

OCCUPATIONAL CODE (EXCERPT)
Act 299 of 1980

339.2913 Place of business; contract; posting of registration; establishment of trust account; deposits; payment advances; commingling; requirements; disbursements; records; ledgers and journals.

Sec. 2913. (1) A registered auctioneer shall maintain a regular place of business in this state. If more than 1 place of business is maintained, the department shall issue a duplicate registration at no additional cost. A regular place of business does not include a location used only as a warehouse. Records required to be kept under this article shall be kept at that regular place of business.

(2) A registered auctioneer shall not conduct an auction unless a written contract is executed between the person desiring auction services and the registered auctioneer. A registrant shall keep a copy of the contract as part of his or her records and, upon request, make them available to the department for inspection or audit, or both, during normal business hours.

(3) A registrant under this article shall conspicuously post at the regular place of business a copy of the registration issued under this article.

(4) A registrant under this article shall establish a trust account, or other segregated type of account, in the manner described in this section. The registrant shall deposit into the trust account all checks, drafts, negotiable instruments, and cash tendered by 1 or more buyers for the payment of an item sold by auction. The registrant shall make a disbursement relative to a sale by auction through that trust account in the time period and manner described in this section.

(5) A registrant shall not permit an advance payment of money by a customer to be deposited in the registrant's business or personal account or to be commingled in any way with funds belonging to the registrant, except as provided in this section. The registrant shall deposit customer money into a trust account until the transaction involved is consummated or terminated, within 2 banking days after the auction transaction but not later than 5 days after its receipt.

(6) The trust account is subject to the following requirements:

(a) May be an interest bearing account maintained in a depository recognized by the department. Interest accrued shall be allocated as provided for in the contract between the parties.

(b) Shall designate the registrant as the trustee or custodian.

(c) Shall provide for withdrawal of money without previous notice and shall not be encumbered in any manner.

(d) Shall not contain any money of the registrant except for an amount sufficient to pay service charges on the account or to maintain the account when customer money is not on deposit, that amount not to exceed \$500.00.

(7) Disbursements from the trust account shall be made only for the following purposes:

(a) Payment as a result of the sale of an item by the registrant pursuant to the contract.

(b) Refund of an amount to the customer upon termination of the transaction.

(c) Payment to the registrant of a commission and documented and approved expenses following the consummation of a transaction upon which a commission is payable to the registrant.

(8) The registrant shall keep records of money deposited in the trust account. The records shall show all of the following:

(a) The date of the receipt of money from a customer, the amount received, and the name of the customer on whose behalf the money was paid.

(b) The purpose for which the money was paid.

(c) The date the money was deposited in the trust account.

(d) The date of disbursement of the money, the purpose of the withdrawal, and the name of the person to whom the money was paid upon disbursement.

(e) Any other pertinent information regarding the transaction.

(9) The department and the board may, upon notice given to a registrant, inspect or audit, or both, the records or other relevant documents required to be kept pursuant to this section.

(10) A registrant shall create, electronically or otherwise, a cash receipts and disbursements journal and ledgers. The ledgers are to be maintained separately for each transaction and shall contain the following:

(a) Names of both parties.

(b) Postings of all transactions.

(c) Date of each transaction, in chronological sequence.

(d) Amount received or disbursed, or both; name of party giving money; name of principal or payee; and purpose of disbursements.

- (e) Check numbers of disbursements.
 - (f) A running balance after each receipt and disbursement.
 - (g) Description of property being sold.
- (11) A registrant shall create, electronically or otherwise, and maintain a personal money ledger to account for personal money maintained in the trust account. The personal money ledger shall include the following:
- (a) Chronological sequence of funds received and disbursed.
 - (b) Running balance after each receipt and disbursement.
 - (c) Receipt postings to include date of receipt, date of deposit, name of party giving money, name of principal, and amount received.
 - (d) Disbursement postings to include the date; check number, if applicable; payee; amount; purpose; and a running balance after each receipt and disbursement.
- (12) The ledgers and journals, as well as trust account bank statements, deposit tickets, and copies of deposit receipts, canceled checks, and voided checks shall be maintained for not less than 3 years from the date of inception of the records or not less than 3 years from the consummation or termination of the transaction, whichever is later.
- (13) A registrant under this article shall maintain written records of each auction sale for a period of not less than 3 years from the date of the auction sale or not less than 3 years from consummation or termination of the transaction, whichever is later. The records shall include, but not be limited to, all of the following:
- (a) Consignment receipts.
 - (b) Bidder registrations.
 - (c) Documents relating to final settlements with consignors.

History: Add. 2006, Act 489, Eff. Oct. 1, 2007.

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