

This tipsheet is intended to provide general information and is not a substitute for legal advice.

If you buy or sell goods through a public auction in Alberta, it is important to know that the business holding the auction must be licensed by the province and post security.

The *Fair Trading Act*, the Public Auctions Regulation and Section 57 of the *Sale of Goods Act* regulate public auction businesses in Alberta. Goods sold at Internet auctions are not covered by the public auction legislation. Only a qualified auctioneer (as defined in the regulation) can conduct the bidding at a public auction.

The following are exempt from licensing requirements but must use a qualified auctioneer:

- auctions held by religious, charitable, or non-profit organizations;
- livestock auctions held by a livestock dealer licensed by Livestock Identification Services Ltd.;
- auctions to which the *Civil Enforcement Act* applies;
- sales held because of a court order; and
- goods taken in distress for the recovery of tax or other legislated levies.

Sales of real estate by public auction usually combine the services of a real estate broker and an auctioneer. The *Real Estate Act* regulates this type of sale. For more information you may contact the Real Estate Council of Alberta.

### Responsibilities of the Business

Every public auction sales business must give the best possible service to its consignors and all persons attending a sale by public auction. The business is solely responsible for all the money received or payable for goods sold at

an auction. Its fees must be reasonable and comparable to those set by the industry. The business is responsible for the actions of its employees and agents.

Section 6 of the *Fair Trading Act* deals with unfair practices against consumers. This section applies to consumer transactions in public auctions.

No auctioneer or auction sales business may make statements in their advertising or when conducting an auction that misrepresent the:

- quality, quantity, use, size origin, content or value of any goods intended for sale at the auction;
- terms of the sale; or
- policies or services of the auctioneer or the auction sales business.

### Conditions of the Sale

Before a sale begins the auctioneer, or another person, must read to those present, the conditions of the sale, the name of the auction sales business conducting the sale and its licence number. The conditions of the sale must be posted in a prominent place at the auction and on the bid cards. If a bidder is not attending the sale in person, the business must provide him/her with information on the conditions of the sale.

### Liens

There may be liens on goods for which you plan to bid. Before the auction sale is held the auction sales business is required to take a statutory declaration from people who consign an item valued at over \$1,000. The statutory declaration

must identify all liens and encumbrances on the goods. If known, the lien holder will be notified about the sale and will be paid before the consignor.

An auction sales business tries to check the validity of a statutory declaration. However, if you buy something that is found to have an undeclared lien against it, you may have a legal dispute with the consignor, the auction sales business or both. In that case you should seek legal advice.

If possible, before bidding on a large-ticket item such as a vehicle, ask a Registry Agent to do a search of the Personal Property Registry to see if there are any liens or encumbrances on the goods you plan to bid on. If there are and you decide to buy the item specify that anyone with an interest in the goods be paid before the consignor. Be aware that checking the Personal Property Registry will not reveal liens registered outside the province. There will be a charge to do a lien search.

Registry Agents can be found on the Web site ([www.gov.ab.ca/gs](http://www.gov.ab.ca/gs) and click on Registry Agent Network); by looking under "Licence and Registry Services" in the SuperPages of the telephone directory; or by calling (780) 427-7103 (toll free, phone 310-0000 and follow the instructions).

### **Removal of Goods Purchased at the Sale**

You may not remove the goods you purchased at a public auction sale until you have paid the purchase price to the auction sales business or you have made other arrangements for payment.

### **Information for Buyers**

- You can pick up a bargain at an auction but you need to know what you are doing – go as a spectator first and see what happens.
- Before the auction do your homework. Make sure you know what you are buying.

- Preview the items offered for sale. All the items in the sale will be available for public viewing sometime before the auction. It is wise to take this opportunity to **closely examine** items of interest.
- Check the condition of goods before the sale. If the auctioneer makes a claim about an item, it must be true.
- Comparison shop before an auction to determine the appropriate value of goods offered for sale.
- Decide the maximum you can afford to spend and stick to it.
- Before bidding, find out what methods of payment the business accepts. Make sure you read, and be certain that you understand the terms and conditions of sale and any special conditions that apply to certain goods.
- Auction sales business must tell the public before the sale starts that some of the goods are subject to a reserve bid.
- An employee of an auction sales business conducting the auction is allowed to bid on items but only if he/she intends to buy those items they have bid on.
- An auctioneer must announce the way in which the sale of an item is completed. It could be by the fall of a hammer or the word "sold".
- Until the sale of an item is completed, you can retract your bid. However, once the auctioneer indicates the item is sold, you are responsible to pay for the item. Bid carefully. Normally no refunds or exchanges are allowed at an auction. Under contract law, the sales agreement is binding on both parties.
- Once an unreserved item has been offered for sale and a bid has been made, the auctioneer cannot withdraw that item from the sale.
- Check to see if you will be charged a "buyer's premium" as part of the total cost of the item you purchased.
- You have to pay GST on most auctioned items.
- Make sure you know what currency the bidding is in for that particular sale.

