

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0101

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

**PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, consider replacing "are in accord" with "comply"*

*In the History Note, line 11, I do not think you need to cite to every law in your Act. Why not cite to only G.S. 85B-3.1?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0101 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0101      PURPOSE**

(a) It is the responsibility of the Board to license auctioneers, apprentice auctioneers, and auction firms and ~~to see~~  
ensure that the qualifications and activities of those engaged in auctioneering activities are in accord with ~~law and in~~  
~~the best interests of the public.~~ G.S. 85B.

(b) The Board is not a board of arbitration and has no jurisdiction to settle disputes between parties concerning ~~such~~  
~~matters of contract as the rate of commissions, the division of commissions, or pay of assistants, and similar matters.~~  
assistants.

*History Note:      Authority G.S. 85B-1 through 85B-9;*

*Eff. November 1, 1984;*

*Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0102

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*I recommend making the language on line 8 Paragraph (b), and stating "The Board's website is [www.ncalb.org](http://www.ncalb.org)."*

*If you do this, make what is currently (b) into (c).*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0102 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0102 BOARD OFFICE**

(a) The administrative offices of the Board are located at:

~~602 Stellata Drive~~ 108 Ber Creek Drive

Fuquay-Varina, North Carolina 27526

Telephone: (919) 567-2844

Website: [www.ncalb.org](http://www.ncalb.org).

(b) Office hours are 8:30 a.m. until 5:00 p.m., Monday through Friday, ~~except holidays.~~ 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0103

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In Item (6), line 9, I recommend deleting "as used in auctions"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0103 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

## **21 NCAC 04B .0103      DEFINITIONS**

Whenever used in this Chapter:

(1) (2) "Auctioneers Law" or "licensing law" shall refer to ~~G.S. 85B;~~ G.S. 85B.

(2) (4) "Buyer's Premium" shall mean any additional charge owed by a buyer to the auctioneer, auction firm, or ~~directly~~ to the seller above ~~and beyond~~ the highest accepted bid ~~amount;~~ amount.

(3) "Board" shall mean the North Carolina Auctioneers ~~Commission;~~ Commission.

(4) (6) "Minimum Bid" as used in auctions shall mean minimum opening ~~bids;~~ bids.

(5) "Course" shall mean the curriculum, instruction, and activities of schools of auctioneering subject to the rules of this Subchapter.

(5) (7) "Principal(s)" as it pertains to auction firms shall mean director(s), ~~officer(s)~~ officer(s), owner(s), and ~~partner(s);~~ partner(s).

(6) (8) ~~"Non Auction Firm Business"~~ "Sole Proprietor Auction Business" shall mean a ~~sole~~ licensed auctioneer whose business is not defined as an "Auction Firm" as set forth in ~~G.S. 85B-1(6);~~ G.S. 85B-1(6).

(7) (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.

*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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0104

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), lines 12-13, delete "Such incorporations by reference shall automatically" and replace it with "These incorporations shall"*

*In (b), line 14, what procedures in 150B-4 are you referring to? If you do not have specific procedures, I suggest you delete "In addition to the procedures set out in G.S. 150B-4," and just begin the sentence "Petitions for declaratory rulings ..."*

*In (b)(5), line 21, what practices are you referring to? And presumed by the petitioner?*

*In (b)(6)(D), line 31, what do you mean by "specifically"?*

*In (c)(2), Page 2, line 1, you do not need the language after "amendment"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0104 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

#### **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)~~ G.S. 150B-40(e) shall be governed by:

- (1) ~~procedures set out in~~ Article 3A of G.S. 150B;
- (2) ~~insofar as relevant,~~ the Rules of Civil Procedure as contained in G.S. 1A-1; and
- (3) ~~insofar as relevant,~~ 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 rules of Civil Procedure and the General Rules of Practice for the Superior and District Courts are hereby incorporated by reference for contested cases ~~for which~~ that the Board has authority to adopt rules under G.S. 150B-38(h). Such incorporations by reference shall automatically include any later amendments and editions of the incorporated matter.

(b) Declaratory Rulings. In addition to the procedures set out in G.S. 150B-4, petitions for declaratory rulings shall be submitted to the Board and shall contain:

- (1) the petitioner's name, ~~address~~ address, and telephone number;
- (2) the statute, rule, or ~~both~~ order to which the request relates;
- (3) all facts and information ~~which are~~ that the petitioner considers relevant to the request;
- (4) a ~~concise~~ statement of the manner in which petitioner has been aggrieved;
- ~~(5) a draft of the declaratory ruling sought by petitioner, if a specified outcome is sought by petitioner;~~
- ~~(6) (5)~~ practices likely presumed to be affected by the declaratory ruling; and
- ~~(7) a list or description of persons likely to be affected by the declaratory ruling; and~~
- ~~(8) (6)~~ 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 ~~ordinarily~~ refuse to issue a declaratory ruling when:

- (A) the petition does not comply with this ~~subdivision;~~ Rule;
- (B) the Board has ~~previously~~ issued a declaratory ruling on ~~substantially similar~~ the same facts;
- (C) the Board has ~~previously~~ issued a final agency decision in a contested case on ~~substantially similar~~ the same facts;
- (D) the facts underlying the request for a declaratory ruling were specifically considered at the time of the adoption of ~~the a~~ 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~~ address, and telephone number;



- 1 (2) a draft of the proposed rule ~~or rule change~~; adoption or amendment, unless the petition is for a  
2 proposed rule repeal; and  
3 ~~(3) the reason for its proposal;~~  
4 ~~(4) (3) the effect of the proposal on existing rules or decisions; rules.~~  
5 ~~(5) data supporting the proposal;~~  
6 ~~(6) practices likely to be affected by the proposal; and~~  
7 ~~(7) a list or description of persons likely to be affected by the proposal.~~

8  
9 *History Note:* Authority ~~G.S. 85B-3(f); 85B-8; G.S. 85B-3.1; 150B-4; 150B-14(a)(1),(c); 150B-18; 150B-20;~~  
10 ~~150B-38(h);~~  
11 ~~Eff. November 1, 1984;~~  
12 ~~Amended Eff. July 1, 1995; January 1, 1995; April 1, 1989;~~  
13 ~~Readopted Eff. May 1, 2020.~~

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0201

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, can the application not be obtained from the Board's website? If so, why not state "... form prescribed by the Board, which may be obtained from the Board using the information in Rule .0102 of this Chapter."?*

*And I take it the form is being prescribed within the contents of this Rule?*

*On line 6, consider replacing "calls for" with "requires"*

*On lines 7 and 8, what is this information? Who determines if it is "necessary"?*

*In (a)(1), line 10, and elsewhere the term is used in the Rule, what is "clear"?*

*In (a)(5)(A), lines 21 and 26, what is "successful" here? Does your regulated public know?*

*On line 29, please hyphenate "above referenced"*

*In (b), Page 2, as well as (c) and (d), thank you for listing what is required in the forms. However, there is no need to restate what is in (a) verbatim. I suggest you replace this duplicative language in (b), (c), and (d) with "Each...shall make application on a form as set forth in Paragraph (a) of this Rule."*

*If you wish to retain the language in all of the places, please be sure to make the changes recommended to that language for (a) everywhere the language is used.*

*In (c)(5) and (6), Page 3, since Rule .0403 allows more than one sponsor, should the reference to the supervising licensee be made plural, like "of the licensed auctioneer(s)" or "the signature of each licensed auctioneer"?*

*In (c)(6), line 16, please insert a comma after "profession"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: March 25, 2020

21 NCAC 04B .0201 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

## **21 NCAC 04B .0201 APPLICATION FORMS**

(a) Auctioneer. Each applicant for an auctioneer license shall ~~complete an application form provided by the Board.~~ make application on a form prescribed by the Board and may obtain the required form upon request to the Board. The application form calls for the applicant's name and address, the applicant's social security number, proof of the applicant's identity, places of residence, education, prior auctioneering licenses, and other information necessary to identify the applicant and determine the applicant's qualifications and fitness for licensure. This form shall be submitted to the ~~Executive Director Board~~ and shall be accompanied by:

- (1) ~~one passport-type~~ clear, forward facing, 2" x 2" color photograph of the applicant's head and shoulders taken within the previous six months for identification;
- ~~(2) statements of the results of a local criminal history records search by the clerk of superior court (or equivalent official in other states) in each county where the applicant has resided and maintained a business within the immediate preceding 60 months (five years);~~
- ~~(3)~~ (2) the completed fingerprint cards provided by the Board 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;
- ~~(4)~~ (3) a copy of the applicant's high school diploma or proof of equivalency;
- ~~(5)~~ (4) the ~~proper~~ applicable fees, as ~~required by~~ set forth in 21 NCAC 04B .0202; and
- ~~(6)~~ (5) documentation of required auctioneer schooling or auctioneer experience, as follows:

(A) Applicants who base their application upon their successful completion of ~~an approved a~~ school of auctioneering with its curriculum and instructors approved by the Board as set forth in 21 NCAC 04B .0500 shall submit a ~~photostatic copy of their diploma or certificate of successful completion. final transcript. An applicant shall have successfully completed this school within the five years preceding the date of application or if~~ If the applicant has successfully completed this school more than the five years preceding the date of his or her application, the applicant shall submit documentation verifying of the applicant's active 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). G.S. 85B-1(8);

(B) Applicants who base their application upon their successful completion of an apprenticeship shall submit a log ~~which was~~ maintained and completed during the apprenticeship period ~~which details the exact~~ that lists the hours and dates on which when they obtained apprenticeship experience, with each entry being verified and signed by their supervising ~~auctioneer.~~ auctioneer(s). ~~A minimum of~~ At least 100 hours of experience during the apprenticeship two-year period shall be obtained. Not less than 25 of the total hours accumulated ~~must~~ shall be attributable to bid ~~calling~~ calling. ~~and not~~

1           Not less than 50 hours shall be attributable to working as a ring person, drafting and  
2           negotiating contracts, ~~appraising~~ evaluating merchandise, advertising, ~~clerking~~ clerking,  
3           and cashiering, with not less than five hours of accumulated experience documented for  
4           each ~~category~~ activity. An apprentice who applies for an auctioneer license under this  
5           Part shall submit his or her application and supporting documentation and obtain a  
6           passing score on the auctioneer exam prior to the expiration of his or her apprentice  
7           auctioneer ~~license; and license~~.

