

APPENDIX II-C

**RULEMAKING NOTICE FORM**

**NOTE: ADDITIONAL NOTICE**

See page one of the instructions regarding additional notice, especially notice to standing policy committees under circumstances described in RSA 541-A:10, I.

Notice Number \_\_\_\_\_

Rule Number     **Auc 100**    

1. Agency Name & Address:

**NH Board of Auctioneers  
Office of the Secretary of State  
State House Room 204  
107 North Main Street  
Concord NH 03301**

2. RSA Authority:     **541-A:16,I(a)**    

3. Federal Authority: \_\_\_\_\_

4. Type of Action:

Adoption \_\_\_\_\_

Amendment \_\_\_\_\_

Repeal \_\_\_\_\_

Readoption \_\_\_\_\_

Readoption w/amendment     **X**    

5. Short Title: **Definitions, Organization and Public Information**

6. (a) Summary of what the rule says and of any proposed amendments:

**The Board of Auctioneers is proposing to readopt with amendments Auc 100, the organizational rules containing rules on definitions, Board organization, and public information.**

**Amendments to the Auc 100 rules clarify definitions, include additional definitions, and specify staff responsibilities under agency organization.**

6. (b) Brief description of the groups affected:

**Licensed Auctioneers**

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

<b>Rule</b>	<b>Statute</b>
<b>Auc 101.01</b>	<b>RSA 311-B:3</b>
<b>Auc 102.01</b>	<b>RSA 311-B:3</b>
<b>Auc 103.01</b>	<b>RSA 311-B:2</b>
<b>Auc 103.02</b>	<b>RSA 311-B:2</b>
<b>Auc 103.03</b>	<b>RSA 311-B:2</b>
<b>Auc 103.04</b>	<b>RSA 311-B:2</b>
<b>Auc 104.01</b>	<b>RSA 311-B:2; RSA 91-A:4</b>
<b>Auc 104.02</b>	<b>RSA 311-B:2; RSA 91-A:4</b>
<b>Auc 104.03</b>	<b>RSA 311-B:2; RSA 91-A:4</b>
<b>Auc 105.01</b>	<b>RSA 311-B:2</b>
<b>Auc 105.02</b>	<b>RSA 311-B:2</b>
<b>Auc 106.01</b>	<b>RSA 311-B:2</b>

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7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name:	<b>Kaley Dion</b>	Title:	<b>Business Administrator I</b>
Address:	<b>State House Room 204</b>	Phone #:	<b>603-271-3242</b>
	<b>107 North Main Street</b>	Fax#:	<b>603-271-6316</b>
	<b>Concord NH 03301</b>	E-mail:	<b>kaley.dion@sos.nh.gov</b>
		TTY/TDD Access:	Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **October 7, 2016**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **October 3, 2016 9:30 a.m.**  
Place: **Legislative Office Building  
Room 307  
33 North State Street  
Concord NH 03301**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 16:087 , dated 5/11/16

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution: **The proposed rules do not violate Part I, Article 28-a of the N.H. Constitution. The proposed rules do not require any local expenditure by municipal subdivisions.**

**Readopt with amendments Auc 100, effective 1-1-98 (document #6657), cited and to read as follows:**

CHAPTER Auc 100 DEFINITIONS, ORGANIZATION AND PUBLIC INFORMATION

PART Auc 101 PURPOSE AND SCOPE

Auc 101.01 Purpose and Scope. The rules of this title implement the statutory responsibilities of the New Hampshire Board of Auctioneers created by RSA 311-B:2.

PART Auc 102 DEFINITIONS

Auc 102.01 Terms Used. As used in these rules, the following terms shall have the meanings indicated:

(a) "Absolute auction" ~~means is~~ an auction without reserve in which the property offered for sale is sold to the highest bidder; where no minimum price will limit the bid; where the seller ~~does not~~ **cannot** withdraw the property from the auction after the first bid has been made by a registered bidder and accepted by the auctioneer; and where the seller ~~does not~~ **cannot** participate in the sale by bidding himself or through an agent, **regardless of sales price**.

(b) "Apprentice auctioneer" means an individual who serves under the direction of a supervising auctioneer as described in Auc 302.02I.

(c) "Auction" means the sale of real; ~~or personal or mixed~~ property, **or both, in which the sale price of the property offered is increased by competitive bids until to the highest accepted bidder becomes the purchaser**.

(d) "Auctioneer" means ~~"auctioneer" as defined in RSA 311-B:1, I~~ **a person who engages in, or who by advertising or otherwise holds himself or herself out as being available to engage in, the solicitation or the acceptance of competitive bids for the purchase of real or personal property, or both, at auction, or otherwise engages in auctioneering**.

(e) "Auctioneering" means ~~"auctioneering" as defined in RSA 311-B:1, II~~ **the business or act of selling for another real, personal, or mixed property by auction for compensation by fee, board, or other exchange of value**.

