

### **330.230 Auction advertising.**

- (1) Any advertising pertaining to an auction shall include the name of the managing principal auctioneer for the auction and indicate that he or she is an auctioneer, except that any advertising pertaining to an auction conducted at an auction house operated by a licensed auction house operator shall include the name of the auction house operator and indicate that he or she is an auction house operator or "AHO." The advertising requirements in this subsection shall not apply to directional signs if a sign with the name of the managing principal auctioneer for the auction or the auction house operator is placed so that it can be easily observed and clearly read by anyone entering the auction site.
- (2) The existence and amount of any buyer's fee or buyer's premium shall be clearly disclosed in all terms and conditions included in any advertisements for a particular auction and in all terms and conditions presented or made available prior to the start of a particular auction.
- (3)
  - (a) An auction shall not be advertised as "Court Ordered" or use similar wording implying court action unless:
    1. At least seventy-five percent (75%) of the items or lots in the auction are being offered pursuant to one (1) or more federal, state, or local court orders; and
    2. The items or lots were clearly not purchased or attained for the purpose of resale at auction.
  - (b) The advertising shall clearly contain an explanation of the court order including identification of the court.
  - (c) If less than one hundred percent (100%) of the items or lots being offered at the auction are pursuant to one (1) or more court orders, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.
  - (d) This subsection shall not prohibit clear, nonmisleading advertising of the inclusion of specific real or personal property being offered pursuant to a federal, state, or local court order in an auction if that real or personal property is offered pursuant to a federal, state, or local court order and was clearly not purchased or attained for the purpose of resale at auction.
- (4)
  - (a) An auction shall not be advertised as a "Bankruptcy Auction" or "Items from Bankruptcy" or use similar wording or any combination thereof unless:
    1. The auction consists of at least seventy-five percent (75%) of items or lots to be offered for one (1) or more open and working bankruptcies under the jurisdiction of the United States Bankruptcy Court;
    2. The items or lots were clearly not purchased or attained for the purpose of resale at auction; and
    3. The advertising clearly includes the United States Bankruptcy Court case number or numbers.

- (b) If less than one hundred percent (100%) of the items or lots being offered at the auction are for one (1) or more bankruptcies, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.
  - (c) This subsection shall not prohibit clear, nonmisleading advertising of the inclusion of specific real or personal property being offered for a bankruptcy in an auction if that real or personal property is being offered for one (1) or more open and working bankruptcies under the jurisdiction of the United States Bankruptcy Court, was not purchased or attained for the purpose of resale at auction, and the advertising clearly includes the United States Bankruptcy Court case number or numbers.
- (5) (a) An auction shall not be advertised as a "Seized Property Auction," "Confiscated Property Auction," or "Forfeiture Property Auction" or utilize similar wording or any combination thereof implying governmental action unless:
- 1. The auction contains at least seventy-five percent (75%) of the items or lots to be offered pursuant to one (1) or more federal, state, or local governmental actions in which the real or personal property is being offered directly for the federal, state, or local governmental entity;
  - 2. The items or lots were clearly not purchased or attained for the purpose of resale at auction; and
  - 3. The advertising clearly contains an explanation of the governmental action, including identification of the governmental entity.
- (b) If less than one hundred percent (100%) of the items or lots being offered at the auction are from one (1) or more governmental actions, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.
- (c) This subsection shall not prohibit clear, nonmisleading advertising of the inclusion of specific real or personal property being offered pursuant to a federal, state, or local governmental action in an auction if the real or personal property is offered directly for a federal, state, or local governmental entity and was clearly not purchased or attained for the purpose of resale at auction.
- (6) (a) An auction shall not be advertised as a "Liquidation Auction," "Surplus Auction," "Inventory Reduction Auction," or "Going Out of Business Auction" or use similar wording or any combination thereof unless:
- 1. The auction contains at least seventy-five percent (75%) of the items or lots to be offered for one (1) or more liquidation, surplus, inventory reduction, or going out of business situations in which the real or personal property belongs to a company or other business entity and is being offered as "out of stock"; and
  - 2. The items or lots were clearly not purchased or attained for the purpose of resale at auction.
- (b) If less than one hundred percent (100%) of the items or lots being offered at the auction are from one (1) or more liquidation, surplus, inventory reduction,

or going out of business situations, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.

- (c) This subsection shall not prohibit clear, nonmisleading advertising of the inclusion of specific real or personal property being offered for a liquidation, surplus, inventory reduction, or going out of business situation, or similar wording or any combination thereof, in an auction if the real or personal property is being offered for a liquidation, surplus, inventory reduction, or going out of business situation in which the real or personal property belongs to a company or other business entity, is being offered as "out of stock," and was clearly not purchased or attained for the purpose of resale at auction.
- (7) (a) An auction shall not be advertised as an "Estate Auction," "Estate Settlement," or "To Settle the Estate of ... Auction" or use similar wording or any combination thereof unless:
- 1. At least seventy-five percent (75%) of the items or lots in the auction are being offered for one (1) or more estates in which the real or personal property belongs to the estate of one (1) or more deceased persons and is being offered by the direction and authority of the authorized executor or administrator, or by court order, or by the direction and authority of one (1) or more direct heirs; and
  - 2. The items or lots were clearly not purchased or attained for the purpose of resale at auction.
- (b) If less than one hundred percent (100%) of the items or lots being offered at the auction are from one (1) or more estates, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.
- (c) This subsection shall not prohibit clear, nonmisleading advertising of the inclusion of real or personal property offered for an estate in an auction if the real or personal property is being offered for an estate as set forth in this subsection.
- (8) (a) An auction shall not be advertised as a "Living Estate Auction" or "To Settle the Living Estate of ... Auction" or use similar wording or any combination thereof unless:
- 1. At least seventy-five percent (75%) of the items or lots in the auction are being offered for one (1) or more living estates in which the real or personal property belongs to a household that is in transition due to a life-changing situation, including but not limited to one (1) or more members of the household moving into a retirement home, nursing home, or assisted living home or combining the household with another; and
  - 2. The items or lots were clearly not purchased or attained for the purpose of resale at auction.
- (b) If less than one hundred percent (100%) of the items or lots being offered at the auction are from one (1) or more living estates, then the advertising shall clearly indicate that the auction is "With Additions" or use similar wording.

- (c) This subsection shall not prohibit clear, nonmisleading advertising of the inclusion of real or personal property being offered for a living estate in an auction if the real or personal property is being offered for a living estate pursuant to this subsection.

**Effective:** June 25, 2009

**History:** Created 2009 Ky. Acts ch. 70, sec. 10, effective June 25, 2009.