8           ~~(7) Non-resident applicants shall also submit a properly completed "Designation of Agent for Service~~  
9           ~~of Process Form" with notarized signature and notarial seal affixed.~~

10       (b) Non-Resident Reciprocal Auctioneer. Each non-resident applicant for an auctioneer ~~license, license~~ who applies  
11       for a North Carolina license pursuant to G.S. 85B-5 shall ~~complete an application form provided by the Board.~~ make  
12       application on a form prescribed by the Board and may obtain the required form upon request to the Board. The  
13       application form calls for the applicant's name and address, the applicant's social security number, proof of the  
14       applicant's identity, places of residence, education, prior auctioneering licenses, and other information necessary to  
15       identify the applicant and determine the applicant's qualifications and fitness for licensure. This form shall be  
16       submitted to the ~~Executive Director~~ Board and shall be accompanied by:

- 17           (1)     one ~~passport type~~ clear, forward facing, 2" x 2" color photograph of the applicant's head and  
18                 shoulders taken within the previous six months for identification;  
19           ~~(2) statements of the results of a local criminal history records search by the clerk of superior court (or~~  
20           ~~equivalent official) in each county where the applicant has resided and maintained a business~~  
21           ~~within the immediate preceding 60 months (five years);~~  
22           ~~(3) (2)~~    the completed fingerprint cards provided by the Board and the form signed by the applicant  
23                 consenting to the check of the criminal history and to the use of fingerprints and other identifying  
24                 information;  
25           ~~(4) (3)~~    a copy of the applicant's high school diploma or proof of equivalency;  
26           ~~(5) (4)~~    the ~~proper~~ applicable fees, as ~~required by~~ set forth in 21 NCAC 04B .0202;  
27           ~~(6) (5)~~    a statement of good standing from the licensing board or Commission of each jurisdiction where  
28                 the applicant holds an auctioneer, apprentice ~~auctioneer~~ auctioneer, or auction firm license; and  
29           ~~(7) (6)~~    a ~~properly completed "Designation of Agent for Service of Process Form"~~ Irrevocable consent of  
30                 the applicant that service to the Board shall be sufficient service of process for actions against the  
31                 applicant by a resident of this State arising out of his or her auctioneering activities with notarized  
32                 signature and notarial seal affixed.

33       (c) Apprentice Auctioneer. Each applicant for an apprentice auctioneer license shall ~~complete an application form~~  
34       ~~provided by the Board.~~ make application on a form prescribed by the Board and may obtain the required form upon  
35       request to the Board. The application form calls for the applicant's name and address, the applicant's social security  
36       number, proof of the applicant's identity, places of residence, education, prior auctioneering licenses, and other

1 information necessary to identify the applicant and determine the applicant's qualifications and fitness for licensure.

2 This form shall be submitted to the ~~Executive Director~~ Board and shall be accompanied by:

- 3 (1) ~~one passport type~~ clear, forward facing, 2" x 2" color photograph of the applicant's head and  
4 shoulders taken within the previous six months for identification;
- 5 ~~(2) statements of the results of a local criminal history records search by the clerk of superior court (or~~  
6 ~~equivalent official) in each county where the applicant has resided and maintained a business~~  
7 ~~within the immediate preceding 60 months (five years);~~
- 8 ~~(3) (2)~~ the completed fingerprint cards provided by the Board and the form signed by the applicant  
9 consenting to the check of the criminal history and to the use of fingerprints and other identifying  
10 information;
- 11 ~~(4) (3)~~ a copy of the applicant's high school diploma or proof of equivalency;
- 12 ~~(5) (4)~~ the proper applicable fees, as ~~required by~~ set forth in 21 NCAC 04B .0202;
- 13 ~~(6) (5)~~ the signature, as designated on the apprentice applicant form, of the licensed auctioneer who will  
14 be supervising the apprentice auctioneer; and
- 15 ~~(7) (6)~~ a written statement of the proposed supervisor's background and experience in the auction  
16 profession ~~to include~~ including the number and types of auctions conducted or participated in  
17 ~~annually; and annually,~~ as set forth in 21 NCAC 04B .0403.
- 18 ~~(8) if applicant is a non resident, a properly completed "Designation of Agent for Service of Process~~  
19 ~~Form" with notarized signature and notarial seal affixed.~~

20 (d) Auction Firms. An applicant for an auction firm shall be a principal within the firm. Each applicant for an  
21 auction firm license shall ~~complete an application form provided by the Board.~~ make application on a form  
22 prescribed by the Board and may obtain the required form upon request to the Board. The application form calls for  
23 the applicant's names and addresses, social security numbers, proof of identity, places of residence, education, prior  
24 auctioneering licenses, and other information necessary to identify the applicant, all principals of the firm, proposed  
25 designated persons for the firm, and to determine the firm's qualifications and fitness for licensure. This form shall  
26 be submitted to the ~~Executive Director~~ Board and shall be accompanied by:

- 27 ~~(1) statements of the results of a local criminal history records search by the clerk of superior court (or~~  
28 ~~equivalent official) in each county where any principal and designated person of the auction firm~~  
29 ~~has resided and maintained a business within the immediate preceding 60 months (five years);~~
- 30 ~~(2) (1)~~ each of the principal's and proposed designated person's of the auction firm completed fingerprint  
31 cards provided by the Board and the form signed by each consenting to the check of the criminal  
32 history and to the use of fingerprints and other identifying information;
- 33 ~~(3) (2)~~ a copy of each principal's and proposed designated person's high school diploma or proof of  
34 equivalency;
- 35 ~~(4) (3)~~ the proper applicable fees, as ~~required by~~ set forth in 21 NCAC 04B .0202;
- 36 ~~(5) (4)~~ a certified copy of any applicable Articles of Incorporation or Partnership Agreement; and

1       ~~(6)~~ (5) a statement of good standing from the licensing board or Commission of each jurisdiction where  
2       the applicant firm and any principal and proposed designated person of such firm holds an  
3       auctioneer license of any ~~type~~; and type.

4       ~~(7) if applicant firm is a non resident, a properly completed "Designation of Agent for Service of~~  
5       ~~Process Form" (one each for the auction firm and for each principal and designated person of the~~  
6       ~~firm) with notarized signature and notarial seal affixed and, if a corporation, the corporate seal and~~  
7       ~~corporate secretary's signature affixed.~~

8  
9       *History Note: Authority G.S. 85B-1; 85B-3.1; ~~85B-4(d); 85B-5~~; 85B-3.2; 85B-4; 85B-5;*  
10       *Eff. November 1, 1984;*  
11       *Amended Eff. April 1, 1996; January 1, 1995; June 1, 1991;*  
12       *Temporary Amendment Eff. January 1, 2000;*  
13       *Amended Eff. May 1, 2006; April 1, 2001;*  
14       *Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0202

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), so that I'm clear – the required documents are what are set forth in Rule .0201?*

*In (b)(2) so that I'm clear – this is an applicant who served as an apprentice who is now applying to be licensed as an auctioneer? If so, consider mirroring the language in (b)(1), "New auctioneer license for an applicant who served an apprenticeship"*

*If that is not who is contemplated in (b)(2), then what is the difference between (b)(2) and (b)(4)?*

*In (b)(11), I take it this is the amount set by DPS and being remitted by the Board to DPS pursuant to G.S. 85B-3.2?*

*In (d), Page 2, line 4, I believe you mean "may" instead of "shall"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0202 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0202 FILING AND FEES**

