

CHAPTER 51-05.1
AUCTIONEERS' AND CLERKS' LICENSES

51-05.1-01. Auctioneering or clerking - Registration.

A person may not conduct a sale as an auctioneer or clerk unless registered with the secretary of state.

51-05.1-01.1. Auctioneer's license - Clerk's license - Fees - Bonds.

Repealed by S.L. 2023, ch. 447, § 7.

51-05.1-01.2. Exemptions.

Registration under this chapter is not required for the following:

1. Sale of an estate by an executor or an administrator.
2. Sale by a sheriff or other person under court order.
3. Sale by a public official acting in an official capacity.
4. Sale of purebred or registered livestock.

51-05.1-02. License standards.

Repealed by S.L. 2023, ch. 447, § 7.

51-05.1-02.1. Conviction not bar to licensure - Exceptions.

Repealed by S.L. 2023, ch. 447, § 7.

51-05.1-03. Investigation - Grounds for refusal, suspension, or revocation of license - Hearing on appeal.

Repealed by S.L. 2023, ch. 447, § 7.

51-05.1-04. Definitions - Exceptions.

1. Except as provided in subsection 5, an auctioneer within the meaning of this chapter is a person who, for a compensation or valuable consideration, sells or offers for sale either real or personal property at public auction as a whole or partial vocation.
2. Except as provided in subsection 5, a clerk within the meaning of this chapter is any person, firm, partnership, copartnership, association, corporation, or limited liability company who, for a compensation or valuable consideration, is employed either directly or indirectly by an owner while the sale is in progress to record each item offered for sale, its selling price, and the buyer's name or number; to collect all proceeds of said sale; to pay all expenses connected with the sale; to prepare a full closing statement of all receipts and disbursements; and to make settlement thereon to parties properly entitled thereto within a reasonable length of time.
3. "Internet auction" means the selling or offering for sale either real or personal property at public auction exclusively via the internet.
4. "Seller" means the owner or consignor of property to be sold at auction.
5. A person performing a single act or an isolated transaction in the selling of property at auction for another does not constitute the person performing, offering, or attempting to perform any of the acts enumerated in this section, and that person is not an auctioneer or clerk within the meaning of this chapter. A person conducting, or employed by a person conducting, an internet auction is not an auctioneer or clerk within the meaning of this chapter.
6. Notwithstanding subsection 5, a person in this state engaged in the auto auction business via the internet must be licensed as a motor vehicle dealer as provided for in section 39-22-23.

51-05.1-04.1. Written contracts.

An auctioneer may not sell the property of another at auction without a prior written contract with the seller which sets forth the terms and conditions upon which the auctioneer will sell the

property. A similar contract governing the activities of the auction clerk is required between the auction clerk and the seller. The auctioneer and clerk shall retain a copy of each contract for at least two years after the auction. This section does not apply to consignment sales when the value of the seller's property is less than five hundred dollars or to livestock markets. The contract must contain:

1. The auctioneer's or clerk's name, trade or business name, business address, and business telephone number.
2. A general description of the property to be sold at auction, any restrictions, and a statement identifying whether the auctioneer or clerk is authorized to purchase at the auction.
3. A description of the services to be provided and the consideration for the services. The description must state which party is responsible for advertising and other expenses.
4. The date or dates when the items will be sold at auction.

51-05.1-04.2. Buyer's premium.

A successful bidder may not be required to pay an amount in excess of the successful bid and governmental fees and taxes, unless before bidding the bidder has signed a statement which clearly describes the additional amount and states how the actual amount due will be determined.

51-05.1-05. Handling of funds by clerk of auction sale.

Every clerk of an auction sale shall maintain in the clerk's name or firm name, a separate trust account designated as such in a federally insured bank or other federally insured depository in this state in which the clerk immediately shall deposit all funds not the clerk's own, including funds in which the clerk may have some future interest or claim. A federally insured depository located outside the state is not required to deposit funds in a depository in this state if auction sale funds are deposited in a separate trust account designated in the clerk's depository. A clerk may not commingle the clerk's personal funds or other funds in a trust account except that a clerk may deposit and keep a sum of one thousand dollars in the account from the clerk's personal funds, which sum must be specifically identified and deposited to cover service charges related to the trust account. In conjunction with the account, the clerk shall maintain at the clerk's usual place of business books, records, and other documents so that the adequacy of the account may be determined at any time.

51-05.1-06. License list.

Repealed by S.L. 2001, ch. 440, § 2.

51-05.1-07. Penalty.

Any person violating any of the provisions of this chapter is guilty of a class B misdemeanor.