

As Introduced

**125th General Assembly
Regular Session
2003-2004**

S. B. No. 209

Senator Mumper

A B I L L

To amend sections 505.94, 2925.01, 4707.01, 4707.02, 1
4707.021, 4707.03, 4707.04, 4707.05, 4707.06, 2
4707.07, 4707.071, 4707.072, 4707.08, 4707.09, 3
4707.10, 4707.11, 4707.111, 4707.12, 4707.14, 4
4707.15, 4707.151, 4707.16, 4707.171, 4707.18 to 5
4707.22, 4707.26, and 4707.99 and to enact 6
sections 4707.022, 4707.023, 4707.024, 4707.073, 7
4707.074, 4707.091, and 4707.32 of the Revised 8
Code to revise the Auctioneers Law. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 505.94, 2925.01, 4707.01, 4707.02, 10
4707.021, 4707.03, 4707.04, 4707.05, 4707.06, 4707.07, 4707.071, 11
4707.072, 4707.08, 4707.09, 4707.10, 4707.11, 4707.111, 4707.12, 12
4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4707.18, 4707.19, 13
4707.20, 4707.21, 4707.22, 4707.26, and 4707.99 be amended and 14
sections 4707.022, 4707.023, 4707.024, 4707.073, 4707.074, 15
4707.091, and 4707.32 be enacted to read as follows: 16

Sec. 505.94. (A) A board of township trustees may, by 17
resolution, require the registration of all transient vendors 18
within the unincorporated territory of the township and may 19
regulate the time, place, and manner in which these vendors may 20

sell, offer for sale, or solicit orders for future delivery of 21
goods, or the board may, by resolution, prohibit these activities 22
within that territory. If the board requires the registration of 23
all transient vendors, it may establish a reasonable registration 24
fee, not to exceed seventy-five dollars for a registration period, 25
and this registration shall be valid for a period of at least 26
ninety days after the date of registration. Any board of township 27
trustees that provides for the registration and regulation, or 28
prohibition, of transient vendors under this section shall notify 29
the prosecuting attorney of the county in which the township is 30
located of its registration and regulatory requirements or 31
prohibition. No transient vendor shall fail to register or to 32
comply with regulations or prohibitions established by a board of 33
township trustees under this division. 34

This division does not authorize a board of township trustees 35
to apply a resolution it adopts under this division to any person 36
invited by an owner or tenant to visit the owner's or tenant's 37
premises to sell, offer for sale, or solicit orders for future 38
delivery of goods. 39

(B) As used in this section: 40

(1) "Goods" means goods, wares, services, merchandise, 41
periodicals, and other articles or publications. 42

(2) "Transient vendor" means any person who opens a temporary 43
place of business for the sale of goods or who, on the streets or 44
while traveling about the township, either sells or offers for 45
sale goods, or solicits orders for future delivery of goods where 46
payment is required prior to the delivery of the goods. "Transient 47
vendor" does not include any person who represents any entity 48
exempted from taxation under section 5709.04 of the Revised Code, 49
that notifies the board of township trustees that its 50
representatives are present in the township for the purpose of 51

either selling or offering for sale goods, or soliciting orders 52
for future delivery of goods, and does not include ~~an auctioneer~~ 53
~~or an auctioneer company~~ a person licensed under Chapter 4707. of the 54
Revised Code. 55

Sec. 2925.01. As used in this chapter: 56

(A) "Administer," "controlled substance," "dispense," 57
"distribute," "hypodermic," "manufacturer," "official written 58
order," "person," "pharmacist," "pharmacy," "sale," "schedule I," 59
"schedule II," "schedule III," "schedule IV," "schedule V," and 60
"wholesaler" have the same meanings as in section 3719.01 of the 61
Revised Code. 62

(B) "Drug dependent person" and "drug of abuse" have the same 63
meanings as in section 3719.011 of the Revised Code. 64

(C) "Drug," "dangerous drug," "licensed health professional 65
authorized to prescribe drugs," and "prescription" have the same 66
meanings as in section 4729.01 of the Revised Code. 67

(D) "Bulk amount" of a controlled substance means any of the 68
following: 69

(1) For any compound, mixture, preparation, or substance 70
included in schedule I, schedule II, or schedule III, with the 71
exception of marihuana, cocaine, L.S.D., heroin, and hashish and 72
except as provided in division (D)(2) or (5) of this section, 73
whichever of the following is applicable: 74

(a) An amount equal to or exceeding ten grams or twenty-five 75
unit doses of a compound, mixture, preparation, or substance that 76
is or contains any amount of a schedule I opiate or opium 77
derivative; 78

(b) An amount equal to or exceeding ten grams of a compound, 79
mixture, preparation, or substance that is or contains any amount 80
of raw or gum opium; 81

(c) An amount equal to or exceeding thirty grams or ten unit 82
doses of a compound, mixture, preparation, or substance that is or 83
contains any amount of a schedule I hallucinogen other than 84
tetrahydrocannabinol or lysergic acid amide, or a schedule I 85
stimulant or depressant; 86

(d) An amount equal to or exceeding twenty grams or five 87
times the maximum daily dose in the usual dose range specified in 88
a standard pharmaceutical reference manual of a compound, mixture, 89
preparation, or substance that is or contains any amount of a 90
schedule II opiate or opium derivative; 91

(e) An amount equal to or exceeding five grams or ten unit 92
doses of a compound, mixture, preparation, or substance that is or 93
contains any amount of phencyclidine; 94

(f) An amount equal to or exceeding one hundred twenty grams 95
or thirty times the maximum daily dose in the usual dose range 96
specified in a standard pharmaceutical reference manual of a 97
compound, mixture, preparation, or substance that is or contains 98
any amount of a schedule II stimulant that is in a final dosage 99
form manufactured by a person authorized by the "Federal Food, 100
Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as 101
amended, and the federal drug abuse control laws, as defined in 102
section 3719.01 of the Revised Code, that is or contains any 103
amount of a schedule II depressant substance or a schedule II 104
hallucinogenic substance; 105

(g) An amount equal to or exceeding three grams of a 106
compound, mixture, preparation, or substance that is or contains 107
any amount of a schedule II stimulant, or any of its salts or 108
isomers, that is not in a final dosage form manufactured by a 109
person authorized by the Federal Food, Drug, and Cosmetic Act and 110
the federal drug abuse control laws. 111

(2) An amount equal to or exceeding one hundred twenty grams 112

or thirty times the maximum daily dose in the usual dose range 113
specified in a standard pharmaceutical reference manual of a 114
compound, mixture, preparation, or substance that is or contains 115
any amount of a schedule III or IV substance other than an 116
anabolic steroid or a schedule III opiate or opium derivative; 117

(3) An amount equal to or exceeding twenty grams or five 118
times the maximum daily dose in the usual dose range specified in 119
a standard pharmaceutical reference manual of a compound, mixture, 120
preparation, or substance that is or contains any amount of a 121
schedule III opiate or opium derivative; 122

(4) An amount equal to or exceeding two hundred fifty 123
milliliters or two hundred fifty grams of a compound, mixture, 124
preparation, or substance that is or contains any amount of a 125
schedule V substance; 126

(5) An amount equal to or exceeding two hundred solid dosage 127
units, sixteen grams, or sixteen milliliters of a compound, 128
mixture, preparation, or substance that is or contains any amount 129
of a schedule III anabolic steroid. 130

(E) "Unit dose" means an amount or unit of a compound, 131
mixture, or preparation containing a controlled substance that is 132
separately identifiable and in a form that indicates that it is 133
the amount or unit by which the controlled substance is separately 134
administered to or taken by an individual. 135

(F) "Cultivate" includes planting, watering, fertilizing, or 136
tilling. 137

(G) "Drug abuse offense" means any of the following: 138

(1) A violation of division (A) of section 2913.02 that 139
constitutes theft of drugs, or a violation of section 2925.02, 140
2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 141
2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36, or 142
2925.37 of the Revised Code; 143

(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;	174
(d) Any anesthetic gas.	175
(2) Gamma Butyrolactone;	176
(3) 1,4 Butanediol.	177
(J) "Manufacture" means to plant, cultivate, harvest,	178
process, make, prepare, or otherwise engage in any part of the	179
production of a drug, by propagation, extraction, chemical	180
synthesis, or compounding, or any combination of the same, and	181
includes packaging, repackaging, labeling, and other activities	182
incident to production.	183
(K) "Possess" or "possession" means having control over a	184
thing or substance, but may not be inferred solely from mere	185
access to the thing or substance through ownership or occupation	186
of the premises upon which the thing or substance is found.	187
(L) "Sample drug" means a drug or pharmaceutical preparation	188
that would be hazardous to health or safety if used without the	189
supervision of a licensed health professional authorized to	190
prescribe drugs, or a drug of abuse, and that, at one time, had	191
been placed in a container plainly marked as a sample by a	192
manufacturer.	193
(M) "Standard pharmaceutical reference manual" means the	194
current edition, with cumulative changes if any, of any of the	195
following reference works:	196
(1) "The National Formulary";	197
(2) "The United States Pharmacopeia," prepared by authority	198
of the United States Pharmacopeial Convention, Inc.;	199
(3) Other standard references that are approved by the state	200
board of pharmacy.	201
(N) "Juvenile" means a person under eighteen years of age.	202

(O) "Counterfeit controlled substance" means any of the	203
following:	204
(1) Any drug that bears, or whose container or label bears, a	205
trademark, trade name, or other identifying mark used without	206
authorization of the owner of rights to that trademark, trade	207
name, or identifying mark;	208
(2) Any unmarked or unlabeled substance that is represented	209
to be a controlled substance manufactured, processed, packed, or	210
distributed by a person other than the person that manufactured,	211
processed, packed, or distributed it;	212
(3) Any substance that is represented to be a controlled	213
substance but is not a controlled substance or is a different	214
controlled substance;	215
(4) Any substance other than a controlled substance that a	216
reasonable person would believe to be a controlled substance	217
because of its similarity in shape, size, and color, or its	218
markings, labeling, packaging, distribution, or the price for	219
which it is sold or offered for sale.	220
(P) An offense is "committed in the vicinity of a school" if	221
the offender commits the offense on school premises, in a school	222
building, or within one thousand feet of the boundaries of any	223
school premises.	224
(Q) "School" means any school operated by a board of	225
education, any community school established under Chapter 3314. of	226
the Revised Code, or any nonpublic school for which the state	227
board of education prescribes minimum standards under section	228
3301.07 of the Revised Code, whether or not any instruction,	229
extracurricular activities, or training provided by the school is	230
being conducted at the time a criminal offense is committed.	231
(R) "School premises" means either of the following:	232

(1) The parcel of real property on which any school is 233
situated, whether or not any instruction, extracurricular 234
activities, or training provided by the school is being conducted 235
on the premises at the time a criminal offense is committed; 236

(2) Any other parcel of real property that is owned or leased 237
by a board of education of a school, the governing authority of a 238
community school established under Chapter 3314. of the Revised 239
Code, or the governing body of a nonpublic school for which the 240
state board of education prescribes minimum standards under 241
section 3301.07 of the Revised Code and on which some of the 242
instruction, extracurricular activities, or training of the school 243
is conducted, whether or not any instruction, extracurricular 244
activities, or training provided by the school is being conducted 245
on the parcel of real property at the time a criminal offense is 246
committed. 247

(S) "School building" means any building in which any of the 248
instruction, extracurricular activities, or training provided by a 249
school is conducted, whether or not any instruction, 250
extracurricular activities, or training provided by the school is 251
being conducted in the school building at the time a criminal 252
offense is committed. 253

(T) "Disciplinary counsel" means the disciplinary counsel 254
appointed by the board of commissioners on grievances and 255
discipline of the supreme court under the Rules for the Government 256
of the Bar of Ohio. 257

