

## Robert Burns

---

**From:** Robert Burns <robert@auctionsellsfast.com>  
**Sent:** Friday, June 17, 2016 1:00 PM  
**To:** 'Jacob Warren'; 'jim@atwoodfence.net'; 'jeff@hendersonauctions.com'; 'brister5@bellsouth.net'; 'tlockett@axisstrategies.com'; 'jacob@brownsauction.com'; 'dollyno@aol.com'; 'james@jamessimsauctions.com'; 'freddie@auctioneer-la.org'  
**Cc:** 'Larry Bankston'; 'Emalie Boyce'  
**Subject:** FW: Quick Tapping of Your Brain for Unbinding Opinion on Whether Statute Trumps Rule  
**Attachments:** 2016.06.09 to Phillips re request.pdf; LALB\_agenda\_request\_Phillips\_5\_process.pdf

### LALB Members (& Recently-Ousted LALB Member Rev. Freddie Lee Phillips):

I am in receipt of Rev. Phillips' email below. Since I see on the attached letter Mr. Bankston sent to Rev. Phillips entailing his agenda request fact that he copied all board members, I wanted to ensure that ALL of you got Rev. Phillips' email response. I feel that's important now that I have uncovered that **MULTIPLE VERSIONS OF THE AGENDA ARE DISTRIBUTED FOR MEETINGS WITH ONLY THE CHAIRMAN GETTING THE BENEFIT OF "ADDED BACKGROUND" (as per the "cheat sheet" notes of Sandy Edmonds)!!!!!!!!!!!!!!**

As is so often the case, Mr. Bankston provides "shoot from the hip" legal opinions that often aren't accurate. Because of the nature of my prior blog posts (Errol Williams, Bruce Greenstein, Scott Bailey, and most recently Jeff Henderson and others), I've cultivated a list of POWERFUL and WELL-RESPECTED attorneys on whom I can call for guidance and, as Rev. Phillips pointed out, I'd gotten the guidance referenced below **PRIOR TO Rev. Phillips even making the request!**

It's up to you folk if you want to accept Mr. Bankston's guidance. I'll only point out, for the benefit of the new (and/or **youthful** new members), that Mr. Bankston's knowledge of what is legal and what is not legal apparently wasn't sufficient to keep HIMSELF out of Federal prison: <http://www.lasc.org/opinions/2002/01b2780.pc.pdf>.

I will also point out that former LALB Member Lamar Little was **NOT** comfortable with Mr. Bankston serving as attorney (watch beginning at the **3:02** mark of this video: <https://youtu.be/izT352UPpIs>). Accordingly, he resigned soon after Bankston's hiring.

When this item was presented before, two audience members (Barbara Bonnette & Wiley Collins) made the MOST PRECIOUS quotes I've ever heard in ANY board meeting EVER as captured on this **15-second video**: <https://youtu.be/hMnVHt4e53I>.

If you think we got flooded with emails about reinstating CE (and we did, and I had them printed out to read into the record on 4/26/16 before the House Commerce Committee before Mr. Bankston and the bill's sponsor, Rep. Mack, got too chicken to present the bill), **you should have seen the feedback we got on Rev. Phillips' defeated proposal!!!**

So, the decision is yours, folks! You **ARE** the Louisiana Auctioneer Licensing Board, and that's why you get paid the big bucks!! I'm just happy to have the privilege of filming your deliberations of the proposal (also attached for your review) or, in the event you opt to stick by Mr. Bankston's guidance (which is **WRONG!!**), I'll be happy to do an off-site video of your decision in that regard as well.

Ball's in YOUR court, guys, and have a GREAT weekend!!!!

**Robert Edwin Burns, Vice President**

LA Association of Professional Auctioneers (LAPA)

4155 Essen Lane, Ste 228

Baton Rouge, LA 70809-2152

(225) 235-4346

[www.auctioneer-la.org](http://www.auctioneer-la.org)

---

**From:** Rev. Freddie Lee Phillips [mailto:freddie@auctioneer-la.org]

**Sent:** Thursday, June 16, 2016 10:15 AM

**To:** 'Larry Bankston' <larry@bblawyers.net>

**Cc:** 'Jacob Warren' <jacob@lafcaa.com>; admin@lalb.org; robert@auctionsellsfast.com; Jenna Linn <jlinn@bblawyers.net>; 'Emalie Boyce' <Emalie.Boyce@la.gov>; 'Tom Aswell' <azspeak@cox.net>

**Subject:** FW: Quick Tapping of Your Brain for Unbinding Opinion on Whether Statute Trumps Rule

**Mr. Bankston:**

As per our phone conversation yesterday, you advised me to “have my attorney contact you.”

