

# AN ACT

To amend sections 505.94, 1321.20, 2925.01, 4517.02, 4707.01, 4707.02, 4707.021, 4707.03, 4707.04, 4707.05, 4707.06, 4707.07, 4707.071, 4707.072, 4707.08, 4707.09, 4707.10, 4707.11, 4707.111, 4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4707.18 to 4707.22, 4707.26, 4707.99, 4727.03, 4727.04, and 4727.06 and to enact sections 4707.022, 4707.023, 4707.024, 4707.073, 4707.074, 4707.091, and 4707.32 of the Revised Code to revise the Auctioneers Law and to modify the Pawnbrokers Law with respect to license renewal and fees.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 505.94, 1321.20, 2925.01, 4517.02, 4707.01, 4707.02, 4707.021, 4707.03, 4707.04, 4707.05, 4707.06, 4707.07, 4707.071, 4707.072, 4707.08, 4707.09, 4707.10, 4707.11, 4707.111, 4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4707.18, 4707.19, 4707.20, 4707.21, 4707.22, 4707.26, 4707.99, 4727.03, 4727.04, and 4727.06 be amended and sections 4707.022, 4707.023, 4707.024, 4707.073, 4707.074, 4707.091, and 4707.32 of the Revised Code be enacted to read as follows:

Sec. 505.94. (A) A board of township trustees may, by resolution, require the registration of all transient vendors within the unincorporated territory of the township and may regulate the time, place, and manner in which these vendors may sell, offer for sale, or solicit orders for future delivery of goods, or the board may, by resolution, prohibit these activities within that territory. If the board requires the registration of all transient vendors, it may establish a reasonable registration fee, not to exceed seventy-five dollars for a registration period, and this registration shall be valid for a period of at least ninety days after the date of registration. Any board of township trustees that provides for the registration and regulation, or prohibition, of transient vendors under this section shall notify the

prosecuting attorney of the county in which the township is located of its registration and regulatory requirements or prohibition. No transient vendor shall fail to register or to comply with regulations or prohibitions established by a board of township trustees under this division.

This division does not authorize a board of township trustees to apply a resolution it adopts under this division to any person invited by an owner or tenant to visit the owner's or tenant's premises to sell, offer for sale, or solicit orders for future delivery of goods.

(B) As used in this section:

(1) "Goods" means goods, wares, services, merchandise, periodicals, and other articles or publications.

(2) "Transient vendor" means any person who opens a temporary place of business for the sale of goods or who, on the streets or while traveling about the township, either sells or offers for sale goods, or solicits orders for future delivery of goods where payment is required prior to the delivery of the goods. "Transient vendor" does not include any person who represents any entity exempted from taxation under section 5709.04 of the Revised Code, that notifies the board of township trustees that its representatives are present in the township for the purpose of either selling or offering for sale goods, or soliciting orders for future delivery of goods, and does not include ~~an auction or an auctioneer company~~ a person licensed under Chapter 4707. of the Revised Code.

Sec. 1321.20. (A) Every person licensed or registered under this chapter shall pay to the superintendent of financial institutions, prior to the last day of June, an annual license or certificate of registration fee. On or about the fifteenth day of April of each year, the superintendent shall determine the license or certificate fees to be charged, pursuant to sections 1321.03, 1321.05, 1321.53, and 1321.73 of the Revised Code. Such determination shall be made by dividing the appropriation for the consumer finance section of the division of financial institutions for the current fiscal year by the number of licenses and certificates issued as of the date of the computation. In no event shall the amount of the fee exceed three hundred dollars, except that the maximum fee which may be charged insurance premium finance companies licensed under section 1321.73 of the Revised Code shall not exceed three hundred seventy-five dollars. Prior to the first day of June of each year, the superintendent shall inform each person licensed or registered under this chapter of the amount of the license or certificate fee for the succeeding fiscal year as determined by this section.

(B)(1) Each person licensed under Chapter 4727. of the Revised Code who is subject to annual license renewal under division (E)(1) of section

4727.03 of the Revised Code shall, prior to the last day of June, ~~shall~~ pay to the superintendent a fee equal to twice the amount of the fee determined by the superintendent pursuant to division (A) of this section. However, in no event shall the amount of the fee exceed three hundred dollars.

(2) Each person licensed under Chapter 4727. of the Revised Code who is subject to biennial license renewal under division (E)(2) of section 4727.03 of the Revised Code shall, prior to the date the license expires, pay to the superintendent a fee equal to four times the amount of the fee determined by the superintendent pursuant to division (A) of this section. However, in no event shall the amount of the fee exceed six hundred dollars.

(C) The fee for a license or certificate issued pursuant to Chapter 1321., 4727., or 4728. of the Revised Code after the first day of January ~~in any fiscal~~ of the year the license or certificate expires shall be equal to one-half the amount determined according to divisions (A) and (B) of this section or in accordance with section 4728.03 of the Revised Code.

(D) If the renewal fees billed by the superintendent pursuant to divisions (A) and (B) of this section are less than the estimated expenditures of the consumer finance section of the division of financial institutions, as determined by the superintendent, for the following fiscal year, the superintendent may assess each person licensed pursuant to section 1321.04 or registered pursuant to section 1321.53 of the Revised Code at a rate sufficient to equal in the aggregate the difference between the renewal fees billed and the estimated expenditures. Each person shall pay the assessed amount to the superintendent prior to the last day of June. In no case shall the assessment exceed ten cents per each one hundred dollars of interest (excluding charge-off recoveries), points, loan origination charges, and credit line charges collected by that person during the previous calendar year. If an assessment is imposed under this division, it shall not be less than two hundred fifty dollars per licensee or registrant and shall not exceed thirty thousand dollars less the total renewal fees paid pursuant to division (A) of this section by each licensee or registrant.

Sec. 2925.01. As used in this chapter:

(A) "Administer," "controlled substance," "dispense," "distribute," "hypodermic," "manufacturer," "official written order," "person," "pharmacist," "pharmacy," "sale," "schedule I," "schedule II," "schedule III," "schedule IV," "schedule V," and "wholesaler" have the same meanings as in section 3719.01 of the Revised Code.

(B) "Drug dependent person" and "drug of abuse" have the same meanings as in section 3719.011 of the Revised Code.

(C) "Drug," "dangerous drug," "licensed health professional authorized

to prescribe drugs," and "prescription" have the same meanings as in section 4729.01 of the Revised Code.

(D) "Bulk amount" of a controlled substance means any of the following:

(1) For any compound, mixture, preparation, or substance included in schedule I, schedule II, or schedule III, with the exception of marihuana, cocaine, L.S.D., heroin, and hashish and except as provided in division (D)(2) or (5) of this section, whichever of the following is applicable:

(a) An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I opiate or opium derivative;

(b) An amount equal to or exceeding ten grams of a compound, mixture, preparation, or substance that is or contains any amount of raw or gum opium;

(c) An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of a schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a schedule I stimulant or depressant;

(d) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II opiate or opium derivative;

(e) An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation, or substance that is or contains any amount of phencyclidine;

(f) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II stimulant that is in a final dosage form manufactured by a person authorized by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the federal drug abuse control laws, as defined in section 3719.01 of the Revised Code, that is or contains any amount of a schedule II depressant substance or a schedule II hallucinogenic substance;

(g) An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food,

Drug, and Cosmetic Act and the federal drug abuse control laws.

(2) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III or IV substance other than an anabolic steroid or a schedule III opiate or opium derivative;

(3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III opiate or opium derivative;

(4) An amount equal to or exceeding two hundred fifty milliliters or two hundred fifty grams of a compound, mixture, preparation, or substance that is or contains any amount of a schedule V substance;

(5) An amount equal to or exceeding two hundred solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation, or substance that is or contains any amount of a schedule III anabolic steroid.

(E) "Unit dose" means an amount or unit of a compound, mixture, or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately administered to or taken by an individual.

(F) "Cultivate" includes planting, watering, fertilizing, or tilling.

(G) "Drug abuse offense" means any of the following:

(1) A violation of division (A) of section 2913.02 that constitutes theft of drugs, or a violation of section 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 2925.37 of the Revised Code;

(2) A violation of an existing or former law of this or any other state or of the United States that is substantially equivalent to any section listed in division (G)(1) of this section;

(3) An offense under an existing or former law of this or any other state, or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using, or otherwise dealing with a controlled substance is an element;

(4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit any offense under division (G)(1), (2), or (3) of this section.

(H) "Felony drug abuse offense" means any drug abuse offense that would constitute a felony under the laws of this state, any other state, or the United States.

(I) "Harmful intoxicant" does not include beer or intoxicating liquor but means any of the following:

(1) Any compound, mixture, preparation, or substance the gas, fumes, or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation, or other harmful physiological effects, and includes, but is not limited to, any of the following:

(a) Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline, or other preparation containing a volatile organic solvent;

(b) Any aerosol propellant;

(c) Any fluorocarbon refrigerant;

(d) Any anesthetic gas.

(2) Gamma Butyrolactone;

(3) 1,4 Butanediol.

(J) "Manufacture" means to plant, cultivate, harvest, process, make, prepare, or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis, or compounding, or any combination of the same, and includes packaging, repackaging, labeling, and other activities incident to production.

(K) "Possess" or "possession" means having control over a thing or substance, but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.

(L) "Sample drug" means a drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.

(M) "Standard pharmaceutical reference manual" means the current edition, with cumulative changes if any, of any of the following reference works:

(1) "The National Formulary";

(2) "The United States Pharmacopeia," prepared by authority of the United States Pharmacopeial Convention, Inc.;

(3) Other standard references that are approved by the state board of pharmacy.

(N) "Juvenile" means a person under eighteen years of age.

(O) "Counterfeit controlled substance" means any of the following:

(1) Any drug that bears, or whose container or label bears, a trademark, trade name, or other identifying mark used without authorization of the owner of rights to that trademark, trade name, or identifying mark;

(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed, or distributed by a person other than the person that manufactured, processed, packed, or distributed it;

(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance;

(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.

(P) An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.

(Q) "School" means any school operated by a board of education, any community school established under Chapter 3314. of the Revised Code, or any nonpublic school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a criminal offense is committed.

(R) "School premises" means either of the following:

(1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed;

(2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Chapter 3314. of the Revised Code, or the governing body of a nonpublic school for which the state board of education prescribes minimum standards under section 3301.07 of the Revised Code and on which some of the instruction, extracurricular activities, or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the

parcel of real property at the time a criminal offense is committed.

(S) "School building" means any building in which any of the instruction, extracurricular activities, or training provided by a school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted in the school building at the time a criminal offense is committed.

(T) "Disciplinary counsel" means the disciplinary counsel appointed by the board of commissioners on grievances and discipline of the supreme court under the Rules for the Government of the Bar of Ohio.

(U) "Certified grievance committee" means a duly constituted and organized committee of the Ohio state bar association or of one or more local bar associations of the state of Ohio that complies with the criteria set forth in Rule V, section 6 of the Rules for the Government of the Bar of Ohio.

(V) "Professional license" means any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate, or temporary registration that is described in divisions (W)(1) to (36) of this section and that qualifies a person as a professionally licensed person.

(W) "Professionally licensed person" means any of the following:

(1) A person who has obtained a license as a manufacturer of controlled substances or a wholesaler of controlled substances under Chapter 3719. of the Revised Code;

(2) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Chapter 4701. of the Revised Code and who holds an Ohio permit issued under that chapter;

(3) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Chapter 4703. of the Revised Code;

(4) A person who is registered as a landscape architect under Chapter 4703. of the Revised Code or who holds a permit as a landscape architect issued under that chapter;

(5) A person licensed ~~as an auctioneer or apprentice auctioneer or licensed to operate an auction company~~ under Chapter 4707. of the Revised Code;

(6) A person who has been issued a certificate of registration as a registered barber under Chapter 4709. of the Revised Code;

(7) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Chapter



4710. of the Revised Code;

(8) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, managing cosmetologist's license, managing hair designer's license, managing manicurist's license, managing esthetician's license, managing natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Chapter 4713. of the Revised Code;

(9) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious intravenous sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license, or a dental hygienist's teacher's certificate under Chapter 4715. of the Revised Code;

(10) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license, or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Chapter 4717. of the Revised Code;

(11) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Chapter 4723. of the Revised Code;

(12) A person who has been licensed to practice optometry or to engage in optical dispensing under Chapter 4725. of the Revised Code;

(13) A person licensed to act as a pawnbroker under Chapter 4727. of the Revised Code;

(14) A person licensed to act as a precious metals dealer under Chapter 4728. of the Revised Code;

(15) A person licensed as a pharmacist, a pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under Chapter 4729. of the Revised Code;

(16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;

(17) A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine, or podiatry under Chapter 4731. of the Revised Code;

(18) A person licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code;

(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;

(20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code;

(21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code;

(22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code;

(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;

(24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;

(25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;

(26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Chapter 4741. of the Revised Code;

(27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Chapter 4747. of the Revised Code;

(28) A person who has been issued a class A, class B, or class C license or who has been registered as an investigator or security guard employee under Chapter 4749. of the Revised Code;

(29) A person licensed and registered to practice as a nursing home administrator under Chapter 4751. of the Revised Code;

(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;

(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;

(32) A person who is licensed as a professional clinical counselor or professional counselor, licensed as a social worker or independent social worker, or registered as a social work assistant under Chapter 4757. of the Revised Code;

(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;

(34) A person who has been issued a license or limited permit to practice respiratory therapy under Chapter 4761. of the Revised Code;

(35) A person who has been issued a real estate appraiser certificate under Chapter 4763. of the Revised Code;

(36) A person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules.

