

## Chapter SPS 127

### SALE OF REAL ESTATE AT AUCTION

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**Note:** Chapter RL 127 was renumbered chapter SPS 127 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

**SPS 127.01 Authority.** The rules in this chapter are adopted under authority in ss. 227.11 (2), 480.01, 480.14 and 480.16, Stats.

**History:** Cr. Register, June, 1996, No. 486, eff. 7-1-96.

**SPS 127.02 Auction of real estate. (1) AUCTIONEER.** An auctioneer may engage in, or advertise or otherwise hold himself or herself out as being available to engage in, the calling for and the recognition and acceptance of offers for the purchase of real estate at an auction, and may handle sales proceeds, down payments, earnest money deposits or other trust funds received by the auctioneer on behalf of the auctioneer's principal or any other person at or as a result of an auction of real estate.

**(2) AUCTION COMPANY.** An auction company may manage an auction of real estate and may have primary responsibility for handling sales proceeds, down payments, earnest money deposits or other trust funds received by the auction company on behalf of the auction company's principal or any other person at or as a result of an auction of real estate.

**History:** Cr. Register, June, 1996, No. 486, eff. 7-1-96.

**SPS 127.03 Limitations. (1) REGISTRANT LICENSED AS A REAL ESTATE BROKER OR SALESPERSON.** A registrant who is licensed as a real estate broker and who conducts an auction of real estate listed for sale with the registrant, or a registrant who is licensed as a real estate broker or salesperson and who conducts an auction of real estate listed for sale with the registrant's real estate broker-employer, may prepare contracts or other documents necessary to transfer title to the real estate or conduct any other activities requiring a real estate license under ch. 452, Stats., and chs. REEB 11 to 26.

**(2) REGISTRANT NOT LICENSED AS A REAL ESTATE BROKER OR SALESPERSON. (a)** A registrant who is not licensed as a real estate broker or salesperson may, in connection with an auction of real estate:

1. Distribute written information describing real estate or the condition of the real estate to be auctioned, if the information has been made available by the owner of the real estate or a real estate licensee.

2. Provide access to real estate for the purpose of permitting prospective buyers to view the real estate.

3. Conduct inquiries in person, by telephone or by other media to determine whether the person being contacted is interested in bidding upon the real estate to be auctioned.

4. Perform other tasks relating to conducting an auction which do not require a real estate license under ch. 452, Stats.

**(b)** A registrant who is not licensed as a real estate broker or salesperson may not perform activities which require a real estate license under ch. 452, Stats., including but not limited to:

1. Preparing any contracts or other documents necessary to transfer title to real estate.

2. Distributing to prospective buyers written information about the real estate or conditions affecting the real estate which has not been provided by the owner of the real estate or the owner's agent.

3. Negotiating with a prospective buyer within the meaning of s. 452.01 (5m), Stats., other than by conducting an auction.

**History:** Cr. Register, June, 1996, No. 486, eff. 7-1-96; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

**SPS 127.04 Contract.** A registrant shall have a written contract with the owner of real estate to be sold at an auction, or the owner's agent, which specifies the terms and conditions upon which the auctioneer or auction company accepts the real estate for sale at auction. The following conditions apply to the contract:

**(1)** A registrant who is licensed as a real estate broker under ch. 452, Stats., shall use the appropriate approved listing contract form required under s. REEB 16.03, when contracting with the owner to conduct an auction of real estate, and shall include provisions which comply with s. SPS 124.02.

**(2)** A registrant who is licensed as a real estate salesperson shall use the appropriate approved listing contract form required under ch. REEB 16, when contracting with the owner to conduct an auction of real estate if the salesperson is employed by a real estate broker, and shall include provisions which comply with s. SPS 124.02.

**(3)** A registrant who is not licensed as a real estate broker or salesperson under ch. 452, Stats., shall use a contract that complies with s. SPS 124.02.

**History:** Cr. Register, June, 1996, No. 486, eff. 7-1-96; correction in (1), (2), (3) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

**SPS 127.05 Real estate subject to exclusive listing contract.** Prior to entering into any contract for the sale of real estate at an auction, the registrant shall determine whether the real estate is subject to an exclusive real estate listing contract. If the real estate to be sold at an auction is subject to an exclusive real estate listing contract between the seller and a real estate broker other than the registrant, the registrant:

**(1)** May only enter into a contract under s. SPS 127.04, with the real estate broker holding the exclusive real estate listing contract on the real estate.

**(2)** May not receive any sales proceeds, down payments, earnest money deposits or other trust funds as a result of an auction of the real estate, unless the contract under sub. (1) authorizes the registrant to do so.

**History:** Cr. Register, June, 1996, No. 486, eff. 7-1-96; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

**SPS 127.06 Solicitation of owners with exclusive listing contract prohibited.** A registrant may not solicit an owner of real estate to sell the real estate at an auction if the registrant knows that the real estate is subject to an exclusive real estate listing contract.

**History:** Cr. Register, June, 1996, No. 486, eff. 7-1-96.