I am in receipt of the attached letter you sent me entailing my agenda request for a \$145 reduction in the resident licensing fee. I assume you are of the opinion that I was willing to accept your legal opinion on a matter. Consistent with your advice AND prior to submitting the request, Robert Burns contacted (as evidenced by the email below) one of the most authoritative governmental attorneys in this state. You can read his email below.

As plainly evidenced below, Mr. Burns previously obtained an Attorney General's Opinion on whether the Board could in fact charge less than \$150 for residence license fees. The link is available for you to click on and read the AG opinion. As you know, unless successfully challenged in court, which nobody has, an Attorney General Opinion stands. Furthermore, had you clicked on the prior video link provided to Mr. Warren for his review, you would have seen that, the last time this proposal was made, Ms. Dow argued the same identical point that you are making in the attached letter.

Mr. Burns received a phone call within minutes of his sending the email below. This is the response he got: “Robert, a statute ALWAYS trumps a rule.”

I'm a little disappointed with you, Mr. Bankston. Did you not realize I would have my ducks in a row prior to making my request?

In light of the foregoing as well as the email below **CLEARLY** showing the relevant statute, which continues to have the word “may” and not “shall,” I respectfully request that the agenda item be included on the agenda for the July 11, 2016 meeting.

Please feel free to call me if you have any further challenges. I will be happy to address head-on.



LOUISIANA ASSOCIATION OF  
PROFESSIONAL AUCTIONEERS

**Rev. Freddie Lee Phillips, President**

LA Association of Professional Auctioneers (LAPA)

8055 Hanks Drive

Baton Rouge, LA 70812-4122

(225) 229-3341

[www.auctioneer-la.org](http://www.auctioneer-la.org)

---

**From:** Robert Burns [<mailto:robert@auctionsellsfast.com>]

**Sent:** Wednesday, June 08, 2016 10:15 AM

**To:**

**Subject:** Quick Tapping of Your Brain for Unbinding Opinion on Whether Statute Trumps Rule

xxxxxxxx:

I know we haven't spoken in a while, and I hope you're doing well.

I'd like to tap your brain for an unbinding opinion on a relatively simple question. I'm asking you because I think you're probably the most knowledgeable attorney with whom I've dealt entailing governmental matters.

In your opinion, does a Statute trump a rule promulgated by a state body that is in conflict with that statute?

Let me tell you what has happened.

There are auctioneers out there who feel the LALB has accumulated WAY, WAY too much money (nearly \$300,000 when annual operating expenses average only \$65,000). Consequently, there was a movement afoot to reduce the annual license renewal fee from \$150 to a mere \$5 processing fee until such time that the cash balance had been depleted to 150% of the prior three years' average operating expenses (which would probably take a decade because the majority of funds the board receives comes from out-of-state renewals and only Louisiana residents would get the break).

There was no question that the board could do this as per an AG opinion which I requested while as a Board Member in which the opinion came back saying that the Board "may" impose a fee of up to \$150 for in-state renewals (out-of-state renewals had the word "shall"): <https://www.ag.state.la.us/Shared/ViewDoc.aspx?Type=4&Doc=19339>.

Well, without ever specifying a change in that wording, the LALB did a rule promulgation in which it was never pointed out that there would be a change from the word “may” to “shall” for in-state renewals, but that’s what got pushed through the rule promulgation process and is now reflected on page 5 of this document: <http://www.lalb.org/pdfs/rules.pdf>. However, they have NEVER changed the statute, which continues to have the word “may.” Here’s that link: <http://www.legis.la.gov/Legis/Law.aspx?d=93931>.

I’m sure you can imagine there are plenty of auctioneers mad as hell that this little sly maneuver took place, as usual, in the dead of night with no fanfare!!

In your obviously unbinding opinion, does the preceding statute trump the rule promulgated?

I guess JBE could solve the problem of this embarrassment of riches by just grabbing about \$200,000 to plug the alleged deficit, but the guy’s just not too bright <smile>.

Thanks, xxxxxx, and again, I hope you’re doing well.

**Robert Edwin Burns, Vice President**

LA Association of Professional Auctioneers (LAPA)

4155 Essen Lane, Ste 228

Baton Rouge, LA 70809-2152

(225) 235-4346

[www.auctioneer-la.org](http://www.auctioneer-la.org)