(X) "Cocaine" means any of the following:

(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or

derivative, or the base form of cocaine;

(2) Coca leaves or a salt, compound, derivative, or preparation of coca leaves, including ecgonine, a salt, isomer, or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine;

(3) A salt, compound, derivative, or preparation of a substance identified in division (X)(1) or (2) of this section that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.

(Y) "L.S.D." means lysergic acid diethylamide.

(Z) "Hashish" means the resin or a preparation of the resin contained in marihuana, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.

(AA) "Marihuana" has the same meaning as in section 3719.01 of the Revised Code, except that it does not include hashish.

(BB) An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within one hundred feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within one hundred feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.

(CC) "Presumption for a prison term" or "presumption that a prison term shall be imposed" means a presumption, as described in division (D) of section 2929.13 of the Revised Code, that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code.

(DD) "Major drug offender" has the same meaning as in section 2929.01 of the Revised Code.

(EE) "Minor drug possession offense" means either of the following:

(1) A violation of section 2925.11 of the Revised Code as it existed prior to July 1, 1996;

(2) A violation of section 2925.11 of the Revised Code as it exists on and after July 1, 1996, that is a misdemeanor or a felony of the fifth degree.

(FF) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.

(GG) "Crack cocaine" means a compound, mixture, preparation, or substance that is or contains any amount of cocaine that is analytically identified as the base form of cocaine or that is in a form that resembles rocks or pebbles generally intended for individual use.

(HH) "Adulterate" means to cause a drug to be adulterated as described

in section 3715.63 of the Revised Code.

(II) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.

Sec. 4517.02. (A) Except as otherwise provided in this section, no person shall do any of the following:

(1) Engage in the business of displaying or selling at retail new motor vehicles or assume to engage in ~~such~~ that business, unless the person is licensed as a new motor vehicle dealer under sections 4517.01 to 4517.45 of the Revised Code, or is a salesperson licensed under those sections and employed by a licensed new motor vehicle dealer;

(2) Engage in the business of offering for sale, displaying for sale, or selling at retail or wholesale used motor vehicles or assume to engage in that business, unless the person is licensed as a dealer under sections 4517.01 to 4517.45 of the Revised Code, or is a salesperson licensed under those sections and employed by a licensed used motor vehicle dealer or licensed new motor vehicle dealer;

(3) Engage in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle, in the manner described in division (M) of section 4517.01 of the Revised Code, unless the person is licensed as a motor vehicle leasing dealer under sections 4517.01 to 4517.45 of the Revised Code;

(4) Engage in the business of motor vehicle auctioning or assume to engage in ~~such~~ that business, unless the person is licensed as a motor vehicle auction owner under sections 4517.01 to 4517.45 ~~and 4707.01 to 4707.99~~ of the Revised Code and the person uses an auctioneer who is licensed under Chapter 4707. of the Revised Code to conduct the motor vehicle auctions;

(5) Engage in the business of distributing motor vehicles or assume to engage in ~~such~~ that business, unless the person is licensed as a distributor under sections 4517.01 to 4517.45 of the Revised Code;

(6) Make more than five casual sales of motor vehicles in a twelve-month period, commencing with the day of the month in which the first such sale is made, nor provide a location or space for the sale of motor vehicles at a flea market, without obtaining a license as a dealer under sections 4517.01 to 4517.45 of the Revised Code; ~~provided however~~ that nothing in this section shall be construed to prohibit the disposition without a license of a motor vehicle originally acquired and held for purposes other than sale, rental, or lease to an employee, retiree, officer, or director of the person making the disposition, to a corporation affiliated with the person making the disposition, or to a person licensed under sections 4517.01 to

4517.45 of the Revised Code;

(7) Engage in the business of brokering manufactured homes unless that person is licensed as a manufactured home broker under sections 4517.01 to 4517.45 of the Revised Code.

(B) Nothing in this section shall be construed to require an auctioneer licensed under sections 4707.01 to 4707.19 of the Revised Code, to obtain a motor vehicle salesperson's license under sections 4517.01 to 4517.45 of the Revised Code when conducting an auction sale for a licensed motor vehicle dealer on the dealer's premises, or when conducting an auction sale for a licensed motor vehicle auction owner; nor shall such an auctioneer be required to obtain a motor vehicle auction owner's license under sections 4517.01 to 4517.45 of the Revised Code when engaged in auctioning for a licensed motor vehicle auction owner.

(C) Sections 4517.01 to 4517.45 of the Revised Code do not apply to any of the following:

(1) Persons engaging in the business of selling commercial tractors, trailers, or semitrailers incidentally to engaging primarily in business other than the selling or leasing of motor vehicles;

(2) Mortgagees selling at retail only those motor vehicles that have come into their possession by a default in the terms of a mortgage contract;

(3) The leasing, rental, and interchange of motor vehicles used directly in the rendition of a public utility service by regulated motor carriers.

(D) When a partnership licensed under sections 4517.01 to 4517.45 of the Revised Code is dissolved by death, the surviving partners may operate under the license for a period of sixty days, and the heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the license of the person succeeded in possession by ~~such~~ that heir, representative, receiver, or trustee in bankruptcy.

(E) No remanufacturer shall engage in the business of selling at retail any new motor vehicle without having written authority from the manufacturer or distributor of the vehicle to sell new motor vehicles and to perform repairs under the terms of the manufacturer's or distributor's new motor vehicle warranty, unless, at the time of the sale of the vehicle, each customer is furnished with a binding agreement ensuring that the customer has the right to have the vehicle serviced or repaired by a new motor vehicle dealer who is franchised to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located within either twenty miles of the remanufacturer's location and place of business or twenty miles of the

customer's residence or place of business. If there is no such new motor vehicle dealer located within twenty miles of the remanufacturer's location and place of business or the customer's residence or place of business, the binding agreement furnished to the customer may be with the new motor vehicle dealer who is franchised to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located nearest to the remanufacturer's location and place of business or the customer's residence or place of business. Additionally, at the time of sale of any vehicle, each customer of the remanufacturer shall be furnished with a warranty issued by the remanufacturer for a term of at least one year.

(F) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor and shall be subject to a mandatory fine of one hundred dollars. If the offender previously has been convicted of or pleaded guilty to a violation of this section, whoever violates this section is guilty of a misdemeanor of the first degree and shall be subject to a mandatory fine of one thousand dollars.

Sec. 4707.01. As used in ~~sections 4707.01 to 4707.22 and 4707.99 of the Revised Code~~ this chapter:

(A) "Auction" means a method of sale of real or personal property, goods, or chattels, at a predetermined date and time, by means of a verbal exchange, regular mail, telecommunications, the internet, an electronic transmission, or a physical gesture between an auctioneer or apprentice auctioneer and members of the audience or prospective purchasers, the exchanges and gestures consisting of a series of invitations for offers made by the auctioneer and offers by members of the audience or prospective purchasers, with the right to acceptance of offers with the auctioneer or apprentice auctioneer. "Auction" includes a sale of real or personal property, goods, or chattels in which there has been a solicitation or invitation by advertisement to the public for an advance in bidding using sealed bidding, provided that the bids are opened and there is a call for an advancement of the bids.

(B) "Auctioneer" means any person who engages, or who by advertising or otherwise holds ~~self~~ the person out as being able to engage, in the calling for, recognition of, and the acceptance of, offers for the purchase of real or personal property, goods, or chattels at auction either directly or through the use of other licensed auctioneers or apprentice auctioneers.

(C) "Apprentice auctioneer" means any individual who is sponsored by an auctioneer to deal or engage in any activities mentioned in division (A) of this section.

~~(D) "Auction company" means any person, excluding licensed auctioneers, who does business solely in the auctioneer's individual name, who sells, either directly or through agents, real or personal property, goods, or chattels at auction, or who arranges, sponsors, manages, conducts, or advertises auctions and who was licensed as an auction company by the department of agriculture as of May 1, 1991. An auction company does not mean either of the following:~~

~~(1) A sale barn or livestock auction market that is used exclusively for the auctioneering of livestock and is licensed by the department of agriculture under Chapter 943. of the Revised Code;~~

~~(2) A business that is licensed by the bureau of motor vehicles under Chapter 4517. of the Revised Code and is exclusively engaged in the auction sale of motor vehicles to dealers licensed by either the bureau of motor vehicles or a bureau of motor vehicles of another jurisdiction or its equivalent.~~

~~(E) "Special auctioneer" means any person who is licensed as an auction company by the department of agriculture as of May 1, 1991, and currently is subject to section 4707.071 of the Revised Code.~~

~~(E) "Absolute auction" means an auction of real or personal property to which all of the following apply:~~

~~(1) The property is sold to the highest bidder without reserve.~~

~~(2) The auction does not require a minimum bid.~~

~~(3) The auction does not require competing bids of any type by the seller or an agent of the seller.~~

~~(4) The seller of the property cannot withdraw the property from auction after the auction is opened and there is public solicitation or calling for bids.~~

~~(F) "Reserve auction" means an auction in which the seller or an agent of the seller reserves the right to establish a stated minimum bid, the right to reject or accept any or all bids, or the right to withdraw the real or personal property at any time prior to the completion of the auction by the auctioneer.~~

~~(G) "Auction mediation company" means a company that provides a forum through the internet for a person to sell the person's real or personal property that was not originally acquired for the purpose of resale via the submission of silent bids using a computer or other electronic device.~~

~~(H) "Public authority" means any board or commission of the state or any officer of such a board or commission, or any political subdivision of the state.~~

~~(I) "Estate auction" means the auction of real or personal property of a deceased person.~~

~~(J) "Absentee bidding" means a method by which a potential purchaser~~

authorizes a proxy to place on behalf of the potential purchaser a written or oral bid to an auctioneer or auction firm or an agent of an auctioneer or auction firm.

(K) "Person" means an individual, sole proprietor, corporation, limited liability company, association, or partnership.

(L) "Auction firm" means a person who provides auction services.

(M) "Auction services" means arranging, managing, and sponsoring a personal property auction. "Auction services" includes the taking and advertising of personal property on consignment to be sold at auction by a licensed auctioneer.

(N) "Consignee" means a person or auction firm that takes personal property on consignment to be sold at auction by a licensed auctioneer.

(O) "Firm manager" means the individual designated by an auction firm who is responsible for ensuring that the auction firm complies with this chapter.

(P) "Sealed bidding" means a method of submitting a bid in writing by one or more persons following which the bids are opened at an advertised, predetermined time and place, and, after a review of all the bids received, the real or personal property is awarded to the highest and most responsive bidder.

Sec. 4707.02. No person shall act as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer within this state without a license issued by the department of agriculture. No auction shall be conducted in this state except by an auctioneer licensed by the department.

The department shall not issue or renew a license if the applicant or licensee has been convicted of a felony or crime involving fraud or theft in this or another state at any time during the ten years immediately preceding application or renewal.

This section does not apply to:

(A) Sales at auction ~~conducted by or under the direction of any public authority, or sales that either are~~ required by law to be at auction, other than sales pursuant to a judicial order or decree, ~~or that are conducted by or under the direction of a public authority;~~

(B) The owner of any real or personal property desiring to sell the property at auction, provided that the property was not acquired for the purpose of resale;

(C) An auction mediation company;

(D) An auction that is conducted in a course of study for auctioneers that is approved by the state auctioneers commission created under section 4707.03 of the Revised Code for purposes of student training and is



supervised by a licensed auctioneer:

(E) An auction that is sponsored by a nonprofit or charitable organization that is registered in this state under Chapter 1702. or Chapter 1716. of the Revised Code, respectively, if the auction only involves the property of the members of the organization and the auction is part of a fair that is organized by an agricultural society under Chapter 1711. of the Revised Code or by the Ohio expositions commission under Chapter 991. of the Revised Code at which an auctioneer who is licensed under this chapter physically conducts the auction:

(F) A person licensed as a livestock dealer under Chapter 943. of the Revised Code who exclusively sells livestock and uses an auctioneer who is licensed under this chapter to conduct the auction:

(G) A person licensed as a motor vehicle auction owner under Chapter 4517. of the Revised Code who exclusively sells motor vehicles and who uses an auctioneer who is licensed under this chapter to conduct the auction.

