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TITLE 812 INDIANA AUCTIONEER COMMISSION

Proposed Rule LSA Document #05-37

DIGEST

Amends 812 IAC 1-1-2 concerning time for holding examinations. Amends 812 IAC 1-1-3 concerning receipt of application before examination and examination fee. Amends 812 IAC 1-1-35 concerning fees charged by the commission. Amends 812 IAC 1-1-41 concerning records and accounts for auction house licensee and auction company licensee. Amends 812 IAC 1-1-42 concerning compliance with IC 26-1-6.1-107. Amends 812 IAC 1-1-43 concerning violations for professional incompetence. Amends 812 IAC 3-1-1 concerning continuing education requirements. Amends 812 IAC 3-1-1.1 concerning core subjects as elective credits. Amends 812 IAC 3-1-6 concerning approved auctioneer continuing education sponsors. Amends 812 IAC 3-1-10 concerning renewal applications. Amends 812 IAC 3-1-11 concerning failure to meet continuing education requirements. Amends 812 IAC 3-1-13 concerning requirements for reinstating an active license. Repeals 812 IAC 1-1-5 concerning the license fee after passing the licensing examination, 812 IAC 1-1-6 regarding review of examination by applicant, and 812 IAC 1-1-36 concerning reconsideration of license after revocation. Effective 30 days after filing with the Secretary of State.

812 IAC 1-1-2	812 IAC 1-1-43
812 IAC 1-1-3	812 IAC 3-1-1
812 IAC 1-1-5	812 IAC 3-1-1.1
812 IAC 1-1-6	812 IAC 3-1-6
812 IAC 1-1-35	812 IAC 3-1-10
812 IAC 1-1-36	812 IAC 3-1-11
812 IAC 1-1-41	812 IAC 3-1-13
812 IAC 1-1-42	

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

812 IAC 1-1-2 Time for holding examinations; individual examinations not permitted

Authority: IC 25-6.1-2-5

Affected: IC 25-6.1-2-5

Sec. 2. Examinations will be held ~~on the second Wednesday of March, July and November of each year~~ in Indianapolis, Indiana ~~and at such other time times~~ and places as the commission may direct. Individual examinations are not permitted. (*Indiana Auctioneer Commission; Rule 3; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 166; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

SECTION 2. 812 IAC 1-1-3 IS AMENDED TO READ AS FOLLOWS:

812 IAC 1-1-3 Receipt of application before examination; fee; failure to appear at examination

Authority: IC 25-6.1-2-5

Affected: IC 25-6.1-3-2

Sec. 3. ~~The completed application forms for examination and licensure as an auctioneer~~ together with the ~~thirty-five (35) dollars~~ ~~non-refundable examination fee fees under section 35(a)(1) and 35(a)(2) of this rule~~ shall be received in the office of the commission at least ~~thirty (30) seven (7) business days prior to before~~ an examination date. The applicant will be advised of the time and place of the examination upon receipt of the completed application. If the applicant does not appear at the initial examination for which he ~~or she~~ has been scheduled, the applicant will be rescheduled for the following scheduled examination. If the applicant fails to appear for the following scheduled examination, the application and fee shall be forfeited. (*Indiana Auctioneer Commission; Rule 4; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 166; filed Mar 21, 1988, 1:30 p.m.: 11 IR 2869; errata, 11 IR 3921;*

readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236)

SECTION 3. 812 IAC 1-1-35 IS AMENDED TO READ AS FOLLOWS:

