

Auction Firm Designated Person (DP)

Firm Exam Information

The document is an overview of a Designated Person (DP) and information on the auction firm exam. It is not inclusive of what is on the exam. The auction firm exam was designed to determine if the designated person(s) has a working knowledge of the NC Auctioneer Law and Rules. The minimum passing score is 75. You are allowed one hour to take the exam.

The results will be sent to the DP by email.



Board Purpose

The purpose of this board is to administer and enforce G.S. 85B, which establishes specific standards of conduct for licensed auctioneers and firms. This is accomplished by training auctioneers in legal and ethical procedures that will benefit the public and those licensed; by protecting the public from monetary loss or mental anguish by providing a means to redress grievances due to auctioneering misconduct; and by increasing public confidence in the profession by determining the ability, general knowledge, integrity, and character of those currently licensed or applying for licensure. Fees received from licenses support the activities of the North Carolina Auctioneer Licensing Board.

[Chapter 85B](#) of the General Statutes is the law governing auctions and auctioneers.

[21 NCAC .04B](#) are the rules and regulations, which provide specifics to the law.

All auctioneers, apprentice auctioneers, and auction firms must abide by these laws.



Auction Firm License

An auction firm license issued by the Commission is restricted to the persons named in the license and does not inure to the benefit of any other person. Where a license is issued to an auction firm, authority to transact business under the license is limited to the person or persons designated in the application and named in the license.

Who needs a Firm License?

- Individuals who do not have an auctioneer's license, but who are interested in going into the auction profession.
- Two or more individuals who are interested in jointly going into the auction business regardless of whether one or more has an auctioneer license.
- Any partnership, corporation, LLC (different legal business entity) who is interested in going into the auction profession.
- An individual who is interested in going into the auction profession and not an auctioneer. An auctioneer who wants to sell real estate at auction but is not a real estate broker. Certain provision apply, in addition they have to confirm compliance with the real estate commission.

Below is additional information as it relates to selling real estate at auction.

Selling Real Estate at Auction

The process of auctioning real estate is regulated by two separate regulatory boards for the State, particular care must be taken knowing, understanding and following both sets of law and administrative rules.

The following provides five different licensing scenarios and the licensing requirements:

1. *The owner or the attorney for the owner is selling real property "by owner." A licensed auctioneer can be hired by the owner or the attorney for the owner to be the "mere crier of the sale." Unless the auctioneer also holds a currently valid real estate brokers license, an auctioneer cannot solicit or negotiate the listing of the real property for sale, cannot advertise the real property sale, cannot make any representations about or engage in the showing of the real property for sale, cannot complete any sales contract, receive or hold earnest money or other funds, or otherwise engage in acts for which a real estate license would be required.*

2. *A person that is a licensed auctioneer and a licensed real estate broker and the business is a sole proprietorship who wants to sell real estate at auction. No further licenses are required and this person is legally capable of handling all aspects of the real estate auction under both the Auctioneer law and rules and the Real Estate law and rules.*

3. *An entity that is a licensed real estate broker but is not a licensed auctioneer who wants to sell real estate at auction. An individual broker acting as a sole proprietor, or a licensed real estate brokerage firm, must also obtain an auction firm license. In doing so, the sole proprietor, or the individual broker employed by the licensed brokerage firm would list themselves as the Designated Real Estate Person*

for the auction firm and handle all aspects of the firm as it would relate to real estate auctions, except bid calling. Any licensed auctioneer could be hired or contracted, but only to call bids at the real estate auction.

4. An entity that is a licensed auctioneer but is not a licensed real estate broker who wants to sell real estate at auction. This person must also obtain an auction firm license and a real estate firm license. This can pose a problem if this person's business is a sole proprietorship. Unlike the Auctioneer Licensing Board, the Real Estate Commission does not allow sole proprietorships to obtain firm licenses. To be eligible to obtain a real estate firm license the entity must be a corporation, a partnership, a single member LLC, etc. Also, a real estate broker must be hired or contracted to be the Broker-In-Charge for the real estate firm and to be the Designated Real Estate Person for the auction firm. The licensed auctioneer could only call bids at the real estate auction and the Broker-In-Charge/Designated Real Estate Person would handle all other aspects of the real estate auction.