Sec. 4707.021. Only an auctioneer who is licensed under this chapter and who is licensed as a real estate broker who is licensed or a real estate salesperson under Chapter 4735. of the Revised Code and who is licensed as an auctioneer under this chapter may shall sign an auction contract for the sale of real property at auction. A real estate broker who is licensed under Chapter 4735. of the Revised Code, but who is not licensed as an auctioneer under this chapter shall not sign an auction contract or conduct an auction, but may contract for the sale of real property at auction only if either of the following applies:

(A) The auctioneer who signs the auction contract and who conducts the auction is a salesperson licensed under Chapter 4735. of the Revised Code and is associated with the real estate broker who contracts for the sale of real property.

(B) The real estate broker enters into a cooperative agreement with another real estate broker licensed under Chapter 4735. of the Revised Code with whom an auctioneer licensed under this chapter is associated and the auctioneer conducts is solely responsible for signing the auction contract and conducting the auction.

An apprentice auctioneer who is licensed as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code may act as a bid caller in the sale of real property at auction if the sponsoring auctioneer is licensed under this chapter and is licensed as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code.

Nothing in this section shall be construed to permit a business to contract for the sale of real property at auction through an individual who is

not licensed under this chapter and Chapter 4735. of the Revised Code.

Sec. 4707.022. (A) An auction shall be a reserve auction unless explicitly stated otherwise in the contract for the auction and in the terms and conditions governing the auction. For purposes of a reserve auction, there need not be an announcement or indication that the reserve is attained.

(B) A person licensed under this chapter shall not use absentee bidding unless the owner of the real or personal property being sold provides prior written permission to use absentee bidding.

(C) A person licensed under this chapter shall be an agent of the owner or consignee of the real or personal property for purposes of all aspects of the auction.

Sec. 4707.023. (A) No person licensed under this chapter shall advertise, offer for sale, or sell real or personal property by absolute auction unless all of the following apply:

(1) One of the following applies:

(a) Except for current tax obligations, easements, or restrictions of record of the seller, there are no liens or encumbrances on the property in favor of any other person.

(b) Every holder of a lien or encumbrance, by execution of the auction contract or other written agreement provided to the auctioneer, agrees to the absolute auction without regard to the amount of the highest bid or to the identity of the highest bidder.

(c) A financially sound person, firm, trust, or estate, by execution of the auction contract or other written agreement provided to the auctioneer, guarantees the complete discharge and satisfaction of all liens and encumbrances, as applicable, immediately after the absolute auction or at the closing without regard to the amount of the highest bid or to the identity of the highest bidder.

(2) The seller of the real or personal property at the time of advertising and at the time of the absolute auction has a bona fide intention to transfer ownership of the property to the highest bidder regardless of the amount of the highest bid and without reliance on any agreement that a particular bid or bid level be attained in order to transfer the property.

(3) The auction contract requires that the auction be conducted as an absolute auction, specifies that the auction is not a reserve auction, and prohibits the seller or anyone acting on behalf of the seller to bid or participate in the bidding process of the auction.

(B) Division (A) of this section does not prohibit any of the following:

(1) The bidding of a secured party or lien holder, other than the seller, at an absolute auction, provided that the bids are bona fide offers, that the

bidding does not constitute bid rigging or a reserve for the seller, and that the bidding is not for the purpose of aiding or assisting or on behalf of the seller or the auctioneer;

(2) The bidding by an individual or a party to a dissolution of marriage, partnership, or corporation on real or personal property being sold at auction pursuant to the dissolution;

(3) The advertising of real or personal property to be sold by absolute auction and by reserve auction within the same advertisement or for auction on the same date and at the same place, provided that the advertisement is not misleading and clearly identifies the property that is to be sold by absolute auction and the property that is to be sold by reserve auction.

(C) A person licensed under this chapter may make a bona fide bid on the licensee's own behalf at an absolute auction and at a reserve auction, provided that the licensee provides full disclosure that the licensee may make a bona fide bid to the seller and at the auction.

(D) A seller or a person on behalf of a seller may make a bid if the auction is a reserve auction and the auctioneer provides full disclosure before bidding begins that the seller retains the right to bid. No person licensed under this chapter knowingly shall receive such a bid in the absence of full disclosure.

(E) Except in the case of a dissolution as provided in division (B)(2) of this section, a person licensed under this chapter shall not knowingly receive a bid by a seller or a person on the seller's behalf at an absolute auction.

Sec. 4707.024. (A) Not later than seventy-two hours after the end of an auction, a person licensed under this chapter shall deposit in one or more trust or escrow accounts all money received from the sale of an owner's or consignee's personal property at auction unless the licensee pays the money to the owner or consignee immediately after the end of the auction.

(B) For purposes of this section, a person licensed under this chapter shall designate a trust or escrow account that contains an owner's or consignee's money as "client trust account" or with words of similar meaning. In addition, a trust or escrow account only shall contain money received from the sale of personal property at auction that has not been disbursed and money for expenses regarding the auction, including commission and advertisement fees, that are specifically delineated in the auction contract.

(C) Except for the payment of money to the owner or consignee immediately after the end of the auction, a person licensed under this chapter shall pay the owner or consignee with money from the client's trust or escrow account. In addition, the licensee may pay expenses, including

commission and advertisement fees, that are specifically delineated in the auction contract with money from the trust or escrow account. Money in the trust or escrow account shall not be disbursed for any purpose that is inconsistent with this section. In addition, the money shall not be commingled with the licensee's personal or business money. In administering the trust or escrow account, the licensee shall keep detailed records that show deposits, withdrawals, and interest accrued, if applicable.

Unless otherwise agreed to by the parties in the auction contract or by the direction of a court of law, all money deposited into a trust or escrow account shall be disbursed to the seller not later than fifteen days after the auction.

(D) Money from the sale of personal property at auction may be deposited in an interest bearing account if the parties to the auction contract specifically agree to such a deposit. Interest earned in the account shall be credited to the seller unless otherwise agreed to by the parties in the auction listing contract. The interest credited to the account may remain in the account for a period of sixty days after the seller receives the money from the account. The interest money then shall be disbursed according to the terms of the auction contract.

(E) All money received in connection with the sale of real property at auction shall be deposited in a broker's special or trust bank account in a depository located in this state that is described in division (A)(26) of section 4735.18 of the Revised Code.

Sec. 4707.03. A state auctioneers commission shall be created within the department of agriculture as follows:

(A) The governor, with the advice and consent of the senate, shall appoint a commission consisting of ~~three~~ five members, each of whom immediately prior to the date of appointment has been a resident of this state for at least five years, and whose vocation, Four members shall have been an auctioneer for a period of at least five years has been that of an auctioneer prior to appointment. One member shall be a member of the public who represents the interests of consumers, is not licensed under this chapter, does not have any management responsibility in the auctioneering industry, does not formulate any policy of the auctioneering industry, does not have a financial interest in the auctioneering industry, and does not have any other connection with the auctioneering profession. ~~Terms~~

(B) Terms of office shall be for three years, commencing on the tenth day of October and ending on the ninth day of October. Each Of the two additional appointments made after the effective date of this amendment, one shall be for a term ending on the ninth day of October in the first year

following the appointment, and one shall be for a term ending on the ninth day of October in the second year following the appointment. Thereafter, each term of office shall be for three years, commencing on the tenth day of October.

Each member shall hold office from the date of appointment until the end of the term for which appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first. A member appointed for a term commencing on or after October 10, 2005, shall not serve more than three consecutive terms.

~~(B)~~(C) At no time shall there be more than ~~two~~ three members of the same political party serving on the commission.

Sec. 4707.04. (A) The state auctioneers commission shall, upon qualification of the member or members appointed in each year, select from its members a chairperson, and shall serve in an advisory capacity to the department of agriculture for the purpose of carrying out ~~sections 4707.01 to 4707.22 of the Revised Code~~ this chapter. The commission shall meet not less than four times annually.

(B) The commission shall establish requirements and standards for courses of study in auctioneering. The commission triennially shall review courses of study in auctioneering that are offered at institutions in order to determine whether the courses comply with those requirements and standards. The commission shall approve institutions that offer courses that comply with the requirements and standards. If an institution is not approved, the institution may reapply for approval within a year of the disapproval. If at that time the commission approves the institution, the institution shall be approved for the remainder of the triennial period. The commission, prior to the triennial review, may place on probationary status or revoke the approval of any institution that provides a course of study in auctioneering if the institution fails to comply with the requirements and standards established under this division.

(C) Members of the commission who are licensed auctioneers under this chapter shall administer the oral licensing examination required under section 4707.08 of the Revised Code.

(D) Each commissioner shall receive the commissioner's actual and necessary expenses incurred in the discharge of ~~such~~ the commissioner's duties. Each commissioner also shall receive a per diem salary from the

auctioneers fund created in section 4707.05 of the Revised Code for each meeting attended. The director of agriculture shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the per diem salary.

(E) The commission may form subcommittees for purposes of research, education, and promotion of the auctioneering profession. If a majority of the members of the commission approves, the members of a subcommittee may be reimbursed from the auction education fund created in section 4707.171 of the Revised Code for the actual and necessary expenses incurred in the discharge of their duties.

(F) Serving as a member of the commission does not constitute holding a public office or position of employment under the laws of this state and does not constitute grounds for removal of public officers or employees from their offices or positions of employment.

(G) The commission may advise the director on actions of the director as required under this chapter.

Sec. 4707.05. Except as otherwise provided in section 4707.25 of the Revised Code, all fees and charges collected by the department of agriculture pursuant to this chapter shall be paid into the state treasury to the credit of the auctioneers fund, which is hereby created. All expenses incurred by the department in administering this chapter shall be paid out of the fund. The total expenses incurred by the department in the administration of this chapter shall not exceed the total fees, charges, fines, and penalties imposed under sections 4707.08, 4707.10, and 4707.99 of the Revised Code and paid to the treasurer of state. The department may conduct education programs for the enlightenment and benefit of all auctioneers who have paid fees pursuant to sections 4707.08 and 4707.10 of the Revised Code.

~~Out of the moneys credited pursuant to this section, the fund shall be assessed a proportionate share of the administrative costs of the department in accordance with procedures prescribed by the director of agriculture and approved by the director of budget and management. The assessment shall be paid from the auctioneers fund to the division of administration fund.~~

At the end of each fiscal year, if the balance of the fund is greater than three hundred thousand dollars, the director of agriculture shall request the director of budget and management to, and the director of budget and management shall, transfer twenty-five per cent of the balance that is in excess of three hundred thousand dollars to the auction recovery fund created in section 4707.25 of the Revised Code.

Sec. 4707.06. The department of agriculture shall maintain a record of the names and addresses of all auction firms, auctioneers ~~and~~, apprentice

auctioneers, and special auctioneers licensed by the department. This record shall also include a list of all persons whose licenses have been suspended or revoked; as well as any other information relative to the enforcement of ~~sections 4707.01 to 4707.22 of the Revised Code, as this chapter that~~ the department ~~may deem~~ considers of interest to the public.

Sec. 4707.07. (A) The department of agriculture may grant auctioneers' licenses to those ~~persons deemed~~ individuals who are determined to be qualified by the department. Each ~~person~~ individual who applies for an auctioneer's license shall furnish to the department, on forms provided by the department, satisfactory proof that the applicant:

- (1) Has a good reputation;
- (2) Is of trustworthy character;
- (3) Has attained the age of at least eighteen years;
- (4) Has done one of the following:

(a) Met the apprenticeship requirements set forth in section 4707.09 of the Revised Code;

(b) Met the requirements of section 4707.12 of the Revised Code.

(5) Has a general knowledge of the following:

- (a) The requirements of the Revised Code relative to auctioneers;
- (b) The auction profession;
- (c) The principles involved in conducting an auction;

(d) Any local and federal laws regarding the profession of auctioneering.

(6) Has satisfied the financial responsibility requirements established under section 4707.11 of the Revised Code if applicable.

(B) Auctioneers who served apprenticeships and who hold licenses issued before May 1, 1991, and who seek renewal of their licenses, are not subject to the additional apprenticeship requirements imposed by section ~~4707.08~~ 4707.09 of the Revised Code.