(a) ~~Properly completed~~ Completed applications ~~must shall~~ be ~~filed (received, not postmarked)~~ received in the Board office at least seven days prior to ~~an established~~ 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 ~~must 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  | \$250.00            |
|                      | This includes a \$150.00 annual license fee; \$50.00 application fee; and \$50.00 examination fee.   |                     |
| (2)                  | New auctioneer license for an apprentice auctioneer  | \$200.00            |
|                      | This includes a \$150.00 annual license fee; and \$50.00 examination fee.  |                     |
| (3)                  | Renewal of auctioneer license  | \$150.00            |
| (4)                  | New apprentice auctioneer license  | \$150.00            |
|                      | This includes a \$100.00 license fee and a \$50.00 application fee.  |                     |
| (5)                  | Renewal of apprentice auctioneer license   | \$100.00            |
| (6)                  | New auction firm license (no examination)  | \$200.00            |
|                      | This includes a \$150.00 annual license fee; and \$50.00 application fee.  |                     |
| (7)                  | New auction firm license (examination)   | \$250.00            |
|                      | This includes a \$150.00 annual license fee; \$50.00 application fee; and \$50.00 examination fee.   |                     |
| (8)                  | Renewal of an auction firm license   | \$150.00            |
| (9)                  | Application and processing fee for conversion of non-resident reciprocal license to in-state license   | \$ 50.00            |
| (10)                 | Reinstatement of lapsed license <del>or late fee</del>   | \$ 50.00            |
| <del>(11)</del>      | <del>Resident fingerprint card background check fee</del>  | <del>\$ 14.00</del> |
|                      | <del>Applicants who have been continuous residents of North Carolina for the five years preceding the date of application shall be required to have only a State background check.</del>                 |                     |
| <del>(12)</del> (11) | <del>Non-resident fingerprint</del> <u>Fingerprint</u> card background check fee   | \$ 38.00            |
|                      | <del>Applicants who have not been continuous residents of North Carolina for the five years preceding the date of application shall be required to have both a State and Federal background check.</del> |                     |

(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 a cash or a check, cashier's check, certified ~~check~~ check, or money order made payable to the North Carolina Auctioneer Licensing Board. Checks drawn on escrow or trust accounts shall not be accepted. ~~Personal checks may be accepted for payment of renewal fees.~~ License renewal fees and reinstatement of license fees shall 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.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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0203

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 6, please correct the citation to G.S. 105-249.2 (there is only one hyphen, not two).*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0203 is adopted as published in 34:10 NCR, pages 839 - 856, as follows:

**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. May 1, 2020.*

21 NCAC 04B .0301 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0301      SUBJECT MATTER**

(a) The auctioneer license examination shall test the applicant's knowledge of the following ~~required~~ subjects:

- (1) a ~~practical and~~ working knowledge of the auction business including ~~fundamentals of auctioneering,~~ conduct of auctions, auctioneering ethics, contract drafting, bid calling, basic mathematical computations and percentages, advertising, settlement statements, and laws, regulations, laws and rules that relate to the auctioneering profession;
- (2) the provisions of the licensing law; and
- (3) the ~~Rules of the Board,~~ 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 the Board,~~ rules of this Subchapter.

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

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0302

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 5, please state "he or she"*

*Consider combining the sentences on lines 5-8 by deleting the language on line 6 "a refund of the annual auctioneer or apprentice license fee will be made" and just state "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."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0302 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**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 will be re-scheduled for the next scheduled examination. If the applicant again does not appear or fails to pass this examination, a refund of the annual auctioneer or apprentice license fee will be made. ~~No refund of the application or examination fee is allowed.~~ The Board shall refund the licensure fee, but not the application or examination fee. A ~~complete~~ new application and ~~proper~~ appropriate fees ~~are~~ 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. May 1, 2020.*

21 NCAC 04B .0303 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

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

(a) Any applicant who fails to obtain a passing score (~~75 percent or better~~) of 75 percent or higher on an examination may request ~~and receive~~ an appointment with the ~~Executive Director~~ Board staff to review ~~their~~ 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0401

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (b), is the intent of this Paragraph for the individual to carry the card whenever auctioneering activities are being conducted, or only for the designated persons at the firms? If it's former, consider rewriting the sentence to state "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..."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020



21 NCAC 04B .0401 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

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

(a) ~~When being licensed each individual or firm shall be issued a license number which remains solely his. The Board shall issue to each individual or firm a non-transferable license number. Should that~~ If the number be is retired for any reason ~~(such such as death, failure to continue in the auction business, or failure to renew his or her license, or any other reason) that number shall not be reissued back to the individual or the firm or to any other individual or firm. the Board shall not reissue the number.~~

(b) A pocket card shall be issued by the ~~Executive Director giving Board with~~ the auctioneer, apprentice ~~auctioneer~~ auctioneer, or auction firm's name, license ~~number number~~, and date of expiration. The pocket card ~~must shall~~ be carried by the licensee, and in the case of auction firms each of the designated person(s), ~~at all times~~ when auctioneering activities are being conducted and shall be available for inspection by the Executive Director or designated agent of the Board. ~~An auction firm shall display its license in a prominent place upon its premises, so as to be visible for inspection by patrons of the firm.~~

(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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0402

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 6, I assume the fee is what is required in Rule .0202. But what are the records and documentation that are required? Are those set forth in a Rule that you could cross-reference here?*

*On line 6, I think "promulgated" is unnecessary here and can be deleted.*

*In (b), line 9, please delete the comma after "information"*

*And on line 9, I don't see that Paragraph (a) requests documents, but instead requires it. I suggest replacing "requested pursuant to" with "required by"*

*In (d), line 12, what is your authority to state that licensed lapsed or suspended in excess of 24 months are not renewable? G.S. 85B-4(e) states:*

(e) Each license issued under this Chapter shall be valid from July 1 of the year issued, or from the date issued, whichever is later, to the following June 30 unless sooner revoked or suspended pursuant to this Chapter or a rule of the Commission. A license may be renewed for one year at a time, except an apprentice auctioneer license may not be renewed for more than three times. **No examination shall be required for renewal of an auctioneer license if the application for renewal is made within 24 months of the expiration of the previous license.**

*The statute does not forbid renewal after 24 months, but instead says that an examination may be required to renew it after that point.*

*On line 14, I suggest replacing "then existing" with "in effect at that time."*

*On line 17, what is "inactive" status? Does your regulated public know?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0402 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0402      LICENSE RENEWAL**

(a) Any licensee ~~desiring~~ seeking the renewal of a license ~~which that~~ is in good standing shall ~~apply for same and~~ shall submit the required fees and such records or documentation requested by the Executive Director fees, records, and documentation required to verify the licensee's compliance with G.S. 85B and the rules promulgated in this Chapter. ~~All licenses expire on June 30 each year.~~

(b) Applications for renewal of licenses ~~will~~ shall only be processed by the Board upon receipt of the required fee and any records, documents, or information, requested pursuant to 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 ~~will~~ shall be subject to the penalties pursuant to G.S. 85B-9.

(d) Licenses lapsed or suspended in excess of 24 months shall not be renewable. 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 then existing. Persons or firms whose license has been lapsed or suspended in excess of 24 months and who desire to be licensed ~~are~~ shall be exempt from the auctioneer school or the apprenticeship requirements ~~should~~ if the continuing education requirements be have been met for all lapsed, ~~suspended~~ suspended, and inactive 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0403

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (c), line 19, what is the difference between “training, supervision, and guidance”?*

*In (f), I am only asking – will the invalid status occur if the apprentice has more than one supervisor? I realize that Page 2, lines 5-8 addresses more than one supervisor, but that appears to only apply if the apprentice and supervisor terminate the relationship, not if the supervisor loses his or her license.*

*In (f), Page 2, line 6, consider replacing “showing” with “stating” or “specifying”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0403 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

### **21 NCAC 04B .0403 APPRENTICE AUCTIONEER LICENSE**

(a) An apprentice auctioneer's license ~~is~~ shall be valid only while he or she is associated with and supervised by a licensed auctioneer ~~assigned~~ approved by the Board. In order to be ~~assigned~~ approved by the Board as a supervisor, the Board ~~must~~ shall receive a written notice, signed by the prospective supervisor and the apprentice, requesting that the licensed auctioneer be ~~assigned~~ approved as a supervisor for the apprentice. Upon receipt of such a request, the Board shall ~~evaluate~~ review the requested ~~assignment~~ approval, ~~and such~~ The requested ~~assignment may~~ 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 an equivalent combination of training and experience~~ or has committed any act ~~which constitutes grounds for~~ that resulted in license suspension or revocation under the rules of this Subchapter or under G.S. 85B. ~~Upon termination of the association between the supervisor and the apprentice, the supervisor shall immediately notify the Board in writing, showing the date and cause of termination.~~

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

(c) Any licensed auctioneer who undertakes the ~~sponsorship~~ supervision of an apprentice auctioneer shall ~~ensure~~ that provide the apprentice ~~receives with~~ training, supervision, and guidance in the following:

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

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

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

(f) An apprentice auctioneer shall notify the Board, in writing, ~~immediately upon~~ 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 ~~immediately~~ held placed in an invalid status. If an apprentice auctioneer's supervising auctioneer's license has been ~~suspended,~~

1 ~~suspended or~~ revoked, ~~or placed on probation~~ the apprentice auctioneer's license shall be ~~immediately held~~ placed in  
2 an invalid status. Once in an invalid status, an apprentice auctioneer shall not conduct or contract to conduct any  
3 auction. If an apprentice's license is invalid greater than 90 days due to a lack of an approved sponsor, the  
4 apprentice upon securing an approved sponsor shall be required to submit a ~~late~~ reinstatement fee as set forth in 21  
5 NCAC 04B .0202(b)(10). Upon termination of the association between the supervisor and the apprentice, both  
6 licensees shall notify the Board in writing within 10 days, showing the date and cause of termination. At this time  
7 the apprentice auctioneer's license shall be placed in an invalid status, unless at least one Board-approved supervisor  
8 remains in place for the apprentice.  
9

10 *History Note: Authority G.S. 85B-3.1; 85B-4; 85B-7;*

11 *Eff. November 1, 1984;*

12 *Amended Eff. April 1, 2001; April 1, 1996; January 1, 1995; June 1, 1991;*

13 *Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0404

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a)(3), line 8, please either add an "is" before "given" or delete the "that" before "is returned"*

