

CHAPTER 04 – COMMISSION FOR AUCTIONEERS

SUBCHAPTER 4A - AUCTIONEERS COMMISSION

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History Note: Authority G.S. 85B-1 to 85B-8;
Eff. February 1, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. July 1, 1983;
Repealed Eff. November 1, 1984.

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History Note: Authority G.S. 85B-3(f); 85B-8; 150A et seq.;
Eff. July 1, 1982;
Repealed Eff. November 1, 1984.

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History Note: Authority G.S. 85B-3(f); 150A-11(1); 150A-12(3); 150A-15;
Eff. February 1, 1976;
Readopted Eff. December 19, 1977;
Repealed Eff. July 1, 1982.

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History Note: Authority G.S. 85B-3(f); 150A-11(1); 150A-17;
Eff. February 1, 1976;
Readopted Eff. December 19, 1977;
Repealed Eff. July 1, 1982.

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History Note: Authority G.S. 85B-3; 85B-4; 85B-5; 85B-6;
Eff. February 1, 1976;
Amended Eff. November 17, 1977;
Readopted Eff. December 19, 1977;
Amended Eff. February 1, 1984; July 1, 1983;
Repealed Eff. November 1, 1984.

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History Note: Authority G.S. 85B-3(f); 85B-4(f);
Eff. February 1, 1976;
Readopted Eff. December 19, 1977;
Repealed Eff. February 1, 1984.

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History Note: Authority G.S. 85B-3(f); 85B-4(d); 85B-6;
Eff. February 1, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. July 1, 1983;
Repealed Eff. November 1, 1984.

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History Note: Legislative Objection Lodged Eff. June 29, 1983;
Statutory Authority G.S. 85B-3(f); 85B-4(a),(c); 85B-8(a)(1);
Eff. February 1, 1976;
Readopted Eff. December 19, 1977;
Amended Eff. July 1, 1983; January 1, 1983; November 1, 1978;
Curative Amended Eff. September 7, 1983;
Repealed Eff. November 1, 1984.

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History Note: Authority G.S. 85B-3(f); 85B-4(d);
 Eff. February 1, 1976;
 Readopted Eff. December 19, 1977;
 Amended Eff. February 1, 1984;
 Repealed Eff. November 1, 1984.

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History Note: Authority G.S. 85B-3(f);
 Eff. February 1, 1984;
 Repealed Eff. November 1, 1984.

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History Note: Authority G.S. 85B-3(f); 85B-7(a);
 Eff. February 1, 1976;
 Readopted Eff. December 19, 1977;
 Amended Eff. July 1, 1983;
 Repealed Eff. November 1, 1984.

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History Note: Authority G.S.85B-3(f);85B-8(c); 150A-12(d); 150A-23; 150A-23(d); 150A-25(b);
 150A-27;
 Eff. February 1, 1976;
 Readopted Eff. December 19, 1977;
 Repealed Eff. July 1, 1982.

SUBCHAPTER 04B - AUCTIONEER LICENSING BOARD

SECTION .0100 - ORGANIZATION AND GENERAL PROVISIONS

- 21 NCAC 04B .0101 PURPOSE**

- (a) It is the responsibility of the Board to license auctioneers, apprentice auctioneers, and auction firms and ensure that the qualifications and activities of those engaged in auctioneering activities comply with G.S. 85B.
- (b) The Board is not a board of arbitration and has no jurisdiction to settle disputes between parties concerning the rate of commissions, the division of commissions, or pay of assistants.

History Note: Authority G.S. 85B-3.1;
Eff. November 1, 1984;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0102 BOARD OFFICE

- (a) The administrative offices of the Board are located at:
108 Ber Creek Drive
Fuquay-Varina, North Carolina 27526
Telephone: (919) 567-2844
- (b) The Board's website is www.ncalb.org.
- (c) Office hours are 8:30 a.m. until 5:00 p.m., Monday through Friday, excluding State holidays as set forth in 25 NCAC 01E .0901, which is hereby incorporated by reference including subsequent amendments.

History Note: Authority G.S. 85B-3.1;
Eff. November 1, 1984;
Amended Eff. March 1, 2003; June 1, 1999; July 1, 1995; April 1, 1989;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0103 DEFINITIONS

Whenever used in this Chapter:

- (1) "Auction house," "auction barn," or "auction gallery" shall mean an auction business that conducts auctions at a single location and where consignments are brought to the location by either the auctioneer/auction firm or the public to be sold at auction.
- (2) "Auctioneers Law" or "licensing law" shall refer to G.S. 85B.
- (3) "Board" shall mean the North Carolina Auctioneers Commission.
- (4) "Buyer's Premium" shall mean any additional charge owed by a buyer to the auctioneer, auction firm, or to the seller above the highest accepted bid amount.
- (5) "Course" shall mean the curriculum, instruction, and activities of schools of auctioneering subject to the rules of this Subchapter.
- (6) "Minimum Bid" shall mean minimum opening bids.
- (7) "Principal(s)" as it pertains to auction firms shall mean director(s), officer(s), owner(s), and partner(s).
- (8) "Sole Proprietor Auction Business" shall mean a licensed auctioneer whose business is not defined as an "Auction Firm" as set forth in G.S. 85B-1(6).

History Note: Authority G.S. 85B-1; 85B-3.1; 85B-4;
Eff. November 1, 1984;
Amended Eff. May 1, 2006; April 1, 2001; April 1, 1996; January 1, 1995;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0104 ADMINISTRATIVE LAW PROCEDURES

- (a) Contested Cases. Administrative hearings in contested cases conducted by the Board or an administrative law judge as authorized in G.S. 150B-40(e) shall be governed by:
- (1) Article 3A of G.S. 150B;
 - (2) the Rules of Civil Procedure as contained in G.S. 1A-1; and
 - (3) the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes.
- The General Rules of Practice for the Superior and District Courts are hereby incorporated by reference for contested cases for which the Board has authority to adopt rules under G.S. 150B-38(h). These incorporations shall include any later amendments and editions of the incorporated matter.
- (b) Declaratory Rulings. Petitions for declaratory rulings shall be submitted to the Board and shall contain:

- (1) the petitioner's name, address, and telephone number;
- (2) the statute, rule, or order to which the request relates;
- (3) all facts and information that the petitioner considers relevant to the request;
- (4) a statement of the manner in which petitioner has been aggrieved; and
- (5) a statement as to whether the petitioner desires to present oral argument, not to exceed 30 minutes, to the Board prior to its decision.

The Board shall refuse to issue a declaratory ruling when:

- (A) the petition does not comply with this Rule;
- (B) the Board has issued a declaratory ruling on the same facts;
- (C) the Board has issued a final agency decision in a contested case on the same facts;
- (D) the facts underlying the request for a declaratory ruling were considered at the time of the adoption of a rule or order in question; or
- (E) the subject matter of the request is involved in pending litigation.

(c) Petitions For Rule-Making. In addition to the procedures set out in G.S. 150B-20, petitions for rule-making shall be submitted to the Board and shall contain:

- (1) the petitioner's name, address, and telephone number;
- (2) a draft of the proposed rule adoption or amendment; and
- (3) the effect of the proposal on existing rules.

History Note: Authority G.S. 85B-3.1; 150B-4; 150B-20; 150B-38(h);
 Eff. November 1, 1984;
 Amended Eff. July 1, 1995; January 1, 1995; April 1, 1989;
 Readopted Eff. July 1, 2020.

SECTION .0200 - APPLICATION FOR LICENSE

21 NCAC 04B .0201 APPLICATION FORMS

(a) Auctioneer. Each applicant for an auctioneer license shall make application on a form prescribed by the Board, which may be obtained from the Board using the information in Rule .0102 of this Subchapter.

