

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

SENATE BILL NO. 2086
(Judiciary Committee)
(At the request of the Public Service Commission)

AN ACT to amend and reenact section 51-05.1-04 of the North Dakota Century Code, relating to definitions of and exceptions to auctioneer, clerk, and internet auctions.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 51-05.1-04 of the North Dakota Century Code is amended and reenacted as follows:

51-05.1-04. Definitions - Exceptions.

1. ~~An~~Except as provided in subsection 5, an auctioneer within the meaning of this chapter is a person; who, for a compensation or valuable consideration, sells or offers for sale either real or personal property at public auction as a whole or partial vocation.
2. ~~A~~Except as provided in subsection 5, a clerk within the meaning of this chapter is any person, firm, partnership, copartnership, association, corporation, or limited liability company; who, for a compensation or valuable consideration, is employed either directly or indirectly by an owner while the sale is in progress to record each item offered for sale, its selling price, and the buyer's name or number; to collect all proceeds of said sale; to pay all expenses connected with the sale; to prepare a full closing statement of all receipts and disbursements; and to make settlement thereon to parties properly entitled thereto within a reasonable length of time.
3. ~~A single act performed or isolated transactions in the selling of property at auction for another shall not constitute the person performing, offering, or attempting to perform any of the acts enumerated herein, an auctioneer within the meaning of this chapter.~~"Internet auction" means the selling or offering for sale either real or personal property at public auction exclusively via the internet.
4. "Seller" means the owner or consignor of property to be sold at auction.
5. A person performing a single act or an isolated transaction in the selling of property at auction for another does not constitute the person performing, offering, or attempting to perform any of the acts enumerated in this section, and that person is not an auctioneer or clerk within the meaning of this chapter. A person conducting, or employed by a person conducting, an internet auction is not an auctioneer or clerk within the meaning of this chapter.
6. Notwithstanding subsection 5, a person in this state engaged in the auto auction business via the internet must be licensed as a motor vehicle dealer as provided for in section 39-22-23.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2086.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 94 Nays 0 Absent 0

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State