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Final

SECTION 15. REAL ESTATE AUCTION DEFINITIONS AND REQUIREMENTS

15.1 Definitions.

(a) Auction means a method of selling real estate in a public forum through open and competitive bidding.

(b) Auctioneer means any individual who holds an active Arkansas Real Estate license pursuant to ACA § 17-42-101 et seq. [and an active Arkansas Auctioneer license pursuant to ACA § 17-17-101 et seq.], who offers, attempts, or agrees to auction real estate or participate in a real estate auction.

(c) Buyer's premium means an advertised percentage of the high bid or flat fee added to the high bid to determine the total contract price to be paid by the buyer.

(d) Absolute Auction means an auction where the real estate is sold to the highest qualified bidder with no minimum bid or limiting conditions. The Seller may not bid personally or through an agent, unless the seller is a party to the dissolution of any marriage, limited liability company, partnership, or corporation, and is bidding as an individual apart from the selling entity. Also known as an auction without reserve.

(e) Auction With Reserve means an auction of real estate in which the Seller or his agent reserves the right to establish a disclosed or undisclosed minimum bid, to accept or reject any and all bids, and to withdraw the real estate at any time prior to the completion of the sale by the Auctioneer. Also known as reserve auction.

15.2 Nature of Auction.

(a) Auction shall be with reserve, unless the real estate is offered without reserve using explicit terms such as "absolute" or "without reserve". In an auction "with reserve", the Auctioneer may withdraw the real estate at any time until he/she announces completion of the auction. In an "absolute" auction or auction "without reserve", after the Auctioneer calls for bids on real estate, that real estate cannot be withdrawn unless no bid is made within a reasonable time.

(b) The Auctioneer shall have a written agreement with the owner stating the parties' agreement regarding the terms and conditions of the auction, including whether the auction will be an absolute auction or an auction with reserve and the terms of reserve or conditions on the sale; whether a Buyer's premium will be charged the buyer and who will receive the buyer's premium collected, and whether the Auctioneer or others on the Auctioneer's behalf may bid on or purchase the subject real estate at the auction.

15.3 Auctioneer/Seller Bidding or Purchasing Auctioned Real Estate.

(a) Auctioneer bidding

The auctioneer shall not bid or otherwise purchase the real estate being auctioned, or permit others to do so on his behalf, unless he has disclosed that he may bid or may purchase the real estate as provided herein.

(b) Seller bidding

(1) In an absolute auction, the auctioneer shall not knowingly permit the seller or others on the seller's behalf to bid on the seller's real estate being auctioned, unless the seller is a party to the dissolution of any marriage, limited liability company, partnership, or corporation, and is bidding as an individual apart from the selling entity and disclosure as required herein has been made to those in attendance at the auction.

(2) In a reserve auction, the auctioneer shall not knowingly permit the seller or others on the seller's behalf to bid on the seller's real estate being auctioned unless the auctioneer has disclosed that the seller or others on the seller's behalf may bid on the real estate being auctioned as provided herein.

(c) Notices

Immediately prior to opening the bidding on the subject real estate, the Auctioneer shall announce to all of those in attendance at the auction, the terms and conditions of the auction, and announce if the Seller and/or Auctioneer, or others on their behalf may bid on or purchase the real estate being auctioned.