

21 NCAC 04B .0603 SALE PROCEEDS, ACCOUNTING AND ESCROW ACCOUNTS

- (a) Each payment made payable to the auctioneer/firm of which any portion belongs to others, and not disbursed to the seller on auction day, shall be deposited in an escrow account for the benefit of the owner or seller of such property within three business days after receipt of same.
- (b) Any licensee who disburses any funds on auction day shall prepare a receipt or settlement statement in compliance with G.S. 85B-7.1(a) and maintain records in compliance with G.S. 85B-7.1(b).
- (c) Every auctioneer/firm that does not disburse all funds to the seller on auction day shall establish and maintain a separate bank account designated as "Custodial Account for Sellers Proceeds" or some similar identifying designation, to disclose that the depositor is acting as a fiduciary and that the funds in the account are trust funds.
- (d) Custodial accounts created pursuant to Paragraph (c) of this Rule shall be established and maintained in banks, credit unions, or savings and loan associations located in North Carolina whose deposits are insured by the Federal Deposit Insurance Corporation, or comparable state or federal recognized insurance agency or program.
- (e) The custodial account created pursuant to Paragraph (c) of this Rule shall be drawn on only for payment of:
- (1) the net proceeds to the seller, or to any person that the auctioneer/firm knows is entitled to payment;
 - (2) to pay charges against the property that the auctioneer/firm in its agency capacity is required to pay; and
 - (3) to obtain any sums due the auctioneer/firm as compensation for its services.
- (f) In the event of a dispute between the seller and buyer of goods or property or between the licensee and any person in whose name trust or escrow funds are held, the licensee shall retain the monies in his or her trust or escrow account until he or she has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction.
- (g) Each auctioneer/firm shall keep accounts and records that document the handling of funds in a custodial account created pursuant to Paragraph (c) of this Rule. Accounts and records shall disclose the names of buyers and the amount of purchase and payment from each, the names of the sellers, and the amount due and payable to each from funds in the custodial account created pursuant to Paragraph (c) of this Rule. The names of the buyers and amount of purchase and payment from each buyer related to an individual seller shall be delivered to the seller within 14 days of a written request made within 90 days of settlement of a specific auction.
- (h) All trust or escrow account records and records of disbursement shall be available for inspection by the Board staff without advance notice, and copies shall be provided to the Board upon request.

*History Note: Authority G.S. 85B-7.1; 85B-8(a);
Eff. June 1, 1991;
Amended Eff. April 1, 2003; January 1, 1995;
Readopted Eff. July 1, 2020.*