(U) "Certified grievance committee" means a duly constituted 258
and organized committee of the Ohio state bar association or of 259
one or more local bar associations of the state of Ohio that 260
complies with the criteria set forth in Rule V, section 6 of the 261
Rules for the Government of the Bar of Ohio. 262

(V) "Professional license" means any license, permit, 263

certificate, registration, qualification, admission, temporary 264
license, temporary permit, temporary certificate, or temporary 265
registration that is described in divisions (W)(1) to (36) of this 266
section and that qualifies a person as a professionally licensed 267
person. 268

(W) "Professionally licensed person" means any of the 269
following: 270

(1) A person who has obtained a license as a manufacturer of 271
controlled substances or a wholesaler of controlled substances 272
under Chapter 3719. of the Revised Code; 273

(2) A person who has received a certificate or temporary 274
certificate as a certified public accountant or who has registered 275
as a public accountant under Chapter 4701. of the Revised Code and 276
who holds an Ohio permit issued under that chapter; 277

(3) A person who holds a certificate of qualification to 278
practice architecture issued or renewed and registered under 279
Chapter 4703. of the Revised Code; 280

(4) A person who is registered as a landscape architect under 281
Chapter 4703. of the Revised Code or who holds a permit as a 282
landscape architect issued under that chapter; 283

(5) A person licensed ~~as an auctioneer or apprentice~~ 284
~~auctioneer or licensed to operate an auction company~~ under Chapter 285
4707. of the Revised Code; 286

(6) A person who has been issued a certificate of 287
registration as a registered barber under Chapter 4709. of the 288
Revised Code; 289

(7) A person licensed and regulated to engage in the business 290
of a debt pooling company by a legislative authority, under 291
authority of Chapter 4710. of the Revised Code; 292

(8) A person who has been issued a cosmetologist's license, 293

hair designer's license, manicurist's license, esthetician's	294
license, natural hair stylist's license, managing cosmetologist's	295
license, managing hair designer's license, managing manicurist's	296
license, managing esthetician's license, managing natural hair	297
stylist's license, cosmetology instructor's license, hair design	298
instructor's license, manicurist instructor's license, esthetics	299
instructor's license, natural hair style instructor's license,	300
independent contractor's license, or tanning facility permit under	301
Chapter 4713. of the Revised Code;	302
(9) A person who has been issued a license to practice	303
dentistry, a general anesthesia permit, a conscious intravenous	304
sedation permit, a limited resident's license, a limited teaching	305
license, a dental hygienist's license, or a dental hygienist's	306
teacher's certificate under Chapter 4715. of the Revised Code;	307
(10) A person who has been issued an embalmer's license, a	308
funeral director's license, a funeral home license, or a crematory	309
license, or who has been registered for an embalmer's or funeral	310
director's apprenticeship under Chapter 4717. of the Revised Code;	311
(11) A person who has been licensed as a registered nurse or	312
practical nurse, or who has been issued a certificate for the	313
practice of nurse-midwifery under Chapter 4723. of the Revised	314
Code;	315
(12) A person who has been licensed to practice optometry or	316
to engage in optical dispensing under Chapter 4725. of the Revised	317
Code;	318
(13) A person licensed to act as a pawnbroker under Chapter	319
4727. of the Revised Code;	320
(14) A person licensed to act as a precious metals dealer	321
under Chapter 4728. of the Revised Code;	322
(15) A person licensed as a pharmacist, a pharmacy intern, a	323
wholesale distributor of dangerous drugs, or a terminal	324

distributor of dangerous drugs under Chapter 4729. of the Revised Code;	325 326
(16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;	327 328
(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;	329 330 331 332
(18) A person licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code;	333 334
(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;	335 336
(20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code;	337 338
(21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code;	339 340
(22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code;	341 342
(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;	343 344
(24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;	345 346
(25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;	347 348
(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;	349 350 351 352
(27) A person who has been issued a hearing aid dealer's or	353

fitter's license or trainee permit under Chapter 4747. of the Revised Code;	354 355
(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;	356 357 358
(29) A person licensed and registered to practice as a nursing home administrator under Chapter 4751. of the Revised Code;	359 360 361
(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;	362 363 364
(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;	365 366
(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;	367 368 369 370
(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;	371 372
(34) A person who has been issued a license or limited permit to practice respiratory therapy under Chapter 4761. of the Revised Code;	373 374 375
(35) A person who has been issued a real estate appraiser certificate under Chapter 4763. of the Revised Code;	376 377
(36) A person who has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules.	378 379 380
(X) "Cocaine" means any of the following:	381
(1) A cocaine salt, isomer, or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine;	382 383

(2) Coca leaves or a salt, compound, derivative, or 384
preparation of coca leaves, including ecgonine, a salt, isomer, or 385
derivative of ecgonine, or a salt of an isomer or derivative of 386
ecgonine; 387

(3) A salt, compound, derivative, or preparation of a 388
substance identified in division (X)(1) or (2) of this section 389
that is chemically equivalent to or identical with any of those 390
substances, except that the substances shall not include 391
decocainized coca leaves or extraction of coca leaves if the 392
extractions do not contain cocaine or ecgonine. 393

(Y) "L.S.D." means lysergic acid diethylamide. 394

(Z) "Hashish" means the resin or a preparation of the resin 395
contained in marihuana, whether in solid form or in a liquid 396
concentrate, liquid extract, or liquid distillate form. 397

(AA) "Marihuana" has the same meaning as in section 3719.01 398
of the Revised Code, except that it does not include hashish. 399

(BB) An offense is "committed in the vicinity of a juvenile" 400
if the offender commits the offense within one hundred feet of a 401
juvenile or within the view of a juvenile, regardless of whether 402
the offender knows the age of the juvenile, whether the offender 403
knows the offense is being committed within one hundred feet of or 404
within view of the juvenile, or whether the juvenile actually 405
views the commission of the offense. 406

(CC) "Presumption for a prison term" or "presumption that a 407
prison term shall be imposed" means a presumption, as described in 408
division (D) of section 2929.13 of the Revised Code, that a prison 409
term is a necessary sanction for a felony in order to comply with 410
the purposes and principles of sentencing under section 2929.11 of 411
the Revised Code. 412

(DD) "Major drug offender" has the same meaning as in section 413

2929.01 of the Revised Code.	414
(EE) "Minor drug possession offense" means either of the following:	415 416
(1) A violation of section 2925.11 of the Revised Code as it existed prior to July 1, 1996;	417 418
(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.	419 420 421
(FF) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.	422 423
(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.	424 425 426 427 428
(HH) "Adulterate" means to cause a drug to be adulterated as described in section 3715.63 of the Revised Code.	429 430
(II) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.	431 432 433
Sec. 4707.01. As used in sections 4707.01 to 4707.22 and 4707.99 of the Revised Code <u>this chapter:</u>	434 435
(A) "Auction" means a sale of real or personal property, goods, or chattels by means of <u>a verbal exchange, regular mail, telecommunications, the internet, an electronic transmission,</u> or a physical gesture between an auctioneer or apprentice auctioneer and members of the audience <u>or prospective purchasers,</u> the exchanges and gestures consisting of a series of invitations for offers made by the auctioneer and offers by members of the audience <u>or prospective purchasers,</u> with the right to acceptance	436 437 438 439 440 441 442 443

of offers with the auctioneer or apprentice auctioneer. "Auction" 444
includes a sale of real or personal property, goods, or chattels 445
in which there is solicitation or invitation for an advance in 446
bidding using sealed bidding. 447

(B) "Auctioneer" means any person who engages, or who by 448
advertising or otherwise holds ~~self~~ the person out as being able 449
to engage, in the calling for, recognition of, and the acceptance 450
of, offers for the purchase of real or personal property, goods, 451
or chattels at auction either directly or through the use of other 452
licensed auctioneers or apprentice auctioneers. 453

(C) "Apprentice auctioneer" means any individual who is 454
sponsored by an auctioneer to deal or engage in any activities 455
mentioned in division (A) of this section. 456

~~(D) "Auction company" means any person, excluding licensed 457
auctioneers, who does business solely in the auctioneer's 458
individual name, who sells, either directly or through agents, 459
real or personal property, goods, or chattels at auction, or who 460
arranges, sponsors, manages, conducts, or advertises auctions and 461
who was licensed as an auction company by the department of 462
agriculture as of May 1, 1991. An auction company does not mean 463
either of the following: 464~~

~~(1) A sale barn or livestock auction market that is used 465
exclusively for the auctioneering of livestock and is licensed by 466
the department of agriculture under Chapter 943. of the Revised 467
Code; 468~~

~~(2) A business that is licensed by the bureau of motor 469
vehicles under Chapter 4517. of the Revised Code and is 470
exclusively engaged in the auction sale of motor vehicles to 471
dealers licensed by either the bureau of motor vehicles or a 472
bureau of motor vehicles of another jurisdiction or its 473
equivalent. 474~~

~~(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.~~ 475
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(E) "Absolute auction" means an auction of real or personal property to which all of the following apply: 479
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(1) The property is sold to the highest bidder without reserve. 481
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(2) The auction does not require a minimum bid. 483

(3) The auction does not require competing bids of any type by the seller or an agent of the seller. 484
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(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. 486
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(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. 489
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(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. 494
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(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. 499
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(I) "Estate auction" means the auction of real or personal property of a deceased person. 502
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(J) "Sealed bidding" means a method of submitting a bid in 504

writing by one or more undisclosed persons and then the bids are 505
opened at a predetermined time and place, and, after a review of 506
all the bids received, the real or personal property is awarded to 507
the highest and most responsive bidder. 508

(K) "Absentee bidding" means a method by which a potential 509
purchaser authorizes a proxy to place on behalf of the potential 510
purchaser a written or oral bid to an auctioneer or auction firm 511
or an agent of an auctioneer or auction firm. 512

(L) "Person" means an individual, sole proprietor, 513
corporation, limited liability company, association, or 514
partnership. 515

(M) "Auction firm" means a person who provides auction 516
services. 517

(N) "Auction services" means arranging, managing, and 518
sponsoring an auction. "Auction services" includes the taking and 519
advertising of personal property on consignment to be sold at 520
auction by a licensed auctioneer. 521

(O) "Consignee" means a person or auction firm that takes 522
personal property on consignment to be sold at auction by a 523
licensed auctioneer. 524

(P) "Firm manager" means the individual designated by an 525
auction firm who is responsible for ensuring that the auction firm 526
complies with this chapter. 527

Sec. 4707.02. No person shall act as an auction firm, 528
auctioneer, apprentice auctioneer, or special auctioneer within 529
this state without a license issued by the department of 530
agriculture. No auction shall be conducted in this state except by 531
an auctioneer licensed by the department. 532

The department shall not issue or renew a license if the 533
applicant or licensee has been convicted of a felony or crime 534

involving fraud or theft in this or another state at any time 535
during the ten years immediately preceding application or renewal. 536

This section does not apply to: 537

(A) Sales at auction conducted by or under the direction of 538
any public authority, or sales required by law to be at auction 539
other than sales pursuant to a judicial order or decree; 540

(B) The owner of any real or personal property desiring to 541
sell the property at auction, provided that the property was not 542
acquired for the purpose of resale; 543

(C) An auction mediation company; 544

(D) An auction that is conducted in a course of study for 545
auctioneers that is approved by the state auctioneers commission 546
created under section 4707.03 of the Revised Code for purposes of 547
student training and is supervised by a licensed auctioneer; 548

(E) An auction that is sponsored by a nonprofit or charitable 549
organization that is registered in this state under Chapter 1702. 550
or Chapter 1716. of the Revised Code, respectively, if the auction 551
only involves the property of the members of the organization and 552
the auction is part of a fair that is organized by an agricultural 553
society under Chapter 1711. of the Revised Code or by the Ohio 554
expositions commission under Chapter 991. of the Revised Code at 555
which a licensed auctioneer physically conducts the auction; 556

