

**As Passed by the Senate**

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

**Sub. S. B. No. 209**

**Senators Mumper, Austria, Harris, White**

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**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
<b>Sec. 4707.01.</b> As used in <del>sections 4707.01 to 4707.22 and 4707.99</del> of the Revised Code <u>this chapter:</u>	434 435
(A) "Auction" means a <u>method of sale</u> of real or personal property, goods, or chattels, <u>at a predetermined date and time,</u> by means of <u>a verbal exchange, regular mail, telecommunications, the internet, an electronic transmission,</u> or <u>a physical gesture</u> 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</u>	436 437 438 439 440 441 442 443

purchasers, with the right to acceptance of offers with the 444  
auctioneer or apprentice auctioneer. "Auction" includes a sale of 445  
real or personal property, goods, or chattels in which there has 446  
been a solicitation or invitation by advertisement to the public 447  
for an advance in bidding using sealed bidding, provided that the 448  
bids are opened and there is a call for an advancement of the 449  
bids. 450

(B) "Auctioneer" means any person who engages, or who by 451  
advertising or otherwise holds ~~self~~ the person out as being able 452  
to engage, in the calling for, recognition of, and the acceptance 453  
of, offers for the purchase of real or personal property, goods, 454  
or chattels at auction either directly or through the use of other 455  
licensed auctioneers or apprentice auctioneers. 456

(C) "Apprentice auctioneer" means any individual who is 457  
sponsored by an auctioneer to deal or engage in any activities 458  
mentioned in division (A) of this section. 459

~~(D) "Auction company" means any person, excluding licensed 460  
auctioneers, who does business solely in the auctioneer's 461  
individual name, who sells, either directly or through agents, 462  
real or personal property, goods, or chattels at auction, or who 463  
arranges, sponsors, manages, conducts, or advertises auctions and 464  
who was licensed as an auction company by the department of 465  
agriculture as of May 1, 1991. An auction company does not mean 466  
either of the following:- 467~~

~~(1) A sale barn or livestock auction market that is used 468  
exclusively for the auctioneering of livestock and is licensed by 469  
the department of agriculture under Chapter 943. of the Revised 470  
Code:- 471~~

~~(2) A business that is licensed by the bureau of motor 472  
vehicles under Chapter 4517. of the Revised Code and is 473  
exclusively engaged in the auction sale of motor vehicles to 474~~



~~dealers licensed by either the bureau of motor vehicles or a~~ 475  
~~bureau of motor vehicles of another jurisdiction or its~~ 476  
~~equivalent.~~ 477

~~(E) "Special auctioneer" means any person who is licensed as~~ 478  
~~an auction company by the department of agriculture as of May 1,~~ 479  
~~1991, and currently is subject to section 4707.071 of the Revised~~ 480  
Code. 481

(E) "Absolute auction" means an auction of real or personal 482  
property to which all of the following apply: 483

(1) The property is sold to the highest bidder without 484  
reserve. 485

(2) The auction does not require a minimum bid. 486

(3) The auction does not require competing bids of any type 487  
by the seller or an agent of the seller. 488

(4) The seller of the property cannot withdraw the property 489  
from auction after the auction is opened and there is public 490  
solicitation or calling for bids. 491

(F) "Reserve auction" means an auction in which the seller or 492  
an agent of the seller reserves the right to establish a stated 493  
minimum bid, the right to reject or accept any or all bids, or the 494  
right to withdraw the real or personal property at any time prior 495  
to the completion of the auction by the auctioneer. 496

(G) "Auction mediation company" means a company that provides 497  
a forum through the internet for a person to sell the person's 498  
real or personal property that was not originally acquired for the 499  
purpose of resale via the submission of silent bids using a 500  
computer or other electronic device. 501

(H) "Public authority" means any board or commission of the 502  
state or any officer of such a board or commission, or any 503  
political subdivision of the state. 504

(I) "Estate auction" means the auction of real or personal property of a deceased person. 505  
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(J) "Sealed bidding" means a method of submitting a bid in writing by one or more persons following which the bids are opened at an advertised, predetermined time and place, and, after a review of all the bids received, the real or personal property is awarded to the highest and most responsive bidder. 507  
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(K) "Absentee bidding" means a method by which a potential purchaser authorizes a proxy to place on behalf of the potential purchaser a written or oral bid to an auctioneer or auction firm or an agent of an auctioneer or auction firm. 512  
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(L) "Person" means an individual, sole proprietor, corporation, limited liability company, association, or partnership. 516  
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(M) "Auction firm" means a person who provides auction services. 519  
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(N) "Auction services" means arranging, managing, and sponsoring a personal property auction. "Auction services" includes the taking and advertising of personal property on consignment to be sold at auction by a licensed auctioneer. 521  
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(O) "Consignee" means a person or auction firm that takes personal property on consignment to be sold at auction by a licensed auctioneer. 525  
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(P) "Firm manager" means the individual designated by an auction firm who is responsible for ensuring that the auction firm complies with this chapter. 528  
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**Sec. 4707.02.** No person shall act as an auction firm, 531  
auctioneer, apprentice auctioneer, or special auctioneer within 532  
this state without a license issued by the department of 533  
agriculture. No auction shall be conducted in this state except by 534

an auctioneer licensed by the department. 535

The department shall not issue or renew a license if the 536  
applicant or licensee has been convicted of a felony or crime 537  
involving fraud or theft in this or another state at any time 538  
during the ten years immediately preceding application or renewal. 539

This section does not apply to: 540

(A) Sales at auction conducted by or under the direction of 541  
any public authority, or sales required by law to be at auction 542  
other than sales pursuant to a judicial order or decree; 543

(B) The owner of any real or personal property desiring to 544  
sell the property at auction, provided that the property was not 545  
acquired for the purpose of resale; 546

(C) An auction mediation company; 547

(D) An auction that is conducted in a course of study for 548  
auctioneers that is approved by the state auctioneers commission 549  
created under section 4707.03 of the Revised Code for purposes of 550  
student training and is supervised by a licensed auctioneer; 551

(E) An auction that is sponsored by a nonprofit or charitable 552  
organization that is registered in this state under Chapter 1702. 553  
or Chapter 1716. of the Revised Code, respectively, if the auction 554  
only involves the property of the members of the organization and 555  
the auction is part of a fair that is organized by an agricultural 556  
society under Chapter 1711. of the Revised Code or by the Ohio 557  
expositions commission under Chapter 991. of the Revised Code at 558  
which a licensed auctioneer physically conducts the auction. 559

(F) A person licensed as a livestock dealer under Chapter 560  
943. of the Revised Code who exclusively sells livestock and uses 561  
a licensed auctioneer to conduct the auction. 562

**Sec. 4707.021.** Only an auctioneer who is licensed under this 563

chapter and who is licensed as a real state estate broker who is 564  
licensed or a real estate salesperson under Chapter 4735. of the 565  
Revised Code and who is licensed as an auctioneer under this 566  
chapter may shall sign an auction contract for the sale of real 567  
property at auction. A real estate broker who is licensed under 568  
Chapter 4735. of the Revised Code, but who is not licensed as an 569  
auctioneer under this chapter shall not sign an auction contract 570  
or conduct an auction, but may contract for the sale of real 571  
property at auction only if either of the following applies: 572

(A) The auctioneer who conducts the auction is a salesperson 573  
licensed under Chapter 4735. of the Revised Code and is associated 574  
with the real estate broker who contracts for the sale of real 575  
property. 576

(B) The real estate broker enters into a cooperative 577  
agreement with another real estate broker licensed under Chapter 578  
4735. of the Revised Code with whom an auctioneer licensed under 579  
this chapter is associated and the auctioneer ~~conducts~~ is solely 580  
responsible for signing the auction contract and conducting the 581  
auction. 582

An apprentice auctioneer who is licensed as a real estate 583  
broker or real estate salesperson under Chapter 4735. of the 584  
Revised Code may act as a bid caller in the sale of real property 585  
at auction if the sponsoring auctioneer is licensed under this 586  
chapter and is licensed as a real estate broker or real estate 587  
salesperson under Chapter 4735. of the Revised Code. 588

Nothing in this section shall be construed to permit a 589  
business to contract for the sale of real property at auction 590  
through an individual who is not licensed under this chapter and 591  
Chapter 4735. of the Revised Code. 592

**Sec. 4707.022.** (A) An auction shall be a reserve auction 593

unless explicitly stated otherwise in the contract for the auction 594  
and in the terms and conditions governing the auction. For 595  
purposes of a reserve auction, there need not be an announcement 596  
or indication that the reserve is attained. 597

(B) A person licensed under this chapter shall not use 598  
absentee bidding unless the owner of the real or personal property 599  
being sold provides prior written permission to use absentee 600  
bidding. 601

(C) A person licensed under this chapter shall be an agent of 602  
the owner or consignee of the real or personal property for 603  
purposes of all aspects of the auction. 604

**Sec. 4707.023.** (A) No person licensed under this chapter 605  
shall advertise, offer for sale, or sell real or personal property 606  
by absolute auction unless all of the following apply: 607

(1) One of the following applies: 608

(a) Except for current tax obligations, easements, or 609  
restrictions of record of the seller, there are no liens or 610  
encumbrances on the property in favor of any other person. 611

(b) Every holder of a lien or encumbrance, by execution of 612  
the auction contract or other written agreement provided to the 613  
auctioneer, agrees to the absolute auction without regard to the 614  
amount of the highest bid or to the identity of the highest 615  
bidder. 616

(c) A financially sound person, firm, trust, or estate, by 617  
execution of the auction contract or other written agreement 618  
provided to the auctioneer, guarantees the complete discharge and 619  
satisfaction of all liens and encumbrances, as applicable, 620  
immediately after the absolute auction or at the closing without 621  
regard to the amount of the highest bid or to the identity of the 622

highest bidder.

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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 attained in order to transfer the property.