~~(C) The department may issue an auctioneer's license to a partnership, association, or corporation if all the partners, members, or officers thereof who are authorized to perform the functions of an auctioneer as agents of the applicant are themselves licensed as auctioneers under this chapter.~~

~~An application for an auctioneer's license filed by a partnership or association shall contain a listing of the names of all of the licensed partners, members, or other persons who are authorized to perform the functions of an auctioneer as agents of the applicant. An application filed by a corporation shall contain the names of its president and of each of its licensed officers and any other person who is authorized to perform the functions of an auctioneer as an agent of the applicant.~~

~~(D)~~ A licensee may do business under more than one registered name if, but not to exceed three registered names, provided that the names have been approved by the department. The department may reject the application of any person seeking licensure under this chapter if the name or names to be used by the applicant are likely to mislead the public, or if the name or names do not distinguish the applicant from the name or names of any existing person licensed under this chapter. If an applicant applies to the department to do business under ~~more than two~~ three names, the department may charge a fee of ten dollars for the third name ~~and each additional name.~~

(D) The department, in its discretion, may waive the schooling and apprenticeship requirements for a resident of this state, provided that the resident holds a valid auctioneer license that was issued by a state with which the department has entered into a reciprocal licensing agreement and the resident is in good standing with that state. The applicant shall provide proof that is satisfactory to the department that the applicant has had two years of experience as an auctioneer immediately preceding the date of application that includes at a minimum twelve auctions in which the applicant was a bid caller in the reciprocal state.

Sec. 4707.071. (A) On May 1, 1991, all persons licensed as auction companies under former section 4707.071 of the Revised Code shall comply with all provisions of this chapter that are applicable to auctioneers except as provided in divisions (B) and (C) of this section. Such persons, however, do not have to serve an apprenticeship or attend a course of study under section 4707.09 of the Revised Code or submit to an examination under section 4707.08 of the Revised Code as long as they do not engage in the calling for, recognition of, and the acceptance of, offers for the purchase of personal property at auction and do not conduct auctions at any location other than the definite place of business required in section 4707.14 of the Revised Code.

(B) The principal owner of each auction company that is licensed as of May 1, 1991, who pays the annual renewal fee specified in division (B) of section 4707.10 of the Revised Code during the first renewal period following May 1, 1991, shall be issued a special auctioneer's license, for the ~~sale~~ sale auction of personal property subject to division (A) of this section. Each principal owner shall apply for an annual license. In applying for an annual license, each person licensed as an auction company on May 1, 1991, shall designate an individual as principal owner by submitting documentation substantiating that the individual is in fact the principal owner and shall identify a definite place of business as required in section 4707.14 of the Revised Code. A person licensed as an auctioneer shall not be entitled to a



special auctioneer's license.

(C) A special auctioneer's license issued under this section to the principal owner of a former auction company does not entitle the principal owner or former auction company to conduct auctions at any location other than the definite place of business required in section 4707.14 of the Revised Code. Notwithstanding section 4707.10 of the Revised Code, the department of agriculture shall not issue a new special auctioneer's license if the definite place of business identified by the licensee in the licensee's initial application for a special auctioneer license has changed or if the name under which the licensee is doing business has changed. No person other than an owner, officer, member, or agent of the former auction company who personally has passed the examination prescribed in section 4707.08 of the Revised Code and been licensed as an auctioneer shall engage in the calling for, recognition of, and the acceptance of, offers for the purchase of real or personal property, goods, or chattels at auction in connection with a former auction company that has been issued a special auctioneer's license.

(D) A person licensed as a special auctioneer shall not engage in the sale of real property at auction.

(E) As used in this section, "auction company" means "auction company" as defined in section 4707.01 of the Revised Code prior to its amendment by Sub. S.B. 209 of the 125th general assembly.

~~Sec. 4707.072. (A) For purposes of this section, the department of agriculture shall adopt rules in accordance with section 4707.19 of the Revised Code prescribing the fee that a license applicant must pay. Until those rules are adopted, a license applicant shall pay the fee established in this section.~~

~~(B) The department may grant one-auction licenses to any nonresident person deemed individual who is determined to be qualified by the department. Any ~~person~~ individual who applies for a one-auction license shall attest, on forms provided by the department, and furnish to the department, satisfactory proof that the license applicant ~~or any auctioneer affiliated with the applicant~~ meets the following requirements:~~

~~(1)~~(A) Has a good reputation;

~~(2)~~(B) Is of trustworthy character;

~~(3)~~(C) Has attained the age of at least eighteen years;

~~(4)~~(D) Has a general knowledge of the requirements of the Revised Code relative to auctioneers, the auction profession, and the principles involved in conducting an auction;

~~(5)~~(E) Has two years of professional auctioneering experience immediately preceding the date of application ~~and the experience that~~

includes the personal conduct by the applicant of at least twelve auction sales in any state, or has met the requirements of section 4707.12 of the Revised Code;

~~(6)~~(F) Has paid a fee of ~~one~~ five hundred dollars;

~~(7)~~(G) Has not applied for or previously obtained a license under this section:

(H) Has provided proof of financial responsibility in the form of either an irrevocable letter of credit or a cash bond or a surety bond in the amount of fifty thousand dollars. If the applicant gives a surety bond, the bond shall be executed by a surety company authorized to do business in this state. A bond shall be made to the department and shall be conditioned that the applicant shall comply with this chapter and rules adopted under it, including refraining from conduct described in section 4707.15 of the Revised Code. All bonds shall be on a form approved by the director of agriculture.

Sec. 4707.073. (A) No corporation, general or limited partnership, or unincorporated association shall act or hold itself out as an auctioneer without a valid auctioneer's license issued under this section. This section does not apply to a person who is issued a license under section 4707.071 of the Revised Code.

(B) The department of agriculture may grant an auctioneer's license to a corporation, general or limited partnership, or unincorporated association that is determined to be qualified by the department. Every applicant for a license under this section shall furnish to the department, on forms provided by the department, satisfactory proof that the applicant:

(1) Is in good standing with the secretary of state if the applicant is a corporation;

(2) Is of trustworthy character;

(3) Has provided proof of financial responsibility as required in section 4707.11 of the Revised Code;

(4) Is registered with the secretary of state or a local authority, as applicable, to do business in this state;

(5) Has complied with any other requirement that the director establishes in rules adopted under section 4707.19 of the Revised Code.

(C) An application submitted under this section shall list the names of all of the owners, directors, partners, or members of the applicant, as applicable, and shall indicate those that have an auctioneer's license issued under section 4707.07 of the Revised Code.

(D)(1) The department shall not issue a license under this section unless one of the following applies, as applicable:

(a) If the applicant is a general or limited partnership, not less than fifty per cent of the general partners have a current license issued under section 4707.07 of the Revised Code.

(b) If the applicant is a corporation, not less than fifty per cent of the directors and the president or chief executive have a current license issued under section 4707.07 of the Revised Code.

(c) If the applicant is an unincorporated association, not less than fifty per cent of the members have a current license issued under section 4707.07 of the Revised Code.

Failure of a corporation, partnership, or unincorporated association to maintain the applicable requirements of this division after the issuance of a license under this section may be sufficient cause for the revocation of the license under section 4707.15 of the Revised Code.

(2) Not later than two years after the effective date of this section, a corporation, partnership, or unincorporated association that was issued a license under section 4707.07 of the Revised Code on or before the effective date of this section shall comply with the requirements established in division (D)(1) of this section. If such a corporation, partnership, or unincorporated association fails to comply with those requirements, the license of the corporation, partnership, or unincorporated association immediately shall terminate.

(E) Upon the issuance of a license under this section, a corporation, partnership, or unincorporated association shall designate an individual from among its directors, partners, or members who is licensed under section 4707.07 of the Revised Code as its agent for purposes of communication with the department. If that individual ceases to be the agent, the corporation, partnership, or unincorporated association shall notify the department not later than ten days after the day on which the individual ceases to be the agent. Upon notification to the department, the license of the corporation, partnership, or unincorporated association, as applicable, immediately shall terminate. If the corporation, partnership, or unincorporated association notifies the department of the designation of a new agent in accordance with the requirements of this division and pays a fee in the amount of ten dollars, the department shall issue the corporation, partnership, or unincorporated association a new license.

(F) This section does not preclude a corporation, partnership, or unincorporated association from selling real property at auction, provided that the requirements of this section and section 4707.021 and Chapter 4735. of the Revised Code are satisfied.

(G) A person licensed as a real estate broker under Chapter 4735. of the

Revised Code shall not be required to obtain a license under this section if the person complies with sections 4707.021 and 4707.22 of the Revised Code.

Sec. 4707.074. (A) A person who is not otherwise licensed under this chapter and who only provides auction services or holds the person's self out as providing auction services shall do so only with a valid auction firm license issued under this section. This section does not apply to either of the following:

(1) A person licensed as a motor vehicle auction owner under Chapter 4517. of the Revised Code who exclusively sells motor vehicles and who uses an auctioneer who is licensed under this chapter to conduct the auction;

(2) A person licensed as a livestock dealer under Chapter 943. of the Revised Code who exclusively sells livestock and uses an auctioneer who is licensed under this chapter to conduct the auction.

(B) The department of agriculture may grant an auction firm license to an auction firm that is determined to be qualified by the department. Every applicant for an auction firm license shall furnish to the department, on forms provided by the department, satisfactory proof that the applicant:

(1) Is in good standing with the secretary of state if the applicant is a corporation;

(2) Is of trustworthy character;

(3) Is registered with the secretary of state or a local authority, as applicable, to do business in this state;

(4) Has complied with any other requirement that the director establishes in rules adopted under section 4707.19 of the Revised Code;

(5) Has a general knowledge of the requirements of the Revised Code and the general principles regarding auctions, auctioneering, and auction management;

(6) Has provided proof of financial responsibility in the amount of fifty thousand dollars in the form of a surety bond, an irrevocable letter of credit, or cashbond;

(7) Employs a firm manager as required under division (D) of this section.

(C) An application submitted under this section for an auction firm license shall list the names of all of the owners, directors, partners, or members of the applicant, as applicable.

(D) An auction firm shall designate a firm manager. The firm manager shall have sufficient authority in the operation of the auction firm to ensure compliance with this chapter and rules adopted under it. If the firm manager does not have a current license issued under section 4707.07 of the Revised

Code, the firm manager shall pass the written examination held under section 4707.08 of the Revised Code before the department may issue a license under this section to the auction firm.

(E)(1) An auction firm license issued under this section immediately shall terminate if any of the following occurs:

(a) The auction firm incorporates.

(b) The auction firm ceases to operate as a corporation.

(c) The auction firm changes ownership.

(d) If the auction firm is a partnership, the firm changes the number of partners in the partnership or changes the partners comprising the partnership.

(e) The auction firm changes the firm manager.

(f) The auction firm changes the name under which the firm conducts business.

(g) The auction firm changes its permanent business location.

If a license terminates under this division, the licensee immediately shall cease auction services, notify the department of the termination, and return the terminated license to the department.

(2) Not later than ten days prior to the date on which an auction firm license will terminate pursuant to division (E)(1)(a), (b), (c), or (d) of this section, the auction firm may submit an application for a new auction firm license in accordance with division (B) of this section. If the auction firm submits the application, returns the terminated license, and pays a fee in the amount of one hundred dollars, the department may issue a new license under this section.

(3) If a license terminates pursuant to division (E)(1)(e), (f), or (g) of this section and the formerly licensed auction firm notifies the department, returns the terminated license, and pays a fee in the amount of ten dollars, the department shall issue a new license under this division.

(F) For purposes of the financial responsibility that is required under division (B) of this section, if a person provides a surety bond, the bond shall be executed by a surety company that is authorized to do business in this state. The bond shall be made payable to the department and shall include a condition that requires the applicant to comply with this chapter and rules adopted under it, including a requirement that the person refrain from conduct described in section 4707.15 of the Revised Code. A bond shall be on a form that is approved by the director. A person who is issued a license under this section shall maintain the financial responsibility that is required under division (B) of this section for as long as the person is licensed.

(G) An auction firm licensed under this section shall not conduct the bid calling for the sale of real or personal property at auction.

Sec. 4707.08. (A) The department of agriculture shall hold written examinations four times each year for the purpose of testing the qualifications required for obtaining a license under section 4707.07 of the Revised Code and twelve times each year for obtaining a license under section 4707.09 of the Revised Code and for unlicensed auction firm managers as required under division (D) of section 4707.074 of the Revised Code. The written examination shall be held at the department or at an alternative location determined by the department. In addition to the written examination, auctioneer license applicants shall pass an oral examination administered by the state auctioneers commission on the same date and at the same location as the written examination. An examination shall not be required for the renewal of any license unless ~~such~~ the license has been revoked, suspended, or allowed to expire without renewal, in which case the applicant shall take and pass the appropriate examinations offered by the department.