(F) A person licensed as a livestock dealer under Chapter 557
943. of the Revised Code who exclusively sells livestock and uses 558
a licensed auctioneer to conduct the auction. 559

Sec. 4707.021. Only an auctioneer who is licensed under this 560
chapter and who is licensed as a real state estate broker who is 561
licensed or a real estate salesperson under Chapter 4735. of the 562
Revised Code and who is licensed as an auctioneer under this 563
chapter may shall contract for the sale of real property at 564

~~auction. A real estate broker who is licensed under Chapter 4735. 565
of the Revised Code but who is not licensed as an auctioneer under 566
this chapter may contract for the sale of real property only if 567
either of the following applies: 568~~

~~(A) The auctioneer who conducts the auction is a salesperson 569
licensed under Chapter 4735. of the Revised Code and is associated 570
with the real estate broker who contracts for the sale of real 571
property. 572~~

~~(B) The real estate broker enters into a cooperative 573
agreement with another real estate broker licensed under Chapter 574
4735. of the Revised Code with whom an auctioneer licensed under 575
this chapter is associated and the auctioneer conducts the auction 576
An apprentice auctioneer who is licensed as a real estate broker 577
or real estate salesperson under Chapter 4735. of the Revised Code 578
may act as a bid caller in the sale of real property at auction if 579
the sponsoring auctioneer is licensed as a real estate broker or 580
real estate salesperson under that chapter. 581~~

~~Nothing in this section shall be construed to permit a 582
business to contract for the sale of real property at auction 583
through an individual who is not licensed under this chapter and 584
Chapter 4735. of the Revised Code. 585~~

~~Sec. 4707.022. (A) An auction shall be a reserve auction 586
unless explicitly stated otherwise in the contract for the auction 587
and in the terms and conditions governing the auction. For 588
purposes of a reserve auction, there need not be an announcement 589
or indication that the reserve is attained. 590~~

~~(B) A person licensed under this chapter shall not use 591
absentee bidding unless the owner of the real or personal property 592
being sold provides prior written permission to use absentee 593
bidding. 594~~

(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. 595
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Sec. 4707.023. (A) No person licensed under this chapter shall offer or advertise for sale or sell real or personal property by absolute auction unless all of the following apply: 598
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(1) One of the following applies: 601

(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. 602
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(b) Every holder of a lien or encumbrance, by execution of the auction listing 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. 605
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(c) A financially sound person, firm, trust, or estate, by execution of the auction listing 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. 610
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(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 last bid and without reliance on any agreement that a particular bid or bid level be obtained in order to transfer the property. 617
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(3) The auction listing contract requires that the auction be conducted as an absolute auction, specifies that the auction is 623
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not a reserve auction, and prohibits the seller or anyone acting 625
on behalf of the seller to bid or participate in the bidding 626
process of the auction. 627

(B) Division (A) of this section does not prohibit any of the 628
following: 629

(1) The bidding of a secured party or lien holder, other than 630
the seller, at an absolute auction, provided that the bids are 631
bona fide offers, that the bidding does not constitute bid rigging 632
or a reserve for the seller, and that the bidding is not for the 633
purpose of aiding or assisting or on behalf of the seller or the 634
auctioneer; 635

(2) The bidding by an individual or a party to a dissolution 636
of marriage, partnership, or corporation on real or personal 637
property being sold at auction pursuant to the dissolution; 638

(3) The advertising of real or personal property to be sold 639
by absolute auction and by reserve auction within the same 640
advertisement or for auction on the same date and at the same 641
place, provided that the advertisement is not misleading and 642
clearly identifies the property that is to be sold by absolute 643
auction and the property that is to be sold by reserve auction. 644

(C) A person licensed under this chapter may make a bona fide 645
bid on the licensee's own behalf at an absolute auction and at a 646
reserve auction, provided that the licensee provides full 647
disclosure that the licensee may make a bona fide bid to the 648
seller and at the auction. 649

(D) A seller or a person on behalf of a seller may make a bid 650
if the auction is a reserve auction and the seller or person on 651
behalf of the seller provides full disclosure before bidding 652
begins that the seller retains the ability to bid. No person 653
licensed under this chapter knowingly shall receive such a bid in 654
the absence of full disclosure. 655

(E) Except in the case of a dissolution as provided in 656
division (B)(2) of this section, a person licensed under this 657
chapter shall not knowingly receive a bid by a seller or a person 658
on the seller's behalf at an absolute auction. 659

Sec. 4707.024. (A) Not later than seventy-two hours after the 660
end of an auction, a person licensed under this chapter shall 661
deposit in one or more trust or escrow accounts all money received 662
from the sale of an owner's or consignee's personal property at 663
auction unless the licensee pays the money to the owner or 664
consignee immediately after the end of the auction. 665

(B) For purposes of this section, a person licensed under 666
this chapter shall designate a trust or escrow account that 667
contains an owner's or consignee's money as "client trust account" 668
or with words of similar meaning. In addition, a trust or escrow 669
account only shall contain money received from the sale of 670
personal property at auction that has not been disbursed and money 671
for expenses regarding the auction, including commission and 672
advertisement fees, that are specifically delineated in the 673
auction listing contract. 674

(C) Except for the payment of money to the owner or consignee 675
immediately after the end of the auction, a person licensed under 676
this chapter shall pay the owner or consignee with money from the 677
client's trust or escrow account. In addition, the licensee may 678
pay expenses, including commission and advertisement fees, that 679
are specifically delineated in the auction listing contract with 680
money from the trust or escrow account. Money in the trust or 681
escrow account shall not be disbursed for any purpose that is 682
inconsistent with this section. In addition, the money shall not 683
be commingled with the licensee's personal or business money. In 684
administering the trust or escrow account, the licensee shall keep 685
detailed records that show deposits, withdrawals, and interest 686

accrued, if applicable.

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Unless otherwise agreed to by the parties in the auction listing 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 initial deposit.

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(D) Money from the sale of personal property at auction may be deposited in an interest bearing account if the parties to the auction listing 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 listing contract.

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(E) The proceeds from the sale of real property at auction shall be deposited in a 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.

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

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(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

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auctioneering industry, does not have a financial interest in the 717
auctioneering industry, and does not have any other connection 718
with the auctioneering profession. Terms 719

(B) Terms of office shall be for three years, commencing on 720
the tenth day of October and ending on the ninth day of October. 721
Each Of the two additional appointments made after the effective 722
date of this amendment, one shall be for a term ending on the 723
ninth day of October in the first year following the appointment, 724
and one shall be for a term ending on the ninth day of October in 725
the second year following the appointment. Thereafter, each term 726
of office shall be for three years, commencing on the tenth day of 727
October. 728

Each member shall hold office from the date of appointment 729
until the end of the term for which appointed. Any member 730
appointed to fill a vacancy occurring prior to the expiration of 731
the term for which the member's predecessor was appointed shall 732
hold office for the remainder of such term. Any member shall 733
continue in office subsequent to the expiration date of the 734
member's term until the member's successor takes office, or until 735
a period of sixty days has elapsed, whichever occurs first. A 736
member appointed for a term commencing on or after October 10, 737
2004, shall not serve more than three consecutive terms. 738

~~(B)~~(C) At no time shall there be more than ~~two~~ three members 739
of the same political party serving on the commission. 740

Sec. 4707.04. (A) The state auctioneers commission shall, 741
upon qualification of the member or members appointed in each 742
year, select from its members a chairperson, and shall serve in an 743
advisory capacity to the department of agriculture for the purpose 744
of carrying out ~~sections 4707.01 to 4707.22 of the Revised Code~~ 745
this chapter. The commission shall meet not less than four times 746
annually. 747

(B) The commission triennially shall review and approve 748
institutions that provide an approved course of study in 749
auctioneering. 750

(C) Members of the commission who are licensed auctioneers 751
under this chapter shall administer the oral licensing examination 752
required under section 4707.08 of the Revised Code. 753

(D) Each commissioner shall receive the commissioner's actual 754
and necessary expenses incurred in the discharge of ~~such~~ the 755
commissioner's duties. Each commissioner also shall receive a per 756
diem salary from the auctioneers fund created in section 4707.05 757
of the Revised Code for each meeting attended. The director of 758
agriculture shall adopt rules in accordance with Chapter 119. of 759
the Revised Code establishing the per diem salary. 760

(E) The commission may form subcommittees for purposes of 761
research, education, and promotion of the auctioneering 762
profession. If a majority of the members of the commission 763
approves, the members of a subcommittee may be reimbursed from the 764
auction education fund created in section 4707.171 of the Revised 765
Code for the actual and necessary expenses incurred in the 766
discharge of their duties. 767

(F) Serving as a member of the commission does not constitute 768
holding a public office or position of employment under the laws 769
of this state and does not constitute grounds for removal of 770
public officers or employees from their offices or positions of 771
employment. 772

Sec. 4707.05. Except as otherwise provided in section 773
4707.171 or 4707.25 of the Revised Code, all fees and charges 774
collected by the department of agriculture pursuant to this 775
chapter shall be paid into the state treasury to the credit of the 776
auctioneers fund, which is hereby created. All expenses incurred 777

by the department in administering this chapter shall be paid out 778
of the fund. The total expenses incurred by the department in the 779
administration of this chapter shall not exceed the total fees, 780
charges, fines, and penalties imposed under sections 4707.08, 781
4707.10, and 4707.99 of the Revised Code and paid to the treasurer 782
of state. The department may conduct education programs for the 783
enlightenment and benefit of all auctioneers who have paid fees 784
pursuant to sections 4707.08 and 4707.10 of the Revised Code. 785

~~Out of the moneys credited pursuant to this section, the fund 786
shall be assessed a proportionate share of the administrative 787
costs of the department in accordance with procedures prescribed 788
by the director of agriculture and approved by the director of 789
budget and management. The assessment shall be paid from the 790
auctioneers fund to the division of administration fund. 791~~

At the end of each fiscal year, if the balance of the fund is 792
greater than three hundred thousand dollars, the director of 793
agriculture shall request the director of budget and management 794
to, and the director of budget and management shall, transfer 795
twenty-five per cent of the balance to the auction recovery fund 796
created in section 4707.25 of the Revised Code. 797

Sec. 4707.06. The department of agriculture shall maintain a 798
record of the names and addresses of all auction firms, 799
auctioneers ~~and~~, apprentice auctioneers, and special auctioneers 800
licensed by the department. This record shall also include a list 801
of all persons whose licenses have been suspended or revoked, as 802
well as any other information relative to the enforcement of 803
~~sections 4707.01 to 4707.22 of the Revised Code, as this chapter~~ 804
~~that~~ the department ~~may deem~~ considers of interest to the public. 805

Sec. 4707.07. (A) The department of agriculture may grant 806
auctioneers' licenses to those ~~persons deemed~~ individuals who are 807

determined to be qualified by the department. Each ~~person~~ 808
individual who applies for an auctioneer's license shall furnish 809
to the department, on forms provided by the department, 810
satisfactory proof that the applicant: 811

- (1) Has a good reputation; 812
- (2) Is of trustworthy character; 813
- (3) Has attained the age of at least eighteen years; 814
- (4) Has at least a high school diploma or its equivalent, or 815
holds a valid license issued under this chapter prior to June 30, 816
2004, and seeks to timely renew the license, if applicable; 817
- (5) Has done one of the following: 818
 - (a) Met the apprenticeship requirements set forth in section 819
4707.09 of the Revised Code; 820
 - (b) Met the requirements of section 4707.12 of the Revised 821
Code. 822
 - ~~(5)~~(6) Has a general knowledge of the following: 823
 - (a) The requirements of the Revised Code relative to 824
auctioneers; 825
 - (b) The auction profession; 826
 - (c) The principles involved in conducting an auction; 827
 - (d) Any local and federal laws regarding the occupation of 828
auctioneering. 829
- ~~(6)~~(7) Has satisfied the financial responsibility 830
requirements established under section 4707.11 of the Revised Code 831
if applicable. 832

(B) Auctioneers who served apprenticeships and who hold 833
licenses issued before May 1, 1991, and who seek renewal of their 834
licenses, are not subject to the additional apprenticeship 835

requirements imposed by section ~~4707.08~~ 4707.09 of the Revised Code. 836
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~~(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.~~ 838
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~~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.~~ 843
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~~(D) A licensee may do business under more than one registered name if 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 names, the department may charge a fee of ~~ten dollars~~ that is established in rules adopted by the director of agriculture under section 4707.19 of the Revised Code for the third name ~~and each additional name.~~ 851
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(D) The department, in its discretion, may waive the education 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 863
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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.