5. An entity that is neither a licensed auctioneer nor a licensed real estate broker who wants to sell real estate at auction. This person must obtain an auction firm license and a real estate firm license. Again as above, this can be a problem if the person's business is sole proprietorship. The business structure would need to be changed prior to obtaining a real estate firm license. A real estate broker would be hired or contracted to be the Broker-In Charge for the real estate firm and to be the Designated Real Estate Person for the auction firm. Any licensed auctioneer could be hired or contracted, but only to call bids at the real estate auction and the Broker-In-Charge/ Designated Real Estate Person would handle all other aspects of the real estate auction. The above list of scenarios is provided to assist a person or entity to give an overview and help understand the licensing requirements for a real estate auction. Unfortunately, many licensed auctioneers have the misconception that they can sell real estate by "bringing in a broker." This is wrong and is a common abuse by unlicensed brokers who attempt to avoid the Real Estate License Law. Not only is this unlawful under the Real Estate License Law, but it is also unlawful under the Auctioneer License Law. Never hesitate to contact the Real Estate Commission and/or the Auctioneer Licensing Board for more information or to answer any questions that you might have.

What is a Designated person of an auction firm (DP)?



NCGS 85B-1. Definitions. For the purposes of this Chapter the following definitions shall apply:

(10) "**Designated person**" means any person approved by the Board to have the authority to transact business for a licensed auction firm.

- An auction firm license issued is restricted to the persons named in the license and does not inure to the benefit of any other person. Where a license is issued to an auction firm, authority to transact business under the license is limited to the person or persons designated in the application and named in the license.

Responsibilities as defined in 21 NCAC .04B .0606 AUCTION FIRMS

(a) All licensed auction firms shall have at least one Board-approved designated person as defined by G.S. 85B 1(10). If a licensed auction firm does not have at least one Board-approved designated person, it shall not engage in auctioneering activity.

(b) **Only Board-approved designated person(s) for an auction firm shall have the authority to transact business under the firm license. This includes arranging, managing, soliciting, and contracting auctions; the supervision of the auction staff; the supervision of the acceptance of consignments of items for sale at auction; the supervision of the advertising of an auction; and the supervision of the acceptance of payment and disbursement of monies for items sold at auction.**

(c) At least one designated person shall be on the premises of an auction firm's auction sale location while the auction sale is conducted.

(d) Any auctioneer licensed under G.S. 85B may call bids for a licensed auction firm without being a designated person.

(e) Any apprentice auctioneer licensed under G.S. 85B and supervised by his or her supervising auctioneer may call bids for a licensed auction firm without being a designated person.

(f) Individuals that hold a currently valid real estate broker license shall be exempt from the auction firm examination. Their authority to transact business as a designated person under the auction firm license is limited to real estate sales at auction.



Who can be a Designated Person (DP)

Auctioneer: An auctioneer is not required to take the auction firm exam.

Non-Auctioneer: A non-auctioneer is required to take the auction firm exam.

Licensed real estate brokers: A licensed real estate broker is exempt from taking the auction firm exam if he/she is only doing business transactions as it relates to real property. If a RE Broker offers to sale personal property at auction, he/she must take the auction firm exam.

A firm may have as many DPs as it needs. There is no limit.

A person who is not an auctioneer cannot bid call.

Application

- Complete appropriate application
- Read carefully and answer questions **honestly** on the application
- Submit application to the board's office by mail
- Board staff reviews application to ensure all documents and fees are received
- Board staff contacts the DP, if auction firm exam is required the applicant is notified by email to schedule

Firm exams are given on Mondays and Thursday at 1:30 pm, unless there is a previously schedule conflict.

The exam is given at the Board's Office located at 108 Ber Creek Drive, Fuquay-Vaina, NC 27526.



An existing auction firm license may add new DPs at any time. An Addition to Auction Firm License Application is required.

What to the Study

The firm exam is designed to determine if the designated person has a working knowledge of the Auctioneer Law and Rules.

You will need to study [NCGS 85B and 21 NCAC .04B](#).

There is additional helpful information at <http://www.ncalb.org/>



Continuing Education

Do DPs have to get Continuing Education? YES

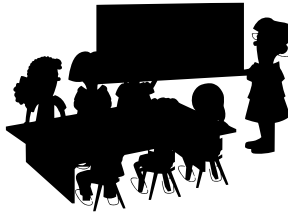
Designated Person(s) must complete the continuing education requirements. The current CE requirements are 4 hours.