812 IAC 1-1-35 Fees charged by commission

Authority: IC 25-1-8-2; IC 25-1-8-7; IC 25-6.1-2-5

Affected: IC 25-6.1-3-5

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

(1) Application for Examination and reexamination as an auctioneer	\$25 \$35
(2) Application for licensure as an auctioneer per examination	\$100
(2) (3) Application for licensure as an auctioneer per reciprocal agreement	\$35 \$100
(3) (4) Application for licensure as an auction house	\$35 \$100
(4) (5) Application for licensure as an auction company	\$35 \$100
(5) (6) Application for licensure as an auctioneer per temporary permit	\$25 \$100
(6) Biennial (7) Quadrennial renewal of registration as auctioneer	\$35 \$100
(7) Biennial (8) Quadrennial renewal of registration as an auction house	\$35 \$100
(8) Biennial (9) Quadrennial renewal of registration as an auction company	\$35 \$100
(9) (10) License renewal reinstatement fee	\$25 \$50
(10) (11) Duplicate license, where the original license is lost or destroyed, and an affidavit thereof, submitted to the commission or reissuance of a license involving change	\$5 \$10
(11) (12) Duplicate pocket card, where the original card is lost or destroyed and an affidavit thereof, submitted to the commission	\$5 \$10
(12) (13) Certification of status of license	\$5 \$10

(b) Every auctioneer, auction house, and auction company holding a license issued by the commission shall renew their license quadrennially on or before February 28 of the second even-numbered year. (*Indiana Auctioneer Commission; Rule 36; filed Oct 7, 1977, 3:25 p.m.: Rules and Regs. 1978, p. 170; filed Nov 18, 1980, 8:55 a.m.: 4 IR 52; filed Mar 21, 1988, 1:30 p.m.: 11 IR 2870; filed Jun 14, 1996, 3:00 p.m.: 19 IR 3098; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

SECTION 4. 812 IAC 1-1-41 IS AMENDED TO READ AS FOLLOWS:

812 IAC 1-1-41 Auction company; auction house; records and accounts

Authority: IC 25-6.1-2-5

Affected: IC 25-6.1-6-3

Sec. 41. Each auction company licensee and auction house licensee, in addition to the requirements under IC 25-6.1-6-3, shall keep and maintain for a period of not less than ~~two (2)~~ **four (4)** years the:

- (1) name;
- (2) license number;
- (3) address; and
- (4) date of auction sale;

of all auctioneers employed to conduct ~~such the~~ auctions. (*Indiana Auctioneer Commission; 812 IAC 1-1-41; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

SECTION 5. 812 IAC 1-1-42 IS AMENDED TO READ AS FOLLOWS:

812 IAC 1-1-42 Compliance with IC 26-1-6.1-107

Authority: IC 25-6.1-2-5

Affected: IC 25-6.1; IC 26-1-6.1-107

Sec. 42. Auctioneers shall comply with ~~IC 26-1-6-107~~ **IC 26-1-6.1-107**. (*Indiana Auctioneer Commission; 812 IAC 1-1-42; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

SECTION 6. 812 IAC 1-1-43 IS AMENDED TO READ AS FOLLOWS:

812 IAC 1-1-43 Violations; professional incompetence

Authority: IC 25-6.1-2-5

Affected: IC 25-1-11

Sec. 43. Violations of sections 13, 14, 16, 16.1, 19 through 34, and 38 through 43 of this rule shall be considered professional incompetence under ~~IC 25-6.1-4-1-1~~. **IC 25-1-11 et seq.** (*Indiana Auctioneer Commission; 812 IAC 1-1-43; filed Apr 2, 1993, 5:00 p.m.: 16 IR 1952; readopted filed May 22, 2001, 9:57 a.m.: 24 IR 3236*)

SECTION 7. 812 IAC 3-1-1 IS AMENDED TO READ AS FOLLOWS:

812 IAC 3-1-1 Continuing education requirements

Authority: IC 25-6.1-2-5

Affected: IC 25-1-11; IC 25-6.1-9-1

Sec. 1. (a) As a prerequisite to renewal of an auctioneer license, the licensee shall satisfactorily complete ~~twelve (12)~~ **sixteen (16)** hours of continuing education from an auctioneer continuing education course sponsor approved by the commission, which must be obtained during the ~~two (2)~~ **four (4)** year licensure period ending February 28 of every ~~even-numbered~~ **fourth** year. ~~No~~ **Not** more than eight (8) hours of continuing education may be acquired during any one (1) day.

(b) Notwithstanding subsection (a), continuing education credit may be granted to an individual for instructing an auctioneer continuing education course. One (1) hour of continuing education credit may be earned per one (1) hour taught. ~~No~~ **Not** more than four (4) hours of continuing education credit accumulated in this manner may be applied toward license renewal requirements. Instructors of auctioneer continuing education courses may not receive credit for repeated courses.