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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.

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(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~~ 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.

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(C) A special auctioneer's license issued under this section 899
to the principal owner of a former auction company does not 900
entitle the principal owner or former auction company to conduct 901
auctions at any location other than the definite place of business 902
required in section 4707.14 of the Revised Code. Notwithstanding 903
section 4707.10 of the Revised Code, the department of agriculture 904
shall not issue a new special auctioneer's license if the definite 905
place of business identified by the licensee in the licensee's 906
initial application for a special auctioneer license has changed 907
or if the name under which the licensee is doing business has 908
changed. No person other than an owner, officer, member, or agent 909
of the former auction company who personally has passed the 910
examination prescribed in section 4707.08 of the Revised Code and 911
been licensed as an auctioneer shall engage in the calling for, 912
recognition of, and the acceptance of, offers for the purchase of 913
real or personal property, goods, or chattels at auction in 914
connection with a former auction company that has been issued a 915
special auctioneer's license. 916

(D) A person licensed as a special auctioneer shall not 917
engage in the sale of real property at auction. 918

(E) As used in this section, "auction company" means "auction 919
company" as defined in section 4707.01 of the Revised Code prior 920
to its amendment by .B. of the 125th general assembly. 921

Sec. 4707.072. (A) For purposes of this section, the 922
department of agriculture shall adopt rules in accordance with 923
section 4707.19 of the Revised Code prescribing the fee that a 924
license applicant must pay. Until those rules are adopted, a 925
license applicant shall pay the fee established in this section. 926

(B) The department may grant one-auction licenses to any 927
nonresident ~~person deemed~~ individual who is determined to be 928
qualified by the department. Any ~~person~~ individual who applies for 929

a one-auction license shall attest, on forms provided by the 930
department, and furnish to the department, satisfactory proof that 931
the license applicant ~~or any auctioneer affiliated with the~~ 932
~~applicant~~ meets the following requirements: 933

(1) Has a good reputation; 934

(2) Is of trustworthy character; 935

(3) Has attained the age of at least eighteen years; 936

(4) Has at least a high school diploma or its equivalent; 937

(5) Has a general knowledge of the requirements of the 938
Revised Code relative to auctioneers, the auction profession, and 939
the principles involved in conducting an auction; 940

~~(5)~~(6) Has two years of professional auctioneering experience 941
immediately preceding the date of application ~~and the experience~~ 942
that includes the personal conduct by the applicant of at least 943
twelve auction sales in any state, or has met the requirements of 944
section 4707.12 of the Revised Code; 945

~~(6)~~(7) Has paid a fee of one hundred dollars; 946

~~(7)~~(8) Has provided proof of financial responsibility in the 947
form of either an irrevocable letter of credit or a cash bond or a 948
surety bond in the amount of fifty thousand dollars. If the 949
applicant gives a surety bond, the bond shall be executed by a 950
surety company authorized to do business in this state. A bond 951
shall be made to the department and shall be conditioned that the 952
applicant shall comply with this chapter and rules adopted under 953
it, including refraining from conduct described in section 4707.15 954
of the Revised Code. All bonds shall be on a form approved by the 955
director of agriculture. 956

Sec. 4707.073. (A) No corporation, general or limited 957
partnership, or unincorporated association shall act or hold 958
itself out as an auctioneer without a valid auctioneer's license 959

issued under this section. This section does not apply to a person 960
who is issued a license under section 4707.071 of the Revised 961
Code. 962

(B) The department of agriculture may grant an auctioneer's 963
license to a corporation, general or limited partnership, or 964
unincorporated association that is determined to be qualified by 965
the department. Every applicant for a license under this section 966
shall furnish to the department, on forms provided by the 967
department, satisfactory proof that the applicant: 968

(1) Is in good standing with the secretary of state if the 969
applicant is a corporation; 970

(2) Is of trustworthy character; 971

(3) Has provided proof of financial responsibility as 972
required in section 4707.11 of the Revised Code; 973

(4) Is registered with the secretary of state or a local 974
authority, as applicable, to do business in this state; 975

(5) Has complied with any other requirement that the director 976
establishes in rules adopted under section 4707.19 of the Revised 977
Code. 978

(C) An application submitted under this section shall list 979
the names of all of the owners, directors, partners, or members of 980
the applicant, as applicable, and shall indicate those that have 981
an auctioneer's license issued under section 4707.07 of the 982
Revised Code. 983

(D)(1) The department shall not issue a license under this 984
section unless one of the following applies, as applicable: 985

(a) If the applicant is a general or limited partnership, not 986
less than fifty per cent of the general partners have a current 987
license issued under section 4707.07 of the Revised Code. 988

(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. 989
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(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. 993
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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. 996
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(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. 1001
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(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 1010
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unincorporated association, as applicable, immediately shall 1020
terminate. If the corporation, partnership, or unincorporated 1021
association notifies the department of the designation of a new 1022
agent in accordance with the requirements of this division and 1023
pays the fee established by the director of agriculture in rules 1024
adopted under section 4707.19 of the Revised Code, the department 1025
shall issue the corporation, partnership, or unincorporated 1026
association a new license. 1027

(F) For purposes of this section, the director may adopt 1028
rules under section 4707.19 of the Revised Code establishing 1029
license fees and procedures and deadlines for the issuance of a 1030
license under this section. Until the director adopts those rules, 1031
a license issued under this section shall take effect on July 1 of 1032
one year and expire on June 30 of the following year, and the fee 1033
for an initial and renewal license shall be one hundred dollars. 1034
In addition, a license shall be renewed before July 1 of each 1035
year, except that a license may be renewed before September 1 of 1036
the year of expiration if the licensee pays the renewal fee and an 1037
additional fee of one hundred dollars. 1038

(G) This section does not preclude a corporation, 1039
partnership, or unincorporated association from selling real 1040
property at auction, provided that the requirements of this 1041
section and section 4707.021 and Chapter 4735. of the Revised Code 1042
are satisfied. 1043

Sec. 4707.074. (A) No person who is otherwise licensed under 1044
this chapter and who only provides auction services or holds the 1045
person's self out as providing auction services shall do so 1046
without a valid auction firm license issued under this section. 1047
This section does not apply to a person licensed as a livestock 1048
dealer under Chapter 943. of the Revised Code who exclusively 1049
sells livestock and uses a licensed auctioneer to conduct the 1050

<u>auction.</u>	1051
<u>(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:</u>	1052 1053 1054 1055 1056
<u>(1) Is in good standing with the secretary of state if the applicant is a corporation;</u>	1057 1058
<u>(2) Is of trustworthy character;</u>	1059
<u>(3) Is registered with the secretary of state or a local authority, as applicable, to do business in this state;</u>	1060 1061
<u>(4) Has complied with any other requirement that the director establishes in rules adopted under section 4707.19 of the Revised Code;</u>	1062 1063 1064
<u>(5) Has a general knowledge of the requirements of the Revised Code and the general principles regarding auctions and auctioneering;</u>	1065 1066 1067
<u>(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 cash.</u>	1068 1069 1070
<u>(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.</u>	1071 1072 1073
<u>(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</u>	1074 1075 1076 1077 1078 1079

<u>4707.08 of the Revised Code before the department may issue a</u>	1080
<u>license under this section to the auction firm.</u>	1081
<u>(E)(1) An auction firm license issued under this section</u>	1082
<u>immediately shall terminate if any of the following occurs:</u>	1083
<u>(a) The auction firm incorporates.</u>	1084
<u>(b) The auction firm ceases to operate as a corporation.</u>	1085
<u>(c) The auction firm changes ownership.</u>	1086
<u>(d) If the auction firm is a partnership, the firm changes</u>	1087
<u>the number of partners in the partnership or changes the partners</u>	1088
<u>comprising the partnership.</u>	1089
<u>(e) The auction firm changes the firm manager.</u>	1090
<u>(f) The auction firm changes the name under which the firm</u>	1091
<u>conducts business.</u>	1092
<u>(g) The auction firm changes its permanent business location.</u>	1093
<u>If a license terminates under this division, the licensee</u>	1094
<u>immediately shall cease auction services, notify the department of</u>	1095
<u>the termination, and return the terminated license to the</u>	1096
<u>department.</u>	1097
<u>(2) Not later than ten days prior to the date on which an</u>	1098
<u>auction firm license will terminate pursuant to division</u>	1099
<u>(E)(1)(a), (b), (c), or (d) of this section, the auction firm may</u>	1100
<u>submit an application for a new auction firm license in accordance</u>	1101
<u>with division (B) of this section. If the auction firm submits the</u>	1102
<u>application, returns the terminated license, and pays the fee</u>	1103
<u>established in rules adopted by the director of agriculture under</u>	1104
<u>section 4707.19 of the Revised Code, the department may issue a</u>	1105
<u>new license under this section.</u>	1106
<u>(3) If a license terminates pursuant to division (E)(1)(e),</u>	1107
<u>(f), or (g) of this section and the formerly licensed auction firm</u>	1108

notifies the department, returns the terminated license, and pays 1109
the fee established in rules adopted by the director under section 1110
4707.19 of the Revised Code, the department shall issue a new 1111
license under this division. 1112

(F) For purposes of this section, the director may adopt 1113
rules under section 4707.19 of the Revised Code establishing 1114
license fees and procedures and deadlines for the issuance of a 1115
license under this section. Until the director adopts those rules, 1116
a license issued under this section shall take effect on July 1 of 1117
one year and expire on June 30 of the following year, and the fee 1118
for an initial and renewal license shall be one hundred dollars. 1119
In addition, a license shall be renewed before July 1 of each 1120
year, except that a license may be renewed before September 1 of 1121
the year of expiration if the licensee pays the renewal fee and an 1122
additional fee of one hundred dollars. 1123

(G) For purposes of the financial responsibility that is 1124
required under division (B) of this section, if a person provides 1125
a surety bond, the bond shall be executed by a surety company that 1126
is authorized to do business in this state. The bond shall be made 1127
payable to the department and shall include a condition that 1128
requires the applicant to comply with this chapter and rules 1129
adopted under it, including a requirement that the person refrain 1130
from conduct described in section 4707.15 of the Revised Code. A 1131
bond shall be on a form that is approved by the director. A person 1132
who is issued a license under this section shall maintain the 1133
financial responsibility that is required under division (B) of 1134
this section for as long as the person is licensed. 1135

(H) An auction firm licensed under this section shall not 1136
conduct the bid calling for the sale of real or personal property 1137
at auction. 1138

