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1 MARK-UP

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3 Summary:

4 New Regulation to implement Act 1173 of 2005 which authorizes AREC to
5 establish procedures by regulation for real estate licensees to follow when
6 conducting a real estate auction. Regulation defines auction terms; requires
7 written agreement with the owner of the real estate to be auctioned; and
8 establishes disclosure requirements for real estate licensees who sell real estate at
9 auction.

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12 Section 15. Real Estate Auction Definitions and Requirements

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14 Regulation 15.1 Definitions

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16 a. Auction means a method of selling real estate in a public forum

17 through open and competitive bidding.

18 b. Auctioneer means any individual who holds an active Arkansas Real

19 Estate license pursuant to ACA § 17-42-101 et seq. [and an active Arkansas

20 Auctioneer license pursuant to ACA § 17-17-101 et seq.], who offers, attempts, or

21 agrees to auction real estate or participate in a real estate auction.

22 c. Buyer's premium means an advertised percentage of the high bid or

23 flat fee added to the high bid to determine the total contract price to be paid by the

24 buyer.

25 d. Absolute Auction means an auction where the real estate is sold to the highest

1 qualified bidder with no minimum bid or limiting conditions. The Seller may not
2 bid personally or through an agent, unless the seller is a party to the dissolution of
3 any marriage, limited liability company, partnership, or corporation, and is
4 bidding as an individual apart from the selling entity. Also known as an auction
5 without reserve.

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

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11 Regulation 15.2 Nature of Auction

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

19 b. The Auctioneer shall have a written agreement with the owner stating the
20 parties' agreement regarding the terms and conditions of the auction, including
21 whether the auction will be an absolute auction or an auction with reserve and
22 the terms of reserve or conditions on the sale; whether a Buyer's premium will
23 be charged the buyer and who will receive the buyer's premium collected, and

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1 whether the Auctioneer or others on the Auctioneer's behalf may bid on or
2 purchase the subject real estate at the auction.

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4 Regulation 15.3 Auctioneer/Seller bidding or purchasing auctioned real estate

5 a. Auctioneer bidding

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

9 b. Seller bidding

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

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

19 c. Notices

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

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