

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1191

Page 1, line 1, remove "to create and enact a new chapter to title 43 of the North Dakota Century"

Page 1, line 2, remove "Code, relating to regulation of auctioneers and clerks;"

Page 1, line 3, replace the second "section" with "sections"

Page 1, line 3, after "49-07-01.1" insert ", 51-05.1-01, 51-05.1-01.2, 51-05.1-04.1, and 51-05.1-05"

Page 1, line 4, after "licenses" insert ", the registration of auctioneers,"

Page 1, line 4, replace "chapter 51-05.1" with "sections 51-05.1-01.1, 51-05.1-02, 51-05.1-02.1, and 51-05.1-03"

Page 1, line 5, remove "to provide a penalty; to"

Page 1, line 6, replace "provide an appropriation; and to provide for application" with "and to provide an effective date"

Page 9, remove lines 1 through 30

Page 10, remove lines 1 through 31

Page 11, remove lines 1 through 12

Page 11, after line 26, insert:

**"SECTION 3. AMENDMENT.** Section 51-05.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**51-05.1-01. Auctioneering or clerking without a license prohibited-Registration.**

~~No~~A person may ~~not~~ conduct a sale as an auctioneer or clerk unless licensed by the public service commission registered with the secretary of state.

**SECTION 4. AMENDMENT.** Section 51-05.1-01.2 of the North Dakota Century Code is amended and reenacted as follows:

**51-05.1-01.2. Exemptions.**

~~A license~~Registration under this chapter is not required for the following:

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

~~A bond is not required for a federally insured financial institution to clerk a sale. Persons exempt from licensing or bonding under this section shall comply with all other provisions of this chapter.~~

**SECTION 5. AMENDMENT.** Section 51-05.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**51-05.1-04.1. Written contracts.**

An auctioneer may not sell the property of another at auction without a prior written contract with the seller which sets forth the terms and conditions upon which the auctioneer will sell the property. A similar contract governing the activities of the auction clerk is required between the auction clerk and the seller. The licensee ~~must~~ auctioneer and clerk shall retain a copy of each contract for at least two years after the auction. This section does not apply to consignment sales when the value of the seller's property is less than five hundred dollars or to livestock markets. The contract must contain:

1. ~~The licensee's~~ the auctioneer's or clerk's name, trade or business name, state license number, business address, and business telephone number.
2. A general description of the property to be sold at auction, any restrictions, and a statement identifying whether ~~or not the licensee~~ the auctioneer or clerk is authorized to purchase at the auction.
3. A description of the services to be provided and the consideration for the services. The description must state which party is responsible for advertising and other expenses.
4. The date or dates when the items will be sold at auction.
5. ~~A disclosure of the amount of bond that the licensee has on file with the commission and the commission's address and telephone number.~~

**SECTION 6. AMENDMENT.** Section 51-05.1-05 of the North Dakota Century Code is amended and reenacted as follows:

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

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

~~duly authorized agents at all times during regular business hours at the clerk's usual place of business."~~

Page 11, line 27, replace "Chapter 51-05.1" with "Sections 51-05.1-01.1, 51-05.1-02, 51-05.1-02.1, and 51-05.1-03"

Page 11, line 27, replace "is" with "are"

Page 11, remove lines 28 through 30

Page 12, replace lines 1 through 5 with:

**"SECTION 8. EFFECTIVE DATE.** This Act becomes effective on January 1, 2024."

Renumber accordingly