

GUIDELINES FOR COMPLETING BUYER'S PREMIUM AGREEMENT (AUCTION SALES) FORM

(Standard Form #610)

USE OF FORM: Form 610 (the "Form") is to be used where the seller will collect a buyer's premium as part of the final contract sales price of the property. In some cases, the seller will then pay over the buyer's premium to the broker (this must be set forth in the listing agreement). A real estate licensee cannot make any provision concerning the payment of a commission or compensation to the licensee a part of a pre-printed sales contract form provided by the agent for use by the parties. So, the broker should **not** attempt to include a provision in the sales contract that addresses the payment of the buyer's premium to the agent. Moreover, inclusion of a buyer's premium in the final sales contract price is a material fact that real estate licensees must disclose to prospective buyers. Therefore, the Form is a *separate disclosure* to be given to a bidder by the broker either on the day of the auction or at some point prior to the auction (for example, at an open house), and is an assent by the buyer to, among other things, the computation of the final contract sales price.

If you give a bidder the Form on any day other than the day of the auction, then you must also give the bidder a copy of the North Carolina Real Estate Commission's "Working With Real Estate Agents" brochure, review it with the bidder and determine with the bidder whether you will act as the agent of the buyer or seller in the auction sales transaction. *The Form presumes that you will be acting as an agent of the seller in the auction sales transaction.*

CAUTION: The Form is *not* a brokerage agreement between the broker and the bidder. Remember, it is to be used where the seller will collect a buyer's premium as part of the final contract sales price of the property. Where the broker seeks to collect the buyer's premium directly from the high bidder, then such an arrangement constitutes an agreement for brokerage services between the broker and the high bidder. The Form is not appropriate or sufficient for use in such case.

Section 1. Insert the amount of the buyer's premium authorized by the listing agreement.

Section 5. Give the Bidder(s) any information on Lead-Based Paint and/or Lead-Based Paint Hazards, if applicable, including the EPA's pamphlet, *Protect Your Family From Lead In Your Home*. Give the bidder(s) a copy of the North Carolina Residential Property Disclosure Statement, if applicable.

Initials. Attach the terms and conditions of the auction sale (such as the bidder's package) to the Form and have the Bidder(s) initial here. If the Bidder(s) has *not* received a copy of the terms and conditions of the auction to be conducted, then the Bidder(s) should not initial this provision.