Sec. 4707.08. (A) The department of agriculture shall hold 1139

written examinations four times each year for the purpose of 1140
testing the qualifications required for obtaining a license under 1141
section 4707.07 of the Revised Code and twelve times each year for 1142
obtaining a license under section 4707.09 of the Revised Code and 1143
for unlicensed auction firm managers as required under division 1144
(D) of section 4707.074 of the Revised Code. The written 1145
examination shall be held at the department or at an alternative 1146
location determined by the department. In addition to the written 1147
examination, auctioneer license applicants shall pass an oral 1148
examination administered by the state auctioneers commission on 1149
the same date and at the same location as the written examination. 1150
An examination shall not be required for the renewal of any 1151
license unless ~~such~~ the license has been revoked, suspended, or 1152
allowed to expire without renewal, in which case the applicant 1153
shall take and pass the appropriate examinations offered by the 1154
department. 1155

An examination fee ~~of twenty-five dollars~~ shall be collected 1156
from each person taking the auctioneer examination ~~and fifteen~~ 1157
~~dollars from each person taking,~~ the apprentice auctioneer 1158
examination, and the auction firm manager examination to defray 1159
expenses of holding ~~such~~ the examinations. Unless otherwise 1160
established in rules adopted by the director of agriculture under 1161
section 4707.19 of the Revised Code, the fee for the apprentice 1162
auctioneer examination and the firm manager examination shall be 1163
fifteen dollars, and the fee for the auctioneer examination shall 1164
be twenty-five dollars. 1165

(B) All applications and proofs ~~must~~ shall be filed by each 1166
applicant before the scheduled date of examination, and ~~must~~ shall 1167
be accompanied by ~~a bond~~ proof of financial responsibility and a 1168
license fee. In order to be seated for an examination held under 1169
this section, an applicant shall have a complete application on 1170
file with the department not later than fourteen days prior to the 1171

examination date. 1172

(C) If a court of competent jurisdiction or the department, 1173
at an administrative hearing, has found that an applicant 1174
conducted an auction, provided auction services, or acted as an 1175
auctioneer without a license issued under this chapter, the 1176
department may refuse to allow the applicant to take an 1177
examination under this section or may deny the issuance of a 1178
license to the applicant for a period of two years. 1179

(D)(1) If an applicant for a license fails to pass the 1180
examination, the applicant may take the examination on the next 1181
scheduled date for the examination. If an applicant fails to pass 1182
the examination on the second consecutive attempt, the applicant 1183
shall not take the examination on the next scheduled date for the 1184
examination. 1185

(2) If an applicant for a license fails to pass the 1186
examination on the third attempt, the applicant shall attend 1187
auction school a second time before the applicant may take the 1188
examination. If an applicant for a license fails to pass the 1189
examination on the fourth attempt, the applicant shall not take 1190
the examination for at least one year from the date of the last 1191
failed attempt. 1192

(3) If an individual who is taking the examination for an 1193
auction firm manager fails to pass the examination on the third 1194
attempt, the individual shall not take the examination for one 1195
year from the date of the last failed attempt. 1196

Sec. 4707.09. The department of agriculture may grant 1197
apprentice auctioneers' licenses to those persons deemed that are 1198
determined to be qualified by the department. Every applicant for 1199
an apprentice auctioneer's license shall pass an examination 1200
relating to the skills, knowledge, and statutes and rules 1201
governing auctioneers. Every applicant for an apprentice 1202

auctioneer's license shall furnish to the department, on forms 1203
provided by the department, satisfactory proof that the applicant: 1204

(A) Has a good reputation; 1205

(B) Is of trustworthy character; 1206

(C) Has attained the age of at least eighteen years; 1207

(D) Has at least a high school diploma or its equivalent, or 1208
holds a valid license issued under this chapter prior to June 30, 1209
2004, and seeks to timely renew the license, if applicable; 1210

(E) Has obtained a written promise of a licensed auctioneer 1211
to sponsor the applicant during the applicant's apprenticeship; 1212

~~(E)~~(F) Has satisfied the financial responsibility 1213
requirements established under section 4707.11 of the Revised Code 1214
if applicable; 1215

(G) Has successfully completed a course of study in 1216
auctioneering at an institution that is approved by the state 1217
auctioneers commission. 1218

Before an apprentice may take the auctioneer's license 1219
examination, the apprentice shall serve an apprenticeship of at 1220
least twelve months, ~~successfully complete a course of study in~~ 1221
~~auctioneering at an institution that is approved every three years~~ 1222
~~by the state auctioneers commission,~~ and ~~conduct,~~ participate as a 1223
bid caller, in at least twelve auction sales under the direct 1224
supervision of the sponsoring licensed auctioneer, which ~~sales~~ 1225
auctions shall be certified by the licensed auctioneer on the 1226
apprentice's application for an auctioneer's license. 1227

If an auctioneer intends to terminate sponsorship of an 1228
apprentice auctioneer, the sponsoring auctioneer shall notify the 1229
apprentice auctioneer of the sponsoring auctioneer's intention by 1230
certified mail, return receipt requested, at least ten days prior 1231
to the effective date of termination and, at the same time, shall 1232

deliver or mail by certified mail to the department ~~of agriculture~~ 1233
a copy of the termination notice and the license of the apprentice 1234
auctioneer. No apprentice auctioneer shall perform any acts under 1235
authority of the apprentice's license after the effective date of 1236
the termination until the apprentice receives a new license 1237
~~bearing the name and address of the apprentice's new sponsor.~~ No 1238
more than one license shall be issued to any apprentice auctioneer 1239
for the same period of time. 1240

No licensed auctioneer shall have under the licensed 1241
auctioneer's sponsorship more than two apprentice auctioneers at 1242
one time. No auctioneer shall sponsor an apprentice auctioneer if 1243
the auctioneer has not been licensed and in good standing for a 1244
period of at least two years immediately before sponsoring the 1245
apprentice auctioneer. A sponsoring auctioneer whose license is 1246
suspended or revoked shall send to the department the apprentice 1247
auctioneer's license not later than fourteen days after the 1248
suspension or revocation. If a sponsoring auctioneer's license is 1249
suspended or revoked, the apprentice auctioneer shall obtain a 1250
written promise of sponsorship from another licensed auctioneer 1251
before performing any acts under the authority of an apprentice 1252
auctioneer's license. The apprentice auctioneer shall send a copy 1253
of the written promise of sponsorship of another auctioneer to the 1254
department. If the department receives a copy of such a written 1255
promise of sponsorship and the apprentice pays the fee established 1256
by the department, the department shall issue a new license to the 1257
apprentice. 1258

An apprentice auctioneer may terminate the apprentice's 1259
sponsorship with an auctioneer by notifying the auctioneer of the 1260
apprentice's intention by certified mail, return receipt 1261
requested, at least ten days prior to the effective date of 1262
termination. At the same time, the apprentice shall deliver or 1263
mail by certified mail to the department ~~of agriculture~~ a copy of 1264

the termination notice. Upon receiving the termination notice, the 1265
sponsoring auctioneer shall promptly deliver or mail by certified 1266
mail to the department the license of the apprentice auctioneer. 1267

The termination of a sponsorship, regardless of who initiates 1268
the termination, shall not be cause for an apprentice auctioneer 1269
to lose credit for any certified ~~sales the apprentice conducted~~ 1270
auctions in which the apprentice participated as a bid caller or 1271
apprenticeship time the apprentice served under the direct 1272
supervision of the former sponsor. 1273

Sec. 4707.091. (A) Prior to the expiration of an auctioneer's 1274
or apprentice auctioneer's license, an auctioneer or apprentice 1275
auctioneer may submit an application to the department of 1276
agriculture, on forms provided by the department, to place the 1277
license on deposit with the department for a period not to exceed 1278
two years. Not later than fourteen days after receipt of an 1279
application under this section, the department shall accept or 1280
deny the application. 1281

(B) If the department accepts the application, an auctioneer 1282
or apprentice auctioneer who has a license on deposit with the 1283
department under this section shall not act as an auctioneer or 1284
apprentice auctioneer while the license is on deposit. In 1285
addition, such an auctioneer shall not be required to earn 1286
continuing education credits, if applicable, and shall not be 1287
required to pay an assessment under section 4707.25 of the Revised 1288
Code. 1289

(C) An auctioneer or apprentice auctioneer may reacquire a 1290
license on deposit from the department if the auctioneer or 1291
apprentice auctioneer does all of the following: 1292

(1) Submits a written request to the department that contains 1293
the business address and telephone number of the auctioneer or 1294
apprentice auctioneer, as applicable; 1295

(2) Pays the reactivation fee for the license that is 1296
established in rules adopted by the director of agriculture under 1297
section 4707.19 of the Revised Code; 1298

(3) Pays the assessment that is levied under section 4707.25 1299
of the Revised Code for the current year, if applicable; 1300

(4) Provides proof of financial responsibility as required in 1301
section 4707.11 of the Revised Code, if applicable; 1302

(5) Complies with any other requirement established in rules 1303
adopted by the director under section 4707.19 of the Revised Code. 1304

Sec. 4707.10. (A) For purposes of this section, the 1305
department of agriculture shall adopt rules in accordance with 1306
section 4707.19 of the Revised Code prescribing fees that 1307
licensees must pay and license renewal deadlines and procedures 1308
with which licensees must comply. Until those rules are adopted, 1309
licensees shall pay the fees and comply with the license renewal 1310
deadlines and procedures established in this section. 1311

(B) The fee for each auctioneer's, apprentice auctioneer's, 1312
or special auctioneer's license issued by the department is one 1313
hundred dollars, and the annual renewal fee for any such license 1314
is one hundred dollars. All licenses expire annually on the last 1315
day of June of each year and shall be renewed according to the 1316
standard renewal procedures of Chapter 4745. of the Revised Code, 1317
or the procedures of this section. Any licensee under this chapter 1318
who wishes to renew the licensee's license, but fails to do so 1319
before the first day of July shall reapply for licensure in the 1320
same manner and pursuant to the same requirements as for initial 1321
licensure, unless before the first day of September of the year of 1322
expiration, the former licensee pays to the department, in 1323
addition to the regular renewal fee, a late renewal penalty of one 1324
hundred dollars. 1325

(C) Any person who fails to renew the person's license before 1326
the first day of July is prohibited from engaging in any activity 1327
specified or comprehended in section 4707.01 of the Revised Code 1328
until such time as the person's license is renewed or a new 1329
license is issued. Renewal of a license between the first day of 1330
July and the first day of September does not relieve any person 1331
from complying with this division. The department may refuse to 1332
renew the license of or issue a new license to any person who 1333
violates this division. 1334

(D) The department shall prepare and deliver to each licensee 1335
a permanent license certificate and an identification card, the 1336
appropriate portion of which shall be carried on the person of the 1337
licensee at all times when engaged in any type of auction 1338
activity, and part of which shall be posted with the permanent 1339
certificate in a conspicuous location at the licensee's place of 1340
business. 1341

(E) Notice in writing shall be given to the department by 1342
each auctioneer or apprentice auctioneer licensee of any change of 1343
principal business location or any change or addition to the name 1344
or names under which business is conducted, whereupon the 1345
department shall issue a new license for the unexpired period. Any 1346
change of business location or change or addition of names without 1347
notification to the department shall automatically cancel any 1348
license previously issued. For each new auctioneer or apprentice 1349
auctioneer license issued upon the occasion of a change in 1350
business location or a change in or an addition of names under 1351
which business is conducted, the department may collect a fee of 1352
ten dollars for each change in location, or name or each added 1353
name unless the notification of the change occurs concurrently 1354
with the renewal application or unless otherwise provided in 1355
section 4707.07 of the Revised Code. 1356

(F) Divisions (A) and (B) of this section do not apply to 1357

licenses issued under sections 4707.073 and 4707.074 of the 1358
Revised Code. 1359

