

## NEW AUCTION LAWS

With auctions of residential properties becoming more popular with vendors, the New South Wales Government has taken steps to bring greater fairness and transparency to auctions.

The recently passed Property Stock and Business Agents Act has created a number of changes to the auction process.

One of the more substantial changes introduced by the Act relates to the recording and identification of bidders at auctions. Under the Act, an auctioneer of residential or rural property will not be allowed to take a bid from a person unless:

- The “relevant details” of the bidder (name, address, details of principal if bidding on behalf of another and other proof of identity) are entered into a bidders’ record in the auctioneer’s possession before the bid is taken; and
- The bidder is identified at the auction by displaying an allocated identifying number.

Interestingly, the taking of a bid in contravention of these processes will not affect the validity of a bid. In other words, if an agent has failed to enter a bidder’s name in the bidders’ record that bidder will still be able to make a binding bid.

The Act also addresses the issue of dummy bidding ie. where the vendor, someone associated with the vendor or the auctioneer makes bids which are not authentic in an attempt to bolster the sale price.

Whilst this process has not been outlawed entirely, the Act now limits the number of vendor bids at an auction to 1. This right to make one bid must be notified on the conditions of sale and the auctioneer must clearly state that the relevant bid is a bid by the vendor or someone on the vendor’s behalf at the time that it is taken.

The Act provides for increased penalties for agents and/or auctioneers who breach the Act and also provides for compulsory accreditation for agents acting as auctioneers.

We confirm that our standard form of Contract for Sale has been amended to take into account these new procedures.

In the United States there is a strong move towards on line auctions of properties. It will be interesting to see whether the new Act will have to be amended again to take into account the possibility of dubious on line practices.