## Information for Consignors

- When you consign your goods for sale by an auction sales business you are entering into a contractual agreement. The business agrees to take your goods and sell them; you agree to pay for the service. Fees may vary between auction sales businesses.
- You can check the reputation of an auction sales business by gathering information from personal contacts, the Auctioneers' Association of Alberta, the Auctioneers Association of Canada and the Better Business Bureau.
- Alberta Government Services can tell you if an auction sales business is licensed and has provided the security required by legislation. Information on licensed businesses may be found on the department Web site at [www.gov.ab.ca/gs](http://www.gov.ab.ca/gs) under "[Search for a Licensed Business](#)". You can also contact the Consumer Information Centre in Edmonton: (780) 427-4088 or toll free in Alberta: 1-877-427-4088.
- The minimum security for an auction sale business is \$25,000. If the claims against a security are greater than its value, the security amount is prorated among the claimants.
- You can ask the auction sales business to arrange for special performance security to cover the consignment of expensive goods. Expect to pay the cost yourself.
- If you want to get an amount close to the price you want for your goods you can talk to the auction sales business about setting a reserve bid.
- Unless your goods are offered as reserve bid items, a minimum selling price cannot be guaranteed no matter what you are promised. The goods must be sold to the highest bidder once bidding has begun.
- It is an offence for you or your agent to bid on your own goods.
- All terms and conditions of your consignment agreement should be in writing. Include details of pricing arrangements; the commission rate; the administration charges for things like storage, insurance, cleaning and repair. Ask if you will be charged a fee

for goods that do not sell. Keep a description of your consigned goods and a copy of the contract for future reference.

- Check to see if your goods are covered by the auction sales business' insurance or if you have to carry your own insurance until the time the item is sold or picked up by the buyer.
- When your goods are sold, the auction sales business must deposit all money received into a trust account. Within 21 days of the sale, the business must pay you the selling price less the agreed upon costs and any amounts owed to lien holders. The business must send you and any lien holders an itemized statement showing the amount received for the goods.
- An auction sales business is responsible for getting payment before releasing your goods to the buyer. If the auction business doesn't get paid, it's still required to pay you.
- Keep a copy of your statutory declaration for any goods valued over \$1,000.

## Auction Terminology

- Conditions Of Sale – The legal terms that govern the conduct of the auction including the acceptable methods of payment, terms, buyer's premium, reserve bids or any other limiting factors of an auction.
- Caveat Emptor – A Latin term meaning "let the buyer beware". This means that the buyer takes the risk regarding the quality or condition of the property purchased unless it is protected by warranty.
- "As Is" - Selling the property without warranties as to the condition and/or the fitness of the property for a particular use.
- Bidder Number - The number issued to each person who registers at an auction.
- Bid – A prospective buyer's indication or offer of a price he or she will pay to purchase property at an auction. Bids are usually in standardized increments established by an auctioneer.
- Reserve Bid – The minimum price that a seller is willing to accept for property to be sold at auction. If no one bids that amount or more the item will not be sold.

- Opening Bid – An auctioneer may open the bidding on an item stating a certain dollar amount. This does not mean you have to bid that amount.
- Minimum Bid - This is the lowest acceptable amount at which bidding must start.
- Absentee Bid – A procedure that allows a buyer to participate in the bidding process without being physically present. The person submits in advance a written or oral bid that is the top price they are willing to pay for any given item. The rules and procedures for absentee bids are unique to each auction sales business.
- Lots - The auctioneer will tell you when the items are being sold in lots. For example there may be 10 items in one lot and they will be auctioned together for one price.
- Inspection/Viewing/Preview - Specified date, time and place property is available for prospective buyer viewing and evaluation.
- Buyer's Premium – The percentage of the high bid, or a flat fee added to the high bid to determine the total contract price to be paid by the buyer.

## For more information

For information about the Public Auctions Regulation or if you have concerns about an auction sale or an auction sale business, call the Alberta Government Services' Consumer Information Centre

Edmonton: (780) 427-4088

Toll free in Alberta: 1-877-427-4088

The Public Auctions Regulation is available on the Queen's Printer Web site at [www.qp.gov.ab.ca/](http://www.qp.gov.ab.ca/)

For more information about auctions you can contact:

Auctioneer's Association of Alberta at [www.albertaauctioneers.com](http://www.albertaauctioneers.com) or phone: (403) 340-2070.

Auctioneers Association of Canada at [www.auctioneerscanada.com](http://www.auctioneerscanada.com) or phone toll free 1-866 640-9915.

Real Estate Council of Alberta at [www.reca.ab.ca/](http://www.reca.ab.ca/) or phone: (403) 228-2954 or (toll free in Alberta) 1-888-425-2754

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Check the Better Business Bureaus' business reliability reports  
Better Business Bureau of Central and Northern Alberta  
Edmonton: (780) 482-2341  
[www.edmontonbbb.org/](http://www.edmontonbbb.org/) or call toll free in Canada: 1-800-232-7298

Better Business Bureau of Southern Alberta  
[www.betterbusiness.ca/](http://www.betterbusiness.ca/) or call Calgary: (403) 517-4222  
Toll free in Southern Alberta: 1-800-661-4464

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A current version of this tipsheet and other tipsheets are available at the Alberta Government Services' Web site at [www.gov.ab.ca/gs](http://www.gov.ab.ca/gs)

If you need more copies of this tipsheet, you have permission to photocopy. Please call our office to make sure you have the most up-to-date copy.