Sec. 4707.11. (A) Except as provided in division (B) of this 1360
section, each application for a license issued under this chapter 1361
shall be accompanied by proof of financial responsibility in the 1362
form of either an irrevocable letter of credit or a cash bond or a 1363
surety bond in the amount of twenty-five thousand dollars. If the 1364
applicant gives a surety bond, the bond shall be executed by a 1365
surety company authorized to do business in this state. 1366

A bond shall be made payable to the department of agriculture 1367
and shall ~~be conditioned~~ include a condition that requires the 1368
applicant ~~shall~~ to comply with this chapter and rules adopted 1369
under it, including ~~refraining~~ a requirement that the person 1370
refrain from conduct described in section 4707.15 of the Revised 1371
Code. All bonds shall be on a form approved by the director of 1372
agriculture. 1373

A licensee shall maintain proof of financial responsibility 1374
for three years following the date of initial licensure. After the 1375
three-year period, a licensee who has not engaged in conduct 1376
described in section 4707.15 of the Revised Code and has not 1377
otherwise violated this chapter or rules adopted under it during 1378
that period shall no longer be required to maintain proof of 1379
financial responsibility except as otherwise provided in this 1380
section. 1381

A licensee whose license expires without being renewed under 1382
section 4707.10 of the Revised Code or is suspended under section 1383
4707.30 of the Revised Code shall give proof of financial 1384
responsibility in accordance with this section in order to obtain 1385
reinstatement or reactivation of the license. 1386

(B) Division (A) of this section does not apply to ~~either~~ any 1387

of the following: 1388

(1) A licensee whose license was issued prior to July 1, 1389
2003, provided that the license continues to be renewed under 1390
section 4707.10 of the Revised Code and is not suspended under 1391
section 4707.15 or 4707.30 of the Revised Code; 1392

(2) An apprentice auctioneer licensee whose license was 1393
issued under section 4707.09 of the Revised Code prior to July 1, 1394
2003, and who applies for an auctioneer's license under section 1395
4707.07 of the Revised Code on or after July 1, 2003, provided 1396
that the apprentice auctioneer's license is not suspended under 1397
section 4707.15 or 4707.30 of the Revised Code, and, if necessary, 1398
continues to be renewed under section 4707.10 of the Revised Code, 1399
prior to the issuance of the auctioneer's license to the 1400
applicant; 1401

(3) An auction firm license that is issued under section 1402
4707.074 of the Revised Code. 1403

Sec. 4707.111. The state, through the department of 1404
agriculture and in accordance with this chapter, shall solely 1405
regulate auctioneers, auction firms, and the conduct of auction 1406
sales. 1407

By enactment of this chapter, it is the intent of the general 1408
assembly to preempt municipal corporations and other political 1409
subdivisions from the regulation and licensing of auctioneers, 1410
auction firms, and auction sales. An ordinance, resolution, or 1411
other enactment by a municipal corporation or other political 1412
subdivision that directly or indirectly regulates auctioneers, 1413
auction firms, or auction sales is hereby preempted. 1414

~~At least twenty four hours prior to an auction, the person~~ 1415
~~licensed under this chapter to conduct the auction shall notify~~ 1416
~~the chief of police of the municipal corporation in which the~~ 1417

~~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.~~ 1418
1419
1420
1421

Sec. 4707.12. A nonresident may operate as an auctioneer, 1422
apprentice auctioneer, or special auctioneer within the state by 1423
conforming to this chapter. 1424

The department of agriculture may, within its discretion, 1425
waive the testing and schooling requirements for a nonresident, 1426
provided that the nonresident holds a valid auctioneer or 1427
apprentice auctioneer license issued by a state with which the 1428
department has entered into a reciprocal licensing agreement. 1429
Nonresidents wishing to so operate in this state shall make 1430
application in writing to the department and furnish the 1431
department with proof of their ability to conduct an auction, 1432
proof of license and ~~bond if they reside in a state with these~~ 1433
~~requirements~~ financial responsibility, as well as other 1434
information ~~which~~ that the department may request. If a state with 1435
which the department has entered into a reciprocal licensing 1436
agreement does not require an apprenticeship, the applicant shall 1437
provide proof of license for a period of at least one year prior 1438
to receipt of the application. 1439

This section does not apply to nonresident auctioneers who 1440
~~reside in states under the laws of which similar recognition and~~ 1441
~~courtesies are~~ do not extended to licensed auctioneers of this 1442
have a license from a state with which the department has entered 1443
into a reciprocal licensing agreement. 1444

Sec. 4707.14. (A) Each person licensed under ~~sections 4707.07~~ 1445
~~to 4707.22 of the Revised Code~~ this chapter shall have a definite 1446
place of business in this state. 1447

(B) Except as provided in division (C) of this section, if 1448
the licensee is a nonresident, it is not necessary for ~~him~~ the 1449
licensee to maintain an active place of business within this state 1450
if ~~he~~ the licensee maintains such a place of business in the state 1451
where ~~he~~ the licensee is a resident. 1452

(C) A nonresident ~~former auction company licensee~~ who is 1453
licensed as a special auctioneer under section 4707.071 of the 1454
Revised Code shall have a definite place of business within the 1455
state and shall not conduct auctions anywhere else in the state 1456
other than ~~his~~ the licensee's place of business. 1457

Sec. 4707.15. The department of agriculture may deny, refuse 1458
to renew, suspend, or revoke the license of any auction firm, 1459
auctioneer, apprentice auctioneer, or special auctioneer for any 1460
of the following causes: 1461

(A) Obtaining a license through false or fraudulent 1462
representation; 1463

(B) Making any substantial misrepresentation in an 1464
application for ~~an auctioneer's, apprentice auctioneer's, or~~ 1465
~~special auctioneer's~~ a license; 1466

(C) A continued course of misrepresentation or for making 1467
false promises through agents, advertising, or otherwise; 1468

(D) Specifying that an auction is a reserve auction, absolute 1469
auction, or estate auction, but not conducting the auction as 1470
specified; 1471

(E) Failing to account for or remit, within a reasonable 1472
time, any money or property belonging to others that comes into 1473
the licensee's possession, and for commingling funds of others 1474
with the licensee's own, or failing to keep ~~such~~ funds of others 1475
in an escrow or ~~trustee~~ trust account, except that in the case of 1476
a transaction involving real estate, such funds shall be 1477

maintained in accordance with division (A)(26) of section 4735.18	1478
of the Revised Code;	1479
(E) (F) Paying valuable consideration to any person who has	1480
violated this chapter;	1481
(F) (G) Conviction in a court of competent jurisdiction of	1482
this state or any other state of a criminal offense involving	1483
fraud, <u>forgery, embezzlement, false pretenses, extortion,</u>	1484
<u>conspiracy to defraud, or another similar offense</u> or a felony;	1485
(G) (H) Violation of this chapter <u>or rules adopted under it;</u>	1486
(H) (I) Failure to furnish voluntarily at the time of	1487
execution, copies of all written instruments prepared by the	1488
auctioneer <u>or auction firm;</u>	1489
(I) (J) Any conduct of an auctioneer which <u>or auction firm</u>	1490
<u>that</u> demonstrates bad faith, dishonesty, incompetency, or	1491
untruthfulness;	1492
(J) (K) Any other conduct that constitutes improper,	1493
fraudulent, or dishonest dealings;	1494
(K) (L) Failing prior to the sale at public auction to enter	1495
into a written contract with the owner or consignee of any	1496
property to be sold, containing the terms and conditions upon	1497
which such <u>the</u> licensee received the property for sale <u>auction;</u>	1498
(L) (M) The use of any power of attorney to circumvent this	1499
chapter;	1500
(M) (N) Failure to display <u>the sign required under section</u>	1501
<u>4707.22 of the Revised Code and</u> a notice conspicuously at the	1502
clerk's desk or on a bid card that clearly states the terms and	1503
conditions of the sale, the name of the auctioneer or special	1504
auctioneer conducting the sale, and that the auctioneer or special	1505
auctioneer is licensed by the department of agriculture and has	1506
filed a bond <u>auction;</u>	1507

~~(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;~~

(O) 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 1537
person, investigate the actions of any auction firm, auctioneer, 1538
apprentice auctioneer, or special auctioneer, any applicant for an 1539
auction firm's, auctioneer's, apprentice auctioneer's, or special 1540
auctioneer's license, or any person who assumes to act in that 1541
capacity, if the complaint, together with other evidence presented 1542
in connection with it, makes out a prima-facie case. 1543
1544

If the department determines that any such applicant is not 1545
entitled to receive a license, a license shall not be granted to 1546
~~such~~ the applicant, and if the department determines that any 1547
licensee is guilty of a violation of section 4707.14 or 4707.15 of 1548
the Revised Code, the department may suspend or revoke the 1549
license. Any auction firm, auctioneer, apprentice auctioneer, or 1550
special auctioneer who has had the auction firm's, auctioneer's, 1551
apprentice auctioneer's, or special auctioneer's license revoked 1552
shall not be issued another such license for a period of two years 1553
from the date of revocation. 1554

(B) The department may investigate complaints concerning the 1555
violation of sections 4707.02 and 4707.15 of the Revised Code and 1556
may subpoena witnesses in connection with such investigations as 1557
provided in this section. The department may make application to 1558
the court of common pleas for an order enjoining the violation of 1559
sections 4707.02 and 4707.15 of the Revised Code, and upon a 1560
showing by the department that any licensed auction firm, 1561
auctioneer, apprentice auctioneer, or special auctioneer has 1562
violated or is about to violate section 4707.15 of the Revised 1563
Code, or any person has violated or is about to violate section 1564
4707.02 of the Revised Code, an injunction, restraining order, or 1565
other order as may be appropriate shall be granted by the court. 1566

(C) The department may compel by subpoena the attendance of 1567

witnesses to testify in relation to any matter over which it has 1568
jurisdiction and ~~which~~ that is the subject of inquiry and 1569
investigation by it, and require the production of any book, 1570
paper, or document pertaining to ~~such~~ that matter. In case any 1571
person fails to file any statement or report, obey any subpoena, 1572
give testimony, or produce any books, records, or papers as 1573
required by such a subpoena, the court of common pleas of any 1574
county in the state, upon application made to it by the 1575
department, shall compel obedience by attachment proceedings for 1576
contempt, as in the case of disobedience of the requirements of a 1577
subpoena issued from ~~such~~ that court, or a refusal to testify 1578
therein. 1579

(D) When the department determines that a person not licensed 1580
under this chapter is engaged in or is believed to be engaged in 1581
activities for which a license is required under this chapter, the 1582
department may issue an order to that person requiring the person 1583
to show cause as to why the person should not be subject to 1584
licensing under this chapter. If the department, after a hearing, 1585
determines that the activities in which the person is engaged are 1586
subject to licensing under this chapter, the department may issue 1587
a cease-and-desist order ~~which~~ that shall describe the person and 1588
activities ~~which~~ that are subject to the order. A cease-and-desist 1589
order issued under this section shall be enforceable in and may be 1590
appealed to the common pleas courts of this state under Chapter 1591
119. of the Revised Code. 1592

(E) In addition to the remedies provided under this section 1593
and irrespective of whether an adequate remedy at law exists, the 1594
department may apply to a court of common pleas for a temporary or 1595
permanent injunction or other appropriate relief for continued 1596
violations of this chapter. For purposes of this division, the 1597
court of common pleas shall be the court of common pleas of 1598
Licking county or the court of common pleas of the county where 1599

the violation occurs. 1600

(F) For purposes of this section, investigative costs 1601
incurred by the department are recoverable either by the issuance 1602
of an administrative order of the department or by an order of a 1603
court of competent jurisdiction. 1604

Sec. 4707.171. There is hereby created in the state treasury 1605
the auction education fund. ~~Seven~~ Unless otherwise provided in 1606
rules adopted by the director of agriculture under section 4707.19 1607
of the Revised Code, seven dollars and fifty cents of each fee 1608
collected for an initial or renewed auction firm's, auctioneer's, 1609
apprentice auctioneer's, or special auctioneer's license shall be 1610
credited to the auction education fund. All interest earned on 1611
moneys deposited in the state treasury to the credit of the 1612
auction education fund shall be credited to the fund. 1613

