



E-News

JUNE 2022

President's Message

Our year has started out on a successful note. A special thanks to our lobbyist, Addison Russell, and her diligent efforts regarding the Online Marketplace Facilitators Act. This newly passed legislation exempts licensed auctioneers in the State of Tennessee from the definition of an “online marketplace facilitator.” The Online Marketplace Facilitator Act made the auctioneer the “Seller” overriding the longstanding Department of Revenue rule re: sales tax collection by auctioneers. HB2267/SB2325 exempts licensed auctioneers from the definition of an online marketplace facilitator. Without The Tennessee Auctioneers Association (TAA), these outcomes could have been drastically different, which reinforces the importance of TAA membership.

Also in recent news, the TAA has been approved by the Tennessee Auctioneer Commission (TAC) to provide free continuing education to all licensed Tennessee Auctioneers. These classes are being offered in three central locations across the state to provide education to all licensed Tennessee auctioneers. Special thanks to our educators: Drew Williams, Eddie Ables, and Greg Hurst. Being able to provide this service to auctioneers across the state will allow each of us to grow professionally, provide better service to our clients, and continue to move the auction industry in a positive direction.

Lance Walker of Memphis is running for Vice President of National Auctioneers Association (NAA). Mr. Walker would be a fantastic addition to the NAA and garner representation from our state to a nationwide level. The TAA endorses Mr. Walker for this position. We would also like to call on our members to vote for Mr. Walker for this position.

The TAA creates a unified strong voice for auctioneers across the state. As president of TAA, I encourage each of you to reach out to new auctioneers and express the importance of joining our association. One of my primary goals as President of the TAA is to increase the participation and grow our membership as it becomes increasingly evident of the importance of our Association.

Regards, Ritchie Broyles

TAA 2022 WINTER CONVENTION

November 6 – 7, 2022

Embassy Suites by Hilton - 10 Century Blvd., Nashville, TN

You may make your reservation by calling 615-871-0033.

Please mention you are with the TAA.

If you would like to make your reservation online please click [here](#).

\$129 Rate/Reserve by October 10, 2022

Scam Alert – Always Be Diligent

We have been notified that two Tennessee Auctioneers have been targets of having their escrow account checks copied and the scammers have tried to cash them.

Be alert to make sure if the bank calls to release funds, that the checks are legitimate before approving the funds.

The instance in East Tennessee involved an elderly man presenting a check from the auction company's escrow account at a check cashing facility. Luckily, the facility called to verify the check and the auctioneer actually spoke to the person presenting the check. The man knew enough about the auction business to explain that the check was from an estate auction that was conducted for his family. The red flag was that the check was for an exact amount and obviously the man did not have detailed info about the auction. The auction company immediately emptied the escrow account and opened a new one. There have been three other attempts on the old escrow account since the funds were moved.

In the middle Tennessee instance it is believed that someone took the account and routing information off of a legitimate check then made a copy and tried to pass it through a second time.

Legislative News – Addison Russell

Online Marketplace Facilitator Exemption: SB2325/HB2267 by Haile/Hicks was signed by the Governor and took effect on April 8, 2022. This is TAA's legislation exempting licensed auctioneers from the definition of an "online marketplace facilitator." The Online Marketplace Facilitator Act made the auctioneer the "Seller" overriding the longstanding Department of Revenue rule re: sales tax collection by auctioneers. This means the rule from the Department of Revenue continues to control sales tax collection for auctions conducted by a licensed auctioneer. The rule is below and in layman's terms means if the Seller of goods is exempt from sales tax collection (ie casual and isolated sales or charities), then as long as the auctioneer discloses the Seller, sales tax shall not be collected; if the Seller is not exempt from sales tax collection (ie a retailer), then sales tax shall be collected at auction.

Every factor, auctioneer, or agent acting for any unknown or undisclosed principal entrusted with any bill of lading, customhouse permit, or warehouse receipt for delivery of tangible personal property, or entrusted with possession of any such personal property for the purpose of sale, shall be deemed the owner thereof, and, upon the sale at retail of such property, shall be required to file a return of the receipts of sales and pay a tax thereon. A sale by such factor, auctioneer or agent, when acting for a known or disclosed principal shall be taxable to the principal. The same rule applies to lien holders, such as storage men, pawnbrokers and artisans.