*Please end (a)(4) on line 10 with a semicolon, not a period.*

*In (a)(8), please compare this language in the mandate to the requirements of 93B-8.1(b), which was added by SL 2019-91. You may need to change the language to "being convicted of a crime that meets the requirements of G.S. 93B-8.1(b)" when related to denials.*

*In (a)(11), line 27, please replace "evidences" with "shows"*

*On line 28, please insert a comma after "fitness"*

*In (a)(12), line 31, what are those behaviors "established in the auctioneering profession"? How does one know what those are? Are these similar to the ethics referred to in other rules?*

*In (a)(15), line 35, please insert a comma after "honesty"*

*On line 36, to mirror (a)(11) and (a)(12), I believe you should change "Rule" to "Subparagraph" and please insert a comma after the word.*

*On line 36, please put the quotation marks in front of "a lack"*

*On line 37, please replace "evidenced" with "shown"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0404 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

### **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 ~~provision of the rules under 21 NCAC, 04B;~~ rule in this Subchapter;
- (3) a check given to the Board in payment of ~~required fees which~~ that is returned unpaid;
- (4) allowing an unlicensed person (~~an auctioneer~~) to call a bid at a ~~sale;~~ sale, except as authorized in 21 NCAC 04B .0506.
- (5) auctioneering at an unlicensed auction firm sale;
- (6) failure to ~~properly, completely and fully~~ complete an application or making any false statement or giving any false information in connection with an application for a license, ~~renewal~~ renewal, or reinstatement of a license including:
  - (A) failure to ~~completely~~ 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 ~~designee;~~ staff;
- (7) being adjudicated mentally incompetent by a court;
- (8) ~~committing~~ being convicted of a crime the circumstances of which ~~substantially~~ relate to the auctioneering profession;
- (9) ~~violating~~ violation of any federal or state ~~statute or rule which~~ statute, rule, or regulation that relates to the auctioneering profession;
- (10) practicing the profession for which the ~~holder has a license~~ individual is licensed while the ~~holder's~~ 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. ~~A licensee has been~~ In this Subparagraph, "being incompetent in practice practice" means if the licensee has engaged in conduct ~~which~~ that evidences a lack of ability, fitness or knowledge to apply principles or skills of the auctioneering profession;
- (12) engaging in unprofessional conduct. ~~In this Paragraph~~ In this Subparagraph, "unprofessional conduct" means the ~~violation of~~ licensee has violated any standard of professional behavior ~~which~~ that through professional experience has become established in the auctioneering profession;
- (13) obtaining or attempting to obtain compensation by fraud or deceit;
- (14) ~~violating~~ 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 paragraph~~ Rule a lack of ~~truth, honesty and integrity~~ "truth, honesty, and integrity" shall be evidenced by proof that the applicant or licensee is in violation of



1 other provisions of the Board's law and administrative rules ~~which~~ that demonstrate that the  
2 applicant or licensee fails to meet this standard; or

3 (16) failure to ~~properly~~ make the disclosures required by 21 NCAC 04B .0405.

4 (b) When applying the requirements of ~~Rule .0404(a)~~ Paragraph (a) of this Rule to auction firms or their  
5 applications, the requirements shall apply to the firm, all the principals, and all of the designated persons of the firm.

6  
7 *History Note: Authority G.S. 85B-3.1; ~~85B-8(a)(1)~~; 85B-8;*

8 *Eff. November 1, 1984;*

9 *Amended Eff. January 1, 1995;*

10 *Temporary Amendment Eff. January 1, 2000;*

11 *Amended Eff. April 1, 2001;*

12 *Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0405

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 6, what is an "essential" element? Does your regulated public know?*

*On line 8, please insert a comma after "charge"*

*In (c), line 20, please insert a comma after "apprentice auctioneer"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0405 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

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

(a) All auctioneers, apprentice ~~auctioneers~~ auctioneers, and auction firms, including their principals and designated person(s), shall report to the Board ~~any and~~ all criminal arrests for, charges ~~of of~~ or convictions of a misdemeanor that has as an essential element dishonesty, deceit, ~~fraud~~ fraud, or ~~misrepresentations~~, misrepresentation, or any arrests, ~~charges~~ charges, or convictions of any felony. Convictions include findings of guilt, guilty pleas, and pleas of nolo contendere. The Board ~~must~~ 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~~ auctioneers, and auction firms, including their principals and designated person(s), shall report to the Board ~~any and~~ all civil suits involving them that are based upon any allegation of gross negligence, dishonesty, fraud, ~~misrepresentation~~ misrepresentation, or incompetency, or that in any way involve an auction sale or a transaction related to an auction matter or auctioneering. The Board ~~must~~ 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~~ auctioneers, and auction firms, including their principals and designated person(s), shall report to the Board ~~any and~~ all administrative proceedings ~~which are~~ commenced against them ~~which—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 ~~must~~ 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0501

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 6, can the application not be obtained from the Board's website? If so, why not state "... form prescribed by the Board, which may be obtained from the Board using the information in Rule .0102 of this Chapter."?*

*And I take it the form is being prescribed within the contents of this Rule?*

*On line 6, consider replacing "calls for" with "requires"*

*On lines 8 and 9, what is this information? Who determines if it is "necessary"?*

*In (b), line 10, please delete "above"*

*On line 11, state "form set forth in Paragraph (a) of this Rule."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0501 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0501      APPLICATION FOR COURSE APPROVAL**

(a) Schools of auctioneering seeking ~~accreditation~~ approval of its curriculum and instructors by the Board shall ~~complete a Board approved application form.~~ make application on a form prescribed by the Board and may obtain the required form upon request to the Board. The application form calls for the name, address, and other contact information for the school, curriculum description, a list of instructors, a description of each instructor's education and experience, and other information necessary to determine the fitness of the school's curriculum and instructors for approval. This form shall be submitted to the Board.

(b) The school shall notify the Board within 30 days of any change in the information required by the above application form. This requirement shall continue as long as the ~~school~~ school's curriculum and instructors ~~remains~~ 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0502

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*End (a)(1), line 6, with a colon, rather than a semicolon.*

*On line 17, please insert an "and" at the end of the line, after "Setup;"*

*In (e), Page 2, line 11, Rule .0404(a)(15) defines "lack of truth, honesty, and integrity" not the term you have here.*

*So, please delete "high" altogether and state "The instructors shall exhibit truth, honesty, and integrity as set forth in Rule 21 NCAC 04B .0404(a)(15)"*

*In (f)(2), will the school determine what is "necessary and beneficial"?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0502 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

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

(a) ~~In order to be accepted as an approved school, and in order to remain approved, the~~ The course curriculum ~~must~~ shall contain classroom instruction in the following subjects for the minimum number of hours shown:

- (1) Essential Core Curriculum (minimum 50 hours);
  - ~~46~~ 15 Hours - Bid Calling, Voice Control, Proper Breathing Techniques, and Use and Sequence of Numbers;
  - 4 Hours - ~~Advertising;~~ 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;
  - ~~4~~ 2 Hour Hours - Auctioneering Ethics;
  - 2 Hours - Handling Sale Proceeds and Escrow Accounts;
  - 2 Hours - Auction Preparation and Setup;
  - 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	<del>Hygiene and Personal Appearance</del>
Body Language	Ring Work
Farm Machinery	Consignment Auctions
<u>Cyber Security and Client Property Protection</u>	

~~Minimum hours are not required in individual supplemental subjects, however, all topics must~~  
Each Supplemental Instruction Area shall be addressed in the school.

- (3) ~~Courses~~ Schools that include students that ~~will~~ have expressed to the school an interest to become North Carolina applicants ~~must~~ 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 ~~must~~ shall attend and ~~successfully~~ 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 ~~course offered must~~ school's curriculum shall include instruction by a minimum of five different instructors, at least two of whom ~~must~~ 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)~~ (e) The instructors shall be truthful, honest, and of high integrity as defined in 21 NCAC 04B .0404(a)(15).

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

- (1) a ~~comfortable, well-lighted and ventilated~~ 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 ~~effective~~ 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. May 1, 2020.*



## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0503

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In the History Note, please delete the citation to G.S. 85B-3(f), as that law was repealed in 1999.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0503 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0503 CERTIFICATION OF COURSE COMPLETION**

Schools shall furnish each student who ~~successfully~~ completes ~~their~~ his or her course ~~an official certification of graduation or diploma~~ a transcript containing the student's name, the date the course was ~~completed~~ completed, and the total number of hours ~~attended and successfully~~ completed by that student. ~~For successful completion of a course, students must successfully complete a written final examination administered by the school.~~

*History Note: Authority G.S. 85B-3(f); 85B-4(d);*

*Eff. November 1, 1984;*

*Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0504

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (2), please state "for each student, the names, address(es), and numbers of hours completed;"*

*In the History Note, please delete the citation to G.S. 85B-3(f), as that law was repealed in 1999.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0504 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0504      RECORDS MUST BE MAINTAINED**

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

- (1) the dates, times of instruction, and location of every course offered;
- (2) the ~~names~~ names, ~~and~~ addresses, and the number of hours ~~attended and successfully completed~~, ~~and grade on the final written examination~~ completed of each student;
- (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 ~~such~~ the instruction.