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

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

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

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

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

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(C) A person licensed under this chapter may make a bona fide

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bid on the licensee's own behalf at an absolute auction and at a 653  
reserve auction, provided that the licensee provides full 654  
disclosure that the licensee may make a bona fide bid to the 655  
seller and at the auction. 656

(D) A seller or a person on behalf of a seller may make a bid 657  
if the auction is a reserve auction and the auctioneer provides 658  
full disclosure before bidding begins that the seller retains the 659  
right to bid. No person licensed under this chapter knowingly 660  
shall receive such a bid in the absence of full disclosure. 661

(E) Except in the case of a dissolution as provided in 662  
division (B)(2) of this section, a person licensed under this 663  
chapter shall not knowingly receive a bid by a seller or a person 664  
on the seller's behalf at an absolute auction. 665

**Sec. 4707.024.** (A) Not later than seventy-two hours after the 666  
end of an auction, a person licensed under this chapter shall 667  
deposit in one or more trust or escrow accounts all money received 668  
from the sale of an owner's or consignee's personal property at 669  
auction unless the licensee pays the money to the owner or 670  
consignee immediately after the end of the auction. 671

(B) For purposes of this section, a person licensed under 672  
this chapter shall designate a trust or escrow account that 673  
contains an owner's or consignee's money as "client trust account" 674  
or with words of similar meaning. In addition, a trust or escrow 675  
account only shall contain money received from the sale of 676  
personal property at auction that has not been disbursed and money 677  
for expenses regarding the auction, including commission and 678  
advertisement fees, that are specifically delineated in the 679  
auction contract. 680

(C) Except for the payment of money to the owner or consignee 681  
immediately after the end of the auction, a person licensed under 682

this chapter shall pay the owner or consignee with money from the 683  
client's trust or escrow account. In addition, the licensee may 684  
pay expenses, including commission and advertisement fees, that 685  
are specifically delineated in the auction contract with money 686  
from the trust or escrow account. Money in the trust or escrow 687  
account shall not be disbursed for any purpose that is 688  
inconsistent with this section. In addition, the money shall not 689  
be commingled with the licensee's personal or business money. In 690  
administering the trust or escrow account, the licensee shall keep 691  
detailed records that show deposits, withdrawals, and interest 692  
accrued, if applicable. 693

Unless otherwise agreed to by the parties in the auction 694  
contract or by the direction of a court of law, all money 695  
deposited into a trust or escrow account shall be disbursed to the 696  
seller not later than fifteen days after the initial deposit. 697

(D) Money from the sale of personal property at auction may 698  
be deposited in an interest bearing account if the parties to the 699  
auction contract specifically agree to such a deposit. Interest 700  
earned in the account shall be credited to the seller unless 701  
otherwise agreed to by the parties in the auction listing 702  
contract. The interest credited to the account may remain in the 703  
account for a period of sixty days after the seller receives the 704  
money from the account. The interest money then shall be disbursed 705  
according to the terms of the auction contract. 706

(E) All money received in connection with the sale of real 707  
property at auction shall be deposited in a broker's special or 708  
trust bank account in a depository located in this state that is 709  
described in division (A)(26) of section 4735.18 of the Revised 710  
Code. 711

**Sec. 4707.03.** A state auctioneers commission shall be created 712  
within the department of agriculture as follows: 713



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

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

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

~~(B)~~(C) At no time shall there be more than ~~two~~ three members 746  
of the same political party serving on the commission. 747

**Sec. 4707.04.** (A) The state auctioneers commission shall, 748  
upon qualification of the member or members appointed in each 749  
year, select from its members a chairperson, and shall serve in an 750  
advisory capacity to the department of agriculture for the purpose 751  
of carrying out ~~sections 4707.01 to 4707.22 of the Revised Code~~ 752  
this chapter. The commission shall meet not less than four times 753  
annually. 754

(B) The commission shall establish requirements and standards 755  
for courses of study in auctioneering. The commission triennially 756  
shall review courses of study in auctioneering that are offered at 757  
institutions in order to determine whether the courses comply with 758  
those requirements and standards. The commission shall approve 759  
institutions that offer courses that comply with the requirements 760  
and standards. If an institution is not approved, the institution 761  
may reapply for approval within a year of the disapproval. If at 762  
that time the commission approves the institution, the institution 763  
shall be approved for the remainder of the triennial period. The 764  
commission, prior to the triennial review, may place on 765  
probationary status or revoke the approval of any institution that 766  
provides a course of study in auctioneering if the institution 767  
fails to comply with the requirements and standards established 768  
under this division. 769

(C) Members of the commission who are licensed auctioneers 770  
under this chapter shall administer the oral licensing examination 771  
required under section 4707.08 of the Revised Code. 772

(D) Each commissioner shall receive the commissioner's actual 773  
and necessary expenses incurred in the discharge of ~~such the~~ 774  
commissioner's duties. Each commissioner also shall receive a per 775  
diem salary from the auctioneers fund created in section 4707.05 776

of the Revised Code for each meeting attended. The director of 777  
agriculture shall adopt rules in accordance with Chapter 119. of 778  
the Revised Code establishing the per diem salary. 779

(E) The commission may form subcommittees for purposes of 780  
research, education, and promotion of the auctioneering 781  
profession. If a majority of the members of the commission 782  
approves, the members of a subcommittee may be reimbursed from the 783  
auction education fund created in section 4707.171 of the Revised 784  
Code for the actual and necessary expenses incurred in the 785  
discharge of their duties. 786

(F) Serving as a member of the commission does not constitute 787  
holding a public office or position of employment under the laws 788  
of this state and does not constitute grounds for removal of 789  
public officers or employees from their offices or positions of 790  
employment. 791

(G) The commission may advise the director on actions of the 792  
director as required under this chapter. 793

**Sec. 4707.05.** Except as otherwise provided in section 4707.25 794  
of the Revised Code, all fees and charges collected by the 795  
department of agriculture pursuant to this chapter shall be paid 796  
into the state treasury to the credit of the auctioneers fund, 797  
which is hereby created. All expenses incurred by the department 798  
in administering this chapter shall be paid out of the fund. The 799  
total expenses incurred by the department in the administration of 800  
this chapter shall not exceed the total fees, charges, fines, and 801  
penalties imposed under sections 4707.08, 4707.10, and 4707.99 of 802  
the Revised Code and paid to the treasurer of state. The 803  
department may conduct education programs for the enlightenment 804  
and benefit of all auctioneers who have paid fees pursuant to 805  
sections 4707.08 and 4707.10 of the Revised Code. 806

~~Out of the moneys credited pursuant to this section, the fund~~ 807

shall be assessed a proportionate share of the administrative 808  
costs of the department in accordance with procedures prescribed 809  
by the director of agriculture and approved by the director of 810  
budget and management. The assessment shall be paid from the 811  
auctioneers fund to the division of administration fund. 812

At the end of each fiscal year, if the balance of the fund is 813  
greater than three hundred thousand dollars, the director of 814  
agriculture shall request the director of budget and management 815  
to, and the director of budget and management shall, transfer 816  
twenty-five per cent of the balance that is in excess of three 817  
hundred thousand dollars to the auction recovery fund created in 818  
section 4707.25 of the Revised Code. 819

**Sec. 4707.06.** The department of agriculture shall maintain a 820  
record of the names and addresses of all auction firms, 821  
auctioneers ~~and~~, apprentice auctioneers, and special auctioneers 822  
licensed by the department. This record shall also include a list 823  
of all persons whose licenses have been suspended or revoked, as 824  
well as any other information relative to the enforcement of 825  
~~sections 4707.01 to 4707.22 of the Revised Code, as this chapter~~ 826  
that the department ~~may deem~~ considers of interest to the public. 827

**Sec. 4707.07.** (A) The department of agriculture may grant 828  
auctioneers' licenses to those ~~persons deemed~~ individuals who are 829  
determined to be qualified by the department. Each ~~person~~ 830  
individual who applies for an auctioneer's license shall furnish 831  
to the department, on forms provided by the department, 832  
satisfactory proof that the applicant: 833

- (1) Has a good reputation; 834
- (2) Is of trustworthy character; 835
- (3) Has attained the age of at least eighteen years; 836

(4) <u>Has at least a high school diploma or its equivalent, or holds a valid license issued under this chapter prior to June 30, 2004, and seeks to timely renew the license, if applicable;</u>	837
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(5) Has done one of the following:	840
(a) Met the apprenticeship requirements set forth in section 4707.09 of the Revised Code;	841
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(b) Met the requirements of section 4707.12 of the Revised Code.	843
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<del>(5)</del> (6) Has a general knowledge of the following:	845
(a) The requirements of the Revised Code relative to auctioneers;	846
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(b) The auction profession;	848
(c) The principles involved in conducting an auction;	849
(d) <u>Any local and federal laws regarding the occupation of auctioneering.</u>	850
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<del>(6)</del> (7) Has satisfied the financial responsibility requirements established under section 4707.11 of the Revised Code if applicable.	852
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(B) Auctioneers who served apprenticeships and who hold licenses issued before May 1, 1991, and who seek renewal of their licenses, are not subject to the additional apprenticeship requirements imposed by section <del>4707.08</del> <u>4707.09</u> of the Revised Code.	855
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(C) <del>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.</del>	860
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<del>An application for an auctioneer's license filed by a</del>	865

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

~~(D) A licensee may do business under more than one registered  
name if 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.~~

~~(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  
standing with that state. The applicant shall provide proof that  
is satisfactory to the department that the applicant has had two  
years of experience as an auctioneer immediately preceding the  
date of application that includes at a minimum twelve auctions in  
which the applicant was a bid caller in the reciprocal state.~~

**Sec. 4707.071.** (A) On May 1, 1991, all persons licensed as  
auction companies under former section 4707.071 of the Revised

Code shall comply with all provisions of this chapter that are 897  
applicable to auctioneers except as provided in divisions (B) and 898  
(C) of this section. Such persons, however, do not have to serve 899  
an apprenticeship or attend a course of study under section 900  
4707.09 of the Revised Code or submit to an examination under 901  
section 4707.08 of the Revised Code as long as they do not engage 902  
in the calling for, recognition of, and the acceptance of, offers 903  
for the purchase of personal property at auction and do not 904  
conduct auctions at any location other than the definite place of 905  
business required in section 4707.14 of the Revised Code. 906

(B) The principal owner of each auction company that is 907  
licensed as of May 1, 1991, who pays the annual renewal fee 908  
specified in division (B) of section 4707.10 of the Revised Code 909  
during the first renewal period following May 1, 1991, shall be 910  
issued a special auctioneer's license, for the ~~sale~~ auction of 911  
personal property subject to division (A) of this section. Each 912  
principal owner shall apply for an annual license. In applying for 913  
an annual license, each person licensed as an auction company on 914  
May 1, 1991, shall designate an individual as principal owner by 915  
submitting documentation substantiating that the individual is in 916  
fact the principal owner and shall identify a definite place of 917  
business as required in section 4707.14 of the Revised Code. A 918  
person licensed as an auctioneer shall not be entitled to a 919  
special auctioneer's license. 920