(c) A licensee is not entitled to continuing education credit for any classroom hours that were used for required prelicensure education under 812 IAC 2-1.

(d) A licensee who attends the same continuing education course more than once in the same ~~two (2)~~ **four (4)** year license period is entitled to continuing education credit for that course only once.

(e) Multimedia instruction must take place in a classroom setting with a qualified instructor present throughout the duration of the educational offering.

(f) Correspondence courses do not qualify for continuing education credit.

(g) The commission may **do the following:**

(1) Verify any information concerning continuing education that is submitted by the licensee as evidence supporting the course information. ~~The commission may~~

(2) Require licensees to provide information regarding the continuing education hours claimed on the individual's renewal. Failure to do so may lead to disciplinary action as provided for in IC 25-1-11.

(h) It is the responsibility of each licensee to retain evidence to support the courses taken **by the licensee** for a period of ~~twenty-four (24) months~~ **five (5) years** after the end of the renewal period for which the renewal application is submitted **and the continuing education hours are claimed** to the commission. These records shall include one (1) or more of the following:

(1) Course attendance verification by the sponsor.

(2) Certificates of course completion.

(3) Continuing education attendance history by a third party.

(4) Other evidence of support and justification.

(*Indiana Auctioneer Commission; 812 IAC 3-1-1; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3095; filed Sep 17, 1998, 3:50 p.m.: 22 IR 453; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221*)

SECTION 8. 812 IAC 3-1-1.1 IS AMENDED TO READ AS FOLLOWS:

812 IAC 3-1-1.1 Core subjects as elective credits

Authority: IC 25-6.1-2-5

Affected: IC 25-1-11; IC 25-6.1-9-1

Sec. 1.1. When the licensee obtains more than the required six (6) hours of continuing education in subjects listed in ~~IC 25-6.1-9-1(b)(2)~~ **IC 25-6.1-9-1(b)(1)** as core subjects, the licensee may count the excess hours toward meeting the ~~six (6)~~ **ten (10)** hour elective subject requirement in IC 25-6.1-9-1(b)(2). (*Indiana Auctioneer Commission; 812 IAC 3-1-1.1; filed Sep 17, 1998, 3:50 p.m.: 22 IR 453; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221*)

SECTION 9. 812 IAC 3-1-6 IS AMENDED TO READ AS FOLLOWS:

812 IAC 3-1-6 Approved auctioneer continuing education sponsor; certificate requirements

Authority: IC 25-6.1-2-5

Affected: IC 25-6.1

Sec. 6. (a) Upon completion of a continuing education course, the approved auctioneer continuing education sponsor shall provide all attendees a course completion certificate that must include the following information:

- (1) The name of the participant.
- (2) The license number of the participant.
- (3) The name, address, and signature of the sponsor.
- (4) The course title.
- (5) The course topic, if not reflected in the course title.
- (6) The date and location of the course.
- (7) The number of approved actual course hours.

(b) ~~Licensees~~ **The approved auctioneer continuing education sponsors** must retain the certificates described in subsection (a) for at least ~~two (2)~~ **five (5)** years after the end of the ~~two (2)~~ **four (4)** year renewal period in which the course was taken. (*Indiana Auctioneer Commission; 812 IAC 3-1-6; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3096; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221*)

SECTION 10. 812 IAC 3-1-10 IS AMENDED TO READ AS FOLLOWS:

812 IAC 3-1-10 Renewal applications

Authority: IC 25-6.1-2-5

Affected: IC 25-1-11; IC 25-6.1-9

Sec. 10. (a) An applicant for license renewal shall certify on the application that the applicant has complied with the continuing education requirements under IC 25-6.1-9 and this article.

(b) The commission may request **the following:**

- (1) Verification of any information submitted by the applicant. ~~and may request~~
- (2) The applicant to submit evidence supporting the course credit claimed.