*History Note:      Authority G.S. 85B-3(f); 85B-4(d);  
Eff. November 1, 1984;  
Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0505

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 7, I believe "two-year" should be hyphenated.*

*In the History Note, please delete the citation to G.S. 85B-3(f), as that law was repealed in 1999.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0505 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

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

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

(b) The Board may deny, ~~suspend~~ suspend, or revoke the approval of any ~~school~~ school's curriculum and instructors when it finds that the school has failed to meet or to ~~continuously~~ maintain any ~~requirement, standard or procedure~~ requirement of this Section. ~~Additionally, the~~ The Board may deny, ~~suspend~~ suspend, or revoke the approval of any ~~school~~ school's curriculum and instructors upon a finding that any information required under this Section was ~~knowingly~~ 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0506

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 8, what is "direct supervision" here? Does your regulated public know?*

*In the History Note, please delete the citation to G.S. 85B-3(f), as that law was repealed in 1999.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0506 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

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

~~The only exception to allowing an unlicensed bid caller in the State of North Carolina will be in the case of a person enrolled in a class at an approved school of auctioneering who, for the purpose of training and receiving instruction, may do so~~ 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 full and complete responsibility for the activities of the student in the matter involving bid calling.

*History Note: Authority G.S. 85B-3(f); 85B-4(d);  
Eff. November 1, 1984;  
Readopted Eff. May 1, 2020.*



## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0601

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (b), line 9, (c), line 14, and (d), line 19, there is no .0201(d)(6) or (7) anymore. Please update the cross-references.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0601 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**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~~ address, ~~(including including mailing address)~~ 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, ~~said the~~ licensee shall ~~immediately~~ notify the ~~Executive Director~~ Board of any change in the directors or officers of the ~~corporation~~ corporation, ~~and such~~ The new director(s) or officer(s) shall comply with the provisions of 21 NCAC 04B .0201(d)(1), (2), (3), (5), ~~(6)~~ (6), and (7). 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, ~~said the~~ licensee shall ~~immediately~~ notify the ~~Executive Director~~ Board of any change in partners and such new partners shall comply with the provisions of 21 NCAC 04B .0201(d)(1), (2), (3), (5), ~~(6)~~ (6), and (7).

(d) In the case of an auction firm license, the licensee shall ~~immediately~~ notify the ~~Executive Director~~ 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)(1), ~~(6)~~ (6), and (7). 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)(1), (2), (3), ~~(6)~~ (6), and (7).

(e) Any ~~change in address, business name or ownership required by these Rules~~ 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0602

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 4, please insert a comma after "apprentice auctioneers"*

*On line 8, consider putting the terms "trolling" and "holding" in quotation marks.*

*On line 10, what notice is required to the Board? That of the names or that the names will be used in the advertisement?*

*In (c), line 16, please change "these Rules" to "this Rule" to match the changes made elsewhere in the Rule.*

*In (f), line 33, please insert a comma after "agency"*

*In (g), Page 2, line 2, please insert a comma after "state" Please note the same for (h)(2), line 7, and (h)(3), line 11.*

*In (h)(2), lines 7 and 9, please insert a comma after "agency"*

*In (h)(3), line 11, so that I'm clear – you purposely did not refer to departments here?*

*In (k), line 20, please replace "which" with "that"*

*On line 26, I believe "30-day" should be hyphenated*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0602 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

### **21 NCAC 04B .0602      ADVERTISING**

(a) In all advertisements relating to an auction, the auctioneer's, apprentice ~~auctioneer's~~ auctioneer's or auction firm's name and license number shall be ~~conspicuously~~ given. If an auctioneer is working for or in conjunction with an auction firm, ~~such the relationships~~ relationship shall be disclosed and both license numbers shall be ~~conspicuously~~ given. A general advertisement ~~which that~~ does not concern a specific ~~sale(s)~~ sale or specific sales and ~~which that~~ does not list sale dates, ~~times~~ times, or locations, ~~generally~~ 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 ~~previously~~ filed with the Board.

(b) Any licensee who advertises an "Estate Sale" shall ~~specifically~~ 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 ~~specifically~~ disclosed at or before the time of the auction.

(c) It shall be a violation of these Rules 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 ~~specifically~~ disclosed at or before the time of the auction.

(d) It shall be a violation of ~~these Rules~~ 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 ~~specifically~~ designated as such in all announcements ~~or and~~ advertisements.

(e) It shall be a violation of ~~these Rules~~ this Rule to advertise any auction using such descriptive words as "Urgent," "Emergency," "Distress" or any other word ~~which that connotes~~ connotes liquidation of assets or that the buyers ~~will, for some extraordinary reason, will~~ be in a position to reap some unusual bargain without ~~specifically~~ 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"~~ "emergency," or the cause of the ~~"distress,"~~ "distress," etc.

(f) It shall be a violation of ~~these Rules~~ this Rule to advertise any auction using such descriptive words as "Seized," "Confiscated," ~~"Forfeited"~~ "Forfeited," or any other word ~~which 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 ~~specifically~~ 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 ~~these Rules~~ this Rule to advertise any items as being from an "estate" or a "bankruptcy," or from an "urgent," "emergency," "distress," "seized," "confiscated," ~~"forfeited"~~ "forfeited," or similar sale, unless

1 the consignor of the item(s) to be sold is the original owner of the item(s), the designated representative of the  
2 owner, or a federal, state or local department, ~~agency~~ agency, or commission charged with disposing of the item(s),  
3 and consigned the item(s) directly to the advertised sale.

4 (h) It shall be a violation of ~~these Rules~~ this Rule to:

- 5 (1) Reference the U.C.C. or any other uniform act or federal or state law in any advertisement unless  
6 ~~such the~~ the act or law is required, by law, to be referenced;
- 7 (2) Reference or mention any federal, state or local department, agency or commission in any  
8 advertisement unless ~~specifically~~ required by law to do so or unless prior written approval is  
9 received from such department, agency or commission; or
- 10 (3) Otherwise connote in any advertisement that the auction is under the auspices of, at the direction  
11 ~~of of~~, or required by federal or state law or act or a federal, state or local agency or commission  
12 and that the buyers will, for some legal or governmental reason, be in a position to reap some  
13 unusual bargain.

14 (i) It shall be a violation of ~~these Rules~~ this Rule to advertise for sale items ~~which~~ that the auctioneer/firm does not  
15 intend to offer for sale at the advertised auction.

16 (j) It shall be a violation of ~~these Rules~~ this Rule for an auctioneer or auction firm to permit its name or license  
17 number to appear on any advertisement for an auction without reviewing the contents of the advertisement prior to  
18 its publication to ascertain its compliance with ~~applicable law and Rules~~ G.S. 85B and this Subchapter.

19 (k) It shall be a violation of ~~these Rules~~ this Rule to advertise any auction using such descriptive words as  
20 "Contents," "Stock," "Inventory," ~~"Liquidation"~~ "Liquidation," or any other word which connotes that the items to  
21 be auctioned are present on the premises of a residence, business, ~~building~~ building, or establishment unless the  
22 items were physically present ~~continuously~~ continuously without interruption for 30 days prior to the signing of the contract or  
23 written agreement. Before conducting an auction using any of the descriptive words, the majority of the items in the  
24 sale shall be from the premises. Other items not related to or from the contents of the residence or business may be  
25 included in the auction provided they are ~~specifically~~ designated as such in all advertisements previous to the sale.  
26 The 30 day requirement shall not apply to items used in direct conjunction with the residence or business and  
27 brought to the site solely for the purpose of sale at auction.

28 (l) At all auctions that include a buyer's premium, the amount of the buyer's premium shall be announced at the  
29 beginning of the auction and a written notice of this information shall be ~~conspicuously~~ displayed or distributed to  
30 the public at the auction site.

31  
32 *History Note:* Authority G.S. 85B-1; 85B-3.1; 85B-8(a)(4);

33 *Eff. November 1, 1984;*

34 *Amended Eff. May 1, 2006; April 1, 2001; April 1, 1996; January 1, 1995; June 1, 1991;*

35 *Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0603

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (d), line 12, (e), line 15, and (g), lines 26 and 28, you refer to "Custodial Account for Sellers" or "Custodial Account for Sellers Proceeds." It appears that this term is from (c), but that Paragraph allows individuals to name the account something different. Should you refer instead to "the custodial account created pursuant to Paragraph (c) of this Rule"?*

*In (e)1), line 16, how will the auctioneer/firm know this? Will it be in the contract?*

*In (f), line 22, please replace "said" with "the"*

*In (g), line 27, please delete "also" after "each," then insert a comma after "sellers" on line 28.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0603 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

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

(a) Each payment made payable to the auctioneer/firm ~~in~~ of which any portion belongs to others, and ~~which are~~ not disbursed to the seller on auction day, ~~must~~ 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) ~~Such custodial~~ Custodial accounts for sellers proceeds ~~must~~ shall be established and maintained in ~~banks~~ banks, credit unions, or savings and loan associations located in ~~the State of~~ 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 for Sellers 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 ~~lawful~~ charges against the property ~~which~~ that the auctioneer/firm ~~shall~~ in its agency capacity ~~as agent, be 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 said 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 ~~such~~ accounts and records ~~as will disclose at all times~~ that document the handling of funds in ~~such a~~ Custodial Accounts Account for Sellers Proceeds. Accounts and records ~~must~~ shall ~~at all times~~ disclose the names of buyers and the amount of purchase and payment from each, also, the names of the sellers and the amount due and payable to each from funds in the Custodial Account for Sellers Proceeds. 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 ~~Commission or its designated agent,~~ Board staff without advance notice, and copies shall be provided to the ~~Commission~~ Board upon request.