(C) A special auctioneer's license issued under this section 921  
to the principal owner of a former auction company does not 922  
entitle the principal owner or former auction company to conduct 923  
auctions at any location other than the definite place of business 924  
required in section 4707.14 of the Revised Code. Notwithstanding 925  
section 4707.10 of the Revised Code, the department of agriculture 926  
shall not issue a new special auctioneer's license if the definite 927  
place of business identified by the licensee in the licensee's 928

initial application for a special auctioneer license has changed 929  
or if the name under which the licensee is doing business has 930  
changed. No person other than an owner, officer, member, or agent 931  
of the former auction company who personally has passed the 932  
examination prescribed in section 4707.08 of the Revised Code and 933  
been licensed as an auctioneer shall engage in the calling for, 934  
recognition of, and the acceptance of, offers for the purchase of 935  
real or personal property, goods, or chattels at auction in 936  
connection with a former auction company that has been issued a 937  
special auctioneer's license. 938

(D) A person licensed as a special auctioneer shall not 939  
engage in the sale of real property at auction. 940

(E) As used in this section, "auction company" means "auction 941  
company" as defined in section 4707.01 of the Revised Code prior 942  
to its amendment by Sub. S.B. 209 of the 125th general assembly. 943

**Sec. 4707.072.** (A) For purposes of this section, the 944  
department of agriculture shall adopt rules in accordance with 945  
section 4707.19 of the Revised Code prescribing the fee that a 946  
license applicant must pay. Until those rules are adopted, a 947  
license applicant shall pay the fee established in this section. 948

(B) The department may grant one-auction licenses to any 949  
nonresident ~~person deemed~~ individual who is determined to be 950  
qualified by the department. Any ~~person~~ individual who applies for 951  
a one-auction license shall attest, on forms provided by the 952  
department, and furnish to the department, satisfactory proof that 953  
the license applicant ~~or any auctioneer affiliated with the~~ 954  
~~applicant~~ meets the following requirements: 955

(1) Has a good reputation; 956

(2) Is of trustworthy character; 957

(3) Has attained the age of at least eighteen years; 958



(4) <u>Has at least a high school diploma or its equivalent;</u>	959
(5) Has a general knowledge of the requirements of the Revised Code relative to auctioneers, the auction profession, and the principles involved in conducting an auction;	960 961 962
<del>(5)</del> (6) Has two years of professional auctioneering experience immediately preceding the date of application <del>and the experience that</del> includes the personal conduct by the applicant of at least twelve auction sales in any state, or has met the requirements of section 4707.12 of the Revised Code;	963 964 965 966 967
<del>(6)</del> (7) Has paid a fee of one hundred dollars;	968
<del>(7)</del> (8) Has provided proof of financial responsibility in the form of either an irrevocable letter of credit or a cash bond or a surety bond in the amount of fifty thousand dollars. If the applicant gives a surety bond, the bond shall be executed by a surety company authorized to do business in this state. A bond shall be made to the department and shall be conditioned that the applicant shall comply with this chapter and rules adopted under it, including refraining from conduct described in section 4707.15 of the Revised Code. All bonds shall be on a form approved by the director of agriculture.	969 970 971 972 973 974 975 976 977 978
<u>Sec. 4707.073. (A) No corporation, general or limited partnership, or unincorporated association shall act or hold itself out as an auctioneer without a valid auctioneer's license issued under this section. This section does not apply to a person who is issued a license under section 4707.071 of the Revised Code.</u>	979 980 981 982 983 984
<u>(B) The department of agriculture may grant an auctioneer's license to a corporation, general or limited partnership, or unincorporated association that is determined to be qualified by the department. Every applicant for a license under this section</u>	985 986 987 988

<u>shall furnish to the department, on forms provided by the</u>	989
<u>department, satisfactory proof that the applicant:</u>	990
<u>(1) Is in good standing with the secretary of state if the</u>	991
<u>applicant is a corporation;</u>	992
<u>(2) Is of trustworthy character;</u>	993
<u>(3) Has provided proof of financial responsibility as</u>	994
<u>required in section 4707.11 of the Revised Code;</u>	995
<u>(4) Is registered with the secretary of state or a local</u>	996
<u>authority, as applicable, to do business in this state;</u>	997
<u>(5) Has complied with any other requirement that the director</u>	998
<u>establishes in rules adopted under section 4707.19 of the Revised</u>	999
<u>Code.</u>	1000
<u>(C) An application submitted under this section shall list</u>	1001
<u>the names of all of the owners, directors, partners, or members of</u>	1002
<u>the applicant, as applicable, and shall indicate those that have</u>	1003
<u>an auctioneer's license issued under section 4707.07 of the</u>	1004
<u>Revised Code.</u>	1005
<u>(D)(1) The department shall not issue a license under this</u>	1006
<u>section unless one of the following applies, as applicable:</u>	1007
<u>(a) If the applicant is a general or limited partnership, not</u>	1008
<u>less than fifty per cent of the general partners have a current</u>	1009
<u>license issued under section 4707.07 of the Revised Code.</u>	1010
<u>(b) If the applicant is a corporation, not less than fifty</u>	1011
<u>per cent of the directors and the president or chief executive</u>	1012
<u>have a current license issued under section 4707.07 of the Revised</u>	1013
<u>Code.</u>	1014
<u>(c) If the applicant is an unincorporated association, not</u>	1015
<u>less than fifty per cent of the members have a current license</u>	1016
<u>issued under section 4707.07 of the Revised Code.</u>	1017

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. 1018  
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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. 1023  
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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 unincorporated association, as applicable, immediately shall terminate. If the corporation, partnership, or unincorporated association notifies the department of the designation of a new agent in accordance with the requirements of this division and pays the fee established by the director of agriculture in rules adopted under section 4707.19 of the Revised Code, the department shall issue the corporation, partnership, or unincorporated association a new license. 1032  
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(F) For purposes of this section, the director may adopt 1050  
rules under section 4707.19 of the Revised Code establishing 1051  
license fees and procedures and deadlines for the issuance of a 1052  
license under this section. Until the director adopts those rules, 1053  
a license issued under this section shall take effect on July 1 of 1054  
one year and expire on June 30 of the following year, and the fee 1055  
for an initial and renewal license shall be one hundred dollars. 1056  
In addition, a license shall be renewed before July 1 of each 1057  
year, except that a license may be renewed before September 1 of 1058  
the year of expiration if the licensee pays the renewal fee and an 1059  
additional fee of one hundred dollars. 1060

(G) This section does not preclude a corporation, 1061  
partnership, or unincorporated association from selling real 1062  
property at auction, provided that the requirements of this 1063  
section and section 4707.021 and Chapter 4735. of the Revised Code 1064  
are satisfied. 1065

(H) A person licensed as a real estate broker under Chapter 1066  
4735. of the Revised Code shall not be required to obtain a 1067  
license under this section if the person complies with sections 1068  
4707.021 and 4707.22 of the Revised Code. 1069

**Sec. 4707.074.** (A) A person who is not otherwise licensed 1070  
under this chapter and who only provides auction services or holds 1071  
the person's self out as providing auction services shall do so 1072  
only with a valid auction firm license issued under this section. 1073  
This section does not apply to a person licensed as a livestock 1074  
dealer under Chapter 943. of the Revised Code who exclusively 1075  
sells livestock and uses a licensed auctioneer to conduct the 1076  
auction. 1077

(B) The department of agriculture may grant an auction firm 1078  
license to an auction firm that is determined to be qualified by 1079  
the department. Every applicant for an auction firm license shall 1080

<u>furnish to the department, on forms provided by the department,</u>	1081
<u>satisfactory proof that the applicant:</u>	1082
<u>(1) Is in good standing with the secretary of state if the</u>	1083
<u>applicant is a corporation;</u>	1084
<u>(2) Is of trustworthy character;</u>	1085
<u>(3) Is registered with the secretary of state or a local</u>	1086
<u>authority, as applicable, to do business in this state;</u>	1087
<u>(4) Has complied with any other requirement that the director</u>	1088
<u>establishes in rules adopted under section 4707.19 of the Revised</u>	1089
<u>Code;</u>	1090
<u>(5) Has a general knowledge of the requirements of the</u>	1091
<u>Revised Code and the general principles regarding auctions and</u>	1092
<u>auctioneering;</u>	1093
<u>(6) Has provided proof of financial responsibility in the</u>	1094
<u>amount of fifty thousand dollars in the form of a surety bond, an</u>	1095
<u>irrevocable letter of credit, or cashbond;</u>	1096
<u>(7) Employs a firm manager as required under division (D) of</u>	1097
<u>this section.</u>	1098
<u>(C) An application submitted under this section for an</u>	1099
<u>auction firm license shall list the names of all of the owners,</u>	1100
<u>directors, partners, or members of the applicant, as applicable.</u>	1101
<u>(D) An auction firm shall designate a firm manager. The firm</u>	1102
<u>manager shall have sufficient authority in the operation of the</u>	1103
<u>auction firm to ensure compliance with this chapter and rules</u>	1104
<u>adopted under it. If the firm manager does not have a current</u>	1105
<u>license issued under section 4707.07 of the Revised Code, the firm</u>	1106
<u>manager shall pass the written examination held under section</u>	1107
<u>4707.08 of the Revised Code before the department may issue a</u>	1108
<u>license under this section to the auction firm.</u>	1109
<u>(E)(1) An auction firm license issued under this section</u>	1110