An examination fee of twenty-five dollars shall be collected from each person taking the auctioneer examination and fifteen dollars from each person taking either the apprentice auctioneer examination or the auction firm manager examination to defray expenses of holding ~~such~~ the examinations.

(B) All applications and proofs ~~must~~ shall be filed by each applicant before the scheduled date of examination, and ~~must~~ shall be accompanied by ~~a bond~~ proof of financial responsibility and a license fee. In order to be seated for an examination held under this section, an applicant shall have a complete application on file with the department not later than fourteen days prior to the examination date.

(C) If a court of competent jurisdiction or the department, at an administrative hearing, has found that an applicant conducted an auction, provided auction services, or acted as an auctioneer without a license issued under this chapter, the department may refuse to allow the applicant to take an examination under this section or may deny the issuance of a license to the applicant for a period of two years.

(D)(1) If an applicant for a license fails to pass the examination, the applicant may take the examination on the next scheduled date for the examination. If an applicant fails to pass the examination on the second consecutive attempt, the applicant shall not take the examination on the next scheduled date for the examination.

(2) If an applicant for a license fails to pass the examination on the third

attempt, the applicant shall attend auction school a second time before the applicant may take the examination. If an applicant for a license fails to pass the examination on the fourth attempt, the applicant shall not take the examination for at least one year from the date of the last failed attempt.

(3) If an individual who is taking the examination for an auction firm manager fails to pass the examination on the third attempt, the individual shall not take the examination for one year from the date of the last failed attempt.

Sec. 4707.09. The department of agriculture may grant apprentice auctioneers' licenses to those persons ~~deemed~~ that are determined to be qualified by the department. Every applicant for an apprentice auctioneer's license shall pass an examination relating to the skills, knowledge, and statutes and rules governing auctioneers. Every applicant for an apprentice auctioneer's license shall furnish to the department, on forms provided by the department, satisfactory proof that the applicant:

- (A) Has a good reputation;
- (B) Is of trustworthy character;
- (C) Has attained the age of at least eighteen years;
- (D) Has obtained a written promise of a licensed auctioneer to sponsor the applicant during the applicant's apprenticeship;

(E) Has satisfied the financial responsibility requirements established under section 4707.11 of the Revised Code if applicable;

(F) Has successfully completed a course of study in auctioneering at an institution that is approved by the state auctioneers commission.

Before an apprentice may take the auctioneer's license examination, the apprentice shall serve an apprenticeship of at least twelve months; ~~successfully complete a course of study in auctioneering at an institution that is approved every three years by the state auctioneers commission, and~~ ~~conduct, participate~~ as a bid caller; in at least twelve auction sales under the direct supervision of the sponsoring licensed auctioneer, which ~~sales~~ sales auctions shall be certified by the licensed auctioneer on the apprentice's application for an auctioneer's license. No apprentice auctioneer shall be under the sponsorship of more than one licensed auctioneer at one time.

If an auctioneer intends to terminate sponsorship of an apprentice auctioneer, the sponsoring auctioneer shall notify the apprentice auctioneer of the sponsoring auctioneer's intention by certified mail, return receipt requested, at least ten days prior to the effective date of termination and, at the same time, shall deliver or mail by certified mail to the department of ~~agriculture~~ a copy of the termination notice and the license of the apprentice auctioneer. No apprentice auctioneer shall perform any acts under authority

of the apprentice's license after the effective date of the termination until the apprentice receives a new license ~~bearing the name and address of the apprentice's new sponsor~~. No more than one license shall be issued to any apprentice auctioneer for the same period of time.

No licensed auctioneer shall have under the licensed auctioneer's sponsorship more than two apprentice auctioneers at one time. No auctioneer shall sponsor an apprentice auctioneer if the auctioneer has not been licensed and in good standing for a period of at least two years immediately before sponsoring the apprentice auctioneer. A sponsoring auctioneer whose license is suspended or revoked shall send to the department the apprentice auctioneer's license not later than fourteen days after the suspension or revocation. If a sponsoring auctioneer's license is suspended or revoked, the apprentice auctioneer shall obtain a written promise of sponsorship from another licensed auctioneer before performing any acts under the authority of an apprentice auctioneer's license. The apprentice auctioneer shall send a copy of the written promise of sponsorship of another auctioneer to the department. If the department receives a copy of such a written promise of sponsorship and the apprentice pays the fee established by the department, the department shall issue a new license to the apprentice.

An apprentice auctioneer may terminate the apprentice's sponsorship with an auctioneer by notifying the auctioneer of the apprentice's intention by certified mail, return receipt requested, at least ten days prior to the effective date of termination. At the same time, the apprentice shall deliver or mail by certified mail to the department ~~of agriculture~~ a copy of the termination notice. Upon receiving the termination notice, the sponsoring auctioneer shall promptly deliver or mail by certified mail to the department the license of the apprentice auctioneer.

The termination of a sponsorship, regardless of who initiates the termination, shall not be cause for an apprentice auctioneer to lose credit for any certified ~~sales the apprentice conducted~~ participated as a bid caller or apprenticeship time the apprentice served under the direct supervision of the former sponsor.

Sec. 4707.091. (A) Prior to the expiration of an auctioneer's or apprentice auctioneer's license, an auctioneer or apprentice auctioneer may submit an application to the department of agriculture, on forms provided by the department, to place the license on deposit with the department for a period not to exceed two years. Not later than fourteen days after receipt of an application under this section, the department shall accept or deny the application.



(B) If the department accepts the application, an auctioneer or apprentice auctioneer who has a license on deposit with the department under this section shall not act as an auctioneer or apprentice auctioneer while the license is on deposit. In addition, such an auctioneer shall not be required to pay an assessment under section 4707.25 of the Revised Code.

(C) An auctioneer or apprentice auctioneer may reacquire a license on deposit from the department if the auctioneer or apprentice auctioneer does all of the following prior to reacquisition:

(1) Submits a written request to the department that contains the business address and telephone number of the auctioneer or apprentice auctioneer, as applicable;

(2) Pays a reactivation fee for the license in the following amount, as applicable:

(a) In the case of an apprentice auctioneer, one hundred dollars;

(b) In the case of an auctioneer whose license is reacquired during the first half of the biennium according to the biennial schedule established in division (B) of section 4707.10 of the Revised Code, two hundred dollars;

(c) In the case of an auctioneer whose license is reacquired during the second half of the biennium according to that biennial schedule, one hundred dollars.

(3) Pays the assessment that is levied under section 4707.25 of the Revised Code for the current year, if applicable;

(4) Provides proof of financial responsibility as required in section 4707.11 of the Revised Code, if applicable;

(5) Complies with any other requirement established in rules adopted by the director under section 4707.19 of the Revised Code.

(D) If an auctioneer or apprentice auctioneer, at the time of placing the auctioneer's or apprentice auctioneer's license on deposit, as applicable, has not maintained proof of financial responsibility for the entire period of time required under section 4707.11 of the Revised Code, the auctioneer or apprentice auctioneer, beginning at the time of reacquisition, shall maintain proof of financial responsibility for the remainder of the time required under that section.

~~Sec. 4707.10. (A) For purposes of this section, the department of agriculture shall adopt rules in accordance with section 4707.19 of the Revised Code prescribing fees that licensees must pay and license renewal deadlines and procedures with which licensees must comply. Until those rules are adopted, licensees shall pay the fees and comply with the license renewal deadlines and procedures established in this section.~~

~~(B) The fee for each auctioneer's, apprentice auctioneer's, or special~~

auctioneer's or auction firm license issued by the department is one hundred dollars, and the annual renewal fee for any such license is one hundred dollars. All licenses expire annually on the last day of June of each year and shall be renewed according to the standard renewal procedures of Chapter 4745. of the Revised Code, or the procedures of this section. Any licensee under this chapter who wishes to renew the licensee's license, but fails to do so before the first day of July shall reapply for licensure in the same manner and pursuant to the same requirements as for initial licensure, unless before the first day of September of the year of expiration, the former licensee pays to the department, in addition to the regular renewal fee, a late renewal penalty of one hundred dollars.

(B)(1) Each person to whom the department issues an auctioneer's license or special auctioneer's license shall pay a licensure fee. Those licenses are biennial and expire in accordance with the schedule established in division (B)(2) of this section. If such a license is issued during the first year of a biennium, the licensee shall pay a fee in the amount of two hundred dollars. If the license is issued during the second year of a biennium, the licensee shall pay a fee in the amount of one hundred dollars. With respect to an auctioneer's license, the fees apply regardless of whether the license is issued to an individual under section 4707.07 of the Revised Code or to a corporation, partnership, or association under section 4707.073 of the Revised Code.

All auctioneer's licenses and special auctioneer's licenses expire on the last day of June of the biennium. The licenses shall be renewed in accordance with the standard renewal procedures of Chapter 4745. of the Revised Code or the procedures in this section and upon the licensee's payment to the department of a renewal fee of two hundred dollars. A licensee who wishes to renew the licensee's license, but who fails to do so before the first day of July following the license's expiration, shall reapply for licensure in the same manner and pursuant to the same requirements as for the initial licensure unless before the first day of September following the expiration, the former licensee pays to the department, in addition to the regular renewal fee, a late renewal penalty of one hundred dollars.

(2) The biennial expiration of an auctioneer's license or special auctioneer's license shall occur in accordance with the following schedule:

(a) The license shall expire in odd-numbered years if the business name or last name, as applicable, of the licensee begins with the letters "A" through "J" or with the letters "X" through "Z."

(b) The license shall expire in even-numbered years if the business name or last name, as applicable, of the licensee begins with the letters "K"

through "W."

(C) Any person who fails to renew the person's license before the first day of July is prohibited from engaging in any activity specified or comprehended in section 4707.01 of the Revised Code until such time as the person's license is renewed or a new license is issued. Renewal of a license between the first day of July and the first day of September does not relieve any person from complying with this division. The department may refuse to renew the license of or issue a new license to any person who violates this division.

(D) The department shall prepare and deliver to each licensee a permanent license certificate and an identification card, the appropriate portion of which shall be carried on the person of the licensee at all times when engaged in any type of auction activity, and part of which shall be posted with the permanent certificate in a conspicuous location at the licensee's place of business.

(E) Notice in writing shall be given to the department by each auctioneer or apprentice auctioneer licensee of any change of principal business location or any change or addition to the name or names under which business is conducted, whereupon the department shall issue a new license for the unexpired period. Any change of business location or change or addition of names without notification to the department shall automatically cancel any license previously issued. For each new auctioneer or apprentice auctioneer license issued upon the occasion of a change in business location or a change in or an addition of names under which business is conducted, the department may collect a fee of ten dollars for each change in location, or name or each added name unless the notification of the change occurs concurrently with the renewal application or unless otherwise provided in section 4707.07 of the Revised Code.

Sec. 4707.11. (A) Except as provided in division (B) of this section, each application for a license issued under this chapter shall be accompanied by proof of financial responsibility in the form of either an irrevocable letter of credit or a cash bond or a surety bond in the amount of twenty-five thousand dollars. If the applicant gives a surety bond, the bond shall be executed by a surety company authorized to do business in this state.

A bond shall be made payable to the department of agriculture and shall ~~be conditioned~~ include a condition that requires the applicant ~~shall to~~ comply with this chapter and rules adopted under it, including ~~refraining a~~ requirement that the person refrain from conduct described in section 4707.15 of the Revised Code. All bonds shall be on a form approved by the director of agriculture.

A licensee shall maintain proof of financial responsibility for three years following the date of initial licensure. After the three-year period, a licensee who has not engaged in conduct described in section 4707.15 of the Revised Code and has not otherwise violated this chapter or rules adopted under it during that period shall no longer be required to maintain proof of financial responsibility except as otherwise provided in this section.

A licensee whose license expires without being renewed under section 4707.10 of the Revised Code or is suspended under section 4707.30 of the Revised Code shall give proof of financial responsibility in accordance with this section in order to obtain reinstatement or reactivation of the license.

(B) Division (A) of this section does not apply to ~~either~~ any of the following:

(1) A licensee whose license was issued prior to July 1, 2003, provided that the license continues to be renewed under section 4707.10 of the Revised Code and is not suspended under section 4707.15 or 4707.30 of the Revised Code;

(2) An apprentice auctioneer licensee whose license was issued under section 4707.09 of the Revised Code prior to July 1, 2003, and who applies for an auctioneer's license under section 4707.07 of the Revised Code on or after July 1, 2003, provided that the apprentice auctioneer's license is not suspended under section 4707.15 or 4707.30 of the Revised Code, and, if necessary, continues to be renewed under section 4707.10 of the Revised Code, prior to the issuance of the auctioneer's license to the applicant;

(3) An auction firm license that is issued under section 4707.074 of the Revised Code.