Tenn. Comp. R. & Regs. 1320-05-01-.01

Original rule certified June 7, 1974.

2 things which are important to note:

1. The exemption only applies to persons holding a license under Title 62, Chapter 19 (auctioneering statutes). If an auction is conducted by a non-licensee then this exemption will not apply and the non-licensed person will be considered the Seller and therefore responsible for sales tax collection, where applicable.
2. This legislation only applies to Tennessee. Other states have likely passed similar legislation regarding online marketplace facilitators and if you are doing online sales and shipping the items to consumers in other states, you need to make yourself aware of the applicable sales tax thresholds in those states.

Uniform Partition of Heirs Property Act: SB2167/HB2612 by Stevens/Farmer, as amended, enacts the Uniform Partition of Heirs Property Act which applies to partition actions filed on or after July 1, 2022. Requires the court, in an action to partition real property under this chapter, to determine whether the property is heirs property. If the court determines that the property is heirs property, then the property must be partitioned unless all of the cotenants otherwise agree in a record. Requires the court, after determining that the property that is the subject of a partition action is heirs property, to make a determination of value for the property. Specifies process for a cotenant buyout and specifies partition alternatives. Establishes process for open-market sale of property, sale of property by sealed bids, and sale of property by auction and gives the Court discretion to determine the method of sale which is most economically advantageous and in the best interest of the cotenants. This legislation becomes effective July 1, 2022.

Mclemore Et Al v. Gumucio Et Al (Auction Legislation Lawsuit)

In March 2022, Judge Eli Richardson ruled in favor of the Plaintiffs in the Auction Legislation lawsuit. As a high level overview of the order, the judge found the legislation violated the dormant commerce clause because there were no specific geographical boundaries within the legislation or statutory scheme and the requirement of a license in order to “act as, advertise as, or represent to be an auctioneer,” does read to require an auctioneer located in any state conducting an online auction that reaches Tennessee consumers to have a Tennessee license and otherwise be regulated by the Tennessee Auction Commission. The State was enjoined from applying auctioneering laws to sales transactions conducted via electronic exchanges via a permanent injunction effective May 3, 2022. The State has appealed this ruling to the U.S. Court of Appeals. TAA will continue to monitor the suit.

Lance Walker Running for NAA Vice President

When I graduated from auction school many years ago, one of the last things we were told in class was to join your state and national auctioneers’ associations. Since attending auction school was a life changer for me and I tried to absorb everything the instructors presented, I thought it would be foolish not to take their advice. Turns out it was great advice. Belonging to the NAA and TAA has helped to advance my auction business tremendously. The networking alone was beneficial enough not to mention the educational programs. I was very honored several years ago when the TAA inducted me into the TAA Hall of Fame.

It was a privilege to serve on the board of directors of the NAA, as a NAF Trustee, as well as being one of the writers and instructors of the Benefit Auction Specialist program. With that in the rear view mirror, and a promising auction future ahead, I am working to be your next Vice President of the NAA. I am grateful for the TAA endorsing me in this effort and want to thank you for doing so. It is my desire to help the public become more aware of the advantages of buying and selling at auction. I want to work to help the NAA have more of a national presence-whether that be through TV, radio or some form of social media. All of us have a case of “Auction Fever” and I want to help spread that among our auction community and the public. The public needs to be more aware of the benefits of selling at auction and a good publicity campaign could help create that awareness.



I hope to see you at the NAA C&S in San Diego. If you are not attending, you can vote by phone on Election Day. You will be getting more instructions on that later from the NAA. Your support is very important to me. Thanks again for your endorsement and I would very much appreciate your vote for NAA Vice President.