The ~~Ohio~~ state auctioneers commission shall use any moneys 1614
from the auction education fund to advance and underwrite 1615
education and research in the auction field for the benefit of 1616
those licensed under this chapter and the auctioneering public and 1617
to cooperate with associations of auctioneers and other groups for 1618
the education of auctioneers and the advancement of the auction 1619
profession in this state. 1620

Sec. 4707.18. No person engaged in the business of, or acting 1621
in the capacity of, an auction firm, auctioneer, or special 1622
auctioneer shall bring or maintain any action in the courts of 1623
this state for the collection of compensation for any services 1624
performed as an auction firm or auctioneer without first alleging 1625
and proving that the person was a duly licensed auction firm, 1626
auctioneer, or special auctioneer at the time the alleged cause of 1627
action arose. 1628

Sec. 4707.19. (A) The director of agriculture may adopt 1629
reasonable rules necessary for the implementation of this chapter 1630
in accordance with Chapter 119. of the Revised Code. In addition, 1631
the director shall adopt rules in accordance with Chapter 119. of 1632
the Revised Code that establish the portion of license fees 1633
collected under this chapter that are to be deposited into the 1634
auction recovery fund under section 4707.25 of the Revised Code. 1635
The 1636

No person shall fail to comply with a rule adopted under this 1637
chapter. 1638

(B) The director shall adopt rules that establish a schedule 1639
of civil penalties for violations of this chapter, rules adopted 1640
under it, or orders issued under it. The rules shall provide that 1641
the civil penalty for the first violation of this chapter, rule, 1642
or order shall not exceed five thousand dollars and the civil 1643
penalty for each subsequent offense shall not exceed ten thousand 1644
dollars. In addition, the director, in establishing the schedule 1645
of civil penalties in the rules, shall consider past violations of 1646
this chapter and rules adopted under it, the severity of a 1647
violation, and the amount of actual or potential damage to the 1648
public or the auction profession. 1649

(C) The department of agriculture may hear testimony in 1650
matters relating to the duties imposed on it, and any person 1651
authorized by the director may administer oaths. The department 1652
may require other proof of the honesty, truthfulness, and good 1653
reputation of any person named in the application for an auction 1654
firm's, auctioneer's, apprentice auctioneer's, or special 1655
auctioneer's license before admitting the applicant to an 1656
examination or issuing a license. 1657

Sec. 4707.20. (A) No person shall act as an auction firm, 1658

auctioneer, or special auctioneer ~~on a sale at auction~~ until the 1659
person has first entered into a written contract or agreement in 1660
duplicate with the owner or consignee of any property to be sold, 1661
containing the terms and conditions upon which the licensee 1662
receives or accepts the property for sale at auction. The 1663
contracts or agreements shall, for a period of two years, be kept 1664
on file in the office of every person so licensed. No apprentice 1665
auctioneer shall be authorized to enter into such a contract or 1666
agreement without the written consent of the apprentice 1667
auctioneer's sponsoring auctioneer, and all contracts or 1668
agreements shall be made in the name of and on behalf of the 1669
sponsoring auctioneer. In addition, an apprentice auctioneer shall 1670
not enter into an auction contract for the sale of real property 1671
in the name of the sponsoring auctioneer regardless of whether the 1672
apprentice auctioneer is licensed as a real estate broker or 1673
salesperson. 1674

(B) On all contracts or agreements between an auction firm, 1675
auctioneer, or special auctioneer and the owner or consignee, 1676
there shall appear a prominent statement indicating that the 1677
auction firm, auctioneer, or special auctioneer is licensed by the 1678
department of agriculture, and either that the licensee is bonded 1679
in favor of the state or that an aggrieved person may initiate a 1680
claim against the auction recovery fund created in section 4707.25 1681
of the Revised Code as a result of the licensee's actions, 1682
whichever is applicable. 1683

(C) The auction firm, auctioneer, or special auctioneer who 1684
contracts with the owner is liable for the settlement of all money 1685
received, including the payment of all expenses incurred only by 1686
the licensee and the distribution of all funds, in connection with 1687
an auction. 1688

(D) For purposes of this section, a contract or agreement 1689

<u>shall specify all of the following:</u>	1690
<u>(1) The owner of the property to be sold or the owner's agent</u>	1691
<u>or the consignee;</u>	1692
<u>(2) The date of the auction or a termination date of the</u>	1693
<u>contract or agreement;</u>	1694
<u>(3) The location of the auction;</u>	1695
<u>(4) The terms and conditions of the auction;</u>	1696
<u>(5) All of the fees to be charged by the auctioneer or the</u>	1697
<u>auction firm, which shall include commissions, rentals,</u>	1698
<u>advertising, and labor;</u>	1699
<u>(6) An explanation of the settlement of the auction that</u>	1700
<u>includes the disbursement of interest money, if applicable;</u>	1701
<u>(7) A statement establishing the responsibility for bad</u>	1702
<u>checks, debts, and unpaid auction items;</u>	1703
<u>(8) A statement indicating whether the auction is a reserve</u>	1704
<u>auction or an absolute auction. In addition, the statement shall</u>	1705
<u>include the definition of reserve auction or absolute auction from</u>	1706
<u>section 4707.01 of the Revised Code, as applicable.</u>	1707
<u>(9) A statement of the auctioneer's or auction firm's policy</u>	1708
<u>regarding absentee bidding;</u>	1709
<u>(10) A brief description of the real or personal property to</u>	1710
<u>be sold;</u>	1711
<u>(11) If the sale is of real or personal property at absolute</u>	1712
<u>auction, a statement affirming that the seller of the real or</u>	1713
<u>personal property has a bona fide intention to transfer ownership</u>	1714
<u>of the property to the highest bidder.</u>	1715
Sec. 4707.21. No <u>auction firm,</u> auctioneer, apprentice	1716
auctioneer, or special auctioneer shall willfully neglect or	1717

refuse to furnish the department of agriculture statistics or 1718
other information in the auction firm's, auctioneer's, apprentice 1719
auctioneer's, or special auctioneer's possession or under the 1720
auction firm's, auctioneer's, apprentice auctioneer's, or special 1721
auctioneer's control, ~~which~~ that the auction firm, auctioneer, 1722
apprentice auctioneer, or special auctioneer is authorized to 1723
collect; nor shall the auction firm, auctioneer, apprentice 1724
auctioneer, or special auctioneer neglect or refuse, for more than 1725
thirty days, to answer questions submitted on circulars; nor shall 1726
the auction firm, auctioneer, apprentice auctioneer, or special 1727
auctioneer knowingly answer any such questions falsely; nor shall 1728
the auction firm, auctioneer, apprentice auctioneer, or special 1729
auctioneer refuse to obey subpoenas and give testimony. Licensees 1730
shall keep records relative to any auction sale for at least two 1731
years from the date of ~~sale~~ auction. These records shall include 1732
settlement sheets, written contracts, and copies of any 1733
advertising that lists the items for ~~sale~~ auction, as applicable. 1734

Sec. 4707.22. (A) Any ~~auctioneer, apprentice auctioneer, or~~ 1735
~~special auctioneer~~ person licensed under this chapter who 1736
advertises, by linear advertisements or otherwise, to hold or 1737
conduct an auction shall indicate in ~~such~~ the advertisement ~~his~~ 1738
the licensee's name or the name registered with the department of 1739
agriculture and that ~~he~~ the licensee is an auctioneer or 1740
apprentice auctioneer. Any apprentice auctioneer who advertises, 1741
as provided in this section, ~~must~~ shall indicate in ~~his~~ the 1742
apprentice's advertisement the name of the auctioneer under whom 1743
~~he~~ the apprentice is licensed. The name of the auctioneer shall be 1744
displayed in equal prominence with the name of the apprentice 1745
auctioneer in ~~such~~ the advertisement. Any such licensee who 1746
advertises in a manner other than as provided in this section is 1747
guilty of violating division (C) of section 4707.15 of the Revised 1748

Code.	1749
<u>(B) An auction firm licensed under this chapter that</u>	1750
<u>advertises, by linear advertisements or otherwise, to solicit or</u>	1751
<u>receive consignments or to provide auction services shall indicate</u>	1752
<u>in the advertisement the name of the auction firm. In addition, an</u>	1753
<u>advertisement of an auction of consignments or an advertisement by</u>	1754
<u>an auction firm of an auction for which the auction firm will</u>	1755
<u>provide auction services shall comply with this section.</u>	1756
<u>(C) If an auction to be advertised is an absolute auction,</u>	1757
<u>all advertisements for the auction shall unequivocally state that</u>	1758
<u>the auction is an absolute auction.</u>	1759
<u>(D) If an advertisement for an auction contains the words</u>	1760
<u>"estate auction," the person licensed under this chapter who</u>	1761
<u>advertises shall do both of the following:</u>	1762
<u>(1) Enter into an agreement directly with the executor,</u>	1763
<u>administrator, or court appointed designee of the estate property;</u>	1764
<u>(2) List prominently in the advertisement the county in which</u>	1765
<u>the estate is located and the probate court case number of the</u>	1766
<u>estate.</u>	1767
<u>(E) All persons licensed under this chapter that conduct or</u>	1768
<u>are involved in an auction jointly are responsible for the posting</u>	1769
<u>of a sign at the auction. The sign shall contain all of the</u>	1770
<u>following:</u>	1771
<u>(1) The name of all licensed persons involved in the auction;</u>	1772
<u>(2) A statement that the persons are licensed by the</u>	1773
<u>department of agriculture;</u>	1774
<u>(3) The address of the department of agriculture.</u>	1775
<u>The sign shall be posted at the main entrance of the auction,</u>	1776
<u>at the place of registration for the auction, or by the cashier</u>	1777

for the auction. The sign shall be of a size no smaller than eight 1778
and one-half inches by eleven inches. The letters and numbers on 1779
the sign shall be of adequate size to be readily seen by an 1780
individual with normal vision when viewing it. 1781

Sec. 4707.26. (A)(1) A person who asserts that ~~they have~~ the 1782
person has been aggrieved by the actions of a person licensed 1783
under this chapter that resulted in actual and direct losses to 1784
the aggrieved person may initiate a claim against the auction 1785
recovery fund either under this section or section 4707.261 of the 1786
Revised Code. If an aggrieved person who wishes to seek recovery 1787
from the auction recovery fund has obtained a final judgment in a 1788
court of competent jurisdiction against the licensee, the 1789
aggrieved person shall initiate the claim in accordance with 1790
section 4707.261 of the Revised Code. If an aggrieved person who 1791
wishes to seek recovery from the auction recovery fund has not 1792
obtained a final judgment in a court of competent jurisdiction 1793
against the licensee, the aggrieved person shall initiate the 1794
claim in accordance with this section. 1795

(2) An aggrieved person may initiate a claim against the 1796
auction recovery fund under this section if ~~both~~ all of the 1797
following apply: 1798

(a) The loss was associated with an act or transaction that 1799
only a person licensed under this chapter lawfully may perform. 1800

(b) The licensee's actions are described in section 4707.15 1801
of the Revised Code or otherwise violate this chapter or rules 1802
adopted under it. 1803

(c) The licensee is not an auction firm. 1804

To initiate a claim against the fund, an aggrieved person 1805
shall file a verified complaint with the department of agriculture 1806
in accordance with section 4707.16 of the Revised Code. The 1807

verified complaint shall include an application to the department 1808
that requests recovery of the applicant's actual and direct losses 1809
and that is made on forms that the department provides. The 1810
application for recovery shall specify the nature of the act or 1811
transaction on which the applicant's claim is based, the actual 1812
and direct losses sustained by the applicant, and any activities 1813
that the applicant has pursued as a remedy for the losses. 1814