<u>immediately shall terminate if any of the following occurs:</u>	1111
<u>(a) The auction firm incorporates.</u>	1112
<u>(b) The auction firm ceases to operate as a corporation.</u>	1113
<u>(c) The auction firm changes ownership.</u>	1114
<u>(d) If the auction firm is a partnership, the firm changes</u>	1115
<u>the number of partners in the partnership or changes the partners</u>	1116
<u>comprising the partnership.</u>	1117
<u>(e) The auction firm changes the firm manager.</u>	1118
<u>(f) The auction firm changes the name under which the firm</u>	1119
<u>conducts business.</u>	1120
<u>(g) The auction firm changes its permanent business location.</u>	1121
<u>If a license terminates under this division, the licensee</u>	1122
<u>immediately shall cease auction services, notify the department of</u>	1123
<u>the termination, and return the terminated license to the</u>	1124
<u>department.</u>	1125
<u>(2) Not later than ten days prior to the date on which an</u>	1126
<u>auction firm license will terminate pursuant to division</u>	1127
<u>(E)(1)(a), (b), (c), or (d) of this section, the auction firm may</u>	1128
<u>submit an application for a new auction firm license in accordance</u>	1129
<u>with division (B) of this section. If the auction firm submits the</u>	1130
<u>application, returns the terminated license, and pays the fee</u>	1131
<u>established in rules adopted by the director of agriculture under</u>	1132
<u>section 4707.19 of the Revised Code, the department may issue a</u>	1133
<u>new license under this section.</u>	1134
<u>(3) If a license terminates pursuant to division (E)(1)(e),</u>	1135
<u>(f), or (g) of this section and the formerly licensed auction firm</u>	1136
<u>notifies the department, returns the terminated license, and pays</u>	1137
<u>the fee established in rules adopted by the director under section</u>	1138
<u>4707.19 of the Revised Code, the department shall issue a new</u>	1139
<u>license under this division.</u>	1140

(F) For purposes of this section, the director may adopt 1141  
rules under section 4707.19 of the Revised Code establishing 1142  
license fees and procedures and deadlines for the issuance of a 1143  
license under this section. Until the director adopts those rules, 1144  
a license issued under this section shall take effect on July 1 of 1145  
one year and expire on June 30 of the following year, and the fee 1146  
for an initial and renewal license shall be one hundred dollars. 1147  
In addition, a license shall be renewed before July 1 of each 1148  
year, except that a license may be renewed before September 1 of 1149  
the year of expiration if the licensee pays the renewal fee and an 1150  
additional fee of one hundred dollars. 1151

(G) For purposes of the financial responsibility that is 1152  
required under division (B) of this section, if a person provides 1153  
a surety bond, the bond shall be executed by a surety company that 1154  
is authorized to do business in this state. The bond shall be made 1155  
payable to the department and shall include a condition that 1156  
requires the applicant to comply with this chapter and rules 1157  
adopted under it, including a requirement that the person refrain 1158  
from conduct described in section 4707.15 of the Revised Code. A 1159  
bond shall be on a form that is approved by the director. A person 1160  
who is issued a license under this section shall maintain the 1161  
financial responsibility that is required under division (B) of 1162  
this section for as long as the person is licensed. 1163

(H) An auction firm licensed under this section shall not 1164  
conduct the bid calling for the sale of real or personal property 1165  
at auction. 1166

**Sec. 4707.08.** (A) The department of agriculture shall hold 1167  
written examinations four times each year for the purpose of 1168  
testing the qualifications required for obtaining a license under 1169  
section 4707.07 of the Revised Code and twelve times each year for 1170  
obtaining a license under section 4707.09 of the Revised Code and 1171

for unlicensed auction firm managers as required under division 1172  
(D) of section 4707.074 of the Revised Code. The written 1173  
examination shall be held at the department or at an alternative 1174  
location determined by the department. In addition to the written 1175  
examination, auctioneer license applicants shall pass an oral 1176  
examination administered by the state auctioneers commission on 1177  
the same date and at the same location as the written examination. 1178  
An examination shall not be required for the renewal of any 1179  
license unless ~~such~~ the license has been revoked, suspended, or 1180  
allowed to expire without renewal, in which case the applicant 1181  
shall take and pass the appropriate examinations offered by the 1182  
department. 1183

An examination fee ~~of twenty five dollars~~ shall be collected 1184  
from each person taking the auctioneer examination ~~and fifteen~~ 1185  
~~dollars from each person taking,~~ the apprentice auctioneer 1186  
examination, and the auction firm manager examination to defray 1187  
expenses of holding ~~such~~ the examinations. Unless otherwise 1188  
established in rules adopted by the director of agriculture under 1189  
section 4707.19 of the Revised Code, the fee for the apprentice 1190  
auctioneer examination and the firm manager examination shall be 1191  
fifteen dollars, and the fee for the auctioneer examination shall 1192  
be twenty-five dollars. 1193

(B) All applications and proofs ~~must~~ shall be filed by each 1194  
applicant before the scheduled date of examination, and ~~must~~ shall 1195  
be accompanied by ~~a bond~~ proof of financial responsibility and a 1196  
license fee. In order to be seated for an examination held under 1197  
this section, an applicant shall have a complete application on 1198  
file with the department not later than fourteen days prior to the 1199  
examination date. 1200

(C) If a court of competent jurisdiction or the department, 1201  
at an administrative hearing, has found that an applicant 1202



conducted an auction, provided auction services, or acted as an 1203  
auctioneer without a license issued under this chapter, the 1204  
department may refuse to allow the applicant to take an 1205  
examination under this section or may deny the issuance of a 1206  
license to the applicant for a period of two years. 1207

(D)(1) If an applicant for a license fails to pass the 1208  
examination, the applicant may take the examination on the next 1209  
scheduled date for the examination. If an applicant fails to pass 1210  
the examination on the second consecutive attempt, the applicant 1211  
shall not take the examination on the next scheduled date for the 1212  
examination. 1213

(2) If an applicant for a license fails to pass the 1214  
examination on the third attempt, the applicant shall attend 1215  
auction school a second time before the applicant may take the 1216  
examination. If an applicant for a license fails to pass the 1217  
examination on the fourth attempt, the applicant shall not take 1218  
the examination for at least one year from the date of the last 1219  
failed attempt. 1220

(3) If an individual who is taking the examination for an 1221  
auction firm manager fails to pass the examination on the third 1222  
attempt, the individual shall not take the examination for one 1223  
year from the date of the last failed attempt. 1224

**Sec. 4707.09.** The department of agriculture may grant 1225  
apprentice auctioneers' licenses to those persons deemed that are 1226  
determined to be qualified by the department. Every applicant for 1227  
an apprentice auctioneer's license shall pass an examination 1228  
relating to the skills, knowledge, and statutes and rules 1229  
governing auctioneers. Every applicant for an apprentice 1230  
auctioneer's license shall furnish to the department, on forms 1231  
provided by the department, satisfactory proof that the applicant: 1232

(A) Has a good reputation;	1233
(B) Is of trustworthy character;	1234
(C) Has attained the age of at least eighteen years;	1235
(D) <u>Has at least a high school diploma or its equivalent, or</u>	1236
<u>holds a valid license issued under this chapter prior to June 30,</u>	1237
<u>2004, and seeks to timely renew the license, if applicable;</u>	1238
(E) Has obtained a written promise of a licensed auctioneer	1239
to sponsor the applicant during the applicant's apprenticeship;	1240
<del>(E)</del> (F) Has satisfied the financial responsibility	1241
requirements established under section 4707.11 of the Revised Code	1242
if applicable;	1243
(G) <u>Has successfully completed a course of study in</u>	1244
<u>auctioneering at an institution that is approved by the state</u>	1245
<u>auctioneers commission.</u>	1246
Before an apprentice may take the auctioneer's license	1247
examination, the apprentice shall serve an apprenticeship of at	1248
least twelve months, <del>successfully complete a course of study in</del>	1249
<del>auctioneering at an institution that is approved every three years</del>	1250
<del>by the state auctioneers commission,</del> and <del>conduct,</del> <u>participate</u> as a	1251
bid caller, <u>in</u> at least twelve auction sales under the direct	1252
supervision of the sponsoring licensed auctioneer, which <del>sales</del>	1253
<u>auctions</u> shall be certified by the licensed auctioneer on the	1254
apprentice's application for an auctioneer's license.	1255
If an auctioneer intends to terminate sponsorship of an	1256
apprentice auctioneer, the sponsoring auctioneer shall notify the	1257
apprentice auctioneer of the sponsoring auctioneer's intention by	1258
certified mail, return receipt requested, at least ten days prior	1259
to the effective date of termination and, at the same time, shall	1260
deliver or mail by certified mail to the department <del>of agriculture</del>	1261
a copy of the termination notice and the license of the apprentice	1262

auctioneer. No apprentice auctioneer shall perform any acts under 1263  
authority of the apprentice's license after the effective date of 1264  
the termination until the apprentice receives a new license 1265  
~~bearing the name and address of the apprentice's new sponsor.~~ No 1266  
more than one license shall be issued to any apprentice auctioneer 1267  
for the same period of time. 1268

No licensed auctioneer shall have under the licensed 1269  
auctioneer's sponsorship more than two apprentice auctioneers at 1270  
one time. No auctioneer shall sponsor an apprentice auctioneer if 1271  
the auctioneer has not been licensed and in good standing for a 1272  
period of at least two years immediately before sponsoring the 1273  
apprentice auctioneer. A sponsoring auctioneer whose license is 1274  
suspended or revoked shall send to the department the apprentice 1275  
auctioneer's license not later than fourteen days after the 1276  
suspension or revocation. If a sponsoring auctioneer's license is 1277  
suspended or revoked, the apprentice auctioneer shall obtain a 1278  
written promise of sponsorship from another licensed auctioneer 1279  
before performing any acts under the authority of an apprentice 1280  
auctioneer's license. The apprentice auctioneer shall send a copy 1281  
of the written promise of sponsorship of another auctioneer to the 1282  
department. If the department receives a copy of such a written 1283  
promise of sponsorship and the apprentice pays the fee established 1284  
by the department, the department shall issue a new license to the 1285  
apprentice. 1286

An apprentice auctioneer may terminate the apprentice's 1287  
sponsorship with an auctioneer by notifying the auctioneer of the 1288  
apprentice's intention by certified mail, return receipt 1289  
requested, at least ten days prior to the effective date of 1290  
termination. At the same time, the apprentice shall deliver or 1291  
mail by certified mail to the department ~~of agriculture~~ a copy of 1292  
the termination notice. Upon receiving the termination notice, the 1293  
sponsoring auctioneer shall promptly deliver or mail by certified 1294

mail to the department the license of the apprentice auctioneer. 1295

The termination of a sponsorship, regardless of who initiates 1296  
the termination, shall not be cause for an apprentice auctioneer 1297  
to lose credit for any certified ~~sales the apprentice conducted~~ 1298  
auctions in which the apprentice participated as a bid caller or 1299  
apprenticeship time the apprentice served under the direct 1300  
supervision of the former sponsor. 1301