*History Note: Authority* ~~G.S. 85B-3(f); 85B-7.1;~~ G.S. 85B-7.1; 85B-8(a);

*Eff. June 1, 1991;*

*Amended Eff. April 1, 2003; January 1, 1995;*





## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0604

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, so that I'm clear – are “registration, sales and accounting” referring to records of registration, sales, and accounting? If so, please insert a comma after “sales” If not, please let me know so that this sentence can be clarified.*

*On lines 6, 17, and 18, why are you referring to the “Commission” here? Given that the term “Board” is used elsewhere and defined in Rule .0103 to mean the Commission, don't you want to use the term “Board” here?*

*On line 7, who will be the designated agent? If you mean Board staff, why not state that?*

*In (b), line 8, what is “regular” here? Is it repeat?*

*Consider moving Paragraph (d) to below (e) so that Paragraphs (c) and (e) are next to each other.*

*In (g), what are “reasonable times”? Are you using that term due to the use of it in G.S. 85-7(b) and (d)?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0604 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**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 Commission or its designated agent.

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

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

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

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

(h) 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-1; 85B-7;~~ G.S. 85B-7; 85B-7.1; 85B-8;  
Eff. January 1, 1995;  
Amended Eff. May 1, 2006;  
Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0605

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (b), line 12, determined by whom? The auctioneer?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0605 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0605      BIDDING**

(a) No auctioneer/auction firm shall bid on items in a sale he or she is conducting or procure ~~such a~~ 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 ~~stated~~ disclosed ~~and, if possible, posted or included~~ in the auctioneer's/auction firm's spoken, posted, and written terms and conditions of the sale. In this Paragraph "reasonable minimum bid increments" ~~are~~ shall be determined by 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0606

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), lines 4 and 5, and (b), line 7, how are they approved by the Board? Is this process in rule or law? Should this state "designated person as defined by G.S. 85B-1(10)"?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0606 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0606 AUCTION FIRMS**

(a) All licensed auction firms shall have at least one ~~Board-approved~~ Board-approved designated person. If a licensed auction firm does not have at least one Board-approved designated ~~person person, in good standing, the~~ status of the auction firm license shall be changed to invalid, 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 ~~the sponsor~~ 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 ~~are~~ shall be exempt from the auction firm ~~examination examination, if their~~ Their authority to transact business as a designated person under the auction firm license is ~~only related~~ 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. May 1, 2020.*

21 NCAC 04B .0607 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0607     ~~NON-AUCTION FIRM~~ SOLE PROPRIETOR AUCTION BUSINESSES**

(a) A licensed auctioneer who owns and operates a ~~non-auction firm~~ sole proprietor auction business has the sole 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 ~~non-auction firm~~ 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 ~~non-auction firm~~ 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0701

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 5, do you want to cite specifically to Rule (4)(j)(4), as that governs service on an agency of the State?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020



21 NCAC 04B .0701 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**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).~~ G.S. 1A-1, Rule 4(j).

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

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0801

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, I think you should delete "a" before "Board-approved"*

*In (a)(1), line 11, given the deletion of former (a)(1), why not replace "the May 15 deadline" with "May 15<sup>th</sup>"?*

*In (b), line 19, should this state "under the rules of this Section" like it reads on line 22? This is assuming you mean all of the rules in Section .0800.*

*On line 20, since you deleted Paragraph (h), you will need to delete this cross-reference as well. Should the sentence end after "sponsor"?*

*In (e), line 32, please replace "their" with "his or her"*

*In (f), what does this mean? That the same credits cannot be used twice? I thought it might apply to carry forward hours, but that is address by Paragraph (g). So, what does this address?*

*In the History Note, Page 2, line 7, please delete the period in the citation to G.S. 85B-4.1(e).*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0801 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

### **21 NCAC 04B .0801 CONTINUING EDUCATION COURSE**

(a) To renew a license ~~on~~ in active status, an auctioneer, apprentice auctioneer, or designated person(s) in an auction firm shall complete a ~~Board-approved~~ 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 ~~the above Board-approved Board-approved~~ approved course(s) to the Board. ~~within one year preceding license expiration.~~

~~(1) "Within one year preceding license expiration time period" shall be defined as from May 16 to the following May 15 in the year that the license expires.~~

~~(2)~~ (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 the May 15 deadline of the current renewal period.

~~(3) If the required documentation is not received by the Board by the deadline as set forth in Subparagraph (a)(2) of this Rule, the licensee shall be assessed a late fee as set forth in Rule .0202(b)(10) of this Subchapter.~~

~~(4)~~ (2) ~~The renewal shall not be processed until compliance is achieved and the required fees are received as set forth in Rule .0402(b) of this Subchapter. 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 this Section. The subject matter of this course shall be determined by the course sponsor subject to Paragraph (h) of this Rule. The course sponsor shall ~~produce or acquire~~ provide instructor and student materials. The course ~~must~~ shall be conducted as prescribed by the rules in this Section. ~~At the beginning of the course, sponsors must provide licensees participating in their classes a copy of the student materials developed or acquired by the sponsor.~~

(c) The sponsor may conduct the course at any location as ~~frequently~~ often as is 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 ~~six~~ four, ~~unless the Board establishes at its April monthly Board meeting fewer hours for the upcoming year pursuant to G.S. 85B 4(c1). In determining whether fewer hours may be established, the Board shall analyze the disciplinary actions and complaints against its licensees and base its decision on whether the analysis shows that a reduction in hours is justified.~~

(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 their 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) The Board may mandate the topic(s) for all or part of an approved course as a continuing education requirement pursuant to G.S. 85B 4(c1). In determining whether to mandate the topic for all or part of an approved course as a continuing education requirement, the Board shall analyze the disciplinary actions and complaints against its~~

1 ~~licensees and base its decision on whether the analysis shows that mandating the topic for all or part of a course is~~  
2 ~~justified.~~

3 (h) No part of any preclicensing course curriculum shall count as continuing education credit hours.

4 (i) Continuing education shall not be required until the second renewal after initial licensing pursuant to G.S.  
5 85B-4(e).

6  
7 *History Note: Authority G.S. 85B-4.(e1);*

8 *Eff. July 1, 1999;*

9 *Amended Eff. April 1, 2001; January 1, 2000;*

10 *Temporary Amendment Eff. October 12, 2001;*

11 *Temporary Amendment Expired July 29, 2002;*

12 *Amended Eff. April 1, 2003;*

13 *Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0802

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, can the application not be obtained from the Board's website? If so, why not state "... form prescribed by the Board, which may be obtained from the Board using the information in Rule .0102 of this Chapter."?*

*And I take it the form is being prescribed within the contents of this Rule?*

*On line 5, consider replacing "calls for" with "requires"*

*On lines 7 and 8, what is this information? Who determines if it is "necessary"?*

*In (b), line 10, please delete "the satisfaction of"*

*End (b)(1), line 11, with a semicolon, not a period.*

*In (b)(3), line 14, please strike "must"*

*On line 15, Rule .0404(a)(15) defines "lack of truth, honesty, and integrity" not the term you have here.*

*So, please delete "high" altogether and state "The instructors shall exhibit truth, honesty, and integrity as set forth in Rule 21 NCAC 04B .0404(a)(15)"*

*On line 16, please insert a comma after "officer"*

*On line 17, please insert a comma after "association"*

*In (b)(4), line 18, in order to address concerns of simultaneous approval in Rule .0804, why not state "instructor who meets the requirements for Board approval"?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0802 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0802 APPLICATION FOR ORIGINAL APPROVAL**

(a) An entity seeking original approval to sponsor a course ~~must~~ shall make application on a form prescribed by the ~~Board.~~ Board and may obtain the required form upon request to the Board. The application form calls for the name, address, and other contact information for the sponsor, a list of instructors, a description of each instructor's education and experience, and other information necessary to determine the fitness of the sponsor and instructors for approval. An applying entity that is not ~~a resident of~~ 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 satisfaction of the Board that:

- (1) The applicant has submitted all information required by the ~~Board;~~ 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 ~~applicant~~ continuing education coordinator required by Rule .0805(e) must shall be truthful, ~~honest~~ honest, and of high integrity as ~~referenced~~ defined in 21 NCAC 04B .0404(a)(15). ~~In this regard, the~~ The Board ~~may~~ 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 has been approved by the Board 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. May 1, 2020.*

21 NCAC 04B .0803 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**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 ~~this the course; provided,~~  
~~however, course.~~ However, ~~that~~ the established fee ~~must~~ 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 ~~similar routine~~ other administrative expenses.