~~(c) It is the responsibility of each licensee to retain course attendance verification to support the courses taken by the licensee for two (2) years after the end of the biennial period for which the continuing education is claimed.~~

~~(d)~~ (c) The commission may request applicants to prove information as provided in ~~subsection (c)~~ **section 1(h) of this rule** in order to verify continuing education hours claimed in the application. Failure to do so shall subject a licensee to the sanctions provided for under IC 25-1-11. (*Indiana Auctioneer Commission; 812 IAC 3-1-10; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3097; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221*)

SECTION 11. 812 IAC 3-1-11 IS AMENDED TO READ AS FOLLOWS:

812 IAC 3-1-11 Failure to meet continuing education provisions

Authority: IC 25-6.1-2-5

Affected: IC 25-6.1-3-2

Sec. 11. (a) A licensee who does not obtain the required number of continuing education hours during a ~~two (2)~~ **four (4)** year licensure period may cure that deficiency by taking them in the next licensure period. However, the license shall not be renewed until the necessary hours are obtained. An individual whose license has lapsed longer than one (1) year is governed by IC 25-6.1-3-2(i).

(b) Continuing education hours obtained to cure a deficiency in a prior licensure period shall not be double-counted by also being credited toward the hours required for license renewal at the conclusion of the current licensure period. (*Indiana Auctioneer Commission; 812 IAC 3-1-11; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3097; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221*)

SECTION 12. 812 IAC 3-1-13 IS AMENDED TO READ AS FOLLOWS:

812 IAC 3-1-13 Reinstatement of inactive license; requirements

Authority: IC 25-6.1-2-5

Affected: IC 25-6.1

Sec. 13. In order to reinstate an inactive license at any time during the licensure period, the licensee must have completed ~~twelve (12)~~ **sixteen (16)** actual hours of continuing education from course sponsors approved by the commission. (*Indiana Auctioneer Commission; 812 IAC 3-1-13; filed Jul 3, 1996, 5:00 p.m.: 19 IR 3097; readopted filed Jul 18, 2002, 12:24 p.m.: 25 IR 4221*)

SECTION 13. THE FOLLOWING ARE REPEALED: 812 IAC 1-1-5; 812 IAC 1-1-6; 812 IAC 1-1-36.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on April 19, 2006 at 9:15 a.m., at the Indiana Government Center-South, 402 West Washington Street, Room W064, Indianapolis, Indiana the Indiana Auctioneer Commission will hold a public hearing on proposed amendments concerning time for holding examinations, receipt of application before examination and examination fee, fees charged by the commission, records and accounts for auction house licensee and auction company licensee, compliance with IC 26-1-6.1-107, violations for professional incompetence, continuing education requirements, core subjects as elective credits, approved auctioneer continuing education sponsors, renewal applications, failure to meet continuing education requirements, and requirements for reinstating an active license and repeals 812 IAC 1-1-5 concerning the license fees after passing the licensing examination 812 IAC 1-1-6 regarding review of examination by applicant, and 812 IAC 1-1-36 concerning reconsideration of license after revocation.

The Indiana Auctioneer Commission has the authority to promulgate rules in accordance with IC 4-22-2 to enforce and administer IC 25-6.1, including establishing the requirements for licensure, fees, requirements for continuing education, and the standards for the competent practice of auctioneering. The proposed rule implements changes in accordance with P.L.23-2003 (HEA 1176), and P.L.194-2005 (SEA 139). The proposed rule clarifies and revises language to make the rules consistent with the Commission's statutes, removes out-of-date and unnecessary language in the rules, revises the standards for the competent practice of auctioneering to reflect the current practice and to assist the Commission in disciplinary hearings, and revises the continuing education requirements for licensees and providers to bring the rules into conformity with the Commission's statutes. This proposed rule will have the following cost on the regulated entities because of the Commission's proposed fees: 3,668 licensed auctioneers × \$100 quadrennial renewal fee = \$366,800, 362 licensed auction houses × \$100 quadrennial renewal fee = \$36,200, and 386 licensed auction companies × \$100 quadrennial renewal fee = \$38,600. There will be an estimated annual impact because of the Commission's proposed fees of \$34,275. The estimated annual impact is based on the number of applicants for licensure that the Commission received in 2005, which included: 214 auctioneer applicants × \$135 application and examination fee = \$27,675, 39 auction house applicants × \$100 application fee = \$3,900, and 27 auction company applicants × \$100 application fee = \$2,700.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
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