Sec. 4707.091. (A) Prior to the expiration of an auctioneer's 1302  
or apprentice auctioneer's license, an auctioneer or apprentice 1303  
auctioneer may submit an application to the department of 1304  
agriculture, on forms provided by the department, to place the 1305  
license on deposit with the department for a period not to exceed 1306  
two years. Not later than fourteen days after receipt of an 1307  
application under this section, the department shall accept or 1308  
deny the application. 1309

(B) If the department accepts the application, an auctioneer 1310  
or apprentice auctioneer who has a license on deposit with the 1311  
department under this section shall not act as an auctioneer or 1312  
apprentice auctioneer while the license is on deposit. In 1313  
addition, such an auctioneer shall not be required to pay an 1314  
assessment under section 4707.25 of the Revised Code. 1315

(C) An auctioneer or apprentice auctioneer may reacquire a 1316  
license on deposit from the department if the auctioneer or 1317  
apprentice auctioneer does all of the following prior to 1318  
reacquisition: 1319

(1) Submits a written request to the department that contains 1320  
the business address and telephone number of the auctioneer or 1321  
apprentice auctioneer, as applicable; 1322

(2) Pays the reactivation fee for the license that is 1323  
established in rules adopted by the director of agriculture under 1324

<u>section 4707.19 of the Revised Code;</u>	1325
<u>(3) Pays the assessment that is levied under section 4707.25</u>	1326
<u>of the Revised Code for the current year, if applicable;</u>	1327
<u>(4) Provides proof of financial responsibility as required in</u>	1328
<u>section 4707.11 of the Revised Code, if applicable;</u>	1329
<u>(5) Provides proof of compliance with the continuing</u>	1330
<u>education requirements established in rules adopted by the</u>	1331
<u>director under section 4707.19 of the Revised Code, if applicable;</u>	1332
<u>(6) Complies with any other requirement established in rules</u>	1333
<u>adopted by the director under section 4707.19 of the Revised Code.</u>	1334
<u>(D) If an auctioneer or apprentice auctioneer, at the time of</u>	1335
<u>placing the auctioneer's or apprentice auctioneer's license on</u>	1336
<u>deposit, as applicable, has not maintained proof of financial</u>	1337
<u>responsibility for the entire period of time required under</u>	1338
<u>section 4707.11 of the Revised Code, the auctioneer or apprentice</u>	1339
<u>auctioneer, beginning at the time of reacquisition, shall maintain</u>	1340
<u>proof of financial responsibility for the remainder of the time</u>	1341
<u>required under that section.</u>	1342
<b>Sec. 4707.10.</b> (A) For purposes of this section, the	1343
department of agriculture shall adopt rules in accordance with	1344
section 4707.19 of the Revised Code prescribing fees that	1345
licensees must pay and license renewal deadlines and procedures	1346
with which licensees must comply. Until those rules are adopted,	1347
licensees shall pay the fees and comply with the license renewal	1348
deadlines and procedures established in this section.	1349
(B) The fee for each auctioneer's, apprentice auctioneer's,	1350
or special auctioneer's license issued by the department is one	1351
hundred dollars, and the annual renewal fee for any such license	1352
is one hundred dollars. All licenses expire annually on the last	1353
day of June of each year and shall be renewed according to the	1354

standard renewal procedures of Chapter 4745. of the Revised Code, 1355  
or the procedures of this section. Any licensee under this chapter 1356  
who wishes to renew the licensee's license, but fails to do so 1357  
before the first day of July shall reapply for licensure in the 1358  
same manner and pursuant to the same requirements as for initial 1359  
licensure, unless before the first day of September of the year of 1360  
expiration, the former licensee pays to the department, in 1361  
addition to the regular renewal fee, a late renewal penalty of one 1362  
hundred dollars. 1363

(C) Any person who fails to renew the person's license before 1364  
the first day of July is prohibited from engaging in any activity 1365  
specified or comprehended in section 4707.01 of the Revised Code 1366  
until such time as the person's license is renewed or a new 1367  
license is issued. Renewal of a license between the first day of 1368  
July and the first day of September does not relieve any person 1369  
from complying with this division. The department may refuse to 1370  
renew the license of or issue a new license to any person who 1371  
violates this division. 1372

(D) The department shall prepare and deliver to each licensee 1373  
a permanent license certificate and an identification card, the 1374  
appropriate portion of which shall be carried on the person of the 1375  
licensee at all times when engaged in any type of auction 1376  
activity, and part of which shall be posted with the permanent 1377  
certificate in a conspicuous location at the licensee's place of 1378  
business. 1379

(E) Notice in writing shall be given to the department by 1380  
each auctioneer or apprentice auctioneer licensee of any change of 1381  
principal business location or any change or addition to the name 1382  
or names under which business is conducted, whereupon the 1383  
department shall issue a new license for the unexpired period. Any 1384  
change of business location or change or addition of names without 1385  
notification to the department shall automatically cancel any 1386

license previously issued. For each new auctioneer or apprentice 1387  
auctioneer license issued upon the occasion of a change in 1388  
business location or a change in or an addition of names under 1389  
which business is conducted, the department may collect a fee of 1390  
ten dollars for each change in location, or name or each added 1391  
name unless the notification of the change occurs concurrently 1392  
with the renewal application or unless otherwise provided in 1393  
section 4707.07 of the Revised Code. 1394

(F) Divisions (A) and (B) of this section do not apply to 1395  
licenses issued under sections 4707.073 and 4707.074 of the 1396  
Revised Code. 1397

**Sec. 4707.11.** (A) Except as provided in division (B) of this 1398  
section, each application for a license issued under this chapter 1399  
shall be accompanied by proof of financial responsibility in the 1400  
form of either an irrevocable letter of credit or a cash bond or a 1401  
surety bond in the amount of twenty-five thousand dollars. If the 1402  
applicant gives a surety bond, the bond shall be executed by a 1403  
surety company authorized to do business in this state. 1404

A bond shall be made payable to the department of agriculture 1405  
and shall ~~be conditioned~~ include a condition that requires the 1406  
applicant ~~shall~~ to comply with this chapter and rules adopted 1407  
under it, including ~~refraining~~ a requirement that the person 1408  
refrain from conduct described in section 4707.15 of the Revised 1409  
Code. All bonds shall be on a form approved by the director of 1410  
agriculture. 1411

A licensee shall maintain proof of financial responsibility 1412  
for three years following the date of initial licensure. After the 1413  
three-year period, a licensee who has not engaged in conduct 1414  
described in section 4707.15 of the Revised Code and has not 1415  
otherwise violated this chapter or rules adopted under it during 1416  
that period shall no longer be required to maintain proof of 1417

financial responsibility except as otherwise provided in this 1418  
section. 1419

A licensee whose license expires without being renewed under 1420  
section 4707.10 of the Revised Code or is suspended under section 1421  
4707.30 of the Revised Code shall give proof of financial 1422  
responsibility in accordance with this section in order to obtain 1423  
reinstatement or reactivation of the license. 1424

(B) Division (A) of this section does not apply to ~~either~~ any 1425  
of the following: 1426

(1) A licensee whose license was issued prior to July 1, 1427  
2003, provided that the license continues to be renewed under 1428  
section 4707.10 of the Revised Code and is not suspended under 1429  
section 4707.15 or 4707.30 of the Revised Code; 1430

(2) An apprentice auctioneer licensee whose license was 1431  
issued under section 4707.09 of the Revised Code prior to July 1, 1432  
2003, and who applies for an auctioneer's license under section 1433  
4707.07 of the Revised Code on or after July 1, 2003, provided 1434  
that the apprentice auctioneer's license is not suspended under 1435  
section 4707.15 or 4707.30 of the Revised Code, and, if necessary, 1436  
continues to be renewed under section 4707.10 of the Revised Code, 1437  
prior to the issuance of the auctioneer's license to the 1438  
applicant; 1439

(3) An auction firm license that is issued under section 1440  
4707.074 of the Revised Code. 1441

**Sec. 4707.111.** The state, through the department of 1442  
agriculture and in accordance with this chapter, shall solely 1443  
regulate auctioneers, auction firms, and the conduct of auction 1444  
sales. 1445

By enactment of this chapter, it is the intent of the general 1446  
assembly to preempt municipal corporations and other political 1447



subdivisions from the regulation and licensing of auctioneers, 1448  
auction firms, and auction sales. An ordinance, resolution, or 1449  
other enactment by a municipal corporation or other political 1450  
subdivision that directly or indirectly regulates auctioneers, 1451  
auction firms, or auction sales is hereby preempted. 1452

At least twenty-four hours prior to an auction that is to be 1453  
held at a location that is not the permanent business location of 1454  
the auctioneer, ~~the person licensed under this chapter to conduct~~ 1455  
~~the auction~~ auctioneer shall notify the chief of police of the 1456  
municipal corporation in which the auction site is located, ~~or,~~ 1457  
if the site is in the unincorporated area of a county, the county 1458  
sheriff as to the location and time of the auction and give to 1459  
that officer a general description of the items offered for sale. 1460

**Sec. 4707.12.** A nonresident may operate as an auctioneer, 1461  
apprentice auctioneer, or special auctioneer within the state by 1462  
conforming to this chapter. 1463

The department of agriculture may, within its discretion, 1464  
waive the testing and schooling requirements for a nonresident, 1465  
provided that the nonresident holds a valid auctioneer or 1466  
apprentice auctioneer license issued by a state with which the 1467  
department has entered into a reciprocal licensing agreement. 1468  
Nonresidents wishing to so operate in this state shall make 1469  
application in writing to the department and furnish the 1470  
department with proof of their ability to conduct an auction, 1471  
proof of license and ~~bond if they reside in a state with these~~ 1472  
~~requirements~~ financial responsibility, as well as other 1473  
information ~~which~~ that the department may request. If a state with 1474  
which the department has entered into a reciprocal licensing 1475  
agreement does not require an apprenticeship, the applicant shall 1476  
provide proof of license for a period of at least one year prior 1477  
to receipt of the application. 1478