- (1) The application form requires:
 - (A) the applicant's legal name;
 - (B) the applicant's physical, postal mail, and email addresses;
 - (C) the applicant's telephone number(s);
 - (D) the county, state, and country of the applicant's legal residence;
 - (E) the applicant's social security number;
 - (F) the applicant's date of birth;
 - (G) the applicant's qualification for licensure as set forth in G.S. 85B-4(b);
 - (H) the places of residence within the previous five years for the applicant;
 - (I) the applicant's current employment (if any);
 - (J) any places of employment within the previous five years for the applicant;
 - (K) two character endorsements for the applicant;
 - (L) any doing business names for the applicant; and
 - (M) the applicant's notarized signature.
- (2) This application shall be submitted to the Board and shall be accompanied by:
 - (A) one forward facing, 2" x 2" color photograph of the applicant's head and shoulders taken within the previous six months for identification;
 - (B) the completed fingerprint cards provided by a law enforcement agency and the form signed by the applicant consenting to the check of the criminal history and to the use of fingerprints and other identifying information;
 - (C) a copy of the applicant's high school diploma or proof of equivalency;
 - (D) an employee classification form provided by the Board;
 - (E) the applicable fees, as set forth in 21 NCAC 04B .0202; and
 - (F) documentation of required auctioneer schooling or auctioneer experience, as follows:
 - (i) Applicants who base their application upon their completion of a school of auctioneering with its curriculum and instructors approved by the Board as set forth in 21 NCAC 04B

.0500 shall submit a final transcript. If the applicant has completed this school more than the five years preceding the date of his or her application, the applicant shall submit documentation of the applicant's lawful participation in auctions within the two years preceding the date of application. The above-referenced participation in auctions is defined as "Auctioneering" as set forth in G.S. 85B-1(8); or

- (ii) Applicants who base their application upon their successful completion of an apprenticeship shall submit a log maintained and completed during the apprenticeship period that lists the hours and dates when they obtained apprenticeship experience, with each entry being verified and signed by their supervising auctioneer(s). At least 100 hours of experience during the apprenticeship two-year period shall be obtained. Not less than 25 of the total hours accumulated shall be attributable to bid calling. Not less than 50 hours shall be attributable to working as a ring person, drafting and negotiating contracts, evaluating merchandise, advertising, clerking, and cashiering, with not less than five hours of accumulated experience documented for each activity. An apprentice who applies for an auctioneer license under this Part shall submit his or her application and supporting documentation and obtain a passing score on the auctioneer exam prior to the expiration of his or her apprentice auctioneer license.

(b) Non-Resident Reciprocal Auctioneer. Each non-resident applicant for an auctioneer license who applies for a North Carolina license pursuant to G.S. 85B-5 shall make application on a form prescribed by the Board, as set forth in Paragraph (a) of this Rule. This form shall be submitted to the Board and shall be accompanied by:

- (1) one forward facing, 2" x 2" color photograph of the applicant's head and shoulders taken within the previous six months for identification;
- (2) the completed fingerprint cards provided by a law enforcement agency and the form signed by the applicant consenting to the check of the criminal history and to the use of fingerprints and other identifying information;
- (3) a copy of the applicant's high school diploma or proof of equivalency;
- (4) an employee classification form provided by the Board;
- (5) the applicable fees, as set forth in 21 NCAC 04B .0202;
- (6) a statement of good standing from the licensing board or Commission of each jurisdiction where the applicant holds an auctioneer, apprentice auctioneer, or auction firm license; and
- (7) irrevocable consent of the applicant that service to the Board shall be sufficient service of process for actions against the applicant by a resident of this State arising out of his or her auctioneering activities with notarized signature and notarial seal affixed.

(c) Apprentice Auctioneer. Each applicant for an apprentice auctioneer license shall make application on a form prescribed by the Board, as set forth in Paragraph (a) of this Rule. This form shall be submitted to the Board and shall be accompanied by:

- (1) one forward facing, 2" x 2" color photograph of the applicant's head and shoulders taken within the previous six months for identification;
- (2) the completed fingerprint cards provided by a law enforcement agency and the form signed by the applicant consenting to the check of the criminal history and to the use of fingerprints and other identifying information;
- (3) a copy of the applicant's high school diploma or proof of equivalency;
- (4) an employee classification form provided by the Board;
- (5) the applicable fees, as set forth in 21 NCAC 04B .0202;
- (6) the signature, as designated on the apprentice applicant form, of the licensed auctioneer(s) who will be supervising the apprentice auctioneer; and
- (7) a written statement of each proposed supervisor's background and experience in the auction profession, including the number and types of auctions conducted or participated in annually, as set forth in 21 NCAC 04B .0403.

(d) Auction Firms. An applicant for an auction firm shall be a principal within the firm. Each applicant for an auction firm license shall make application on a form prescribed by the Board, which may be obtained from the Board using the information in Rule .0102 of this Subchapter.

- (1) The application form requires:
 - (A) the firm's legal name, and any assumed names or trade names;
 - (B) the firm's type of business entity;

- (C) the names, addresses, telephone numbers, and titles of each owner, officer, and partner of the firm;
 - (D) the firm's physical, postal mail, and email addresses;
 - (E) the firm's website address (if any);
 - (F) the firm's telephone number(s);
 - (G) the applicant's name, which shall be an owner of the firm;
 - (H) the applicant's physical, postal mail, and email addresses;
 - (I) the county, state, and country of the applicant's legal residence;
 - (J) the applicant's social security number;
 - (K) the applicant's qualification for licensure as set forth in G.S. 85B-4(b);
 - (L) the designated person(s) of the firm as set forth in G.S. 85B-4(g) and 21 NCAC 04B .0607;
 - (M) two character endorsements for the applicant; and
 - (N) the applicant's notarized signature.
- (2) This form shall be submitted to the Board and shall be accompanied by:
- (A) each of the principal's and proposed designated person's of the auction firm completed fingerprint cards provided by a law enforcement agency and the form signed by each consenting to the check of the criminal history and to the use of fingerprints and other identifying information;
 - (B) a copy of each principal's and proposed designated person's high school diploma or proof of equivalency;
 - (C) the applicable fees, as set forth in 21 NCAC 04B .0202;
 - (D) a certified copy of any applicable Articles of Incorporation, Articles of Organization, Partnership Agreement, or Assumed Name Certificate; and
 - (E) a statement of good standing from the licensing board or Commission of each jurisdiction where the applicant firm and any principal and proposed designated person of such firm holds an auctioneer license of any type; and
 - (F) an employment classification form provided by the Board.

*History Note: Authority G.S. 85B-1; 85B-3.1; ; 85B-3.2; 85B-4; 85B-5;
 Eff. November 1, 1984;
 Amended Eff. April 1, 1996; January 1, 1995; June 1, 1991;
 Temporary Amendment Eff. January 1, 2000;
 Amended Eff. May 1, 2006; April 1, 2001;
 Readopted Eff. July 1, 2020.*

21 NCAC 04B .0202 FILING AND FEES

(a) Completed applications shall be received in the Board office at least seven days prior to a published Board meeting date, or in the case of an application for auctioneer examination, at least 10 days prior to a scheduled examination as published on the Board's website, and shall be accompanied by all required documents.

(b) License fees are as follows:

- | | | |
|-----|---|----------|
| (1) | New auctioneer license for an applicant who did not serve an apprenticeship
This includes a \$150.00 annual license fee; \$50.00 application fee; and \$50.00 examination fee. | \$250.00 |
| (2) | New auctioneer license for an applicant who served an apprenticeship
This includes a \$150.00 annual license fee; and \$50.00 examination fee. | \$200.00 |
| (3) | Renewal of auctioneer license | \$150.00 |
| (4) | New apprentice auctioneer license
This includes a \$100.00 license fee and a \$50.00 application fee. | \$150.00 |
| (5) | Renewal of apprentice auctioneer license | \$100.00 |
| (6) | New auction firm license (no examination)
This includes a \$150.00 annual license fee; and \$50.00 application fee. | \$200.00 |
| (7) | New auction firm license (examination)
This includes a \$150.00 annual license fee; \$50.00 application fee; and \$50.00 examination fee. | \$250.00 |
| (8) | Renewal of an auction firm license | \$150.00 |
| (9) | Application and processing fee for conversion of non-resident reciprocal license to | \$50.00 |

- in-state license
- (10) Reinstatement of lapsed license \$50.00
- (11) Fingerprint card background check fee \$38.00

(c) The renewal fee for a non-resident reciprocal licensee under G.S. 85B-5 shall be calculated in the same manner as the initial application fee pursuant to G.S. 85B-6.

(d) Fees may be paid in the form of cash or a check, cashier's check, certified check, or money order made payable to the North Carolina Auctioneer Licensing Board. Checks drawn on escrow or trust accounts shall not be accepted. License renewal fees and reinstatement of license fees may be paid by credit card or debit card only when a license renewal fee (and when applicable, a reinstatement of license fee) is submitted by the licensee through the Board's website.

History Note: Authority G.S. 85B-3.2(g); 85B-4.1; 85B-5(i); 85B-6; Eff. November 1, 1984; Amended Eff. April 1, 2001; January 1, 2000; April 1, 1996; January 1, 1995; April 1, 1989; Temporary Amendment Eff. October 19, 2001; Temporary Amendment Expired August 12, 2002; Amended Eff. April 1, 2003; Readopted Eff. July 1, 2020.

21 NCAC 04B .0203 EXTENSIONS FOR MEMBERS OF THE ARMED FORCES

The Board shall waive the license renewal fee and shall grant an extension of time for up to one year for completing and reporting continuing education credits for those licensees currently licensed and in good standing with the Board who are serving in the Armed Services of the United States, and to whom G.S. 105-249.2 grants an extension of time to file a tax return.

History Note: Authority G.S. 93B-15; Eff. July 1, 2020.

