-6.1-3-2

Auctioneer license

Sec. 2. (a) Every individual, before acting as an auctioneer, must obtain a license from the commission.

(b) An applicant for a license must:

- (1) be at least eighteen (18) years of age;
- (2) have completed at least eighty (80) actual hours of auction instruction from a course provider approved by the commission;
- (3) not have a conviction for:
 - (A) an act which would constitute a ground for disciplinary sanction under IC 25-1-11; or
 - (B) a felony that has a direct bearing on the applicant's ability to practice competently.

(c) Auction instruction required under subsection (b) must provide the applicant with knowledge of all of the following:

- (1) The value of real estate and of various goods commonly sold at an auction.
- (2) Bid calling.
- (3) Sale preparation, sale advertising, and sale summary.
- (4) Mathematics.
- (5) The provisions of this article and the commission's rules.
- (6) Any other subject matter approved by the commission.

(d) An individual seeking an initial license as an auctioneer under this article shall file with the commission a completed application on

the form prescribed by the commission. When filing an application for an auctioneer license, each individual shall pay a nonrefundable examination fee established by the commission under IC 25-1-8-2.

(e) When applying for a renewal of an auctioneer license, each individual shall do the following:

(1) Apply in a manner required by the commission, including certification by the applicant that the applicant has complied with the requirements of IC 25-6.1-9-8, unless the commission has granted the applicant a waiver under IC 25-6.1-9-9.

(2) Pay the renewal fee established by the commission under IC 25-1-8-2.

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and may verify the information contained therein.

(g) An applicant who is seeking an initial license must pass an examination approved by the commission that covers subjects and topics of knowledge required to practice as an auctioneer. The commission shall hold examinations as the commission may prescribe.

(h) The commission shall issue an auctioneer's license, in such form as it may prescribe, to each individual who meets all of the requirements for licensing and pays the appropriate fees.

(i) Auctioneer licenses shall be issued for a term of four (4) years. A license expires at midnight on the date established by the licensing agency under IC 25-1-6-4 and every fourth year thereafter, unless renewed before that date. If the license has expired, it may be reinstated not later than four (4) years after the date it expired if the license holder meets the requirements of IC 25-1-8-6(c).

(j) If a license has expired for a period of more than four (4) years, the holder of the license may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

(k) The commission may waive the requirement that a nonresident applicant pass an examination and that the nonresident submit written statements by two (2) individuals, if the nonresident applicant:

(1) is licensed to act as an auctioneer in the state of the applicant's domicile;

(2) submits with the application a duly certified letter of certification issued by the licensing board of the applicant's domiciliary state;

(3) is a resident of a state whose licensing requirements are substantially equal to the requirements of Indiana;

(4) is a resident of a state that grants the same privileges to the licensees of Indiana; and

(5) includes with the application an irrevocable consent that actions may be commenced against the applicant. The consent shall stipulate that service of process or pleadings on the commission shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading

mentioned in this subsection is served upon the commission, it shall be by duplicate copies. One (1) of the duplicate copies shall be filed in the office of the commission and one (1) shall be immediately forwarded by the commission by registered or certified mail to the applicant against whom the process or pleadings are directed.

(l) The commission may enter into a reciprocal agreement with another state concerning nonresident applicants.

(m) The commission may, for good cause shown, upon the receipt of an application for a license, issue a temporary permit for such reasonable period of time, not to exceed one (1) year, as the commission deems appropriate. A temporary permit has the same effect as a license and entitles and subjects the permittee to the same rights and obligations as if the individual had obtained a license.

(n) An applicant for a temporary permit must do the following:

(1) File an examination application.

(2) Pass the examination at one (1) of the next two (2) regularly scheduled examinations.

(o) An individual who does not pass the examination required under subsection (n) may not be issued a temporary permit.

As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.5; Acts 1981, P.L.222, SEC.39; Acts 1982, P.L.113, SEC.32; P.L.3-1990, SEC.87; P.L.214-1993, SEC.14; P.L.238-1995, SEC.2; P.L.23-2003, SEC.3; P.L.194-2005, SEC.19; P.L.157-2006, SEC.25; P.L.105-2008, SEC.16.

IC 25-6.1-3-3

Auction house license

Sec. 3. (a) This section does not apply to an organization that operates a wholesale dealer automobile auction.

(b) Every person, before operating an auction house, must obtain a license from the commission for that auction house.

(c) Except as provided in subsection (d), before applying for a license from the commission to operate an auction house, the following must obtain a license as an auctioneer as provided in section 2 of this chapter:

(1) An individual who seeks to operate an auction house.

(2) One (1) or more individuals designated by an organization that seeks to operate an auction house.

(d) Subsection (c) does not apply to:

(1) a person that holds a valid license for an auction house as of June 30, 1998; or

(2) a person that holds a valid renewal of a license described in subdivision (1).

(e) Every applicant seeking to operate an auction house shall file with the commission a completed application on a form provided by the commission for a license for each auction house to be operated by that person. Each application shall be accompanied by the license fee prescribed by section 5 of this chapter and a surcharge described in IC 25-6.1-8-2.

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and may verify the information contained therein.

(g) If the commission determines that the application has been completed and that the statements made therein by the applicant are true, the commission shall issue a license, in such form as it may prescribe, for such auction house.

(h) Auction house licenses shall expire on a date established by the licensing agency under IC 25-1-6-4, and every fourth year thereafter.

(i) If the holder of an auction house license does not renew the license by the date established by the licensing agency, the license expires and becomes invalid without any action taken by the commission.