Welcome New TAA Members

Ray Clark
Charlotte, TN 37036
Charles Woodard & Assoc.
615-446-4508
c.clark@realtracs.com

Roy Collins
Belvidere, TN 37306
931-636-2837
collinsfarmhome@gmail.com

Clint Conner
Cookeville, TN 38501
Exit Cross Roads Auction
931-644-7149
connerproperty@gmail.com

Winston Edgir
Reagan, TN 38368
615-971-3506
winston.edgir@gmail.com

Stephanie Fish
Dowelltown, TN 37059
Town & Lake Realty
615-464-5306
s.fish@realtracs.com

Larry Gilliland
Murfreesboro, TN 37133
Way Fast Realty and Auction
615-566-3267
larry@wayfastrealty.com

Jennifer Hannah
Smithville, TN 37166
Town & Lake Realty
615-215-7653
jhannahrealestate@gmail.com

Troy Heard
Prospect, TN 38477
931-638-3430
troy.d.heard@gmail.com

Andrew Heard
Athens, AL 35613
Fowler Auction & Real Estate
931-638-5499
andrew@fowlerauction.com

Sheridan Jemison
Nashville, TN 37214
561-451-6527
sheridangerhoff@yahoo.com

Amy Clare Lockhart
Smithville, TN 37166
Town & Lake Realty
615-215-7653
amyclare@realtracs.com

Patrick Lusk
McMinnville, TN 37110
Lusk Company
931-235-1234
tennesseetimber@gmail.com

Josh Martin
Nashville, TN 37216
Ron Gregory Realty & Auction
615-851-9115
jmartinc43@gmail.com

Daniel Saunders
Pikeville, TN 37367
865-816-8578
saundersdaniel99@yahoo.com

James Turner
Shelbyville, TN 37160
931-580-9772
bamadoc72@hotmail.com

Todd Weist
Nashville, TN 37221
815-791-6030
tweist@weistholdings.com

Welcome!

Future Licensees Need Your Help

We have been informed that there are several people waiting to take the exam because they lack affiliation with an auction company. Language from the TN Auctioneer License law - *The following steps must be taken in order to obtain a Principal Auctioneer license: You must have successfully completed an affiliation of at least 6 months under the supervision of a licensed Tennessee Principal Auctioneer.*

If you are able to assist any of the future licensees, please contact Shane McCarrell at the email address listed below.

shane@ptauctionteam.com

Continuing Education Opportunities
June 22-Jackson, June 23-Murfreesboro, June 24-Knoxville

Free of charge to all licensed Tennessee Auctioneers. Classes to be held at three different locations. These classes are being funded by the Tennessee Auctioneer Commission. For more information and a registration form please click [here](#).

Elections – TAA Board Members

Elections for the 2023 TAA Board will be held during the annual meeting on Sunday, November 6 at the winter convention being held in Nashville. If you are interested in serving on the board, please contact someone on the Nominating committee.

TAA bylaws state: *The Nominating Committee of the Association shall be made up of all of the Past Presidents in attendance at the Annual Convention. The Nominating Committee shall nominate candidates for each vacant office and report to the membership at the proper time. The immediate Past President of the Association shall serve as chairman of the nominating committee and be responsible for its organization and shall prepare the report to be presented to the Association.* As immediate past president, Patti Baldini will serve as chairman this year. She may be reached at patti@baldiniauction.com

Deadline for the next TAA E-Newsletter is August 1, 2022.
If you have anything you would like to submit please email
elaine@execman.net or execmaninfo@gmail.com

Tennessee Auctioneers Association Board of Directors

President

Ritchie Broyles, 423-586-6103
info@broylesauction.com

Vice President

Shane McCarrell, 931-302-4717
shane@ptauctionteam.com

Treasurer

James Gary, 615-302-2680
james@garyauction.com

Immediate Past President

Patti Baldini, 615-490-6849
patti@baldiniauction.com

Directors

Drew Williams, 615-504-0632
drewwilliams@realtracs.com

Greg Hurst, 423-353-1112
greg@hurstauctions.com

Greg Langford, 931-217-0664
redriverauctioneer@gmail.com

Jay Cash, 615-785-8982
jaycash@me.com

Eddie Ables, 931-698-2220
biddernow@gmail.com

Executive Director

Elaine Christian, 919-876-0687
elaine@execman.net