Sec. 4707.111. The state, through the department of agriculture and in accordance with this chapter, shall solely regulate auctioneers, auction firms, and the conduct of auction sales.

By enactment of this chapter, it is the intent of the general assembly to preempt municipal corporations and other political subdivisions from the regulation and licensing of auctioneers, auction firms, and auction sales.

At least twenty-four hours prior to an auction, the person licensed under this chapter to conduct the auction shall notify, via telephone, mail, or personal delivery, the chief of police of the municipal corporation in which the auction site is located; or, if the site is in the unincorporated area of a county, the county sheriff as to the location and time of the auction and give to that officer a general description of the items offered for sale. A licensee who conducts regular auction sales on a fixed day at the same location is required to provide such notice to the chief of police or county sheriff only once. However, the licensee shall notify the chief of police or county sheriff

if the auctions subsequently are discontinued or are conducted on a different day or at a different location.

Sec. 4707.12. A nonresident may operate as an auctioneer, apprentice auctioneer, or special auctioneer within the state by conforming to this chapter.

The department of agriculture may, within its discretion, waive the testing and schooling requirements for a nonresident, provided that the nonresident holds a valid auctioneer or apprentice auctioneer license issued by a state with which the department has entered into a reciprocal licensing agreement. Nonresidents wishing to so operate in this state shall make application in writing to the department and furnish the department with proof of their ability to conduct an auction, proof of license and ~~bond if they reside in a state with these requirements~~ financial responsibility, as well as other information ~~which~~ that the department may request. If a state with which the department has entered into a reciprocal licensing agreement does not require an apprenticeship, the applicant shall provide proof of license for a period of at least one year prior to receipt of the application.

This section does not apply to nonresident auctioneers who ~~reside in states under the laws of which similar recognition and courtesies are~~ do not extended to licensed auctioneers of this have a license from a state with which the department has entered into a reciprocal licensing agreement.

Sec. 4707.14. (A) Each person licensed under ~~sections 4707.07 to 4707.22 of the Revised Code~~ this chapter shall have a definite place of business in this state.

(B) Except as provided in division (C) of this section, if the licensee is a nonresident, it is not necessary for ~~him~~ the licensee to maintain an active place of business within this state if ~~he~~ the licensee maintains such a place of business in the state where ~~he~~ the licensee is a resident.

(C) A nonresident ~~former auction company~~ licensee who is licensed as a special auctioneer under section 4707.071 of the Revised Code shall have a definite place of business within the state and shall not conduct auctions anywhere else in the state other than ~~his~~ the licensee's place of business.

Sec. 4707.15. The department of agriculture may deny, refuse to renew, suspend, or revoke the license of any auction firm, auctioneer, apprentice auctioneer, or special auctioneer for any of the following causes:

(A) Obtaining a license through false or fraudulent representation;

(B) Making any substantial misrepresentation in an application for ~~an~~ auctioneer's, apprentice auctioneer's, or special auctioneer's a license;

(C) A continued course of misrepresentation or for making false promises through agents, advertising, or otherwise;

(D) Specifying that an auction is a reserve auction, absolute auction, or estate auction, but not conducting the auction as specified;

(E) Failing to account for or remit, within a reasonable time, any money or property belonging to others that comes into the licensee's possession, and for commingling funds of others with the licensee's own, or failing to keep such funds of others in an escrow or trustee trust account, except that in the case of a transaction involving real estate, such funds shall be maintained in accordance with division (A)(26) of section 4735.18 of the Revised Code;

~~(E)~~(F) Paying valuable consideration to any person who has violated this chapter;

~~(F)~~(G) Conviction in a court of competent jurisdiction of this state or any other state of a criminal offense involving fraud, forgery, embezzlement, false pretenses, extortion, conspiracy to defraud, or another similar offense or a felony;

~~(G)~~(H) Violation of this chapter or rules adopted under it;

~~(H)~~(I) Failure to furnish voluntarily at the time of execution, copies of all written instruments prepared by the auctioneer or auction firm;

~~(I)~~(J) Any conduct of an auctioneer which a person that is licensed under this chapter that demonstrates bad faith, dishonesty, incompetency, or untruthfulness;

~~(J)~~(K) Any other conduct that constitutes improper, fraudulent, or dishonest dealings;

~~(K)~~(L) Failing prior to the sale at public auction to enter into a written contract with the owner or consignee of any property to be sold, containing the terms and conditions upon which such the licensee received the property for sale auction;

~~(L)~~(M) The use of any power of attorney to circumvent this chapter;

~~(M)~~(N) Failure to display the sign required under section 4707.22 of the Revised Code and a notice conspicuously at the clerk's desk or on a bid card that clearly states the terms and conditions of the sale, the name of the auctioneer or special auctioneer conducting the sale, and that the auctioneer or special auctioneer is licensed by the department of agriculture and has filed a bond auction;

~~(N)~~(O) Failure to notify the department of any conviction of a felony or crime involving fraud within fifteen days of conviction;

~~(O)~~ Acting in the capacity of an auctioneer, whether for valuable consideration or not, for any special auctioneer that is not licensed under this chapter

(P) Aiding an unlicensed person in the performance of services or acts that require a license under this chapter;

(Q) The suspension or revocation of a license to engage in auctioneering or other disciplinary action by the licensing authority of another state;

(R) The refusal or disapproval by the licensing authority of another state of an application for a license to engage in auctioneering;

(S) Failure of a licensee to notify the department of agriculture within fifteen days of a disciplinary action against the licensee by another state's applicable governing authority;

(T) Engaging in auctioneering or providing auction services without a license or during the suspension of a license;

(U) Attempting to cheat or cheating on an auctioneer examination or aiding another to cheat on an examination.

Sec. 4707.151. (A) No person shall engage in bid rigging.

(B) As used in this section, "bid rigging" means a conspiracy between auctioneers, apprentice auctioneers, special auctioneers, any participants in an auction, or any other persons who agree not to bid against each other at an auction or who otherwise conspire to decrease or increase the number or amounts of bids offered at auction.

Sec. 4707.16. (A) The department of agriculture may, upon its own motion, and shall, upon the verified written complaint of any person, investigate the actions of any auction firm, auctioneer, apprentice auctioneer, or special auctioneer, any applicant for an auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's license, or any person who assumes to act in that capacity, if the complaint, together with other evidence presented in connection with it, makes out a prima-facie case.

If the department determines that any such applicant is not entitled to receive a license, a license shall not be granted to ~~such~~ the applicant, and if the department determines that any licensee is guilty of a violation of section 4707.14 or 4707.15 of the Revised Code, the department may suspend or revoke the license. Any auction firm, auctioneer, apprentice auctioneer, or special auctioneer who has had the auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's license revoked shall not be issued another such license for a period of two years from the date of revocation.

(B) The department may investigate complaints concerning the violation of sections 4707.02 and 4707.15 of the Revised Code and may subpoena witnesses in connection with such investigations as provided in this section. The department may make application to the court of common pleas for an order enjoining the violation of sections 4707.02 and 4707.15 of the Revised Code, and upon a showing by the department that any licensed auction firm,

auctioneer, apprentice auctioneer, or special auctioneer has violated or is about to violate section 4707.15 of the Revised Code, or any person has violated or is about to violate section 4707.02 of the Revised Code, an injunction, restraining order, or other order as may be appropriate shall be granted by the court.

(C) The department may compel by subpoena the attendance of witnesses to testify in relation to any matter over which it has jurisdiction and ~~which~~ that is the subject of inquiry and investigation by it, and require the production of any book, paper, or document pertaining to ~~such~~ that matter. In case any person fails to file any statement or report, obey any subpoena, give testimony, or produce any books, records, or papers as required by such a subpoena, the court of common pleas of any county in the state, upon application made to it by the department, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from ~~such~~ that court, or a refusal to testify therein.

(D) When the department determines that a person not licensed under this chapter is engaged in or is believed to be engaged in activities for which a license is required under this chapter, the department may issue an order to that person requiring the person to show cause as to why the person should not be subject to licensing under this chapter. If the department, after a hearing, determines that the activities in which the person is engaged are subject to licensing under this chapter, the department may issue a cease-and-desist order ~~which~~ that shall describe the person and activities ~~which~~ that are subject to the order. A cease-and-desist order issued under this section shall be enforceable in and may be appealed to the common pleas courts of this state under Chapter 119. of the Revised Code.

(E) In addition to the remedies provided under this section and irrespective of whether an adequate remedy at law exists, the department may apply to a court of common pleas for a temporary or permanent injunction or other appropriate relief for continued violations of this chapter. For purposes of this division, the court of common pleas shall be the court of common pleas of Licking county or the court of common pleas of the county where the violation occurs.

(F) For purposes of this section, investigative costs incurred by the department are recoverable either by the issuance of an administrative order of the department or by an order of a court of competent jurisdiction.

Sec. 4707.171. There is hereby created in the state treasury the auction education fund. Seven dollars and fifty cents of each fee collected for an initial or renewed ~~auctioneer's~~ auction firm's or apprentice auctioneer's



license shall be credited to the auction education fund. In addition, seven dollars and fifty cents out of each one hundred dollars that is collected as a fee for an initial or renewed auctioneer's license or for a renewed special auctioneer's license shall be credited to the fund. All interest earned on moneys deposited in the state treasury to the credit of the auction education fund shall be credited to the fund.

The ~~Ohio~~ state auctioneers commission shall use any moneys from the auction education fund to advance and underwrite education and research in the auction field for the benefit of those licensed under this chapter and the auctioneering public and to cooperate with associations of auctioneers and other groups for the education of auctioneers and the advancement of the auction profession in this state.

Sec. 4707.18. No person engaged in the business of, or acting in the capacity of, an auction firm, auctioneer, or special auctioneer shall bring or maintain any action in the courts of this state for the collection of compensation for any services performed as an auction firm or auctioneer without first alleging and proving that the person was a duly licensed auction firm, auctioneer, or special auctioneer at the time the alleged cause of action arose.

Sec. 4707.19. (A) The director of agriculture may adopt reasonable rules necessary for the implementation of this chapter in accordance with Chapter 119. of the Revised Code. In addition, the director shall adopt rules in accordance with Chapter 119. of the Revised Code that establish the portion of license fees collected under this chapter that are to be deposited into the auction recovery fund under section 4707.25 of the Revised Code. ~~The~~

No person shall fail to comply with a rule adopted under this chapter.

(B) The director shall adopt rules that establish a schedule of civil penalties for violations of this chapter, rules adopted under it, or orders issued under it. The rules shall provide that the civil penalty for the first violation of this chapter, rule, or order shall not exceed five thousand dollars and the civil penalty for each subsequent offense shall not exceed ten thousand dollars. In addition, the director, in establishing the schedule of civil penalties in the rules, shall consider past violations of this chapter and rules adopted under it, the severity of a violation, and the amount of actual or potential damage to the public or the auction profession.

(C) The department of agriculture may hear testimony in matters relating to the duties imposed on it, and any person authorized by the director may administer oaths. The department may require other proof of the honesty, truthfulness, and good reputation of any person named in the application for an auction firm's, auctioneer's, apprentice auctioneer's, or

special auctioneer's license before admitting the applicant to an examination or issuing a license.

Sec. 4707.20. (A) No person shall act as an auction firm, auctioneer, or special auctioneer ~~on a sale at auction~~ until the person has first entered into a written contract or agreement in duplicate with the owner or consignee of any property to be sold, containing the terms and conditions upon which the licensee receives or accepts the property for sale at auction. The contracts or agreements shall, for a period of two years, be kept on file in the office of every person so licensed. No apprentice auctioneer shall be authorized to enter into such a contract or agreement without the written consent of the apprentice auctioneer's sponsoring auctioneer, and all contracts or agreements shall be made in the name of and on behalf of the sponsoring auctioneer. In addition, an apprentice auctioneer shall not enter into an auction contract for the sale of real property in the name of the sponsoring auctioneer regardless of whether the apprentice auctioneer is licensed as a real estate broker or salesperson.

(B) On all contracts or agreements between an auction firm, auctioneer, or special auctioneer and the owner or consignee, there shall appear a prominent statement indicating that the auction firm, auctioneer, or special auctioneer is licensed by the department of agriculture, and either that the licensee is bonded in favor of the state or that an aggrieved person may initiate a claim against the auction recovery fund created in section 4707.25 of the Revised Code as a result of the licensee's actions, whichever is applicable.

(C) The auction firm, auctioneer, or special auctioneer who contracts with the owner is liable for the settlement of all money received, including the payment of all expenses incurred only by the licensee and the distribution of all funds, in connection with an auction.