(B) Upon receipt of a verified ~~compliant~~ complaint and 1815
application, the department shall conduct an investigation in 1816
accordance with section 4707.16 of the Revised Code. After the 1817
investigation, if the department determines that the licensee has 1818
engaged in conduct described in section 4707.15 of the Revised 1819
Code or otherwise has violated this chapter or rules adopted under 1820
it, the department shall propose to take action to suspend or 1821
revoke the licensee's license under section 4707.15 of the Revised 1822
Code or to initiate a criminal action against the licensee under 1823
section 4707.99 of the Revised Code, or both. The department shall 1824
issue a letter to the applicant indicating the department's 1825
proposed action and the date of any hearing that the department 1826
has scheduled regarding the matter. 1827

(C) Upon exhaustion of administrative remedies or criminal 1828
proceedings that results in a finding that the licensee has 1829
engaged in conduct described in section 4707.15 of the Revised 1830
Code or otherwise has violated this chapter or rules adopted under 1831
it, the department shall issue a notice in accordance with Chapter 1832
119. of the Revised Code via certified mail to the applicant 1833
indicating that the applicant may request a hearing for relief 1834
from the auction recovery fund. An applicant who seeks recovery 1835
from the fund of any actual and direct losses suffered as a result 1836
of a licensee's conduct shall submit, not later than thirty days 1837
following receipt of the notice, a request for a hearing to the 1838
department. 1839

Upon the timely receipt of a request for a hearing, the 1840
department shall provide the applicant with the opportunity to 1841
appear at an adjudication hearing to offer proof and evidence of 1842
the actual and direct losses. Whenever possible, the department 1843
shall require all applicants whose claims to the fund arose from 1844
an underlying transaction involving the same licensee to be joined 1845
in one adjudication under this section so that the rights of all 1846
applicants may be equitably adjudicated and settled. On behalf of 1847
the fund, the department may defend claims against the fund and 1848
shall have recourse to all appropriate means of defense and 1849
review, including examination of witnesses, and verification of 1850
actual losses. 1851

(D) Upon the conclusion of the adjudication hearing, the 1852
hearing officer shall issue a report and recommendation in favor 1853
of making payment to an applicant from the fund if, during the 1854
course of the adjudication hearing, all of the following have been 1855
shown: 1856

(1) The licensee has engaged in conduct described in section 1857
4707.15 of the Revised Code or otherwise has violated this chapter 1858
or rules adopted under it. 1859

(2) The licensee's conduct or violation is associated with an 1860
act that only a person licensed under this chapter lawfully may 1861
perform and the act resulted in direct and actual losses to the 1862
applicant. 1863

(3) The applicant filed a verified complaint and application 1864
with the department as required by this section. 1865

(4) The applicant is not the spouse of the licensee nor the 1866
personal representative of the licensee's spouse. 1867

(5) If the licensee either provided an irrevocable letter of 1868
credit or gave bond in accordance with section 4707.11 of the 1869
Revised Code, the applicant first sought recovery under the 1870

irrevocable letter of credit or bond before applying for payment 1871
from the fund. 1872

The amount of any payment from the fund to the applicant 1873
shall consist of an amount that is equal to the portion of the 1874
actual and direct losses incurred by the applicant that remain 1875
unpaid. The amount of the payment is subject to the dollar 1876
limitation established in section 4707.29 of the Revised Code. 1877

If the hearing officer determines that not all of the items 1878
described in divisions (D)(1) to (5) of this section have been 1879
shown during the course of the adjudication hearing, the hearing 1880
officer shall issue a report and recommendation against making 1881
payment from the fund to the applicant. 1882

(E) Pursuant to section 119.09 of the Revised Code, a hearing 1883
officer or the hearing officer's representative shall forward by 1884
certified mail a copy of the hearing officer's written report and 1885
recommendation to the applicant or the applicant's attorney or 1886
other representative not later than five days after the date on 1887
which the report and recommendation are filed. 1888

Not later than ten days after receiving such a copy, the 1889
applicant may file with the department written objections to the 1890
report and recommendation. The department may grant extensions of 1891
time to the applicant within which to file objections. 1892

The objections shall be considered by the department before 1893
it approves, modifies, or disapproves the recommendation. The 1894
department may order additional testimony to be taken or permit 1895
the introduction of further documentary evidence. 1896

The recommendation of the hearing officer may be approved, 1897
modified, or disapproved by order of the director of agriculture. 1898
The order shall not be issued until more than ten days have 1899
elapsed following the applicant's receipt of the report and 1900
recommendation as provided by this section. The director's 1901

approval, modification, or disapproval of the hearing officer's 1902
recommendation shall have the same effect as if the hearing had 1903
been conducted by the director. 1904

No recommendation shall be final until approved, modified, or 1905
disapproved by the director as indicated by the order entered on 1906
the record of proceedings of the department. If the director 1907
modifies or disapproves the recommendations of the hearing 1908
officer, the director shall include in the record of the 1909
proceedings the reasons for the modification or disapproval. 1910

After an order is entered on its journal, the department 1911
shall make payment, if applicable, to the applicant from the 1912
auction recovery fund in accordance with the order and shall 1913
provide to the applicant by certified mail, return receipt 1914
requested, a copy of the order and a statement of the time and 1915
method by which an appeal may be perfected. In addition, the 1916
department shall mail a copy of the order to the attorney or other 1917
representative of the applicant. 1918

(F) An order of the director issued under this section 1919
constitutes a final determination of the director for purposes of 1920
appeal. An applicant who is denied compensation from the auction 1921
recovery fund or who receives an award less than the award 1922
requested may appeal the order of the director. Notices of appeal 1923
shall be filed in the manner provided in section 119.12 of the 1924
Revised Code. 1925

Sec. 4707.32. (A) A person who asserts that the person has 1926
been aggrieved solely by the actions of an auction firm that 1927
resulted in actual and direct losses to the aggrieved person may 1928
seek recovery under the auction firm's financial responsibility 1929
that is required under section 4707.074 of the Revised Code. The 1930
director of agriculture shall adopt rules under section 4707.19 of 1931
the Revised Code that do all of the following: 1932

<u>(1) Establish procedures for filing a claim against an</u>	1933
<u>auction firm's financial responsibility;</u>	1934
<u>(2) Establish procedures that provide for the equitable</u>	1935
<u>disbursement of money for multiple claims against the auction firm</u>	1936
<u>that resulted from the same circumstances;</u>	1937
<u>(3) Establish procedures for providing notice to the</u>	1938
<u>department of agriculture from a person seeking recovery under</u>	1939
<u>this division;</u>	1940
<u>(4) Limit an aggrieved person's recovery to the actual and</u>	1941
<u>direct losses caused by the auction firm.</u>	1942
<u>(B) A person who asserts that the person has been aggrieved</u>	1943
<u>by the actions of both an auction firm and a licensed auctioneer</u>	1944
<u>related to an auction that resulted in actual and direct losses to</u>	1945
<u>the aggrieved person may file a cause of action with a court of</u>	1946
<u>competent jurisdiction claiming that a violation of this chapter</u>	1947
<u>or rules adopted under it resulted in the actual and direct</u>	1948
<u>losses. The court shall determine if there was a violation of this</u>	1949
<u>chapter or rules adopted under it that resulted in those losses.</u>	1950
<u>If the court determines that the auction firm, the licensed</u>	1951
<u>auctioneer, or both violated this chapter or rules adopted under</u>	1952
<u>it and that the violation resulted in the aggrieved person's</u>	1953
<u>actual and direct losses, the court shall determine the percentage</u>	1954
<u>of culpability, in relation to one hundred per cent, that is</u>	1955
<u>attributable to each party to the action from whom the complainant</u>	1956
<u>seeks recovery.</u>	1957
<u>If the court finds that the percentage of culpability that is</u>	1958
<u>attributable to the licensed auctioneer is greater than zero, the</u>	1959
<u>aggrieved person may initiate a claim against the auction recovery</u>	1960
<u>fund in accordance with sections 4707.26 to 4707.31 of the Revised</u>	1961
<u>Code to recover that percentage of the actual and direct losses</u>	1962
<u>sustained by the person. If the court finds that the percentage of</u>	1963

culpability that is attributable to the auction firm is greater 1964
than zero, the aggrieved person may recover that percentage of the 1965
actual and direct losses sustained by the person under the auction 1966
firm's financial responsibility that is required under section 1967
4707.074 of the Revised Code. 1968

The total aggregate amount that is paid to the aggrieved 1969
person from the auction recovery fund and the auction firm's 1970
financial responsibility shall not exceed the actual and direct 1971
losses sustained by the person. In addition, the total aggregate 1972
amount that is paid from the auction recovery fund shall not 1973
exceed the dollar limitations established in section 4707.29 of 1974
the Revised Code, and the total aggregate amount that is paid from 1975
the auction firm's financial responsibility shall not exceed the 1976
dollar limitations established in section 4707.074 of the Revised 1977
Code. 1978

(C) If a person files a cause of action under division (B) of 1979
this section, the person immediately shall send written notice to 1980
the department of agriculture. 1981

Sec. 4707.99. ~~(A) Whoever acts as an auctioneer, apprentice~~ 1982
~~auctioneer, or special auctioneer as defined in~~ 1983
~~violates section~~ 1984
~~4707.01 4707.02 of the Revised Code, without first obtaining a~~ 1984
~~license, upon conviction thereof, shall be fined not less than one~~ 1985
~~hundred nor more than one thousand dollars, or imprisoned not more~~ 1986
~~than ninety days, or both~~ is guilty of a misdemeanor of the first 1987
degree on the first offense and a felony of the fifth degree on 1988
each subsequent offense. 1989

~~(B) Whoever violates this chapter or any rule promulgated~~ 1990
~~adopted by the department of agriculture in the administration of~~ 1991
~~this chapter, for the violation of which no penalty is provided,~~ 1992
~~shall be fined not less than fifty nor more than two hundred~~ 1993
~~dollars~~ is guilty of a misdemeanor of the first degree. 1994

(C) Whoever violates section 4707.151 of the Revised Code 1995
~~shall be fined not more than fifty thousand dollars, or imprisoned~~ 1996
~~not more than one year, or both~~ is guilty of a felony of the fifth 1997
degree on the first offense and a felony of the fourth degree on 1998
each subsequent offense. 1999

(D) Notwithstanding section 1901.31, 1907.20, or 2335.37 of 2000
the Revised Code, the clerk of the court shall transmit to the 2001
treasurer of state for deposit into the auction education fund 2002
created in section 4707.171 of the Revised Code fifty per cent of 2003
any fine imposed under this section. 2004

Section 2. That existing sections 505.94, 2925.01, 4707.01, 2005
4707.02, 4707.021, 4707.03, 4707.04, 4707.05, 4707.06, 4707.07, 2006
4707.071, 4707.072, 4707.08, 4707.09, 4707.10, 4707.11, 4707.111, 2007
4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4707.18, 2008
4707.19, 4707.20, 4707.21, 4707.22, 4707.26, and 4707.99 of the 2009
Revised Code are hereby repealed. 2010

Section 3. Section 2925.01 of the Revised Code is presented 2011
in this act as a composite of the section as amended by both Sub. 2012
H.B. 364 and Am. Sub. H.B. 415 of the 124th General Assembly. The 2013
General Assembly, applying the principle stated in division (B) of 2014
section 1.52 of the Revised Code that amendments are to be 2015
harmonized if reasonably capable of simultaneous operation, finds 2016
that the composite is the resulting version of the section in 2017
effect prior to the effective date of the section as presented in 2018
this act. 2019