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

*Temporary Adoption Eff. January 1, 2000;*

*Eff. April 1, 2001;*

*Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0804

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 4, should "be accomplished" be replaced with "occur"?*

*In (b), lines 10-12 contain the same language as Rule .0802(a). Should this be different? If it should be the same, why not state on line 9, "... on the application form set forth in Rule 21 NCAC 04B .0802(a)" and end it with this?*

*If you need to retain it:*

*On line 10, can the application not be obtained from the Board's website? If so, why not state "... form prescribed by the Board, which may be obtained from the Board using the information in Rule .0102 of this Chapter."?*

*And I take it the form is being prescribed within the contents of this Rule?*

*On line 10, consider replacing "calls for" with "requires"*

*On line 12, what is this information? Who determines if it is "necessary"?*

*In (c), Rule .0404(a)(15) defines "lack of truth, honesty, and integrity" not the term you have here.*

*So, please delete "high" altogether and state "The instructors shall exhibit truth, honesty, and integrity as set forth in Rule 21 NCAC 04B .0404(a)(15)"*

*In (e)(2), line 35, please delete "has" before "refused"*

*In (f), Page 2, line 3, what is "dishonest, fraudulent or improper conduct"? How is this determined?*

*If you are retaining it, please insert a comma after "fraudulent"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: March 25, 2020



21 NCAC 04B .0804 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0804 APPROVAL OF CONTINUING EDUCATION INSTRUCTORS**

(a) Approval of course instructors shall be accomplished 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 ~~independently~~ conduct a course unless the instructor ~~has also obtained approval as a course sponsor.~~ is conducting the course under the supervision of an approved course sponsor.

(b) An entity seeking original approval as a course sponsor ~~must~~ shall provide the name, address, and qualifications of the instructors for the course as set forth in this Rule on the application form prescribed by the ~~Board.~~ Board and may obtain the required form upon request to the Board. The application form calls for the name, address, and other contact information for the sponsor, a list of instructors, a description of each instructor's education and experience, and other information necessary to determine the fitness of the sponsor and instructors for approval. No additional application fee is required. ~~All required information regarding the instructor's qualifications must be submitted.~~

(c) The instructor(s) ~~must~~ shall be truthful, ~~honest~~ honest, and of high integrity as ~~referenced~~ defined in 21 NCAC 04B .0404(a)(15).

(d) The instructor(s) ~~must~~ 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 ~~active full-time~~ 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 ~~which that are acceptable under Board rules for continuing education credit;~~ in compliance with these Rules;
- (3) Possession of a current North Carolina real estate broker license, three years ~~active full-time~~ 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 ~~may~~ shall deny or withdraw approval of any course instructor upon finding that:

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

1           (4)     The instructor ~~has~~ provided false or incorrect information in connection with any reports a course  
2                   sponsor ~~is required to submit~~ submitted to the Board.

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

6     (g) Upon the written request of the Board, an approved course instructor ~~must~~ shall submit to the Board a ~~videotape~~  
7     video recording depicting the instructor teaching the course. The ~~videotape~~ video recording ~~must~~ shall have been  
8     made within 12 months of the date of submission, ~~must~~ shall be in ~~VHS~~ electronic format, and ~~must~~ shall ~~include a~~  
9     ~~label which clearly identifies~~ identify the instructor and the date of the ~~videotaped~~ presentation.

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

12  
13    *History Note:     Authority G.S. 85B-4(e1);*

14                   *Eff. July 1, 1999;*

15                   *Temporary Amendment Eff. October 12, 2001;*

16                   *Temporary Amendment Expired July 29, 2002;*

17                   *Amended Eff. April 1, 2003;*

18                   *Readopted Eff. May 1, 2020.*

21 NCAC 04B .0805 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

### **21 NCAC 04B .0805 SPONSOR REQUIREMENTS**

(a) ~~Any legal~~ 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 ~~lawfully~~ acquired from the course owner the right to seek course approval from the Board and to conduct ~~such~~ the course.

(b) The official name ~~to be~~ used by any course sponsor in connection with the offering of an approved continuing education course ~~must shall clearly~~ distinguish the sponsor from any other ~~previously~~ 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 ~~must shall clearly~~ distinguish the sponsor from any ~~approved auction school.~~ school with approved curriculum and instructors. Sponsor applicants proposing to use a sponsor name ~~which that~~ does not comply with this ~~standard may~~ 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 ~~must shall~~ include the course sponsor's official name and shall not include any other name for the sponsor.

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

(e) A sponsor of a course ~~must 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 ~~official~~ contact person for the sponsor and shall be responsible for the following:

- (1) Supervising ~~the conduct of all~~ 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0806

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 4, please insert a "the" before "student's"*

*In (a)(1), line 8, and (b)(1), line 23, what is the "official" course name?*

*In (a)(6), line 14, please delete the comma after "date(s)"*

*In (b)(2), line 24, please insert a "the" before "licensee"*

*In (d), line 33, please insert a comma after "certificate"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0806 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

### **21 NCAC 04B .0806 COURSE COMPLETION REPORTING**

(a) Course sponsors ~~must~~ shall prepare and submit to the Board reports verifying student's completion of each continuing education course conducted. Sponsors ~~must~~ shall submit these reports to the Board ~~in a manner that will assure receipt by the Board~~ within ~~thirty~~ 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 Official~~ official course name;
- (2) ~~the Sponsor or~~ sponsor and coordinator name, mailing address, and telephone number;
- (3) ~~the Coordinator~~ coordinator signature certifying that the information is correct;
- (4) ~~the Name,~~ name, address, and North Carolina license number of each licensee who ~~satisfactorily completes~~ completed the course and who desires continuing education credit for the course;
- (5) ~~the Physical~~ physical location where ~~the~~ course was conducted;
- (6) ~~the Date(s),~~ date(s), and starting and ending times of each course; and
- (7) ~~the Number~~ number of credit hours.

~~(b) At the request of the Board, course sponsors must provide licensees enrolled in each continuing education course an opportunity to complete an evaluation of the course upon completion of the course.~~

~~(c)~~ (b) Course sponsors shall provide each licensee who ~~satisfactorily~~ completes an approved continuing education course a course completion certificate. Sponsors ~~must~~ shall provide the certificates to licensees within ~~thirty~~ 30 calendar days following the course, but in no case later than May 15 for any course completed prior to that date. ~~The certificate shall be retained by the licensee as secondary proof of having completed the course. Course completion certificates shall include the following:~~

- (1) ~~the Official~~ official course name;
- (2) ~~the Name~~ name of licensee who ~~satisfactorily~~ completes the course;
- (3) ~~the Date(s)~~ date(s) of attendance;
- (4) ~~the Number~~ number of credit hours; and
- (5) ~~the Coordinator~~ 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,~~ standards of Rule .0817 of this Section, the course sponsor shall ~~advise~~ inform the Board ~~of this matter~~ 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;*

- 1                   *Eff. April 1, 2001;*
- 2                   *Amended Eff. May 1, 2006;*
- 3                   *Readopted Eff. May 1, 2020.*

21 NCAC 04B .0807 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**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 ~~must~~ shall notify the Board in writing prior to any change in business name, continuing education coordinator, ~~address~~ address, or business telephone number.

(c) Course sponsors ~~must~~ shall obtain advance approval from the Board for any changes to be made in the content or number of hours for ~~courses; courses, provided that~~ However, changes in course content ~~which are solely 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0808

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 6, please insert a comma after "staff"*

*And I take it the request will be made to ensure compliance with the rules?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020



1 21 NCAC 04B .0808 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

2  
3 **21 NCAC 04B .0808 COURSE RECORDS**

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

7  
8 *History Note: Authority G.S. 85B-4(e1);*  
9 *Temporary Adoption Eff. January 1, 2000;*  
10 *Eff. April 1, 2001;*  
11 *Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0809

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*On line 7, can the application not be obtained from the Board's website? If so, why not state "... form prescribed by the Board, which may be obtained from the Board using the information in Rule .0102 of this Chapter."?*

*And I take it the form is being prescribed within the contents of this Rule?*

*On line 8, consider replacing "calls for" with "requires"*

*On lines 9-10, what is this information? Who determines if it is "necessary"?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0809 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

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

Board approval of all continuing education course sponsors ~~expires~~ shall expire on the next June 30 following the date of issuance. ~~In order to assure continuous approval, a~~ A completed renewal application prescribed by the ~~Board, Board must~~ shall be submitted to the Board annually on or before April 30. Applicants for renewal as a continuing education course sponsor may obtain the required form upon request to the Board. The application form calls for the name, address, and other contact information for the sponsor, a list of any new instructors, a description of each new instructor's education and experience, and other information necessary to determine the fitness of the sponsor and instructors for approval. 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 ~~guidelines~~ requirements for renewal and ~~must meet the criteria for original approval as set forth in Rule .0802.~~ 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0810

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*So that I'm clear – the actions by the Board in (a) and (b) will occur in a hearing?*

*In (a)(1), line 8, please replace "or" with "of"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0810 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**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 ~~such~~ approval;
- (2) The course sponsor or any ~~official or~~ instructor in the employ of the course sponsor has refused or failed to comply with any of the provisions of ~~this Rule; Section .0800 or these Rules;~~
- (3) The course sponsor or any ~~official or~~ 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 ~~a manner that demonstrates possession of~~ accordance with the teaching skills described in Rule .0815 of this Section; or
- (5) Any court of competent jurisdiction has found the course ~~sponsor sponsor, or any official or instructor~~ 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~~ 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. May 1, 2020.*

21 NCAC 04B .0811 is repealed through readoption as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0811      MINIMUM CLASS SIZE**

~~The minimum class size for any session of an approved continuing education course shall be five students, as determined by the sponsor's preregistration records. The minimum class size requirement shall not apply to class sessions when the sponsor notifies the Board in writing of the scheduled class session and advertises in advance the scheduled class session in the general auction community where the class session is to be held. A sponsor who conducts a class session for fewer than five students shall submit with the reports verifying completion of the course a copy of the advertisement for the class session plus a statement or other documentation indicating the date of the advertisement and the advertising method.~~

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

21 NCAC 04B .0812 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**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

~~10 minute break.~~ break of up to 10 minutes.

