

**Georgia Occupational Regulation Review Council  
Georgia Auctioneers Commission Meeting Minutes  
206 Washington St SW, Atlanta, GA 30334  
June 19, 2018 – 10:00am**

The Georgia Occupational Regulation Review Council Wednesday, July 19, 2018. The following members were present:

**Board Members Present**

Ms. Anna Wrigley Miller, Chair, OPB  
Rep. Brooks Coleman, House of Representatives  
Sen. Mike Dugan, Senate  
Ms. Candice Broce, Office of Secretary of State  
Mr. Chris Rustin, Department of Health  
Mr. Daniel Duncan, Department of Agriculture  
Ms. Kelly Dudley, State Accounting Office  
Mr. Mitch Robins, Department of Revenue  
Mr. Walter Rabon, Department of Natural Resources

**Administrative Staff Present**

Dale Brantley, OPB  
Austin Dyer, OPB

**Visitors Present**

Mr. Larry Benton, Jr.  
Ms. Lisa Durden  
Mr. Kim Hagan

**Call to Order:** Ms. Wrigley Miller established a quorum and called the meeting to order at 10:00 a.m.

**OPEN SESSION**

**Agenda**           The Board accepted the agenda as presented.

**11:00 a.m. Meeting**

**1. Introduction of members, GORRC process and schedule**

**2. Overview of the Georgia Auctioneers Commission**

Larry “Bo” Benton, Jr., Georgia Auctioneer Commission member was present to answer any questions the Council had about the Commission. Ms. Wrigley Miller asked for a brief explanation of the profession. Mr. Benton described the typical education a licensed auctioneer might receive at an approved auctioneering school. He stated that auctioneers are required to meet certain education hour requirements and are instructed in a wide variety of subjects including the auctioneer’s chant, ethics, and escrow account management. Ms. Wrigley Miller asked for a description of continuing education hours and Mr. Benton responded that the continuing education programs cover quite a few auction related subjects in order to cater to the wide variety of types of auctioneers such as livestock, real estate, internet auctions, etc.

**3. Open Public Comment**

Ms. Wrigley Miller asked for clarification on the current regulation requirements related to internet auctions and Mr. Benton replied that it was unclear if the Commission’s current enabling legislation sufficiently addresses internet auctions since it was written so long ago. He also clarified that the Commission has been researching this matter and attempting to address it for several years now. Ms. Dudley asked for clarification on whether or not an out-of-state auctioneer doing business in Georgia is regulated by Georgia in any way. Mr. Benton stated that he did not believe they could be regulated by the Commission and that the Commission was interested in finding a way to regulate businesses located in the state and doing business online and businesses located out of state that are conducting business involving property within Georgia.

Rep. Coleman provided a brief description of how auctioneering has changed over time during his career as an auctioneer. He stated his opinion that the Commission has done a lot of good work to help clean up the profession over the years and that dishonest individuals practicing auctioneering are problematic to the Georgia public and could continue to be a significant problem if left unchecked. He stated that the issues that related to internet auctions are something that he believes must be seriously addressed. Rep. Coleman continued to attest to the importance of continuing education and the benefits that regulation provided to the auctioneering profession and to the Georgia public. Mr. Benton agreed and provided an example of estate auctions and how important it is to regulate those who will be interacting with the family members of the recently deceased.

Sen. Dugan stated that the Board may have an argument for regulated out of state businesses conducting online business involving Georgia property, especially from the Supreme Court's new sales tax decision. Mr. Burton stated that the Attorney General's Office has not advised the Commission that it has the authority to require out of state online businesses to be licensed so the Commission does not currently require it.

Sen. Dugan asked if EBay is considered an auction business and Mr. Burton responded that it is a software platform where auctions take place, but it is not itself considered to be an auction business. Rep. Coleman stated that it is very important that regulation of online auctions is looked into since the industry is rapidly moving to online sales. Mr. Burton stated that the Commission and the Attorney General's Office are working together to try and figure out how to properly regulate online auctions. Ms. Wrigley Miller asked if and how other states are addressing the regulation of online auctions. Mr. Burton stated that a few had and that he believed Tennessee recently passed legislation. He then stated that the distinction the Commission is considering is between an auction with a hard cutoff time where no more bids will be accepted (such as the auctions on sites like EBay) and a "live auction" where an automatic time extension occurs after every bid within a minimum timeframe. He stated that a live auction is something that the Commission is considering attempting to regulate. Rep. Coleman provided clarification and agreed with Mr. Burton statement.