(f) **"Authorized business organization" means any entity organized for gain or profit and carrying on any business activity within the state of New Hampshire which is:**

- (1) A corporation or business association having at least one officer holding a valid license issued by the board;**
- (2) A partnership in which at least one partner holds a valid license issued by the board;**
- (3) A limited liability company in which the managing member holds a valid license issued by the board;**
- (4) A sole proprietorship or sole-shareholder corporation in which the sole proprietor or sole shareholder holds a valid license issued by the board; or**
- (5) A trust in which at least one trustee holds a valid license issued by the board.**

(~~f~~) (g) "Bid caller" means a licensed auctioneer or apprentice who publicly solicits bids for the property by public outcry.

~~(g)~~ **(h)** "Board" means the New Hampshire board of auctioneers *established under RSA 311-B:2*. References to "the agency" shall mean the board unless another meaning is clearly indicated from context.

~~(h)~~ **(i)** "Resident" means ~~"resident" as defined in RSA 311-B:1, IV.~~ *Any person who has resided within the state 6 months preceding the day of filing an application.*

~~(i)~~ **(j)** "Responsible auctioneer" means the New Hampshire licensee whose name and license number appear in all advertising and who is completely responsible for the conduct of the auction and for proper accounting and payment to all consignors.

~~(j)~~ **(k)** "Supervising auctioneer" means the responsible auctioneer who has taken the additional responsibility of supervising an apprentice auctioneer.

~~(k)~~ **(l)** "Tentative decision" means a board action which instructs the board's staff or a board committee to prepare a draft document which satisfies generally stated policy objectives, subject to subsequent review and approval by the board.

**(m)** *"Unprofessional conduct" means any action by a licensee, institution, or organization which is unlawful, dishonorable, unethical, or immoral.*

#### PART Auc 103 AGENCY ORGANIZATION

##### Auc 103.01 Composition of the Board.

- (a) The board consists of members who meet the eligibility requirements of RSA 311-B:2.
- (b) The board shall elect a chairman, vice-chairman and secretary at its regular March meeting.

Auc 103.02 Staff. The board shall designate such staff members as are necessary to perform the record-keeping and other statutory functions of the board and to oversee the board's daily operations. Such staff members shall ~~be responsible for~~ maintaining all records of the board's activities and ~~for~~ **shall** receive correspondence, filings and other communications and documents.

##### Auc 103.03 Office Location, Mailing Address and Telephone.

- (a) The board's office is within the secretary of state's office, at mailing address N.H. Board of Auctioneers, c/o Secretary of State's Office, State House Room 204, Concord, N.H. 03301-4989.
- (b) Correspondence, filings and other communications intended for the board shall be addressed to the board's designated staff member at the location stated in Auc 103.03 (a)
- (c) The board's telephone number is (603)271-3242.

Auc 103.04 Functions of the Board. The board shall, with the approval of the secretary of state, adopt rules for registrations, renewals, and disciplinary action; the qualifications of applicants, the establishment of fees, ethical and professional standards, conduct of hearings, content of license and renewal applications and any other matters related to the proper administration of RSA 311-B. In addition to rulemaking, the board's functions include licensing qualified auctioneers and the investigation and adjudication of complaints against licensees.

## PART Auc 104 PUBLIC INFORMATION

Auc 104.01 Record of Board Actions. Minutes shall be kept of board meetings and of official actions taken by the board. These minutes shall record the members who participate in each vote and shall separately record the position of members who choose to dissent, abstain or concur. Minutes of board actions which are not confidential under RSA 91-A:3, II or RSA 91-A:5 shall be public records and shall be available for inspection during the board's ordinary office hours within 144 hours from the close of the meeting or vote in question unless the 72 hour availability requirement of RSA 91-A:3, III is applicable.

Auc 104.02 Custodian of Records. The designated staff members shall be the custodian of the board's records and shall respond to requests to examine those records which are subject to public inspection or are otherwise accessible by the persons requesting access.

Auc 104.03 Copies of Records. Persons desiring copies of board records shall submit such request, during the normal hours of the board office, identifying as particularly as possible the information being sought and agreeing to pay a copying fee of \$.250 per page. If records are requested which contain both public and confidential information, the board staff shall delete the confidential information and provide the remaining information.

## PART Auc 105 MEETINGS, DELIBERATIONS AND DECISIONS

Auc 105.01 Meetings. The board shall meet monthly, except by a vote of the board. The board shall meet also at the call of the chair.

Auc 105.02 Tentative Decisions. Tentative decisions shall not be binding upon the board. Changes in the form or the substance of a tentative decision shall be made as often as necessary to produce a final document which satisfactorily sets forth the final result the board intends to reach. The board's final decision shall be issued only when the necessary majority has voted in favor of the final form of the proposed action, allowing time for printing the document in question.

## PART AUC 106 APPOINTMENT OF COMMITTEES

Auc 106.01 Committees.

(a) The board shall delegate investigatory and other functions within its jurisdiction to committees consisting of one or more board members when such delegations are necessary to achieve separation of functions, objectives or to perform the board's work more efficiently.

(b) Committees shall have authority to undertake investigations and make recommendations to the board, but shall not take final action on behalf of the board.

(c) Committees shall not have authority to retain paid advisor or consultants or to use the voluntary services of nonboard members unless expressly authorized to do so by the board.

<b>Rule</b>	<b>Statute</b>
<b>Auc 101.01</b>	<b>RSA 311-B:3</b>
<b>Auc 102.01</b>	<b>RSA 311-B:3</b>
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