If you are a Real Estate Broker, your RE continuing education course(s) may be provided.

When is CE Due?

CE is always due by May 15 of the current renewal period.

Example: CE due May 15, 2025 for the renewal year 25/26 (July 1, 2025 to June 30, 2026).



Tips for taking the auction firm exam

- Know the laws/rules and regulations
- Read the questions carefully
- Understand what the questions are asking for
- Watch for wording such as “**EXCEPT**”
- If you are unsure of the answer, make a note on the answer sheet to go back to that question.
- When you are finished, review your answers to make sure you have not left an unanswered question.
- Select the **BEST** answer

Sample Questions

Watch the format of the questions:

True/False:

Everyone applying to be a designated person must fill out an application, complete a fingerprint card and take a written exam. – key word is everyone – which makes this question **FALSE**

Short Answer:

Every auction firm must have at least _____ designated person(s).

Answer – **One**

Multiple Choice:

Designated person(s) responsibility is all of the following except:

- a. Arranging, managing, soliciting, and contracting auctions
- b. Supervision of the acceptance of consignments of items for sale at auction
- c. Supervision of the advertising of an auction
- d. Providing concessions and parking assistance for auction attendees

Key word: EXCEPT makes answer D the correct answer. Anyone can do concessions/parking not just DPs. A – C are DPs responsibilities.

All of the following are exempt from the license law except:

- a. Leaf tobacco sales
- b. Sale at auction of automobiles conducted under the provisions of GS 20-77
- c. Personal property auctions
- d. Sales conducted by a receiver, trustees, guardian or similarly appointed person under order of any court.

Answer C – Personal property auctions are not exempt.

Other helpful information

Designated Person By: Neil Yarborough, Board Counsel, 2015

Often times individually licensed auctioneers serve as the “Designated Person” for auction firms with which they are not regularly employed or have an ownership interest. Without close supervision and on going contact, this can cause major problems for the individual auctioneer and the auction firm. Section .0606 of the North Carolina Auctioneer Licensing Board’s Administrative Regulations provides:

- (a) All licensed auction firms shall have at least one Board approved designated person. If a licensed auction firm does not have at least one designated person in good standing, the status of the auction firm license shall be changed to invalid.
- (b) Only designated person(s) for an auction firm have the authority to transact business under the firm license. This includes arranging, managing, soliciting, and contracting auctions; the supervision of the auction staff; the supervision of the acceptance of consignments of items for sale at auction; the supervision of the advertising of an auction; and the supervision of the acceptance of payment and disbursement of monies for items sold at auction.
- (c) At least one designated person shall be on the premises of an auction firm’s auction sale location while the auction sale is conducted.
- (d) Any auctioneer licensed under G.S. 85B may call bids for a licensed auction firm without being a designated person.
- (e) Any apprentice auctioneer licensed under G.S. 85B and supervised by the sponsor auctioneer may call bids for a licensed auction firm without being a designated person.
- (f) Individuals that hold a currently valid real estate broker license are exempt from the auction firm examination if their authority to transact business under the auction firm license is only related to real estate sales at auction.

As you can tell under subsections (b) and (c), the designated person has very specific responsibilities for the daily management and operation of an auction firm which cannot be performed by remote control. If an individually licensed auctioneer is serving as a designated person for an auction house, he or she needs to be directly involved in its day-to-day activities because only the designated person can perform certain activities for the auction firm.

I initially address this issue to the individually licensed auctioneers who may find themselves in trouble because of some activity occurring within the auction firm for which they may be unaware. As designated persons, if there is a problem with the auction firm in which the individually licensed auctioneer is serving as the designated person, it can also have an extremely negative impact on the individual license of that auctioneer. This, of course, is in addition to what might happen to the auction firm license. (All of the above holds true for non-

auctioneer designated persons as to their ability to continue to serve as a designated person for that auction firm or another one.)

Although absolutely legal and authorized, it is a tricky situation for an auctioneer to serve as the designated person for an auction firm that he or she does not own or otherwise control. If you place yourself in this position, you need to take particular caution, every day, to make sure your “boss” doesn’t get you and your auctioneer license in trouble.

Submitted with permission from Neil Yarborough, NCALB Board Counsel 2015