This section does not apply to nonresident auctioneers who 1479  
~~reside in states under the laws of which similar recognition and~~ 1480  
~~courtesies are~~ do not extended to licensed auctioneers of this 1481  
have a license from a state with which the department has entered 1482  
into a reciprocal licensing agreement. 1483

**Sec. 4707.14.** (A) Each person licensed under ~~sections 4707.07~~ 1484  
~~to 4707.22 of the Revised Code~~ this chapter shall have a definite 1485  
place of business in this state. 1486

(B) Except as provided in division (C) of this section, if 1487  
the licensee is a nonresident, it is not necessary for ~~him~~ the 1488  
licensee to maintain an active place of business within this state 1489  
if ~~he~~ the licensee maintains such a place of business in the state 1490  
where ~~he~~ the licensee is a resident. 1491

(C) A nonresident ~~former auction company licensee~~ who is 1492  
licensed as a special auctioneer under section 4707.071 of the 1493  
Revised Code shall have a definite place of business within the 1494  
state and shall not conduct auctions anywhere else in the state 1495  
other than ~~his~~ the licensee's place of business. 1496

**Sec. 4707.15.** The department of agriculture may deny, refuse 1497  
to renew, suspend, or revoke the license of any auction firm, 1498  
auctioneer, apprentice auctioneer, or special auctioneer for any 1499  
of the following causes: 1500

(A) Obtaining a license through false or fraudulent 1501  
representation; 1502

(B) Making any substantial misrepresentation in an 1503  
application for ~~an auctioneer's, apprentice auctioneer's, or~~ 1504  
~~special auctioneer's~~ a license; 1505

(C) A continued course of misrepresentation or for making 1506  
false promises through agents, advertising, or otherwise; 1507

(D) <u>Specifying that an auction is a reserve auction, absolute auction, or estate auction, but not conducting the auction as specified;</u>	1508
	1509
	1510
(E) Failing to account for or remit, within a reasonable time, any money <u>or property</u> belonging to others that comes into the licensee's possession, and for commingling funds of others with the licensee's own, or failing to keep <del>such</del> funds of others in an escrow or <del>trustee</del> <u>trust</u> account, except that in the case of a transaction involving real estate, such funds shall be maintained in accordance with division (A)(26) of section 4735.18 of the Revised Code;	1511
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<del>(E)</del> (F) Paying valuable consideration to any person who has violated this chapter;	1519
	1520
<del>(F)</del> (G) Conviction in a court of competent jurisdiction of this state or any other state of a criminal offense involving <u>fraud, forgery, embezzlement, false pretenses, extortion, conspiracy to defraud, or another similar offense</u> or a felony;	1521
	1522
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	1524
<del>(G)</del> (H) Violation of this chapter <u>or rules adopted under it;</u>	1525
<del>(H)</del> (I) Failure to furnish voluntarily at the time of execution, copies of all written instruments prepared by the auctioneer <u>or auction firm;</u>	1526
	1527
	1528
<del>(I)</del> (J) Any conduct of <del>an auctioneer which</del> <u>a person that is licensed under this chapter that</u> demonstrates bad faith, dishonesty, incompetency, or untruthfulness;	1529
	1530
	1531
<del>(J)</del> (K) Any other conduct that constitutes improper, fraudulent, or dishonest dealings;	1532
	1533
<del>(K)</del> (L) Failing prior to the sale at public auction to enter into a written contract with the owner or consignee of any property to be sold, containing the terms and conditions upon which <del>such</del> <u>the</u> licensee received the property for <del>sale</del> <u>auction;</u>	1534
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<del>(L)</del> (M) The use of any power of attorney to circumvent this chapter;	1538 1539
<del>(M)</del> (N) Failure to display <u>the sign required under section 4707.22 of the Revised Code and</u> a notice conspicuously at the clerk's desk or on a bid card that clearly states the terms and conditions of the sale, <del>the name of the auctioneer or special auctioneer conducting the sale, and that the auctioneer or special auctioneer is licensed by the department of agriculture and has filed a bond</del> <u>auction;</u>	1540 1541 1542 1543 1544 1545 1546
<del>(N)</del> (O) Failure to notify the department of any conviction of a felony or crime involving fraud within fifteen days of conviction;	1547 1548 1549
<del>(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</del> (P) <u>Aiding an unlicensed person in the performance of services or acts that require a license under this chapter;</u>	1550 1551 1552 1553 1554
(Q) <u>The suspension or revocation of a license to engage in auctioneering or other disciplinary action by the licensing authority of another state;</u>	1555 1556 1557
(R) <u>The refusal or disapproval by the licensing authority of another state of an application for a license to engage in auctioneering;</u>	1558 1559 1560
(S) <u>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;</u>	1561 1562 1563
(T) <u>Engaging in auctioneering or providing auction services without a license or during the suspension of a license;</u>	1564 1565
(U) <u>Attempting to cheat or cheating on an auctioneer examination or aiding another to cheat on an examination.</u>	1566 1567

**Sec. 4707.151.** (A) No person shall engage in bid rigging. 1568

(B) As used in this section, "bid rigging" means a conspiracy 1569  
between auctioneers, apprentice auctioneers, special auctioneers, 1570  
any participants in an auction, or any other persons who agree not 1571  
to bid against each other at an auction or who otherwise conspire 1572  
to decrease or increase the number or amounts of bids offered at 1573  
auction. 1574

**Sec. 4707.16.** (A) The department of agriculture may, upon its 1575  
own motion, and shall, upon the verified written complaint of any 1576  
person, investigate the actions of any auction firm, auctioneer, 1577  
apprentice auctioneer, or special auctioneer, any applicant for an 1578  
auction firm's, auctioneer's, apprentice auctioneer's, or special 1579  
auctioneer's license, or any person who assumes to act in that 1580  
capacity, if the complaint, together with other evidence presented 1581  
in connection with it, makes out a prima-facie case. 1582

If the department determines that any such applicant is not 1584  
entitled to receive a license, a license shall not be granted to 1585  
~~such~~ the applicant, and if the department determines that any 1586  
licensee is guilty of a violation of section 4707.14 or 4707.15 of 1587  
the Revised Code, the department may suspend or revoke the 1588  
license. Any auction firm, auctioneer, apprentice auctioneer, or 1589  
special auctioneer who has had the auction firm's, auctioneer's, 1590  
apprentice auctioneer's, or special auctioneer's license revoked 1591  
shall not be issued another such license for a period of two years 1592  
from the date of revocation. 1593

(B) The department may investigate complaints concerning the 1594  
violation of sections 4707.02 and 4707.15 of the Revised Code and 1595  
may subpoena witnesses in connection with such investigations as 1596  
provided in this section. The department may make application to 1597

the court of common pleas for an order enjoining the violation of 1598  
sections 4707.02 and 4707.15 of the Revised Code, and upon a 1599  
showing by the department that any licensed auction firm, 1600  
auctioneer, apprentice auctioneer, or special auctioneer has 1601  
violated or is about to violate section 4707.15 of the Revised 1602  
Code, or any person has violated or is about to violate section 1603  
4707.02 of the Revised Code, an injunction, restraining order, or 1604  
other order as may be appropriate shall be granted by the court. 1605

(C) The department may compel by subpoena the attendance of 1606  
witnesses to testify in relation to any matter over which it has 1607  
jurisdiction and ~~which that~~ is the subject of inquiry and 1608  
investigation by it, and require the production of any book, 1609  
paper, or document pertaining to ~~such that~~ matter. In case any 1610  
person fails to file any statement or report, obey any subpoena, 1611  
give testimony, or produce any books, records, or papers as 1612  
required by such a subpoena, the court of common pleas of any 1613  
county in the state, upon application made to it by the 1614  
department, shall compel obedience by attachment proceedings for 1615  
contempt, as in the case of disobedience of the requirements of a 1616  
subpoena issued from ~~such that~~ court, or a refusal to testify 1617  
therein. 1618

(D) When the department determines that a person not licensed 1619  
under this chapter is engaged in or is believed to be engaged in 1620  
activities for which a license is required under this chapter, the 1621  
department may issue an order to that person requiring the person 1622  
to show cause as to why the person should not be subject to 1623  
licensing under this chapter. If the department, after a hearing, 1624  
determines that the activities in which the person is engaged are 1625  
subject to licensing under this chapter, the department may issue 1626  
a cease-and-desist order ~~which that~~ shall describe the person and 1627  
activities ~~which that~~ are subject to the order. A cease-and-desist 1628  
order issued under this section shall be enforceable in and may be 1629

appealed to the common pleas courts of this state under Chapter 1630  
119. of the Revised Code. 1631

(E) In addition to the remedies provided under this section 1632  
and irrespective of whether an adequate remedy at law exists, the 1633  
department may apply to a court of common pleas for a temporary or 1634  
permanent injunction or other appropriate relief for continued 1635  
violations of this chapter. For purposes of this division, the 1636  
court of common pleas shall be the court of common pleas of 1637  
Licking county or the court of common pleas of the county where 1638  
the violation occurs. 1639

(F) For purposes of this section, investigative costs 1640  
incurred by the department are recoverable either by the issuance 1641  
of an administrative order of the department or by an order of a 1642  
court of competent jurisdiction. 1643

**Sec. 4707.171.** There is hereby created in the state treasury 1644  
the auction education fund. ~~Seven~~ Unless otherwise provided in 1645  
rules adopted by the director of agriculture under section 4707.19 1646  
of the Revised Code, seven dollars and fifty cents of each fee 1647  
collected for an initial or renewed auction firm's, auctioneer's, 1648  
apprentice auctioneer's, or special auctioneer's license shall be 1649  
credited to the auction education fund. All interest earned on 1650  
moneys deposited in the state treasury to the credit of the 1651  
auction education fund shall be credited to the fund. 1652

The ~~Ohio~~ state auctioneers commission shall use any moneys 1653  
from the auction education fund to advance and underwrite 1654  
education and research in the auction field for the benefit of 1655  
those licensed under this chapter and the auctioneering public and 1656  
to cooperate with associations of auctioneers and other groups for 1657  
the education of auctioneers and the advancement of the auction 1658  
profession in this state. 1659