SECTION .0300 - EXAMINATIONS

21 NCAC 04B .0301 SUBJECT MATTER

- (a) The auctioneer license examination shall test the applicant's knowledge of the following subjects:
 - (1) a working knowledge of the auction business including conduct of auctions, auctioneering ethics, contract drafting, bid calling, basic mathematical computations and percentages, advertising, settlement statements, and laws and rules that relate to the auctioneering profession;
 - (2) the provisions of the licensing law; and
 - (3) the rules of this Subchapter.
- (b) The auction firm license examinations shall test the applicants knowledge of the following:
 - (1) the provisions of the licensing law; and
 - (2) the rules of this Subchapter.

History Note: Authority G.S. 85B-4(d); 85B-4(g); Eff. November 1, 1984; Amended Eff. May 1, 2006; January 1, 1995; Readopted Eff. July 1, 2020.

21 NCAC 04B .0302 RE-EXAMINATION/REFUND OF FEES

If the applicant does not appear at the initial examination for which he or she has been scheduled or fails to pass such examination, he or she will be re-scheduled for the next scheduled examination. If the applicant again does not appear or fails to pass this examination, the Board shall refund the licensure fee, but not the application or examination fee. A new application and appropriate fees shall be required if the person wishes to reapply.

History Note: Authority G.S. 85B-4; 85B-6; Eff. November 1, 1984; Amended Eff. June 1, 1991; Temporary Amendment Eff. January 1, 2000;

*Amended Eff. April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0303 EXAM: REVIEW: PAPERS AND CONTENTS

- (a) Any applicant who fails to obtain a passing score of 75 percent or higher on an examination may request an appointment with the Board staff to review his or her examination.
- (b) All examination papers shall remain the property of the Board. The contents thereof shall not be divulged, except by express written authorization of the Board.

*History Note: Authority G.S. 85B-4; 93B-8;
Eff. November 1, 1984;
Amended Eff. June 1, 1991;
Readopted Eff. July 1, 2020.*

SECTION .0400 – LICENSING

21 NCAC 04B .0401 LICENSE NUMBER: DISPLAY OF LICENSE AND POCKET CARD

- (a) The Board shall issue to each individual or firm a non-transferable license number. If the number is retired for any reason such as death, failure to continue in the auction business, or failure to renew his or her license, the Board shall not reissue the number.
- (b) A pocket card shall be issued by the Board with the auctioneer, apprentice auctioneer, or auction firm's name, license number, and date of expiration. The pocket card shall be carried when auctioneering activities are being conducted by the licensee, and in the case of auction firms, each of the designated persons, and shall be available for inspection by the Executive Director or designated agent of the Board.
- (c) An auction firm shall display its license in its premises, so as to be visible for inspection by patrons of the firm.

*History Note: Authority G.S. 85B-3.1; 85B-4;
Eff. November 1, 1984;
Amended Eff. May 1, 2006; April 1, 2001; January 1, 1995; April 1, 1989;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0402 LICENSE RENEWAL

- (a) Any licensee seeking the renewal of a license that is in good standing shall submit the required fees, records, and documentation as set forth in 21 NCAC 04B .0801(a) and G.S. 143-788(a)(5) to verify the licensee's compliance with G.S. 85B and the rules in this Chapter.
- (b) Applications for renewal of licenses shall only be processed by the Board upon receipt of the required fee and any records, documents, or information required by Paragraph (a) of this Rule.
- (c) Any person or entity who engages in any auctioneering activities governed by the auctioneers law while the license is lapsed shall be subject to the penalties pursuant to G.S. 85B-9.
- (d) Persons or firms whose license has been lapsed or suspended in excess of 24 months and who desire to be licensed shall apply for a new license and shall meet all the requirements in effect at that time. Persons or firms whose license has been lapsed or suspended in excess of 24 months and who desire to be licensed shall be exempt from the auctioneer school or the apprenticeship requirements if the continuing education requirements have been met for all lapsed or suspended years.

*History Note: Authority G.S. 85B-3.1; 85B-4;
Eff. November 1, 1984;
Amended Eff. April 1, 2001; January 1, 1995; April 1, 1989;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0403 APPRENTICE AUCTIONEER LICENSE

- (a) An apprentice auctioneer's license shall be valid only while he or she is associated with and supervised by a licensed auctioneer approved by the Board. In order to be approved by the Board as a supervisor, the Board shall receive a written notice, signed by the prospective supervisor and the apprentice, requesting that the licensed auctioneer be approved as a supervisor for the apprentice. Upon receipt of such a request, the Board shall review the requested approval. The requested approval shall be denied by the Board if the prospective supervisor fails to possess a minimum of five years of active

experience in the auctioneering profession or has committed any act that resulted in license suspension or revocation under the rules of this Subchapter or under G.S. 85B.

(b) The supervising auctioneer shall be on the premises of the sale location and supervise the apprentice auctioneer at all times that an apprentice auctioneer is engaged in bid calling. Additionally, the supervising auctioneer shall supervise the apprentice and ensure that the apprentice auctioneer conforms with the auctioneer law and the rules of this Subchapter.

(c) Any licensed auctioneer who undertakes the supervision of an apprentice auctioneer shall provide the apprentice with training and supervision in the following:

- (1) a working knowledge of the auction business including conduct of auctions, auctioneering ethics, contract drafting, bid calling, basic mathematical computations, advertising, and settlement statements;
- (2) the provisions of the licensing law;
- (3) the rules of this Subchapter; and
- (4) the preparation and maintenance of written agreements, record books, and other sales records as required by G.S. 85B-7.

(d) Apprentices shall not conduct or contract to conduct any auction without the prior express written consent of the supervisor(s). No supervisor shall authorize an apprentice to conduct or contract to conduct an auction, to act as principal auctioneer, or handle any funds related to an auction unless the supervisor has determined that the apprentice has received the training to do so. An apprentice auctioneer may work under more than one Board-approved licensed auctioneer at any given time.

(e) The supervisor(s) shall ensure that the apprentice complies with all of the laws and Rules as they apply to any auction-related transaction approved by the supervisor.

(f) An apprentice auctioneer shall notify the Board, in writing, within 10 days of termination of his or her association with his or her supervising auctioneer, at which time his or her license shall be placed in an invalid status. If an apprentice auctioneer's supervising auctioneer's license has been suspended or revoked, the apprentice auctioneer's license shall be placed in an invalid status. Once in an invalid status, an apprentice auctioneer shall not conduct or contract to conduct any auction. If an apprentice's license is invalid greater than 90 days due to a lack of an approved sponsor, the apprentice upon securing an approved sponsor shall be required to submit a reinstatement fee as set forth in 21 NCAC 04B .0202(b)(10). Upon termination of the association between a supervisor and the apprentice, both licensees shall notify the Board in writing within 10 days, specifying the date and cause of termination. At this time the apprentice auctioneer's license shall be placed in an invalid status, unless at least one Board-approved supervisor remains in place for the apprentice.

*History Note: Authority G.S. 85B-3.1; 85B-4; 85B-7;
Eff. November 1, 1984;
Amended Eff. April 1, 2001; April 1, 1996; January 1, 1995; June 1, 1991;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0404 GROUNDS FOR LICENSE DENIAL OR DISCIPLINE

(a) The Board may assess a civil penalty in accordance with G.S. 85B-3.1(b) or deny, suspend, or revoke a license, or issue a letter of reprimand to a licensee, upon any of the following grounds:

- (1) violation of any provision of G.S. 85B;
- (2) violation of any rule in this Subchapter;
- (3) a check given to the Board in payment of fees is returned unpaid;
- (4) allowing an unlicensed person to call a bid at a sale, except as authorized in 21 NCAC 04B .0506;
- (5) auctioneering at an unlicensed auction firm sale;
- (6) failure to complete an application or making any false statement or giving any false information in connection with an application for a license, renewal, or reinstatement of a license including:
 - (A) failure to cooperate with any investigation; or
 - (B) making any false statement or giving any false information in connection with any investigation by the Board or the Board's staff;
- (7) being adjudicated mentally incompetent by a court;
- (8) being convicted of a crime that meets the requirements of G.S. 93B-8.1(b);
- (9) violation of any federal or state statute, rule, or regulation that relates to the auctioneering profession;
- (10) practicing the profession for which the individual is licensed while his or her ability to practice was impaired by alcohol or other drugs or physical or mental disability or disease;

- (11) being incompetent in practice. In this Subparagraph, "being incompetent in practice" means the licensee has engaged in conduct that shows a lack of ability, fitness, or knowledge to apply principles or skills of the auctioneering profession;
 - (12) engaging in unprofessional conduct. In this Subparagraph, "unprofessional conduct" means the licensee has committed any prohibited act as set forth in G.S. 85B-8(a);
 - (13) obtaining or attempting to obtain compensation by fraud or deceit;
 - (14) violation of any order of the Auctioneer Licensing Board requiring a licensee to comply with any provision of the Board's law or administrative rules;
 - (15) failure to possess truth, honesty, and integrity sufficient to be entitled to the high regard and confidence of the public. In this Subparagraph, "a lack of truth, honesty, and integrity" shall be shown by proof that the applicant or licensee is in violation of other provisions of the Board's law and administrative rules that demonstrate that the applicant or licensee fails to meet this standard; or
 - (16) failure to make the disclosures required by 21 NCAC 04B .0405.
- (b) When applying the requirements of Paragraph (a) of this Rule to auction firms or their applications, the requirements shall apply to the firm, all the principals, and all of the designated persons of the firm.