(b) Sponsors ~~must~~ 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 ~~must~~ shall notify the Board of any schedule changes or course cancellations at least five days prior to the original scheduled course date. If a ~~last-minute~~ change or cancellation is necessary five or less days before the course date due to ~~some~~ weather, staffing, or other unforeseen circumstance, then notice shall be provided to the Board as soon as ~~possible.~~ 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. May 1, 2020.*

21 NCAC 04B .0813 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0813      ADVERTISING; PROVIDING COURSE INFORMATION**

(a) Course sponsors ~~must~~ shall not utilize advertising of any type that is false or ~~misleading~~ misleading. ~~in any respect. If the number of continuing education credit hours awarded by the Board for an approved course is less than the number of scheduled hours for the course, any course advertisement or promotional materials which indicate that the course is approved for mandatory auctioneer continuing education credit in North Carolina must specify the number of continuing education credit hours awarded by the Board for the course. 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~~ brochures, or similar materials utilized to promote a continuing education course ~~must~~ shall ~~clearly describe~~ state the fee to be charged and the sponsor's cancellation and fee refund policies.

(c) Upon course approval, course sponsors ~~may~~ 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 ~~Auctioneer Licensing~~ Board for continuing education credit in the amount of \_\_ hours. This course is not sponsored by the Board.

(d) Course sponsors of any course ~~must~~, shall provide to any prospective student, upon request, ~~provide any prospective student a description of the course content content. sufficient to give the prospective student a general understanding of the instruction to be provided in the course.~~

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



## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0814

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (a), line 5, please replace "which" with "that"*

*In (b), line 8, is "electronic means" known to your regulated public?*

*On line 9, do you need to retain "appropriate"?*

*Also on line 9, I believe the correct cross-reference is now Rule .0502(f).*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0814 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0814 CONDUCT OF CLASSES**

(a) All class sessions of approved continuing education courses must shall be open to all licensees on a first-come/first-served ~~basis; basis. provided that the~~ The sponsor of a course which has ~~a bona fide~~ 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 ~~electronically~~ by electronic means ~~must~~ shall be conducted in a facility that provides an appropriate learning environment as set forth in 21 NCAC 04B .0502(e).

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

*Temporary Adoption Eff. January 1, 2000;*

*Eff. April 1, 2001;*

*Readopted Eff. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0815

### **DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (b), line 7, what is a "professional and courteous manner"?*

*In (b)(1), line 11, what is "accurate and relevant information"? Who determines this?*

*In (b)(2), what do you mean by having physical appearance used to present visual images?*

*In (b)(3), line 14, please define or delete "thorough, accurate, logical"*

*And please insert a comma after "organized"*

*On line 15, understandable to whom? The students?*

*In (b)(7), line 24, define "positive manner" and who determines whether this "encourages" the students to learn?*

*On line 25, how will this avoid offending their sensibilities? Do you mean "intentionally" offending them?*

*On line 26, do you need to retain "personal"?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0815 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

### **21 NCAC 04B .0815 INSTRUCTOR CONDUCT AND PERFORMANCE**

(a) ~~Instructors~~ All instructors must shall assure ensure that class sessions are ~~commenced in a timely manner and are~~ conducted at the scheduled time and for the full amount of time that is scheduled. ~~Instructors must also assure that~~ each student is furnished student materials that directly support the topic matter being taught.

(b) Instructors ~~must shall~~ conduct themselves in a professional and courteous manner when performing their instructional duties and ~~must shall conduct classes in a manner that demonstrates~~ demonstrate a mastery of the following basic teaching skills: the ability to:

- (1) ~~The ability to communicate effectively through speech, including the ability to speak clearly using generally accepted grammar and vocabulary. and present accurate and relevant information;~~
- (2) ~~The ability to present an effective visual image images~~ to a class by appearance and physical mannerisms. mannerisms;
- (3) ~~The ability to~~ present instruction in a thorough, accurate, logical, ~~orderly~~ organized and understandable manner, to utilize illustrative ~~examples~~ examples, and to respond to questions from ~~students. students;~~
- (4) ~~The ability to effectively utilize varied instructional techniques in addition to straight lecture, such as class discussion, role playing or other techniques. 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) ~~The ability to effectively utilize instructional aids to enhance learning. aids;~~
- (6) ~~The ability to~~ maintain a conducive learning environment ~~conducive to learning~~ and ~~effective~~ control of a ~~class. class; and~~
- (7) ~~The ability to~~ interact with adult students in a positive manner that encourages students to learn, that demonstrates an understanding of varied student backgrounds, that avoids offending the sensibilities of students, and that avoids personal criticism of any other person, ~~agency~~ agency, or organization.

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

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0816

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In the Submission for Permanent Rule form, Box 2, you state the name is "Monitoring and Attendance." This is not the name on the Rule. If this is a typographical error on the form, please resubmit it with the correct name. If you intended to rename the Rule, please resubmit the rule with the new name.*

*In the Rule:*

*In (a), line 4, please change "assure" to "ensure"*

*In (b), line 13, who determines what is "adequate" here? Is it the sponsor or the Board?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0816 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0816      MONITORING ATTENDANCE**

(a) Sponsors and instructors ~~must~~ shall ~~strictly~~ monitor attendance for the duration of each class session to assure that all students reported as ~~satisfactorily~~ completing a course according to these Rules have attended at least 90 percent of the scheduled classroom hours. ~~Students~~ Sponsors shall not ~~be admitted~~ admit students to a class session after 10 percent of the scheduled classroom hours have been conducted. ~~Students shall not be allowed to sign a course completion card, shall not be issued a course completion certificate, and shall not be reported to the Board as having completed a course unless the student fully satisfies the attendance requirement. 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 ~~may~~ shall not make any exceptions to the attendance requirement for any reason.

(b) Sponsors ~~must~~ shall ~~assure that~~ provide adequate personnel, in addition to the instructor, ~~are present~~ during all class sessions to assist the instructor in monitoring attendance and performing the ~~necessary~~ 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. May 1, 2020.*

21 NCAC 04B .0817 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**21 NCAC 04B .0817 STUDENT PARTICIPATION STANDARDS**

~~(a) In addition to requiring student compliance with the attendance requirement, sponsors and instructors shall require that students~~ 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 ~~which that~~ are ~~distracting~~ disruptive to other students or the instructor, or ~~which that~~ otherwise disrupt the ~~orderly~~ conduct of a class.

(3) A student shall comply with all instructions provided by the sponsor or instructor related to providing information needed to ~~properly~~ report completion of a course by the student.

(b) Instructors and sponsors may dismiss from a class ~~session~~ any student who fails to comply with the student participation standards ~~prescribed~~ 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 ~~which 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0818

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (d), line 15, please make "rules" in "rules of this Section" lowercase. As this was published correctly in the Register, do not show it as a change – simply do it.*

*On line 16, I believe you deleted the requirement for a minimum class size by repealing Rule .0811. Please either confirm you still have this requirement elsewhere in your rules or delete the phrase here. And if you do still have this requirement, please insert a comma after "size"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020



21 NCAC 04B .0818 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**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, sponsor instructor, or some other party; however, instructor.~~ class 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 ~~must~~ shall administer course cancellation and fee refund policies in a consistent and non-discriminatory manner. In the event a scheduled course is canceled, ~~reasonable efforts must be made~~ the course sponsor shall attempt to notify preregistered students of the cancellation and all prepaid fees received from such preregistered students ~~must~~ 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. ~~Such~~ 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 ~~these Rules~~ the Rules of this Section concerning the conduct of continuing education courses, such as rules addressing classroom facilities, minimum class size 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. May 1, 2020.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Auctioneer Licensing Board

RULE CITATION: 21 NCAC 04B .0819

**DEADLINE FOR RECEIPT: Wednesday, April 8, 2020**

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

*In (d)(1)(G), line 21, please insert an "or" at the end of the line.*

*In (d)(1)(H), line 22, I suggest deleting the semicolon after "Sales" and the "or" and just having a period after "Sales."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: March 25, 2020

21 NCAC 04B .0819 is readopted as published in 34:10 NCR, pages 839 - 856, as follows:

**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 ~~apply to the Board for~~ submit evidence of alternative compliance.

(b) A written ~~request for~~ submission of alternative compliance shall be received by the Board by May 15 of the year ~~in which~~ when the requisite hours of instruction are to be completed.

(c) ~~If approved, the~~ The course of instruction submitted as alternative compliance shall be completed prior to license ~~renewal~~ renewal, ~~and shall be exempt from the late fee.~~

(d) Alternative compliance shall include:

(1) Academic courses at a community college, junior college, ~~or college~~ college, or university ~~located in this State and accredited by the Southern Association of Colleges and Schools~~ 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;

(H) Sales; or

~~(I) Enhancing Personal or Professional Skills.~~

(2) Completion of any ~~non-real~~ real estate appraisal course ~~with evidence of successful completion; and accredited by a state real estate licensing body.~~

~~(3) Publication of an article in professional journal of general circulation among the membership of the profession.~~

*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. May 1, 2020.*