Sec. 4707.18. No person engaged in the business of, or acting 1660  
in the capacity of, an auction firm, auctioneer, or special 1661  
auctioneer shall bring or maintain any action in the courts of 1662  
this state for the collection of compensation for any services 1663  
performed as an auction firm or auctioneer without first alleging 1664  
and proving that the person was a duly licensed auction firm, 1665  
auctioneer, or special auctioneer at the time the alleged cause of 1666  
action arose. 1667

Sec. 4707.19. (A) The director of agriculture may adopt 1668  
reasonable rules necessary for the implementation of this chapter 1669  
in accordance with Chapter 119. of the Revised Code. In addition, 1670  
the director shall adopt rules in accordance with Chapter 119. of 1671  
the Revised Code that establish the portion of license fees 1672  
collected under this chapter that are to be deposited into the 1673  
auction recovery fund under section 4707.25 of the Revised Code. 1674  
The 1675

No person shall fail to comply with a rule adopted under this 1676  
chapter. 1677

(B) The director shall adopt rules that establish a schedule 1678  
of civil penalties for violations of this chapter, rules adopted 1679  
under it, or orders issued under it. The rules shall provide that 1680  
the civil penalty for the first violation of this chapter, rule, 1681  
or order shall not exceed five thousand dollars and the civil 1682  
penalty for each subsequent offense shall not exceed ten thousand 1683  
dollars. In addition, the director, in establishing the schedule 1684  
of civil penalties in the rules, shall consider past violations of 1685  
this chapter and rules adopted under it, the severity of a 1686  
violation, and the amount of actual or potential damage to the 1687  
public or the auction profession. 1688

(C) The director, with the advice and consent of the state 1689



auctioneers commission, may adopt rules in accordance with Chapter 1690  
119. of the Revised Code that establish either or both of the 1691  
following: 1692

(1) Continuing education requirements for a person licensed 1693  
under this chapter; 1694

(2) Requirements and standards for continuing education 1695  
courses that are provided by an institution to persons licensed 1696  
under this chapter. 1697

(D) The department of agriculture may hear testimony in 1698  
matters relating to the duties imposed on it, and any person 1699  
authorized by the director may administer oaths. The department 1700  
may require other proof of the honesty, truthfulness, and good 1701  
reputation of any person named in the application for an auction 1702  
firm's, auctioneer's, apprentice auctioneer's, or special 1703  
auctioneer's license before admitting the applicant to an 1704  
examination or issuing a license. 1705

**Sec. 4707.20.** (A) No person shall act as an auction firm, 1706  
auctioneer, or special auctioneer ~~on a sale at auction~~ until the 1707  
person has first entered into a written contract or agreement in 1708  
duplicate with the owner or consignee of any property to be sold, 1709  
containing the terms and conditions upon which the licensee 1710  
receives or accepts the property for sale at auction. The 1711  
contracts or agreements shall, for a period of two years, be kept 1712  
on file in the office of every person so licensed. No apprentice 1713  
auctioneer shall be authorized to enter into such a contract or 1714  
agreement without the written consent of the apprentice 1715  
auctioneer's sponsoring auctioneer, and all contracts or 1716  
agreements shall be made in the name of and on behalf of the 1717  
sponsoring auctioneer. In addition, an apprentice auctioneer shall 1718  
not enter into an auction contract for the sale of real property 1719  
in the name of the sponsoring auctioneer regardless of whether the 1720

apprentice auctioneer is licensed as a real estate broker or 1721  
salesperson. 1722

(B) On all contracts or agreements between an auction firm, 1723  
auctioneer, or special auctioneer and the owner or consignee, 1724  
there shall appear a prominent statement indicating that the 1725  
auction firm, auctioneer, or special auctioneer is licensed by the 1726  
department of agriculture, and either that the licensee is bonded 1727  
in favor of the state or that an aggrieved person may initiate a 1728  
claim against the auction recovery fund created in section 4707.25 1729  
of the Revised Code as a result of the licensee's actions, 1730  
whichever is applicable. 1731

(C) The auction firm, auctioneer, or special auctioneer who 1732  
contracts with the owner is liable for the settlement of all money 1733  
received, including the payment of all expenses incurred only by 1734  
the licensee and the distribution of all funds, in connection with 1735  
an auction. 1736

(D) For purposes of this section, a contract or agreement 1737  
shall specify all of the following: 1738

(1) The owner of the property to be sold or the owner's agent 1739  
or the consignee; 1740

(2) The date of the auction or a termination date of the 1741  
contract or agreement; 1742

(3) The location of the auction; 1743

(4) The terms and conditions of the auction; 1744

(5) All of the fees to be charged by the auctioneer or the 1745  
auction firm, which shall include commissions, rentals, 1746  
advertising, and labor; 1747

(6) An explanation of the settlement of the auction that 1748  
includes the disbursement of interest money, if applicable; 1749

(7) A statement establishing the responsibility for bad checks, debts, and unpaid auction items; 1750  
1751

(8) A statement indicating whether the auction is a reserve auction or an absolute auction. In addition, the statement shall include the definition of reserve auction or absolute auction from section 4707.01 of the Revised Code, as applicable. 1752  
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(9) A statement of the auctioneer's or auction firm's policy regarding absentee bidding; 1756  
1757

(10) A brief description of the real or personal property to be sold; 1758  
1759

(11) If the sale is of real or personal property at absolute auction, a statement affirming that the seller of the real or personal property has a bona fide intention to transfer ownership of the property to the highest bidder. 1760  
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**Sec. 4707.21.** No auction firm, auctioneer, apprentice auctioneer, or special auctioneer shall willfully neglect or refuse to furnish the department of agriculture statistics or other information in the auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's possession or under the auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's control, ~~which that~~ the auction firm, auctioneer, apprentice auctioneer, or special auctioneer is authorized to collect; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer neglect or refuse, for more than thirty days, to answer questions submitted on circulars; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer knowingly answer any such questions falsely; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer refuse to obey subpoenas and give testimony. Licensees shall keep records relative to any auction sale for at least two 1764  
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years from the date of ~~sale~~ auction. These records shall include 1780  
settlement sheets, written contracts, and copies of any 1781  
advertising that lists the items for ~~sale~~ auction, as applicable. 1782

**Sec. 4707.22.** (A) Any auctioneer, apprentice auctioneer, or 1783  
special auctioneer person licensed under this chapter who 1784  
advertises, by linear advertisements or otherwise, to hold or 1785  
conduct an auction shall indicate in ~~such~~ the advertisement ~~his~~ 1786  
the licensee's name or the name registered with the department of 1787  
agriculture and that ~~he~~ the licensee is an auctioneer or 1788  
apprentice auctioneer. Any apprentice auctioneer who advertises, 1789  
as provided in this section, ~~must~~ shall indicate in ~~his~~ the 1790  
apprentice's advertisement the name of the auctioneer under whom 1791  
~~he~~ the apprentice is licensed. The name of the auctioneer shall be 1792  
displayed in equal prominence with the name of the apprentice 1793  
auctioneer in ~~such~~ the advertisement. Any such licensee who 1794  
advertises in a manner other than as provided in this section is 1795  
guilty of violating division (C) of section 4707.15 of the Revised 1796  
Code. 1797

(B) An auction firm licensed under this chapter that 1798  
advertises, by linear advertisements or otherwise, to solicit or 1799  
receive consignments or to provide auction services shall indicate 1800  
in the advertisement the name of the auction firm. In addition, an 1801  
advertisement of an auction of consignments or an advertisement by 1802  
an auction firm of an auction for which the auction firm will 1803  
provide auction services shall comply with divisions (A) and (D) 1804  
of this section. 1805

(C) If an auction to be advertised is an absolute auction, 1806  
all advertisements for the auction shall unequivocally state that 1807  
the auction is an absolute auction. 1808

(D) If an advertisement for an auction contains the words 1809

"estate auction," or words to that effect, the person licensed 1810  
under this chapter who advertises shall do both of the following: 1811

(1) Enter into an agreement directly with the executor, 1812  
administrator, or court appointed designee of the estate property; 1813

(2) List prominently in the advertisement the county in which 1814  
the estate is located and the probate court case number of the 1815  
estate. 1816

(E) All persons licensed under this chapter that conduct or 1817  
are involved in an auction jointly are responsible for the posting 1818  
of a sign at the auction. The sign shall contain all of the 1819  
following: 1820

(1) The name of all licensed persons involved in the auction; 1821

(2) A statement that the persons are licensed by the 1822  
department of agriculture; 1823

(3) The address of the department of agriculture. 1824

The sign shall be posted at the main entrance of the auction, 1825  
at the place of registration for the auction, or by the cashier 1826  
for the auction. The sign shall be of a size no smaller than eight 1827  
and one-half inches by eleven inches. The letters and numbers on 1828  
the sign shall be of adequate size to be readily seen by an 1829  
individual with normal vision when viewing it. 1830

(F) An advertisement for the sale of real property at auction 1831  
shall contain the name of the licensed auctioneer who is entering 1832  
into the auction contract and the name of the real estate broker 1833  
licensed under Chapter 4735. of the Revised Code who is involved 1834  
in the sale. Compliance with this section shall not require a real 1835  
estate broker licensed under Chapter 4735. of the Revised Code to 1836  
obtain a license under section 4707.073 of the Revised Code. 1837

**Sec. 4707.26.** (A)(1) A person who asserts that ~~they have~~ the 1838

person has been aggrieved by the actions of a person licensed 1839  
under this chapter that resulted in actual and direct losses to 1840  
the aggrieved person may initiate a claim against the auction 1841  
recovery fund either under this section or section 4707.261 of the 1842  
Revised Code. If an aggrieved person who wishes to seek recovery 1843  
from the auction recovery fund has obtained a final judgment in a 1844  
court of competent jurisdiction against the licensee, the 1845  
aggrieved person shall initiate the claim in accordance with 1846  
section 4707.261 of the Revised Code. If an aggrieved person who 1847  
wishes to seek recovery from the auction recovery fund has not 1848  
obtained a final judgment in a court of competent jurisdiction 1849  
against the licensee, the aggrieved person shall initiate the 1850  
claim in accordance with this section. 1851

(2) An aggrieved person may initiate a claim against the 1852  
auction recovery fund under this section if ~~both~~ all of the 1853  
following apply: 1854

(a) The loss was associated with an act or transaction that 1855  
only a person licensed under this chapter lawfully may perform. 1856

(b) The licensee's actions are described in section 4707.15 1857  
of the Revised Code or otherwise violate this chapter or rules 1858  
adopted under it. 1859