History Note: Authority G.S. 85B-3.1; 85B-8;
Eff. November 1, 1984;
Amended Eff. January 1, 1995;
Temporary Amendment Eff. January 1, 2000;
Amended Eff. April 1, 2001;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0405 INVOLVEMENT IN COURT ACTION OR ADMINISTRATIVE HEARING

- (a) All auctioneers, apprentice auctioneers, and auction firms, including their principals and designated person(s), shall report to the Board all criminal arrests for, charges of, or convictions of a misdemeanor that has as an element dishonesty, deceit, fraud, or misrepresentation, or any arrests, charges, or convictions of any felony. Convictions include findings of guilt, guilty pleas, and pleas of nolo contendere. The Board shall receive written notice of any such arrest, charge, or criminal conviction within 30 days of the occurrence of any or all of these events.
- (b) All auctioneers, apprentice auctioneers, and auction firms, including their principals and designated person(s), shall report to the Board all civil suits involving them that are based upon any allegation of gross negligence, dishonesty, fraud, misrepresentation, or incompetency, or that in any way involve an auction sale or a transaction related to an auction matter or auctioneering. The Board shall receive written notice of any such civil suit within 30 days of the date the complaint in the suit is served on the defendant in the action, or the date a pleading containing one or more of these allegations is served on a party.
- (c) All auctioneers, apprentice auctioneers, and auction firms, including their principals and designated person(s), shall report to the Board all administrative proceedings commenced against them that involve any potential revocation or suspension of, or other disciplinary action against, any auction license or auctioneer license that they hold in another state. The Board shall receive written notice of any such administrative proceeding within 30 days of the date the auctioneer, apprentice auctioneer, or auction firm, including its principals and designated person(s), is notified of the administrative proceeding.

History Note: Authority G.S. 85B-3.1; 85B-4;
Eff. November 1, 1984;
Amended Eff. April 1, 2001; January 1, 1995; April 1, 1989;
Readopted Eff. July 1, 2020.

SECTION .0500 - SCHOOLS OF AUCTIONEERING

21 NCAC 04B .0501 APPLICATION FOR COURSE APPROVAL

- (a) Schools of auctioneering seeking approval of its curriculum and instructors by the Board shall make application on a form prescribed by the Board, which may be obtained from the Board using the information in Rule .0102 of this Subchapter. The application form requires:
- (1) the school name;
 - (2) the name of the school director;
 - (3) the school's physical, postal mail, and email addresses;
 - (4) the school's website address (if any);

- (5) the school's telephone number(s);
- (6) the name, education and experience qualifications, and hours to be taught for each instructor;
- (7) the instructor(s) for, and hours to be taught in each Essential Core Curriculum topic;
- (8) the instructor(s) for, and hours to be taught in each supplemental Instruction topic; and
- (9) the school director's signature.

(b) The school shall notify the Board within 30 days of any change in the information required by the application form set forth in Paragraph (a) of this Rule. This requirement shall continue as long as the school's curriculum and instructors remain approved by the Board.

*History Note: Authority G.S. 85B-3.1; 85B-4(d);
Eff. November 1, 1984;
Amended Eff. April 1, 2001; March 1, 1995;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0502 REQUIREMENTS FOR APPROVAL/MINIMUM STANDARDS

(a) The course curriculum shall contain classroom instruction in the following subjects for the minimum number of hours shown:

- (1) Essential Core Curriculum (minimum 50 hours):
 - 15 Hours - Bid Calling, Voice Control, Proper Breathing Techniques, and Use and Sequence of Numbers;
 - 4 Hours - Advertising and Marketing;
 - 8 Hours - Auctioneers Law and Rules and Regulations;
 - 2 Hours - Uniform Commercial Code and Bulk Transfers;
 - 2 Hours - Drafting and Negotiating Contracts;
 - 2 Hours - Closing Statements and Settlements;
 - 8 Hours - Accounting and Mathematics;
 - 2 Hours - Auctioneering Ethics;
 - 2 Hours - Handling Sale Proceeds and Escrow Accounts;
 - 2 Hours - Auction Preparation and Setup; and
 - 3 Hours - Review and Testing (End of Course).

- (2) Supplemental Instruction Areas (minimum 30 hours):

Antiques	Heavy Equipment
Real Estate	Automobiles
Technology	Cattle and Livestock
Environmental Issues	Public Speaking
Computers	Estate Sales
Firearms	Appraising
Foreclosure and Bankruptcy Sales	Sales Tax Requirements
Art, Rugs, Jewelry	Ring Work
Body Language	Consignment Auctions
Farm Machinery	
Cyber Security and Client Property Protection	

Each Supplemental Instruction Area shall be addressed in the school.

- (3) Schools that include students that have expressed to the school an interest to become North Carolina applicants shall provide a minimum of 2 hours of instruction on the North Carolina Auctioneers Law and Rules, G.S. 85B and 21 NCAC 04B. This instruction shall be included within the minimum required 8 hours instruction of Auctioneers Law and Rules and Regulations.

(b) Students attending an approved course shall attend and complete a minimum of 80 hours of classroom instruction according to the list of subjects and minimum hours of instruction in each subject specified in Paragraph (a) of this Rule. An hour of creditable instruction is defined as 50 minutes of classroom instruction or practical exercise accompanied by a 10 minute break.

(c) Each school's curriculum shall include instruction by a minimum of five different instructors, at least two of whom shall be professional auctioneers. Regardless of the total number of hours taught by any given instructor, no more than 20 hours of an individual's instruction may be counted to satisfy the requirements of Paragraph (a) of this Rule.

(d) The school shall establish standards for all persons who instruct in an approved school with minimum training or experience, or a combination thereof, in the particular field in which they are instructing.

(e) The instructors shall exhibit truth, honesty, and integrity as set forth in Rule 21 NCAC 04B .0404(a)(15).

(f) The school shall provide or make available facilities, equipment, materials, and supplies necessary for the course, including:

- (1) a climate-controlled classroom with a seating capacity sufficient to accommodate all students; and
- (2) audio-visual equipment and other instructional devices and aids necessary and beneficial to the delivery of training.

History Note: Authority G.S. 85B-3.1; 85B-4(d);
Eff. November 1, 1984;
Amended Eff. May 1, 2006; April 1, 2001; March 1, 1995;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0503 CERTIFICATION OF COURSE COMPLETION

Schools shall furnish each student who completes his or her course a transcript containing the student's name, the date the course was completed, and the total number of hours completed by that student.

History Note: Authority G.S. 85B-4(d);
Eff. November 1, 1984;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0504 RECORDS MUST BE MAINTAINED

Each school shall maintain for five years, and make available upon request of the Board or its staff, records containing the following information:

- (1) the dates, times of instruction, and location of every course offered;
- (2) for each student, the names, address(es), and numbers of hours completed;
- (3) a list of all instructors used by the school, the qualifications of each, and their addresses; and
- (4) for each course offered, the names of all instructors used, the subject(s) taught, the number of hours that each instructor devoted to each subject, and the dates and times of the instruction.

History Note: Authority G.S. 85B-4(d);
Eff. November 1, 1984;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0505 GROUNDS FOR APPROVAL, DENIAL, SUSPENSION, OR REVOCATION

(a) The approval of a school's curriculum and instructors by the Board shall be valid for a period of two years. Each approval shall be evaluated for reapproval by the Board prior to the expiration of the two-year period.

(b) The Board may deny, suspend, or revoke the approval of any school's curriculum and instructors when it finds that the school has failed to meet or to maintain any requirement of this Section. The Board may deny, suspend, or revoke the approval of any school's curriculum and instructors upon a finding that any information required under this Section was falsified or misrepresented.

History Note: Authority G.S. 85B-3(f); 85B-4(d);
Eff. November 1, 1984;
Amended Eff. April 1, 1996;
Readopted Eff. July 1, 2020;
Amended Eff. September 1, 2022.

21 NCAC 04B .0506 ALLOWING UNLICENSED BID CALLERS: EXCEPTION

A person enrolled in a class at a school of auctioneering with Board-approved curriculum and instructors may call bids without a license if it is done for the purpose of training and receiving instruction. The bid calling by an unlicensed individual shall be done under the direct supervision of a licensed auctioneer who is also an instructor in the school and who further assumes responsibility for the activities of the student in the matter involving bid calling.

