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CLEARINGHOUSE RULE 98-135

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

1. Statutory Authority

Section 480.20 (2), Stats., provides that an advertisement for an auction must include a statement that the auctioneer is a “registered Wisconsin auctioneer.” Section RL 123.03 (2) provides that instead of using the term “registered Wisconsin auctioneer,” the advertisement may use the abbreviation “RWA.” What statutory authority exists for using an acronym?

2. Form, Style and Placement in Administrative Code

a. The headings to ss. RL 122.04, 123.03, 125.02, 125.025, 125.03, 125.035, 125.05, 125.06, 125.07, 125.08 and 125.12 should be written with an initial capital letter and in bold print, in accordance with the latest format of the Legislative Reference Bureau. [See s. 1.05 (2) (b), Manual.]

b. In s. RL 125.035, “is required to” should be replaced by “shall.” [See s. 1.01 (2), Manual.]

c. In s. RL 125.035, “pursuant to” should be replaced by “under.” [See s. 1.01 (9) (c), Manual.]

d. Following s. RL 125.08 (3) and (4), “notes” should be included explaining where the forms may be obtained. [See s. 1.09 (2), Manual.]

e. In s. RL 125.11 (2), the phrase “except in the case where” should be replaced by the word “unless.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section RL 122.02 provides that an applicant may not “violate the rules of conduct of the examination, or otherwise act dishonestly.” What are the rules of conduct? Are they written? Are they provided to the applicants? What is the meaning of “otherwise act dishonestly”? Also, does this prohibit dishonest conduct before, during and after the exam? The provision is vague.

b. Section RL 125.03 requires that an auctioneer or auction company, which is not required to maintain a trust account, “shall maintain a record, called an account summary sheet, which shows the receipts, deposits, expenses and disbursements as they affect each individual auction.” It is suggested that “a record, called” be deleted and “as they affect” be replaced by “for” or “of.” The sentence would then read:

An auctioneer or auction company that is not required to maintain a trust account shall maintain an account summary sheet which shows the receipts, deposits, expenses and disbursements for each individual auction.

This same change should be made in s. RL 125.11 (4).

c. Section RL 126.02 (11) prohibits “cheating on the registration or soliciting or knowingly disclosing registration examination content.” Is it intended that this provision prohibit a candidate for examination from soliciting, and a person who has taken the examination previously from disclosing, the general nature of the questions? Is it intended to prohibit only disclosure of specific questions? Is it intended to apply to all persons who might take the examination in the future or does it include disclosing registration examination content to members of the person’s family? The provision is vague.

d. Section RL 126.02 (12) prohibits “failing to post written notice at and prior to the commencement of an auction of the terms and conditions under which the registrant will accept payment by buyers.” It is suggested that following “at,” “and” be deleted and “the location where the auction is to be conducted” be inserted.

This change should also be made in s. RL 126.02 (13).