

1977 WL 37441 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 7, 1977

*1 Mr. William M. Yonce
Secretary-Treasurer
South Carolina Auctioneer Commission
Post Office Box 4867
Florence, SC 29501

Dear Mr. Yonce:

You have requested advice as to whether auction houses are required to be licensed by the new South Carolina Auctioneer law (Act 111 of 1977). After studying the law closely, I have come to the conclusion that the law needs to be amended to require that auction houses be licensed.

Auctioneer is defined as any person who conducts or offers his service to conduct auctions. Consideration was given to interpreting the word 'person' to include sole proprietorships, partnerships, and corporations but the language of the rest of the act does not lend itself to that interpretation. Section 6, for example, requires that a person must be 18 years of age and a resident of this State. Section 8 requires that the person must be an apprentice auctioneer or have 80 hours of classroom instruction and pass an examination before he can receive an auctioneer license. Both of these sections indicate that the General Assembly did not intend the term person to be interpreted to include sole proprietorships, partnerships or corporations.

Section 11 provides that a partnership or corporation, upon application may be designated a 'licensed auctioneer partnership' or a 'licensed auctioneer corporation' if one or more partners or officers, respectively, is licensed as an auctioneer. It should be noted that this section does not require that these partnerships or corporations be licensed, it only allows certain businesses to advertise as licensed auctioneer partnerships or corporations. The purpose of this section is to allow the public to become familiar with those businesses which are regulated and subject to penalties for any violation of this act or any regulations of the commission. Furthermore, if this section is interpreted as requiring licensure of auctioneer businesses, it would restrict those licenses to only those businesses which have partners or officers who are licensed auctioneers and it would omit the licensing of sole proprietorships.

This interpretation is supported by the experience of the North Carolina Auctioneer Commission. As you know the South Carolina law is patterned almost directly upon the North Carolina law. That state has had to amend its statute to bring auction houses within the licensing provision of their law. Unfortunately, the South Carolina Legislature was either unaware of the North Carolina change or intended that auction houses not be regulated.

This act is a consumer oriented statute which has as one of its primary goals the protection of the public when dealing with auctioneers. To insure that the public is fully protected, it is my personal opinion that auction houses should also be licensed. I am anxious to work with the Board to draft an amendment that will accomplish this goal.

Sincerely yours,

Richard D. Bybee
Staff Attorney

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