*History Note: Authority G.S. 85B-4(d);
Eff. November 1, 1984;
Readopted Eff. July 1, 2020.*

SECTION .0600 - GENERAL AUCTIONEERING

21 NCAC 04B .0601 CHANGE OF ADDRESS OR BUSINESS NAME OR OWNERSHIP

- (a) All licensees shall notify the Board in writing of each change or addition of residence or business address, including mailing address, and change of trade name, assumed name, or combination of names under which the licensee conducts business related to auctions.
- (b) In the case of a corporate license, the licensee shall notify the Board of any change in the directors or officers of the corporation. The new director(s) or officer(s) shall comply with the provisions of 21 NCAC 04B .0201(d)(2)(A), (B), (D), (E), and (F). If the new directors or officers have a 51% or greater controlling interest in the corporation, the firm license shall be retired and the firm shall apply for a new license.
- (c) In the case of a partnership license, the licensee shall notify the Board of any change in partners and such new partners shall comply with the provisions of 21 NCAC 04B .0201(d)(2)(A), (B), (D), (E), and (F).
- (d) In the case of an auction firm license, the licensee shall notify the Board of any change in a designated person(s). If the designated person is a currently licensed auctioneer under G.S. 85B, the designated person shall be required to comply with the provisions of 21 NCAC 04B .0201(d)(2)(A), (B), (D), (E), and (F). If the designated person is not a currently licensed auctioneer under G.S. 85B, the designated person shall be required to comply with the provisions of 21 NCAC 04B .0201(d)(2)(A), (B), (D), (E), and (F).
- (e) Any changes of reported information required by this Rule shall be reported within 10 days of the occurrence of such change.

*History Note: Authority G.S. 85B-3.1;
Eff. November 1, 1984;
Amended Eff. April 1, 1996; January 1, 1995;
Temporary Amendment Eff. January 1, 2000;
Amended Eff. April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0602 ADVERTISING

- (a) In all advertisements relating to an auction, the auctioneer's, apprentice auctioneer's, or auction firm's name and license number shall be given. If an auctioneer is working for or in conjunction with an auction firm, the relationship shall be disclosed and both license numbers shall be given. A general advertisement that does not concern a specific sale or specific sales and that does not list sale dates, times, or locations, referred to as "trolling" or "holding" advertisements, shall not be subject to any identification requirement. A licensee may advertise under a name, assumed name, trade name, or combination of names, only if written notice has been filed with the Board.
- (b) Any licensee who advertises an "Estate Sale" shall disclose, in all advertisement materials, whether it is the estate of a living or deceased person. Before conducting an auction as an "estate sale," the majority of items in the sale shall come from the estate of the living or deceased person(s). Other items not related to or in an estate may be sold with an estate if disclosed at or before the time of the auction.
- (c) It shall be a violation of this Rule to advertise a "Bankruptcy Sale" unless the item(s) offered for sale, whether real or personal, are from an active bankruptcy action. Before conducting an auction as a "bankruptcy sale," the majority of the items in the sale shall come from the bankruptcy of one or more parties. Other items not related to or from a bankruptcy action may be sold with items from a bankruptcy action if disclosed at or before the time of the auction.
- (d) It shall be a violation of this Rule to advertise an item, either real or personal, as "Absolute" or "Without Reserve" if the item is subject to confirmation, minimum bid, or any other condition of sale. Before advertising an auction as absolute or without reserve, the majority of items in the sale shall be offered for sale absolute or without reserve. Items that are not absolute may be included in the auction provided they are designated as such in all announcements and advertisements.
- (e) It shall be a violation of this Rule to advertise any auction using such descriptive words as "Urgent," "Emergency," "Distress" or any other word that connotes liquidation of assets or that the buyers will be in a position to reap some unusual bargain without disclosing, in the written advertisement in a print size equal to the descriptive word, the reason that the sale is "urgent," the nature of the "emergency," or the cause of the "distress."

- (f) It shall be a violation of this Rule to advertise any auction using such descriptive words as "Seized," "Confiscated," "Forfeited," or any other word that connotes a governmental action whereby items are seized or taken by a government department, agency, or commission and released or sold or that the buyers will, for some governmental reason, be in a position to reap some unusual bargain without disclosing, in the written advertisement in a print size equal to the descriptive word, the exact nature of the government action.
- (g) It shall be a violation of this Rule to advertise any items as being from an "estate" or a "bankruptcy," or from an "urgent," "emergency," "distress," "seized," "confiscated," "forfeited," or similar sale, unless the consignor of the item(s) to be sold is the original owner of the item(s), the designated representative of the owner, or a federal, state, or local department, agency, or commission charged with disposing of the item(s), and consigned the item(s) directly to the advertised sale.
- (h) It shall be a violation of this Rule to:
- (1) Reference the U.C.C. or any other uniform act or federal or state law in any advertisement unless the act or law is required, by law, to be referenced;
 - (2) Reference or mention any federal, state, or local department, agency, or commission in any advertisement unless required by law to do so or unless prior written approval is received from such department, agency, or commission; or
 - (3) Otherwise connote in any advertisement that the auction is under the auspices of, at the direction of, or required by federal or state law or act or a federal, state, or local department, agency, or commission and that the buyers will, for some legal or governmental reason, be in a position to reap some unusual bargain.
- (i) It shall be a violation of this Rule to advertise for sale items that the auctioneer/firm does not intend to offer for sale at the advertised auction.
- (j) It shall be a violation of this Rule for an auctioneer or auction firm to permit its name or license number to appear on any advertisement for an auction without reviewing the contents of the advertisement prior to its publication to ascertain its compliance with G.S. 85B and this Subchapter.
- (k) It shall be a violation of this Rule to advertise any auction using such descriptive words as "Contents," "Stock," "Inventory," "Liquidation," or any other word that connotes that the items to be auctioned are present on the premises of a residence, business, building, or establishment unless the items were physically present without interruption for 30 days prior to the signing of the contract or written agreement. Before conducting an auction using any of the descriptive words, the majority of the items in the sale shall be from the premises. Other items not related to or from the contents of the residence or business may be included in the auction provided they are designated as such in all advertisements previous to the sale. The 30-day requirement shall not apply to items used in direct conjunction with the residence or business and brought to the site solely for the purpose of sale at auction.
- (l) At all auctions that include a buyer's premium, the amount of the buyer's premium shall be announced at the beginning of the auction and a written notice of this information shall be displayed or distributed to the public at the auction site.

*History Note: Authority G.S. 85B-1; 85B-3.1; 85B-8(a)(4);
Eff. November 1, 1984;
Amended Eff. May 1, 2006; April 1, 2001; April 1, 1996; January 1, 1995; June 1, 1991;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0603 SALE PROCEEDS, ACCOUNTING AND ESCROW ACCOUNTS

- (a) Each payment made payable to the auctioneer/firm of which any portion belongs to others, and not disbursed to the seller on auction day, shall be deposited in an escrow account for the benefit of the owner or seller of such property within three business days after receipt of same.
- (b) Any licensee who disburses any funds on auction day shall prepare a receipt or settlement statement in compliance with G.S. 85B-7.1(a) and maintain records in compliance with G.S. 85B-7.1(b).
- (c) Every auctioneer/firm that does not disburse all funds to the seller on auction day shall establish and maintain a separate bank account designated as "Custodial Account for Sellers Proceeds" or some similar identifying designation, to disclose that the depositor is acting as a fiduciary and that the funds in the account are trust funds.
- (d) Custodial accounts created pursuant to Paragraph (c) of this Rule shall be established and maintained in banks, credit unions, or savings and loan associations located in North Carolina whose deposits are insured by the Federal Deposit Insurance Corporation, or comparable state or federal recognized insurance agency or program.
- (e) The custodial account created pursuant to Paragraph (c) of this Rule shall be drawn on only for payment of:
- (1) the net proceeds to the seller, or to any person that the auctioneer/firm knows is entitled to payment;
 - (2) to pay charges against the property that the auctioneer/firm in its agency capacity is required to pay; and
 - (3) to obtain any sums due the auctioneer/firm as compensation for its services.

(f) In the event of a dispute between the seller and buyer of goods or property or between the licensee and any person in whose name trust or escrow funds are held, the licensee shall retain the monies in his or her trust or escrow account until he or she has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction.

(g) Each auctioneer/firm shall keep accounts and records that document the handling of funds in a custodial account created pursuant to Paragraph (c) of this Rule. Accounts and records shall disclose the names of buyers and the amount of purchase and payment from each, the names of the sellers, and the amount due and payable to each from funds in the custodial account created pursuant to Paragraph (c) of this Rule. The names of the buyers and amount of purchase and payment from each buyer related to an individual seller shall be delivered to the seller within 14 days of a written request made within 90 days of settlement of a specific auction.

