

MISSOURI REAL ESTATE
COMMISSION ACT:
AUCTIONEER:

Auctioneer not required to obtain
license from Missouri Real Estate
Commission to sell real estate at
public sale.

November 18, 1943

Mr. J. W. Hobbs, Secretary
Missouri Real Estate Commission
222 Monroe Street
Jefferson City, Missouri

11/24



Dear Mr. Hobbs:

We have for attention your letter of November 12th,
requesting an official opinion from this department on
the question contained in your letter reading as follows:

"In many sections of the State auctioneers
are selling real estate sometimes along
with household furniture and other equip-
ment and many times the real estate by
itself, they of course charge the regular
auctioneer's fee or the real estate fee
for such services. Under our law wouldn't
the auctioneer have to apply and receive
a real estate license?"

You desire to know whether a regular auctioneer must
procure a license from the Missouri Real Estate Commission
before he is entitled to sell real estate either in con-
junction with household furniture or to sell real estate as
one sale.

The Missouri Real Estate Commission Act was enacted by
the General Assembly in 1941 and may be found at pages 424,
et seq., Laws of Missouri, 1941.

The first section of said Act provides:

"After January 1, 1942, it shall be unlaw-
ful for any person, copartnership, associa-
tion or corporation, foreign or domestic,

to act as a real estate broker or real estate salesman, or to advertise or assume to act as such without a license first procured from the Missouri Real Estate Commission."

Section 3 of said Act defines what is termed a real estate broker and the latter part of said section provides as follows:

"* * * nor shall this act apply to any person who does not advertise or hold himself out to the public as a licensed real estate broker or dealer and who might, occasionally, buy or offer to buy, or sell or offer to sell, or rent or lease or offer to rent or lease any real estate, or to loan or offer to loan money secured by real estate."

The business and profession of a public auctioneer has been recognized by the Laws of Missouri since 1825, where such recognition is found at page 160; and since that time auctioneers have been licensed to conduct the trade or business of public auctioneers.

Section 14912, R. S. Mo. 1939, provides as follows:

"No person shall exercise the trade or business of a public auctioneer by selling any goods or other property subject to duty under this chapter, or real estate, without a license."

Section 14913, R. S. Mo. 1939, provides as follows:

"Every person who shall exercise the trade or business of an auctioneer without a license shall be liable for the amount of duty payable by law on the property sold."

Section 14915, R. S. Mo. 1939, provides as follows:

"The licenses shall be under the seals of the respective county courts, signed by the clerk, and shall authorize the persons to whom granted to exercise the trade and business of auctioneers, by selling any property, real or personal, by auction within the county for the period of time specified in such license."

It will be noted that a public auctioneer, under Sections 14912 and 14915, supra, has a right to sell real estate or real property if he has secured a license as provided in Chapter 116, R. S. Mo. 1939. The business of a public auctioneer who sells personal property or real estate, occupies an entirely different field from the real estate broker, and we do not think it was the intention of the Legislature to require a public auctioneer, who has been duly licensed by the State of Missouri to sell at public auction personal and real property, to secure an additional license from the Missouri Real Estate Commission in order to sell real estate in his trade or business of public auctioneer.

CONCLUSION

It is, therefore, our opinion that a duly licensed public auctioneer is not required to secure a license from the Missouri Real Estate Commission to sell real estate as a part of his business as such public auctioneer.

Respectfully submitted,

COVELL R. HEWITT
Assistant Attorney-General

APPROVED:

ROY McKITTRICK
Attorney-General

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