(D) For purposes of this section, a contract or agreement shall specify all of the following:

(1) The owner of the property to be sold or the owner's agent or the consignee;

(2) The date of the auction or a termination date of the contract or agreement;

(3) The location of the auction;

(4) The terms and conditions of the auction;

(5) All of the fees to be charged by the auctioneer or the auction firm, which shall include commissions, rentals, advertising, and labor;

(6) An explanation of the settlement of the auction that includes the disbursement of interest money, if applicable;

(7) A statement establishing the responsibility for bad checks, debts, and unpaid auction items;

(8) A statement indicating whether the auction is a reserve auction or an absolute auction. In addition, the statement shall include the definition of reserve auction or absolute auction from section 4707.01 of the Revised Code, as applicable.

(9) A statement of the auctioneer's or auction firm's policy regarding absentee bidding;

(10) A brief description of the real or personal property to be sold;

(11) If the sale is of real or personal property at absolute auction, a statement affirming that the seller of the real or personal property has a bona fide intention to transfer ownership of the property to the highest bidder.

Sec. 4707.21. No auction firm, auctioneer, apprentice auctioneer, or special auctioneer shall willfully neglect or refuse to furnish the department of agriculture statistics or other information in the auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's possession or under the auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's control, ~~which~~ that the auction firm, auctioneer, apprentice auctioneer, or special auctioneer is authorized to collect; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer neglect or refuse, for more than thirty days, to answer questions submitted on circulars; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer knowingly answer any such questions falsely; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer refuse to obey subpoenas and give testimony. Licensees shall keep records relative to any auction sale for at least two years from the date of ~~sale~~ auction. These records shall include settlement sheets, written contracts, and copies of any advertising that lists the items for ~~sale~~ auction, as applicable.

Sec. 4707.22. ~~(A)~~ Any ~~auctioneer, apprentice auctioneer, or special auctioneer~~ person licensed under this chapter who advertises, by linear advertisements or otherwise, to hold or conduct an auction shall indicate in ~~such~~ the advertisement ~~his~~ the licensee's name or the name registered with the department of agriculture and that ~~he~~ the licensee is an auctioneer or apprentice auctioneer. Any apprentice auctioneer who advertises, as provided in this section, ~~must~~ shall indicate in ~~his~~ the apprentice's advertisement the name of the auctioneer under whom ~~he~~ the apprentice is licensed. The name of the auctioneer shall be displayed in equal prominence with the name of the apprentice auctioneer in ~~such~~ the advertisement. Any such licensee who advertises in a manner other than as provided in this section is guilty of violating division (C) of section 4707.15 of the Revised

Code.

(B) An auction firm licensed under this chapter that advertises, by linear advertisements or otherwise, to solicit or receive consignments or to provide auction services shall indicate in the advertisement the name of the auction firm. In addition, an advertisement of an auction of consignments or an advertisement by an auction firm of an auction for which the auction firm will provide auction services shall comply with divisions (A) and (D) of this section.

(C) If an auction to be advertised is an absolute auction, all advertisements for the auction shall unequivocally state that the auction is an absolute auction.

(D) If an advertisement for an auction contains the words "estate auction," or words to that effect, the person licensed under this chapter who advertises shall do both of the following:

(1) Enter into an agreement directly with the executor, administrator, or court appointed designee of the estate property;

(2) List prominently in the advertisement the county in which the estate is located and the probate court case number of the estate.

(E) All persons licensed under this chapter that conduct or are involved in an auction jointly are responsible for the posting of a sign at the auction. The sign shall contain all of the following:

(1) The name of all licensed persons involved in the auction;

(2) A statement that the persons are licensed by the department of agriculture;

(3) The address of the department of agriculture.

The sign shall be posted at the main entrance of the auction, at the place of registration for the auction, or by the cashier for the auction. The sign shall be of a size not smaller than eight and one-half inches by eleven inches. The letters and numbers on the sign shall be of adequate size to be readily seen by an individual with normal vision when viewing it.

(F) An advertisement for the sale of real property at auction shall contain the name of the licensed auctioneer who is entering into the auction contract and the name of the real estate broker licensed under Chapter 4735. of the Revised Code who is involved in the sale. Compliance with this section shall not require a real estate broker licensed under Chapter 4735. of the Revised Code to obtain a license under section 4707.073 of the Revised Code.

Sec. 4707.26. (A)(1) A person who asserts that ~~they have~~ the person has been aggrieved by the actions of a person licensed under this chapter that resulted in actual and direct losses to the aggrieved person may initiate a

claim against the auction recovery fund either under this section or section 4707.261 of the Revised Code. If an aggrieved person who wishes to seek recovery from the auction recovery fund has obtained a final judgment in a court of competent jurisdiction against the licensee, the aggrieved person shall initiate the claim in accordance with section 4707.261 of the Revised Code. If an aggrieved person who wishes to seek recovery from the auction recovery fund has not obtained a final judgment in a court of competent jurisdiction against the licensee, the aggrieved person shall initiate the claim in accordance with this section.

(2) An aggrieved person may initiate a claim against the auction recovery fund under this section if ~~both~~ all of the following apply:

(a) The loss was associated with an act or transaction that only a person licensed under this chapter lawfully may perform.

(b) The licensee's actions are described in section 4707.15 of the Revised Code or otherwise violate this chapter or rules adopted under it.

(c) The licensee is not an auction firm.

To initiate a claim against the fund, an aggrieved person shall file a verified complaint with the department of agriculture in accordance with section 4707.16 of the Revised Code. The verified complaint shall include an application to the department that requests recovery of the applicant's actual and direct losses and that is made on forms that the department provides. The application for recovery shall specify the nature of the act or transaction on which the applicant's claim is based, the actual and direct losses sustained by the applicant, and any activities that the applicant has pursued as a remedy for the losses.

(B) Upon receipt of a verified ~~complaint~~ complaint and application, the department shall conduct an investigation in accordance with section 4707.16 of the Revised Code. After the investigation, if the department determines that the licensee has engaged in conduct described in section 4707.15 of the Revised Code or otherwise has violated this chapter or rules adopted under it, the department shall propose to take action to suspend or revoke the licensee's license under section 4707.15 of the Revised Code or to initiate a criminal action against the licensee under section 4707.99 of the Revised Code, or both. The department shall issue a letter to the applicant indicating the department's proposed action and the date of any hearing that the department has scheduled regarding the matter.

(C) Upon exhaustion of administrative remedies or criminal proceedings that results in a finding that the licensee has engaged in conduct described in section 4707.15 of the Revised Code or otherwise has violated this chapter or rules adopted under it, the department shall issue a notice in accordance

with Chapter 119. of the Revised Code via certified mail to the applicant indicating that the applicant may request a hearing for relief from the auction recovery fund. An applicant who seeks recovery from the fund of any actual and direct losses suffered as a result of a licensee's conduct shall submit, not later than thirty days following receipt of the notice, a request for a hearing to the department.

Upon the timely receipt of a request for a hearing, the department shall provide the applicant with the opportunity to appear at an adjudication hearing to offer proof and evidence of the actual and direct losses. Whenever possible, the department shall require all applicants whose claims to the fund arose from an underlying transaction involving the same licensee to be joined in one adjudication under this section so that the rights of all applicants may be equitably adjudicated and settled. On behalf of the fund, the department may defend claims against the fund and shall have recourse to all appropriate means of defense and review, including examination of witnesses, and verification of actual losses.

(D) Upon the conclusion of the adjudication hearing, the hearing officer shall issue a report and recommendation in favor of making payment to an applicant from the fund if, during the course of the adjudication hearing, all of the following have been shown:

(1) The licensee has engaged in conduct described in section 4707.15 of the Revised Code or otherwise has violated this chapter or rules adopted under it.

(2) The licensee's conduct or violation is associated with an act that only a person licensed under this chapter lawfully may perform and the act resulted in direct and actual losses to the applicant.

(3) The applicant filed a verified complaint and application with the department as required by this section.

(4) The applicant is not the spouse of the licensee nor the personal representative of the licensee's spouse.

(5) If the licensee either provided an irrevocable letter of credit or gave bond in accordance with section 4707.11 of the Revised Code, the applicant first sought recovery under the irrevocable letter of credit or bond before applying for payment from the fund.

The amount of any payment from the fund to the applicant shall consist of an amount that is equal to the portion of the actual and direct losses incurred by the applicant that remain unpaid. The amount of the payment is subject to the dollar limitation established in section 4707.29 of the Revised Code.

If the hearing officer determines that not all of the items described in

divisions (D)(1) to (5) of this section have been shown during the course of the adjudication hearing, the hearing officer shall issue a report and recommendation against making payment from the fund to the applicant.

(E) Pursuant to section 119.09 of the Revised Code, a hearing officer or the hearing officer's representative shall forward by certified mail a copy of the hearing officer's written report and recommendation to the applicant or the applicant's attorney or other representative not later than five days after the date on which the report and recommendation are filed.

Not later than ten days after receiving such a copy, the applicant may file with the department written objections to the report and recommendation. The department may grant extensions of time to the applicant within which to file objections.

The objections shall be considered by the department before it approves, modifies, or disapproves the recommendation. The department may order additional testimony to be taken or permit the introduction of further documentary evidence.

The recommendation of the hearing officer may be approved, modified, or disapproved by order of the director of agriculture. The order shall not be issued until more than ten days have elapsed following the applicant's receipt of the report and recommendation as provided by this section. The director's approval, modification, or disapproval of the hearing officer's recommendation shall have the same effect as if the hearing had been conducted by the director.

No recommendation shall be final until approved, modified, or disapproved by the director as indicated by the order entered on the record of proceedings of the department. If the director modifies or disapproves the recommendations of the hearing officer, the director shall include in the record of the proceedings the reasons for the modification or disapproval.

After an order is entered on its journal, the department shall make payment, if applicable, to the applicant from the auction recovery fund in accordance with the order and shall provide to the applicant by certified mail, return receipt requested, a copy of the order and a statement of the time and method by which an appeal may be perfected. In addition, the department shall mail a copy of the order to the attorney or other representative of the applicant.

(F) An order of the director issued under this section constitutes a final determination of the director for purposes of appeal. An applicant who is denied compensation from the auction recovery fund or who receives an award less than the award requested may appeal the order of the director. Notices of appeal shall be filed in the manner provided in section 119.12 of

the Revised Code.

Sec. 4707.32. (A) A person who asserts that the person has been aggrieved solely by the actions of an auction firm that resulted in actual and direct losses to the aggrieved person may seek recovery under the auction firm's financial responsibility that is required under section 4707.074 of the Revised Code. The director of agriculture shall adopt rules under section 4707.19 of the Revised Code that do all of the following:

(1) Establish procedures for filing a claim against an auction firm's financial responsibility;

(2) Establish procedures that provide for the equitable disbursement of money for multiple claims against the auction firm that resulted from the same circumstances;

(3) Establish procedures for providing notice to the department of agriculture from a person seeking recovery under this division;

(4) Limit an aggrieved person's recovery to the actual and direct losses caused by the auction firm.

(B) A person who asserts that the person has been aggrieved by the actions of both an auction firm and a licensed auctioneer related to an auction that resulted in actual and direct losses to the aggrieved person may file a cause of action with a court of competent jurisdiction claiming that a violation of this chapter or rules adopted under it resulted in the actual and direct losses. The court shall determine if there was a violation of this chapter or rules adopted under it that resulted in those losses. If the court determines that the auction firm, the licensed auctioneer, or both violated this chapter or rules adopted under it and that the violation resulted in the aggrieved person's actual and direct losses, the court shall determine the percentage of culpability, in relation to one hundred per cent, that is attributable to each party to the action from whom the complainant seeks recovery.

If the court finds that the percentage of culpability that is attributable to the licensed auctioneer is greater than zero, the aggrieved person may initiate a claim against the auction recovery fund in accordance with sections 4707.26 to 4707.31 of the Revised Code to recover that percentage of the actual and direct losses sustained by the person. If the court finds that the percentage of culpability that is attributable to the auction firm is greater than zero, the aggrieved person may recover that percentage of the actual and direct losses sustained by the person under the auction firm's financial responsibility that is required under section 4707.074 of the Revised Code.

The total aggregate amount that is paid to the aggrieved person from the auction recovery fund and the auction firm's financial responsibility shall



not exceed the actual and direct losses sustained by the person. In addition, the total aggregate amount that is paid from the auction recovery fund shall not exceed the dollar limitations established in section 4707.29 of the Revised Code, and the total aggregate amount that is paid from the auction firm's financial responsibility shall not exceed the dollar limitations established in section 4707.074 of the Revised Code.