(h) All trust or escrow account records and records of disbursement shall be available for inspection by the Board staff without advance notice, and copies shall be provided to the Board upon request.

*History Note: Authority G.S. 85B-7.1; 85B-8(a);
Eff. June 1, 1991;
Amended Eff. April 1, 2003; January 1, 1995;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0604 CONTRACTS, CONSIGNMENT RECORDS, SALES RECORDS, AND BIDDER REGISTRATION RECORDS

(a) All written agreements for auctions and registration, sales, and accounting records shall be maintained at the site during the conduct of the auction and, upon request, shall be made available to the Board or its staff.

(b) An auction house, auction barn, or auction gallery business may enter into a written agreement with repeat dealers or sellers for an extended period of time, not to exceed one year.

(c) The consignment records and sales records shall be kept by the licensee for a period of two years from the date of the auction.

(d) At an auction house, auction barn, or auction gallery, when consignments are brought to the location by the public during that specific auction sale, the sales records and the consignment records may be the same.

(e) The bidder registration records shall contain the bidders' names, addresses, telephone numbers, and email addresses. The bidder registration records shall be kept by the licensee for a period of two years from the date of the auction.

(f) All required records shall be open for inspection by the Board or its designated agent at reasonable times, or copies of the same shall be provided to the Board or its designated agent upon written request.

(g) In auctions of consigned property, any buyer's premium shall be calculated, collected, and distributed according to terms authorized by the consignor in a written auction contract.

*History Note: Authority G.S. 85B-7; 85B-7.1; 85B-8;
Eff. January 1, 1995;
Amended Eff. May 1, 2006;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0605 BIDDING

(a) No auctioneer/auction firm shall bid on items in a sale he or she is conducting or procure the bid without the intent to purchase the item. However, in a sale with reserve, the auctioneer/auction firm may bid on the reserve item up to, and including, the amount of the reserve price without the intent to purchase the item. In any auction where the auctioneer/auction firm bids or such auctioneer/auction firm procures such a bid, the auctioneer shall announce such bidding in advance of the auction.

(b) A minimum opening bid shall not be required in an absolute auction. Following an opening bid, the auctioneer may set reasonable minimum bid increments. Such a policy shall be disclosed in the auctioneer's/auction firm's spoken, posted, and written terms and conditions of the sale. In this Paragraph "reasonable minimum bid increments" shall be determined by the auctioneer or auction firm, based on the type and value of the property being offered at an auction.

*History Note: Authority G.S. 25-2-328(4); 85B-1; 85B-3.1;
Eff. January 1, 1995;
Amended Eff. May 1, 2006; April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0606 AUCTION FIRMS

- (a) All licensed auction firms shall have at least one Board-approved designated person as defined by G.S. 85B-1(10). If a licensed auction firm does not have at least one Board-approved designated person, it shall not engage in auctioneering activity.
- (b) Only Board-approved designated person(s) for an auction firm shall have the authority to transact business under the firm license. This includes arranging, managing, soliciting, and contracting auctions; the supervision of the auction staff; the supervision of the acceptance of consignments of items for sale at auction; the supervision of the advertising of an auction; and the supervision of the acceptance of payment and disbursement of monies for items sold at auction.
- (c) At least one designated person shall be on the premises of an auction firm's auction sale location while the auction sale is conducted.
- (d) Any auctioneer licensed under G.S. 85B may call bids for a licensed auction firm without being a designated person.
- (e) Any apprentice auctioneer licensed under G.S. 85B and supervised by his or her supervising auctioneer may call bids for a licensed auction firm without being a designated person.
- (f) Individuals that hold a currently valid real estate broker license shall be exempt from the auction firm examination. Their authority to transact business as a designated person under the auction firm license is limited to real estate sales at auction.

*History Note: Authority G.S. 85B-1; 85B-3.1; 85B-4;
Eff. May 1, 2006;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0607 SOLE PROPRIETOR AUCTION BUSINESSES

- (a) A licensed auctioneer who owns and operates a sole proprietor auction business has the responsibility for arranging, managing, soliciting, and contracting auctions; the supervision of the auction staff; the supervision of the acceptance of consignments of items for sale at auction; the supervision of the advertising of an auction; and the supervision of the acceptance of payment and disbursement of monies for items sold at auction.
- (b) A licensed auctioneer or an apprentice auctioneer who is employed or contracted by another licensed auctioneer who owns and operates a sole proprietor auction business shall only be responsible for calling bids and performing duties that a non-auctioneer is allowed to perform.
- (c) A licensed auctioneer who owns and operates a sole proprietor auction business shall be on the premises of his or her businesses' auction sale location while the auction sale is conducted.

*History Note: Authority G.S. 85B-1; 85B-3.1;
Eff. May 1, 2006;
Readopted Eff. July 1, 2020.*

SECTION .0700 - RECOVERY FUND

21 NCAC 04B .0701 APPLICATIONS

All verified applications will be served upon the Commission in accordance with the procedures set forth in G.S. 1A-1, Rule 4(j)(4).

*History Note: Authority G.S. 85B-4.2;
Eff. January 1, 1995;
Readopted Eff. July 1, 2020.*

SECTION .0800 - CONTINUING EDUCATION

21 NCAC 04B .0801 CONTINUING EDUCATION COURSE

(a) To renew a license in active status, an auctioneer, apprentice auctioneer, or designated person(s) in an auction firm shall complete Board-approved course(s) consisting of the hours of instruction as established as in Paragraph (d) of this Rule and shall provide documentation of completion of Board-approved course(s) to the Board.

- (1) An auctioneer, apprentice auctioneer, or designated person(s) in an auction firm shall provide documentation on required continuing education courses to the Board by May 15th of the current renewal period.

- (2) The Board shall not process a license renewal until the licensee has complied with this Rule.
- (b) The Board shall approve courses that shall be conducted by sponsors approved by the Board under the rules of this Section. The subject matter of this course shall be determined by the course sponsor. The course sponsor shall provide instructor and student materials. The course shall be conducted as prescribed by the rules in this Section.
- (c) The sponsor may conduct the course at any location as often as desired during the approval period. Approval of a sponsor to conduct a course authorizes the sponsor to conduct the course using an instructor who has been approved by the Board as a course instructor under Rule .0804 of this Section.
- (d) The minimum classroom hours of instruction for each year shall be four.
- (e) An auctioneer, an apprentice auctioneer, or a designated person(s) in an auction firm shall complete the continuing education requirements for each renewal period that his or her license was lapsed or suspended.
- (f) Credit hours applied to the current renewal of a license shall not be used for future renewals.
- (g) Excess continuing education hours may be carried forward as credits for a maximum of one renewal year.
- (h) No part of any preclicensing course curriculum shall count as continuing education credit hours.
- (i) Continuing education shall not be required until the second renewal after initial licensing pursuant to G.S. 85B-4(e).

*History Note: Authority G.S. 85B-4(e1);
Eff. July 1, 1999;
Amended Eff. April 1, 2001; January 1, 2000;
Temporary Amendment Eff. October 12, 2001;
Temporary Amendment Expired July 29, 2002;
Amended Eff. April 1, 2003;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0802 APPLICATION FOR ORIGINAL APPROVAL

(a) An entity seeking original approval to sponsor a course shall make application on a form prescribed by the Board, which may be obtained from the Board using the information in Rule .0102 of this Subchapter. The application form requires:

- (1) the sponsor's legal name, and any assumed names or trade names;
- (2) the sponsor's physical, postal mail, and email addresses;
- (3) the sponsor's website address (if any);
- (4) the sponsor's telephone number(s);
- (5) the applicant's name, which must be an owner of the sponsor;
- (6) the applicant's physical, postal mail, and email addresses;
- (7) the applicant's telephone number(s);
- (8) the course name;
- (9) the credit hours of the course;
- (10) a description of the content and subject matter of the course;
- (11) the name of the course instructor(s);
- (12) the name of the sponsor's continuing education coordinator; and
- (13) the applicant's signature.

An applying entity that is not based in North Carolina shall also file with the application a consent to service of process and pleadings.

(b) Approval to sponsor a course shall be granted to an applicant upon showing to the Board that:

- (1) The applicant has submitted all information required by the Board in the application;
- (2) The applicant satisfies all of the requirements of Rule .0805 of this Section relating to qualifications or eligibility of course sponsors;
- (3) The continuing education coordinator required by Rule .0805(e) shall exhibit truth, honesty, and integrity as set forth in 21 NCAC 04B .0404(a)(15). The Board shall consider the reputation and character of any owner, officer, or director of any corporation, association, or organization applying for sponsor approval; and
- (4) The applicant has at least one proposed instructor who meets the requirements for Board approval as a course instructor under Rule .0804 of this Section.