(j) The holder of an auction house license that has been expired for not more than four (4) years may have the license reinstated by meeting the requirements under IC 25-1-8-6(c).

(k) The holder of an auction house license that has been expired for more than four (4) years may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d). *As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.6; P.L.3-1990, SEC.88; P.L.214-1993, SEC.15; P.L.84-1998, SEC.19; P.L.23-2003, SEC.4; P.L.105-2008, SEC.17.*

IC 25-6.1-3-4

Auction company license

Sec. 4. (a) Every person other than:

- (1) an individual who is a licensed auctioneer; or
- (2) an individual who has a licensed auction house;

who is seeking to operate as an auction company must obtain a license from the commission. Notwithstanding the fact that an individual who is a licensed auctioneer or an individual who has a licensed auction house also has an interest in an organization, every organization which seeks to operate an auction company must obtain a license for that auction company.

(b) Every such person shall file with the commission a completed application on the form prescribed by the commission. Each application shall be accompanied by the license fee prescribed by section 5 of this chapter and a surcharge described in IC 25-6.1-8-2.

(c) Upon the receipt of a completed application for an initial or renewal license, the commission shall examine the application and may verify the information contained therein.

(d) Upon a determination by the commission that an application is completed and duly verified, the commission shall issue an auction company license, in such form as it may prescribe, to the applicant.

(e) Auction company licenses shall expire on a date established by the licensing agency under IC 25-1-6-4, and every fourth year thereafter.

(f) If the holder of an auction company license does not renew the license by the date established by the licensing agency, the license

expires and becomes invalid without any action taken by the commission.

(g) The holder of an auction company license that has been expired for not more than four (4) years may have the license reinstated by meeting the requirements under IC 25-1-8-6(c).

(h) The holder of an auction company license that has been expired for more than four (4) years may have the license reinstated by satisfying the requirements for reinstatement under IC 25-1-8-6(d).

(i) Any individual who wishes to operate an auction company, and who is exempt under subsection (a) from obtaining an auction company license, shall, not more than thirty (30) days before the date on which the individual begins to operate an auction company, notify the commission, in a writing signed by the individual, that the individual is operating as an auction company or as more than one (1) auction company. The individual shall specify in such written notification the trade or business name, and the address of the principal place of business, of each auction company which the individual operates. Whenever an individual to whom this subsection applies shall discontinue the operation of an auction company theretofore operated by the individual, or shall change its address or trade or business name, the individual shall promptly notify the secretary of the commission of such discontinuance or change, in a writing signed by the individual.

As added by Acts 1977, P.L.270, SEC.1. Amended by Acts 1980, P.L.163, SEC.7; P.L.3-1990, SEC.89; P.L.214-1993, SEC.16; P.L.23-2003, SEC.5; P.L.105-2008, SEC.18.

IC 25-6.1-3-5

License fee; surcharge

Sec. 5. At the time of obtaining a license under this chapter, the licensee shall pay:

- (1) the license fee established by the commission under IC 25-1-8-2; and
- (2) a surcharge under IC 25-6.1-8 for deposit in the auctioneer recovery fund.

As added by Acts 1977, P.L.270, SEC.1. Amended by P.L.256-1987, SEC.2; P.L.23-2003, SEC.6; P.L.194-2005, SEC.20.

IC 25-6.1-3-6

License requirement; "auction house" defined

Sec. 6. All auctions arranged by or through an auction house or an auction company shall be conducted exclusively by individuals who are licensed as auctioneers under this chapter. For purposes of this subsection only, the term "auction house" includes a sale barn or sale pavilion that is used exclusively for the auctioning of livestock and is licensed by the Indiana state board of animal health.

As added by Acts 1977, P.L.270, SEC.1.

IC 25-6.1-3-7

Display of license

Sec. 7. Display of License. Every person licensed under this article shall display his license or a certified copy of it issued by the commission in the full and unobstructed view of the public at his principal place of business.

As added by Acts 1977, P.L.270, SEC.1.

IC 25-6.1-3-8**Duplicates and certified copies of licenses; fees**

Sec. 8. (a) The commission may charge the fee established under IC 25-1-8-2 as the cost of providing duplicate licenses to replace lost or destroyed licenses.

(b) The commission may charge a fee established under IC 25-1-8-2 for the cost of verifying a license to another state.

As added by Acts 1977, P.L.270, SEC.1. Amended by P.L.235-1995, SEC.2; P.L.194-2005, SEC.21.

IC 25-6.1-3-9**Cease and desist order**

Sec. 9. Cease and Desist Order. (a) When the commission determines that a person not licensed under this article is engaged in or is believed to be engaged in activities for which a license is required under this article, the commission may issue an order to that person requiring him to show cause why he should not be ordered to cease and desist from such activities. The show cause order shall set forth a time and place for a hearing at which the affected person may appear and show cause as to why he should not be subject to licensing under this article.

(b) If the commission, after a hearing, determines that the activities in which the person is engaged are subject to licensing under this article, the commission may issue a cease and desist order which shall describe the person and activities which are the subject of the order.

(c) A cease and desist order issued under this section shall be enforceable in the circuit courts of this state.

As added by Acts 1977, P.L.270, SEC.1.

IC 25-6.1-3-10**Denial of license; rights and remedies**

Sec. 10. Any person who makes proper and complete application to the commission and who is denied a license under this article has all of the rights and remedies prescribed in IC 4-21.5.

As added by Acts 1977, P.L.270, SEC.1. Amended by P.L.7-1987, SEC.113.