Mr. Burton mentioned that around 15 years ago EBay stores had license requirements (the business selling on EBay, not EBay itself) but the requirement was challenged and now there are no more requirements. Rep. Coleman mentioned that it was a difficult industry to regulate because there are various professions that conduct auction like activities (real estate agents, lawyers, live-stock owners) who often disagree with laws or rules that would require them to be licensed. Mr. Burton agreed and stated that it was important to ensure that regulations adapt to a changing industry without taking away a livelihood or adding licensing requirements to an existing honest profession.

Ms. Broce asked if there was a specific piece of language in the Commission's enabling legislation that the Attorney General's Office had an issue with concerning the regulation of online auctions. Mr. Burton stated that he believed it was due to the fact that online auctions or the internet is not referenced at all in the current language and that the current wording may be considered too ambiguous to extend regulation to online auctions conducted by out-of-state businesses and that he could get more specific information from the Attorney General's Office if necessary.

Rep. Coleman expressed concern with companies using charity auction loopholes in order to get licensing requirements. Mr. Burton agreed and also expressed concern toward out-of-state unlicensed individuals who lack familiarity with the Georgia tax code.

Ms. Wrigley Miller asked if the Commission could provide specific examples of instances where the Georgia public was harmed by the practice of unlicensed individuals. Mr. Burton said that the Commission could come up with this information and that most of this harm is probably occurring with out-of-state, unlicensed individuals and especially online. Mr. Hagan stated that prior to this meeting he received a communication from a Canadian businessman who hires laborers in Georgia in order to conduct auctions. Mr. Hagan stated that the Canadian businessman would like the Commission to be sunset and abolished due to his belief that his company should not be regulated by the Commission. Mr. Hagan stated that he disagreed with this idea and that the Georgia public needs a way to hold out-of-state companies accountable.

Ms. Wrigley Miller asked if background checks were part of the licensing process and Mr. Hagan responded that they were. Ms. Dudley asked if there are individuals who audit or observe auctioneers and auction businesses in order to ensure compliance. Mr. Burton replied that there used to be an investigator who would perform these actions but that position no longer exists. Rep. Coleman stated that this was due to budget cuts that were made during the recession and that the positions were never refunded at the Secretary of State's Office. Ms. Broce stated that there are general investigators that are shared by multiple regulatory entities, there is no longer a position designated for specifically investigating auctioneers. She also said that due to demand these general pool investigators typically only react to complaints.

Mr. Rustin asked if financial background checks were included in the background checks conducted by the Commission. Mr. Hagan responded that financial background checks were not done, but escrow accounts are required in order to protect the consumer. He also stated that the Commission is concerned with shifting financial regulatory responsibilities from the individual auctioneers to the auction companies since the companies will often have more to do with any issues associated with finances. Mr. Burton agreed with this and clarified that currently licensed auctioneers end up receiving the brunt of most punishments instead of the auction company and that the Commission is looking into whether or not this is entirely appropriate and whether or not the Commission could look into cleaning up or simplifying the way their current licensing structure functions. Mr. Hagan stressed that shifting additional responsibility from the auctioneer to the business is important to protect consumers from harm.

Ms. Wrigley Miller asked if there was a standard for auctioneer fees and Mr. Benton stated that there were not. Rep. Coleman and Mr. Hagan provided additional information on industry standards for charges. Mr. Rustin asked for clarification on whether or not auctioneers were supposed to certify that the goods they are auctioning are authentic. Mr. Benton and Mr. Hagan stated that these things are covered in auctioneering schools and continuing education programs provided by the Commission.

Mr. Robins asked if the Commission believed the fines currently imposed on “bad actor” auctioneers were sufficient. Mr. Benton stated that they may be for smaller auctioneers but not for some of the auctioneers involved in larger transactions. Sen. Dugan asked for some examples fineable offenses and Mr. Benton and Mr. Hagan provided a few.

Rep. Coleman and Mr. Hagan began a discussion about how much potential and actual public harm existed before the Commission was formed and at full strength and stated that abolishing the Commission would reintroduce this potential and actual public harm. Mr. Benton agreed and stated that the Board was ready to take on many of the new issues facing the profession. Ms. Durden provided a financial breakdown on expenditures that were conducted on behalf of the Commission and stated that the recovery fee fund had a sufficient amount of funds in it.

### **Closing Discussion**

#### **1. Announcement of Next Meeting**

The next meeting will be on Wednesday, August 8, 2018, Capitol Mezzanine 1, at 10:00am.

**Adjournment** No additional business was discussed and the meeting was adjourned at 11:04am.

**Minutes recorded by:** Austin Dyer, OPB