*History Note: Authority G.S. 85B-4(e1);
Eff. July 1, 1999;
Amended Eff. April 1, 2001; January 1, 2000;*

Temporary Amendment Eff. October 12, 2001;
Temporary Amendment Expired July 29, 2002;
Amended Eff. April 1, 2003;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0803 STUDENT FEE FOR COURSES

Sponsors of a course may establish the amount of the fee to be charged to students taking the course. However, the established fee shall be an all-inclusive fee and no separate or additional fee may be charged to students for providing course materials, providing course completion certificates, reporting course completion to the Board, or for recouping other administrative expenses.

History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0804 APPROVAL OF CONTINUING EDUCATION INSTRUCTORS

(a) Approval of course instructors shall occur at the time of the approval of the course sponsor. Approval of a course instructor authorizes the instructor to teach the course only for the approved course sponsor. An approved course instructor may not conduct a course unless the instructor is conducting the course under the supervision of an approved course sponsor.

(b) An entity seeking original approval as a course sponsor shall submit an application for each instructor for the course on a form prescribed by the Board, which may be obtained from the Board using the information in Rule .0102 of this Chapter. The application requires:

- (1) the instructor's name;
- (2) the instructor's postal mail and email addresses;
- (3) the instructor's telephone number;
- (4) the instructor's education and experience; and
- (5) the instructor's signature.

No additional application fee is required.

(c) The instructor(s) shall exhibit truth, honesty, and integrity as set forth in 21 NCAC 04B .0404(a)(15).

(d) The instructor(s) shall be qualified under one or more of the following standards:

- (1) Possession of a baccalaureate or higher degree with a major in the field of marketing, finance, or business administration;
- (2) Possession of a current North Carolina auctioneer or auction firm license, three years experience in auctioneering within the previous 10 years, and 30 classroom hours of auction education, excluding prelicensing education, within the past three years, such education covering topics that are in compliance with these Rules;
- (3) Possession of a current North Carolina real estate broker license, three years experience in the real estate business within the previous 10 years, and experience teaching real estate prelicensing and continuing education courses;
- (4) Possession of a license to practice law in North Carolina and three years experience in law practice within the previous 10 years; or
- (5) Possession of qualifications found by the Board to be equivalent to one or more of the standards set forth in this Rule.

(e) The Board shall deny or withdraw approval of any course instructor upon finding that:

- (1) The course sponsor or the instructor made any false statements or presented false information in connection with an application for approval;
- (2) The instructor failed to meet the criteria for approval described in Paragraph (d) of this Rule or refused or failed to comply with any other provisions of this Subchapter;
- (3) The instructor failed to demonstrate, during the teaching of courses, teaching skills described in Rule .0815 of this Section; or
- (4) The instructor provided false or incorrect information in connection with any reports a course sponsor submitted to the Board.

(f) If a licensee who is an approved course instructor engages in any dishonest, fraudulent, or improper conduct in connection with the licensee's activities as an instructor, the licensee shall be subject to disciplinary action pursuant to G.S. 85B-8 and G.S. 85B-9.

(g) Upon the written request of the Board, an approved course instructor shall submit to the Board a video recording depicting the instructor teaching the course. The video recording shall have been made within 12 months of the date of submission, shall be in electronic format, and shall identify the instructor and the date of the presentation.

(h) An approved instructor who is a licensee of the Board shall receive continuing education credit hours for instruction at a rate of one hour for every one-half hour of approved course taught.

*History Note: Authority G.S. 85B-4(e1);
Eff. July 1, 1999;
Temporary Amendment Eff. October 12, 2001;
Temporary Amendment Expired July 29, 2002;
Amended Eff. April 1, 2003;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0805 SPONSOR REQUIREMENTS

(a) An entity is eligible to seek approval as a sponsor of continuing education courses, provided that the entity seeking approval is either the owner of the proprietary rights to the course or has acquired from the course owner the right to seek course approval from the Board and to conduct the course.

(b) The official name used by any course sponsor in connection with the offering of an approved continuing education course shall distinguish the sponsor from any other approved continuing education course sponsor. Unless the sponsor is an auction school with approved curriculum and instructors pursuant to G.S. 85B-4(d) that is proposing to operate continuing education courses in its own name, the official name also shall distinguish the sponsor from any auction school with approved curriculum and instructors. Sponsor applicants proposing to use a sponsor name that does not comply with this Paragraph shall be required to adopt a different name as a condition of approval.

(c) Any advertisement or promotional material utilized by an approved course sponsor shall include the course sponsor's official name and shall not include any other name for the sponsor.

(d) All sponsors shall obtain written approval from the Board prior to advertising a course or conducting a course and shall not advertise that a course is or may be approved for continuing education credit in North Carolina prior to Board approval. No retroactive approval to conduct a course shall be granted for any reason.

(e) A sponsor of a course shall designate one person to serve as the continuing education coordinator for all Board-approved continuing education courses offered by the sponsor. The designated coordinator shall serve as the contact person for the sponsor and shall be responsible for the following:

- (1) Supervising the sponsor's Board-approved continuing education courses;
- (2) Signing the course completion certificates provided by the sponsor to licensees completing courses; and
- (3) Submitting to the Board all required rosters, reports and other information.

*History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0806 COURSE COMPLETION REPORTING

(a) Course sponsors shall prepare and submit to the Board reports verifying the student's completion of each continuing education course conducted. Sponsors shall submit these reports to the Board within 30 calendar days following the course, but in no case later than May 15 for courses conducted prior to that date. Reports shall include the following:

- (1) the course name;
- (2) the sponsor and coordinator name, mailing address, and telephone number;
- (3) the coordinator signature certifying that the information is correct;
- (4) the name, address, and North Carolina license number of each licensee who completed the course and who desires continuing education credit for the course;
- (5) the physical location where the course was conducted;
- (6) the date(s) and starting and ending times of each course; and
- (7) the number of credit hours.

(b) Course sponsors shall provide each licensee who completes an approved continuing education course a course completion certificate. Sponsors shall provide the certificates to licensees within 30 calendar days following the course, but in no case later than May 15 for any course completed prior to that date. Course completion certificates shall include the following:

- (1) the course name;
- (2) the name of the licensee who completed the course;
- (3) the date(s) of attendance;
- (4) the number of credit hours; and
- (5) the coordinator signature certifying that the information is correct.

(d) When a licensee in attendance at a continuing education course does not comply with the student participation standards of Rule .0817 of this Section, the course sponsor shall inform the Board in writing at the time reports verifying completion of continuing education for the course are submitted. A sponsor who determines that a licensee failed to comply with either the Board's attendance standards of Rule .0816(a) of this Section or the student participation standards of Rule .0817 of this Section shall not provide the licensee with a course completion certificate, nor shall the sponsor include the licensee's name on the reports verifying completion of continuing education.

*History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Amended Eff. May 1, 2006;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0807 CHANGE IN SPONSOR OWNERSHIP AND OTHER INFORMATION

(a) The approval granted to a course sponsor may be transferred to a new or different entity only with the advance approval of the Board.

(b) Course sponsors shall notify the Board in writing prior to any change in business name, continuing education coordinator, address, or business telephone number.

(c) Course sponsors shall obtain advance approval from the Board for any changes to be made in the content or number of hours for courses. However, changes in course content made for the purpose of assuring that information provided in a course is current and accurate do not require approval during the approval period, but shall be reported at the time the sponsor requests renewal of course approval. Requests for approval of changes shall be in writing.

*History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0808 COURSE RECORDS

All course sponsors shall retain on file for two years records of student registration and attendance for each session of a continuing education course that is conducted and shall make such records available to the Board, or its staff, upon request.

*History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0809 RENEWAL OF COURSE AND SPONSOR APPROVAL

Board approval of all continuing education course sponsors shall expire on the next June 30 following the date of issuance. A completed renewal application prescribed by the Board shall be submitted to the Board annually on or before April 30. Applicants for renewal as a continuing education course sponsor shall make application on a form prescribed by the Board, which may be obtained from the Board using the information in Rule .0102 of this Subchapter. The application form requires:

- (1) the sponsor's legal name, and any assumed names or trade names;
- (2) the sponsor's physical, postal mail, and email addresses;
- (3) the sponsor's website address (if any);
- (4) the sponsor's telephone number(s);
- (5) the applicant's name, which must be an owner of the sponsor;

- (6) the applicant's physical, postal mail, and email addresses;
- (7) the applicant's telephone number(s);
- (8) the name(s) of any new course(s);
- (9) the credit hours of any new course(s);
- (10) a description of the content and subject matter of any new course(s);
- (11) the name of the course instructor(s) for any new course(s);
- (12) the name of the sponsor's continuing education coordinator; and
- (13) the applicant's signature.