(C) If a person files a cause of action under division (B) of this section, the person immediately shall send written notice to the department of agriculture.

Sec. 4707.99. (A) Whoever acts as an auctioneer, apprentice auctioneer, or special auctioneer as defined in ~~violates~~ section 4707.01 ~~4707.02~~ of the Revised Code, ~~without first obtaining a license, upon conviction thereof, shall be fined not less than one hundred nor more than one thousand dollars, or imprisoned not more than ninety days, or both~~ is guilty of a misdemeanor of the first degree on the first offense and a felony of the fifth degree on each subsequent offense.

(B) Whoever violates this chapter or any rule ~~promulgated~~ adopted by the department of agriculture in the administration of this chapter, for the violation of which no penalty is provided, shall be fined not less than fifty nor more than two hundred dollars is guilty of a misdemeanor of the first degree.

(C) Whoever violates section 4707.151 of the Revised Code shall be fined not more than fifty thousand dollars, or imprisoned not more than one year, or both is guilty of a felony of the fifth degree on the first offense and a felony of the fourth degree on each subsequent offense.

(D) Notwithstanding section 1901.31, 1907.20, or 2335.37 of the Revised Code, the clerk of the court shall transmit to the treasurer of state for deposit into the state treasury to the credit of the auction education fund created in section 4707.171 of the Revised Code fifty per cent of any fine imposed under this section.

Sec. 4727.03. (A) As used in this section, "experience and fitness in the capacity involved" means that the applicant for a pawnbroker's license demonstrates sufficient financial responsibility, reputation, and experience in the pawnbroker business, or in a related business, to act as a pawnbroker in compliance with this chapter. "Experience and fitness in the capacity involved" shall be determined by:

(1) Prior or current ownership or management of, or employment in, a pawnshop;

(2) Demonstration to the satisfaction of the superintendent of financial institutions of a thorough working knowledge of all pawnbroker laws and

rules as they relate to the actual operation of a pawnshop.

A demonstration shall include a demonstration of an ability to properly complete forms, knowledge of how to properly calculate interest and storage charges, and knowledge of legal notice and forfeiture procedures. The final determination of whether an applicant's demonstration is adequate rests with the superintendent ~~of financial institutions~~.

(3) A submission by the applicant and any stockholders, owners, managers, directors, or officers of the pawnshop, and employees of the applicant to a police record check; and

(4) Liquid assets in a minimum amount of one hundred thousand dollars at the time of applying for initial licensure and demonstration of the ability to maintain the liquid assets at a minimum amount of fifty thousand dollars for the duration of holding a valid pawnbroker's license.

(B) The superintendent may grant a license to act as a pawnbroker to any person of good character and having experience and fitness in the capacity involved to engage in the business of pawnbroking upon the payment to the superintendent of a license fee determined by the superintendent pursuant to section 1321.20 of the Revised Code. A license is not transferable or assignable.

(C) The superintendent may consider an application withdrawn and may retain the investigation fee required under division (D) of this section if both of the following are true:

(1) An application for a license does not contain all of the information required under division (B) of this section.

(2) The information is not submitted to the superintendent within ninety days after the superintendent requests the information from the applicant in writing.

(D) The superintendent shall require an applicant for a pawnbroker's license to pay to the superintendent a nonrefundable initial investigation fee of two hundred dollars, which is for the exclusive use of the state. ~~The~~

(E)(1) Except as otherwise provided in division (E)(2) of this section, a pawnbroker's license shall be issued by the superintendent and shall expire on the thirtieth day of June next following the date of its issuance, and may be renewed annually by the thirtieth day of June in accordance with the standard renewal procedure set forth in Chapter 4745. of the Revised Code. Fifty per cent of the annual license fee shall be for the use of the state, and fifty per cent shall be paid by the state to the municipal corporation, or if outside the limits of any municipal corporation, to the county, in which the office of the licensee is located. All such fees payable to municipal corporations or counties shall be paid annually.

~~(E)~~ (2) A pawnbroker's license shall be issued or renewed annually by the thirtieth day of June according to superintendent on or after January 1, 2006, expires on the thirtieth day of June in the even-numbered year next following the date of its issuance or renewal, as applicable, and may be renewed biennially by the thirtieth day of June in accordance with the standard renewal procedure of set forth in Chapter 4745. of the Revised Code. Fifty per cent of the biennial license fee shall be for the use of the state, and fifty per cent shall be paid by the state to the municipal corporation, or if outside the limits of any municipal corporation, to the county, in which the office of the licensee is located. All such fees payable to municipal corporations or counties shall be paid biennially.

(F) The fee for renewal of a license shall be equivalent to the fee for an initial license established by the superintendent pursuant to section 1321.20 of the Revised Code. Any licensee who wishes to renew the pawnbroker's license but who fails to do so on or before the ~~thirtieth day of June~~ date the license expires shall reapply for licensure in the same manner and pursuant to the same requirements as for initial licensure, unless the licensee pays to the superintendent on or before the thirty-first day of August of the year the license expires, a late renewal penalty of one hundred dollars in addition to the regular renewal fee. Any licensee who fails to renew the license on or before the ~~thirtieth day of June~~ date the license expires is prohibited from acting as a pawnbroker until the license is renewed or a new license is issued under this section. Any licensee who renews a license between the first day of July and the thirty-first day of August of the year the license expires is not relieved from complying with this division. The superintendent may refuse to issue to or renew the license of any licensee who violates this division.

~~(F)~~(G) No license shall be granted to any person not a resident of or the principal office of which is not located in the municipal corporation or county designated in such license unless that applicant, in writing and in due form approved by and filed with the superintendent, first appoints an agent, a resident of the state, and city or county where the office is to be located, upon whom all judicial and other process, or legal notice, directed to the applicant may be served. In case of the death, removal from the state, or any legal disability or any disqualification of any such agent, service of such process or notice may be made upon the superintendent.

The superintendent may, upon notice to the licensee and reasonable opportunity to be heard, suspend or revoke any license or assess a penalty against the licensee if the licensee, or the licensee's officers, agents, or employees, has violated this chapter. Any penalty shall be appropriate to the

violation but in no case shall the penalty be less than two hundred nor more than two thousand dollars. Whenever, for any cause, a license is suspended or revoked, the superintendent shall not issue another license to the licensee nor to the legal spouse of the licensee, nor to any business entity of which the licensee is an officer or member or partner, nor to any person employed by the licensee, until the expiration of at least two years from the date of revocation or suspension of the license. The superintendent shall deposit all penalties allocated pursuant to this section into the state treasury to the credit of the consumer finance fund.

Any proceedings for the revocation or suspension of a license or to assess a penalty against a licensee are subject to Chapter 119. of the Revised Code.

~~(G)~~(H) If a licensee surrenders or chooses not to renew the pawnbroker's license, the licensee shall notify the superintendent thirty days prior to the date on which the licensee intends to close the licensee's business as a pawnbroker. Prior to the date, the licensee shall do either of the following with respect to all active loans:

(1) Dispose of an active loan by selling the loan to another person holding a valid pawnbroker's license issued under this section;

(2) Reduce the rate of interest on pledged articles held as security for a loan to eight per cent per annum or less effective on the date that the pawnbroker's license is no longer valid.

Sec. 4727.04. (A) An application for a pawnbroker's license shall state fully the name and address of the applicant and of every member, partner, stockholder, or owner of an applicant, and the location of the office or place of business in which the business is conducted; and in the case of a corporation, shall also state the date and place of its incorporation, the name and address of its manager, the names and addresses of its directors, the name and address of the agent as provided in section 4727.03 of the Revised Code, and any other information required by the superintendent of financial institutions.

The license shall be kept posted in a conspicuous place in the office where the business is transacted. No person so licensed shall transact or solicit business under any other name or at any location other than at the address stated in the person's license. No licensee may move the licensee's business location without prior notification to the superintendent of at least thirty days. If the licensee moves out of the municipal corporation or county in which the licensee was originally licensed, the licensee shall pay an additional ~~annual~~ license fee equivalent to the fee for an initial license to be distributed in accordance with section 4727.03 of the Revised Code.

(B) The superintendent may issue to a pawnbroker licensed under this chapter a temporary exhibition permit pursuant to division (C)(1) of section 4728.04 of the Revised Code.

(1) A licensee who wishes to be issued a temporary permit pursuant to division (C)(1) of section 4728.04 of the Revised Code shall make request for such issuance by letter addressed to the superintendent. The letter of request shall contain the licensee's name, permanent business address, and license number.

(2) Upon receipt of a temporary exhibition permit, the permit holder shall conspicuously display the permit at the place where the permit holder transacts business at any auction, convention, exhibition, fair, or show.

(3) Every permit holder who wishes to participate in an auction, convention, exhibition, fair, or show, at least two weeks prior to its opening, shall notify the superintendent and the chief of police of the municipal corporation in which the event is to take place, or if the event is to take place outside of any municipal corporation, then the sheriff of the county in which the event is to take place. Such notification shall be by letter and shall include the permit holder's name, permanent business address, and permit number, and the place where the event is scheduled to be held.

(C) Every licensee shall post at the main door of the licensee's place of business the hours or times when the establishment is open for business. No licensee shall collect interest and storage on any loan for any regular business day that the establishment is not open for business as posted, unless prior notice of a closing is posted on the door or the closing is occasioned by an act of God, unforeseen emergency, or other event beyond the control of the licensee. A licensee shall notify the superintendent of any change in the posted hours of operation.

(D) No licensee shall fail to observe the posted hours of operation pursuant to division (C) of this section except as authorized by that division.

Sec. 4727.06. (A) No pawnbroker shall charge, receive, or demand interest for any loan in excess of five per cent per month or fraction of a month on the unpaid principal. Interest shall be computed on a monthly basis on the amount of the principal remaining unpaid on the first day of the month and shall not be compounded.

(B) In addition to the rate of interest limitation imposed pursuant to division (A) of this section, the licensee may charge no more than:

(1) ~~Three~~ Four dollars per month or fraction of a month for all pledged articles held as security or stored for a loan, to be agreed to in writing at the time the loan is made;

(2) Four dollars plus the actual cost of shipping, when the licensee is to

deliver or forward the pledged article by express or parcel post to the pledgor;

(3) Two dollars for the loss of the original statement issued to the pledgor by the licensee pursuant to section 4727.07 of the Revised Code upon redemption of the pledged articles;

(4) Two dollars for the cost of notifying a pledgor by mail that the pledged articles may be forfeited to the licensee pursuant to section 4727.11 of the Revised Code.

(C) A licensee who complies with the requirements or procedures of this state pursuant to the application of the "Brady Handgun Violence Protection Act," 107 Stat. 1536 (1993), 18 U.S.C.A. 922, as amended, may charge any fee the licensee is required by law to pay in order to comply with such requirements or procedures. The licensee may charge no more than two dollars for providing services in compliance with such requirements or procedures.

(D) A pledgor may pay a portion of the outstanding principal loan balance at any time. A pledgor may redeem a pawn loan at any time after seventy-two hours have passed since the pledge was made. A pledgor may not prepay interest or storage charges, except when the pledgor redeems the pledged property.

SECTION 2. That existing sections 505.94, 1321.20, 2925.01, 4517.02, 4707.01, 4707.02, 4707.021, 4707.03, 4707.04, 4707.05, 4707.06, 4707.07, 4707.071, 4707.072, 4707.08, 4707.09, 4707.10, 4707.11, 4707.111, 4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4707.18, 4707.19, 4707.20, 4707.21, 4707.22, 4707.26, 4707.99, 4727.03, 4727.04, and 4727.06 of the Revised Code are hereby repealed.

SECTION 3. To facilitate implementation of the schedule for the biennial expiration of auctioneer's licenses and special auctioneer's licenses that is established in division (B)(2) of section 4707.10 of the Revised Code, as amended by this act, both of the following apply with respect to such licenses that are issued during the time period beginning July 1, 2005, and ending June 30, 2006:

(A) Upon payment of a licensure fee in the amount of two hundred dollars, an applicant for an initial license or license renewal whose last name or business name, as applicable, begins with the letters "A" through "J" or with the letters "X" through "Z" shall be issued a license that expires on June 30, 2007.

(B) Upon payment of a licensure fee in the amount of one hundred dollars, an applicant for an initial license or license renewal whose last name or business name, as applicable, begins with the letters "K" through "W" shall be issued a license that expires on June 30, 2006.

The provisions concerning license renewal that are established in section 4707.10 of the Revised Code, as amended by this act, apply to all licenses that expire after the effective date of this act.

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*Speaker \_\_\_\_\_ of the House of Representatives.*

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*President \_\_\_\_\_ of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*



The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_ day of \_\_\_\_\_, A. D. 20\_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_