

HOUSE BILL NO. 1039

Introduced by

Legislative Council

(Public Services Committee)

1 A BILL for an Act to amend and reenact sections 51-05.1-01.1 and 51-05.1-04.1 of the North
2 Dakota Century Code, relating to insurance requirements for auctioneers and auction clerks.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 51-05.1-01.1 of the North Dakota Century Code
5 is amended and reenacted as follows:

6 **51-05.1-01.1. Auctioneer's or clerk's license - ~~Clerk's license~~ - Fees - Bonds -**
7 **Insurance.**

- 8 1. The initial application for an annual auctioneer's or clerk's license must be in
9 writing, verified, and must show the name, residence, and address of the applicant.
10 An application must be filed at least ten days ~~prior to~~ before the first auction sale
11 the applicant is to conduct or clerk. Application for renewal of an annual license
12 must be on forms designated by the commission. The fee for the annual license or
13 renewal is thirty-five dollars and must accompany the application. The name and
14 license number must appear on all advertising of sales conducted by an auctioneer
15 or clerk. Renewals that are not received by January thirty-first must be assessed
16 an additional twenty-five dollar fee.
- 17 2. Before a license is issued to an auctioneer or auction clerk, the applicant must file
18 a corporate surety bond with the commission. This bond must provide annual
19 coverage of not less than five thousand dollars for an auctioneer or ten thousand
20 dollars for an auction clerk, must run to the state of North Dakota, and must be for
21 the benefit of any person injured by the licensee's improper conduct. Bonds may
22 not be canceled on less than sixty days' written notice to the commission. The size
23 of the licensee's bond must be clearly and prominently stated in all contracts with
24 sellers.

1 3. In lieu of a bond under subsection 2, an auctioneer or auction clerk may deposit
2 with the commission evidence of the existence of public liability insurance policy
3 and an errors and omissions insurance policy covering all activities contemplated
4 under this chapter. Each policy must be with a licensed insurance carrier and be in
5 the amount of at least one hundred thousand dollars per occurrence and five
6 hundred thousand dollars annual aggregate limit. A policy may not be canceled on
7 less than sixty days written notice to the commission.

8 **SECTION 2. AMENDMENT.** Section 51-05.1-04.1 of the North Dakota Century Code
9 is amended and reenacted as follows:

10 **51-05.1-04.1. Written contracts.** An auctioneer may not sell the property of another at
11 auction without a prior written contract with the seller which sets forth the terms and conditions
12 upon which the auctioneer will sell the property. A similar contract governing the activities of
13 the auction clerk is required between the auction clerk and the seller. The licensee must retain
14 a copy of each contract for at least two years after the auction. This section does not apply to
15 consignment sales where the value of the seller's property is less than five hundred dollars or to
16 livestock markets. The contract must contain:

- 17 1. The licensee's name, trade or business name, state license number, business
18 address, and business telephone number.
- 19 2. A general description of the property to be sold at auction, any restrictions, and a
20 statement identifying whether or not the licensee is authorized to purchase at the
21 auction.
- 22 3. A description of the services to be provided and the consideration for the services.
23 The description must state which party is responsible for advertising and other
24 expenses.
- 25 4. The date or dates when the items will be sold at auction.
- 26 5. A disclosure of the amount of bond that the licensee has on file with the
27 commission and the commission's address and phone number or the amount of
28 public liability and errors and omissions coverage and the name of the insurer.