Any continuing education course sponsor's renewal applications that are not received or that are not complete on or before April 30 shall not have met the requirements for renewal and in order to conduct continuing education shall seek approval pursuant to Rule .0802 of this Section.

*History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0810 DENIAL OR WITHDRAWAL OF APPROVAL

(a) The Board may deny or withdraw approval of any course or course sponsor upon finding that:

- (1) The course sponsor has made any false statements or presented any false information in connection with an application for course or sponsor approval or renewal of approval;
- (2) The course sponsor or any instructor in the employ of the course sponsor has refused or failed to comply with any of the provisions of the rules of this Section;
- (3) The course sponsor or any instructor in the employ of the course sponsor has provided false or incorrect information in connection with any reports the course sponsor is required to submit to the Board;
- (4) An instructor in the employ of the course sponsor fails to conduct approved courses in accordance with the teaching skills described in Rule .0815 of this Section; or
- (5) Any court of competent jurisdiction has found the course sponsor, any instructor, or any person in the employ of the course sponsor to have violated, in connection with the offering of continuing education courses, any applicable federal or state law or regulation prohibiting discrimination on the basis of disability, requiring places of public accommodation to be in compliance with prescribed accessibility standards, or requiring that courses related to licensing or certification for professional or trade purposes be offered in a place and manner accessible to persons with disabilities.

(b) If a licensee who is an approved course sponsor or an instructor in the employ of an approved course sponsor engages in any dishonest, fraudulent, or unlawful conduct in connection with the licensee's activities as a course sponsor or instructor, the licensee shall be subject to disciplinary action pursuant to G.S. 85B-8 and G.S. 85B-9.

*History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0811 MINIMUM CLASS SIZE

*History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Repealed Eff. July 1, 2020.*

21 NCAC 04B .0812 SCHEDULING AND NOTICE OF SCHEDULED COURSES

(a) An hour of creditable instruction is defined as 50 minutes of instruction or practical exercise accompanied by a break of up to 10 minutes.

(b) Sponsors shall provide the Board written notice of all scheduled course offerings not later than 10 days prior to a scheduled course date. The notice shall include the name of the sponsor and, for each scheduled course, the name of the course, the scheduled date and time, specific location, and name of the instructor(s).

(c) Sponsors shall notify the Board of any schedule changes or course cancellations at least five days prior to the original scheduled course date. If a change or cancellation is necessary five or less days before the course date due to weather, staffing, or other unforeseen circumstance, then notice shall be provided to the Board as soon as possible, and in no event more than 10 days later.

History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0813 ADVERTISING; PROVIDING COURSE INFORMATION

(a) Course sponsors shall not utilize advertising of any type that is false or misleading. In any advertisement for a course, the sponsor shall state the total number of hours of the course and the number of those hours that are Board-approved for continuing education credit.

(b) Any flyers, brochures, or similar materials utilized to promote a continuing education course shall state the fee to be charged and the sponsor's cancellation and fee refund policies.

(c) Upon course approval, course sponsors shall include in course descriptions and promotional materials the information contained in the following illustration: This course [seminar or program] has been approved by the Board for continuing education credit in the amount of ___ hours. This course is not sponsored by the Board.

(d) Course sponsors of any course shall provide to any prospective student, upon request, a description of the course content.

History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0814 CONDUCT OF CLASSES

(a) All class sessions of approved continuing education courses shall be open to all licensees on a first-come/first-served basis. The sponsor of a course that has an education or experience prerequisite, such as an advanced course leading to a special auctioneer designation, may refuse admission to a licensee not satisfying such prerequisite.

(b) Courses not conducted by electronic means shall be conducted in a facility that provides a learning environment as set forth in 21 NCAC 04B .0502(f).

History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.

21 NCAC 04B .0815 INSTRUCTOR CONDUCT AND PERFORMANCE

(a) All instructors shall ensure that class sessions are conducted at the scheduled time and for the full amount of time that is scheduled.

(b) Instructors shall conduct courses in accordance with the Board's rules, and shall demonstrate the ability to:

- (1) present accurate and relevant information;
- (2) communicate using correct grammar and vocabulary;
- (3) present instruction in an organized manner, utilize illustrative examples, and respond to questions from students;
- (4) utilize a variety of instructional techniques that require students to analyze and apply course content, including teacher-centered approaches, such as lecture discussion, reading, group problem solving, case studies, and scenarios;
- (5) utilize instructional aids;
- (6) identify key concepts and correct student misconceptions;
- (7) maintain control of a class; and
- (8) avoid criticism of any other person, agency, or organization.

History Note: Authority G.S. 85B-4(e1);

*Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0816 MONITORING ATTENDANCE

(a) Sponsors and instructors shall monitor attendance for the duration of each class session to ensure that all students reported as completing a course according to these Rules have attended at least 90 percent of the scheduled classroom hours. Sponsors shall not admit students to a class session after 10 percent of the scheduled classroom hours have been conducted. Unless a student satisfies the attendance requirement in this Paragraph, the sponsor shall not allow the student to sign a course completion card, issue a course completion certificate to a student, or report to the Board that the student completed the course. Sponsors and instructors shall not make any exceptions to the attendance requirement for any reason.

(b) Sponsors shall provide adequate personnel, in addition to the instructor, during all class sessions to assist the instructor in monitoring attendance and performing the administrative tasks associated with conducting a course.

*History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0817 STUDENT PARTICIPATION STANDARDS

(a) Students shall comply with the following student participation standards:

- (1) A student shall direct his or her attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction.
- (2) A student shall refrain from engaging in any activities that are disruptive to other students or the instructor, or that otherwise disrupt the conduct of a class.
- (3) A student shall comply with all instructions provided by the sponsor or instructor related to providing information needed to report completion of a course by the student.

(b) Instructors and sponsors may dismiss from a class any student who fails to comply with the student participation standards in Paragraph (a) of this Rule.

(c) Sponsors shall not issue a course completion certificate to any student who fails to comply with the student participation standards set forth in Paragraph (a) of this Rule, nor shall sponsors include the name of such student on their reports verifying completion of a continuing education course. Sponsors shall submit to the Board with their reports for the class session a written statement that includes the name and license number of the student for whom the sponsor does not report course credit, details concerning the student's failure to comply with the student participation standards, and names of other persons in attendance at the class who witnessed the student's conduct.

*History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0818 ADDITIONAL SPONSOR REQUIREMENTS

(a) Sponsors and instructors may make available for purchase by continuing education students materials that belong to the sponsor or instructor. Class time may not be used to promote or sell any materials or to solicit affiliation or membership in any business, organization, or association.

(b) Course sponsors shall administer course cancellation and fee refund policies in a consistent and non-discriminatory manner. In the event a scheduled course is canceled, the course sponsor shall attempt to notify preregistered students of the cancellation and all prepaid fees received from such preregistered students shall be refunded within 30 days of the date of cancellation or, with the student's permission, applied toward the fees for another course.

(c) Course sponsors shall admit the Board's authorized representative to monitor any continuing education class without prior notice. The representative shall not be required to register or pay any fee and shall not be reported as having completed the course.

(d) Course sponsors may deviate from the rules of this Section concerning the conduct of continuing education courses, such as rules addressing classroom facilities and instructional methods, as may be necessary in order for the sponsor to comply with the Americans with Disabilities Act or other laws requiring such sponsors to accommodate persons with disabilities. A

sponsor providing a special accommodation for a licensee with a disability that requires the sponsor to deviate from these Rules shall notify the Board in writing of the accommodation at the time reports are submitted for the class session attended by the licensee.

*History Note: Authority G.S. 85-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Readopted Eff. July 1, 2020.*

21 NCAC 04B .0819 ALTERNATIVE COMPLIANCE

- (a) An auctioneer, apprentice auctioneer, or designated person of an auction firm who is unable to attend a Board-approved course and obtain the requisite hours of instruction established by the Board may submit evidence of alternative compliance.
- (b) A written submission of alternative compliance shall be received by the Board by May 15 of the year when the requisite hours of instruction are to be completed.
- (c) The course of instruction submitted as alternative compliance shall be completed prior to license renewal.
- (d) Alternative compliance shall include:
 - (1) Academic courses at a community college, junior college, college, or university accredited by an agency recognized by the United States Department of Education in any of the following topics:
 - (A) Accounting;
 - (B) Finance;
 - (C) Business Management;
 - (D) Business Law;
 - (E) Economics;
 - (F) Marketing;
 - (G) Computer Science; or
 - (H) Sales.
 - (2) Completion of any real estate course accredited by a state real estate licensing body.

*History Note: Authority G.S. 85B-4(e1);
Temporary Adoption Eff. January 1, 2000;
Eff. April 1, 2001;
Amended Eff. May 1, 2006;
Readopted Eff. July 1, 2020.*