(c) The licensee is not an auction firm. 1860

To initiate a claim against the fund, an aggrieved person 1861  
shall file a verified complaint with the department of agriculture 1862  
in accordance with section 4707.16 of the Revised Code. The 1863  
verified complaint shall include an application to the department 1864  
that requests recovery of the applicant's actual and direct losses 1865  
and that is made on forms that the department provides. The 1866  
application for recovery shall specify the nature of the act or 1867  
transaction on which the applicant's claim is based, the actual 1868  
and direct losses sustained by the applicant, and any activities 1869

that the applicant has pursued as a remedy for the losses. 1870

(B) Upon receipt of a verified ~~compliant~~ complaint and 1871  
application, the department shall conduct an investigation in 1872  
accordance with section 4707.16 of the Revised Code. After the 1873  
investigation, if the department determines that the licensee has 1874  
engaged in conduct described in section 4707.15 of the Revised 1875  
Code or otherwise has violated this chapter or rules adopted under 1876  
it, the department shall propose to take action to suspend or 1877  
revoke the licensee's license under section 4707.15 of the Revised 1878  
Code or to initiate a criminal action against the licensee under 1879  
section 4707.99 of the Revised Code, or both. The department shall 1880  
issue a letter to the applicant indicating the department's 1881  
proposed action and the date of any hearing that the department 1882  
has scheduled regarding the matter. 1883

(C) Upon exhaustion of administrative remedies or criminal 1884  
proceedings that results in a finding that the licensee has 1885  
engaged in conduct described in section 4707.15 of the Revised 1886  
Code or otherwise has violated this chapter or rules adopted under 1887  
it, the department shall issue a notice in accordance with Chapter 1888  
119. of the Revised Code via certified mail to the applicant 1889  
indicating that the applicant may request a hearing for relief 1890  
from the auction recovery fund. An applicant who seeks recovery 1891  
from the fund of any actual and direct losses suffered as a result 1892  
of a licensee's conduct shall submit, not later than thirty days 1893  
following receipt of the notice, a request for a hearing to the 1894  
department. 1895

Upon the timely receipt of a request for a hearing, the 1896  
department shall provide the applicant with the opportunity to 1897  
appear at an adjudication hearing to offer proof and evidence of 1898  
the actual and direct losses. Whenever possible, the department 1899  
shall require all applicants whose claims to the fund arose from 1900  
an underlying transaction involving the same licensee to be joined 1901

in one adjudication under this section so that the rights of all 1902  
applicants may be equitably adjudicated and settled. On behalf of 1903  
the fund, the department may defend claims against the fund and 1904  
shall have recourse to all appropriate means of defense and 1905  
review, including examination of witnesses, and verification of 1906  
actual losses. 1907

(D) Upon the conclusion of the adjudication hearing, the 1908  
hearing officer shall issue a report and recommendation in favor 1909  
of making payment to an applicant from the fund if, during the 1910  
course of the adjudication hearing, all of the following have been 1911  
shown: 1912

(1) The licensee has engaged in conduct described in section 1913  
4707.15 of the Revised Code or otherwise has violated this chapter 1914  
or rules adopted under it. 1915

(2) The licensee's conduct or violation is associated with an 1916  
act that only a person licensed under this chapter lawfully may 1917  
perform and the act resulted in direct and actual losses to the 1918  
applicant. 1919

(3) The applicant filed a verified complaint and application 1920  
with the department as required by this section. 1921

(4) The applicant is not the spouse of the licensee nor the 1922  
personal representative of the licensee's spouse. 1923

(5) If the licensee either provided an irrevocable letter of 1924  
credit or gave bond in accordance with section 4707.11 of the 1925  
Revised Code, the applicant first sought recovery under the 1926  
irrevocable letter of credit or bond before applying for payment 1927  
from the fund. 1928

The amount of any payment from the fund to the applicant 1929  
shall consist of an amount that is equal to the portion of the 1930  
actual and direct losses incurred by the applicant that remain 1931  
unpaid. The amount of the payment is subject to the dollar 1932



limitation established in section 4707.29 of the Revised Code. 1933

If the hearing officer determines that not all of the items 1934  
described in divisions (D)(1) to (5) of this section have been 1935  
shown during the course of the adjudication hearing, the hearing 1936  
officer shall issue a report and recommendation against making 1937  
payment from the fund to the applicant. 1938

(E) Pursuant to section 119.09 of the Revised Code, a hearing 1939  
officer or the hearing officer's representative shall forward by 1940  
certified mail a copy of the hearing officer's written report and 1941  
recommendation to the applicant or the applicant's attorney or 1942  
other representative not later than five days after the date on 1943  
which the report and recommendation are filed. 1944

Not later than ten days after receiving such a copy, the 1945  
applicant may file with the department written objections to the 1946  
report and recommendation. The department may grant extensions of 1947  
time to the applicant within which to file objections. 1948

The objections shall be considered by the department before 1949  
it approves, modifies, or disapproves the recommendation. The 1950  
department may order additional testimony to be taken or permit 1951  
the introduction of further documentary evidence. 1952

The recommendation of the hearing officer may be approved, 1953  
modified, or disapproved by order of the director of agriculture. 1954  
The order shall not be issued until more than ten days have 1955  
elapsed following the applicant's receipt of the report and 1956  
recommendation as provided by this section. The director's 1957  
approval, modification, or disapproval of the hearing officer's 1958  
recommendation shall have the same effect as if the hearing had 1959  
been conducted by the director. 1960

No recommendation shall be final until approved, modified, or 1961  
disapproved by the director as indicated by the order entered on 1962  
the record of proceedings of the department. If the director 1963

modifies or disapproves the recommendations of the hearing 1964  
officer, the director shall include in the record of the 1965  
proceedings the reasons for the modification or disapproval. 1966

After an order is entered on its journal, the department 1967  
shall make payment, if applicable, to the applicant from the 1968  
auction recovery fund in accordance with the order and shall 1969  
provide to the applicant by certified mail, return receipt 1970  
requested, a copy of the order and a statement of the time and 1971  
method by which an appeal may be perfected. In addition, the 1972  
department shall mail a copy of the order to the attorney or other 1973  
representative of the applicant. 1974

(F) An order of the director issued under this section 1975  
constitutes a final determination of the director for purposes of 1976  
appeal. An applicant who is denied compensation from the auction 1977  
recovery fund or who receives an award less than the award 1978  
requested may appeal the order of the director. Notices of appeal 1979  
shall be filed in the manner provided in section 119.12 of the 1980  
Revised Code. 1981

Sec. 4707.32. (A) A person who asserts that the person has 1982  
been aggrieved solely by the actions of an auction firm that 1983  
resulted in actual and direct losses to the aggrieved person may 1984  
seek recovery under the auction firm's financial responsibility 1985  
that is required under section 4707.074 of the Revised Code. The 1986  
director of agriculture shall adopt rules under section 4707.19 of 1987  
the Revised Code that do all of the following: 1988

(1) Establish procedures for filing a claim against an 1989  
auction firm's financial responsibility; 1990

(2) Establish procedures that provide for the equitable 1991  
disbursement of money for multiple claims against the auction firm 1992  
that resulted from the same circumstances; 1993

(3) Establish procedures for providing notice to the 1994  
department of agriculture from a person seeking recovery under 1995  
this division; 1996

(4) Limit an aggrieved person's recovery to the actual and 1997  
direct losses caused by the auction firm. 1998

(B) A person who asserts that the person has been aggrieved 1999  
by the actions of both an auction firm and a licensed auctioneer 2000  
related to an auction that resulted in actual and direct losses to 2001  
the aggrieved person may file a cause of action with a court of 2002  
competent jurisdiction claiming that a violation of this chapter 2003  
or rules adopted under it resulted in the actual and direct 2004  
losses. The court shall determine if there was a violation of this 2005  
chapter or rules adopted under it that resulted in those losses. 2006  
If the court determines that the auction firm, the licensed 2007  
auctioneer, or both violated this chapter or rules adopted under 2008  
it and that the violation resulted in the aggrieved person's 2009  
actual and direct losses, the court shall determine the percentage 2010  
of culpability, in relation to one hundred per cent, that is 2011  
attributable to each party to the action from whom the complainant 2012  
seeks recovery. 2013

If the court finds that the percentage of culpability that is 2014  
attributable to the licensed auctioneer is greater than zero, the 2015  
aggrieved person may initiate a claim against the auction recovery 2016  
fund in accordance with sections 4707.26 to 4707.31 of the Revised 2017  
Code to recover that percentage of the actual and direct losses 2018  
sustained by the person. If the court finds that the percentage of 2019  
culpability that is attributable to the auction firm is greater 2020  
than zero, the aggrieved person may recover that percentage of the 2021  
actual and direct losses sustained by the person under the auction 2022  
firm's financial responsibility that is required under section 2023  
4707.074 of the Revised Code. 2024

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

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

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

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

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

(D) Notwithstanding section 1901.31, 1907.20, or 2335.37 of 2056  
the Revised Code, the clerk of the court shall transmit to the 2057  
treasurer of state for deposit into the state treasury to the 2058  
credit of the auction education fund created in section 4707.171 2059  
of the Revised Code fifty per cent of any fine imposed under this 2060  
section. 2061

**Section 2.** That existing sections 505.94, 2925.01, 4707.01, 2062  
4707.02, 4707.021, 4707.03, 4707.04, 4707.05, 4707.06, 4707.07, 2063  
4707.071, 4707.072, 4707.08, 4707.09, 4707.10, 4707.11, 4707.111, 2064  
4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4707.18, 2065  
4707.19, 4707.20, 4707.21, 4707.22, 4707.26, and 4707.99 of the 2066  
Revised Code are hereby repealed. 2067

**Section 3.** Section 2925.01 of the Revised Code is presented 2068  
in this act as a composite of the section as amended by both Sub. 2069  
H.B. 364 and Am. Sub. H.B. 415 of the 124th General Assembly. The 2070  
General Assembly, applying the principle stated in division (B) of 2071  
section 1.52 of the Revised Code that amendments are to be 2072  
harmonized if reasonably capable of simultaneous operation, finds 2073  
that the composite is the resulting version of the section in 2074  
effect prior to the effective date of the section as presented in 2075  
this act. 2076