

**As Reported by the House Agriculture and Natural Resources  
Committee**

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

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

**Senators Mumper, Austria, Harris, White  
Representatives Aslanides, Gibbs, Book, Carmichael, Domenick, C. Evans,  
Niehaus, Schlichter, Setzer, Walcher, Widener**

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**A B I L L**

To amend sections 505.94, 2925.01, 4517.02, 4707.01, 1  
4707.02, 4707.021, 4707.03, 4707.04, 4707.05, 2  
4707.06, 4707.07, 4707.071, 4707.072, 4707.08, 3  
4707.09, 4707.10, 4707.11, 4707.111, 4707.12, 4  
4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 5  
4707.18 to 4707.22, 4707.26, and 4707.99 and to 6  
enact sections 4707.022, 4707.023, 4707.024, 7  
4707.073, 4707.074, 4707.091, and 4707.32 of the 8  
Revised 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, 4517.02, 4707.01, 10  
4707.02, 4707.021, 4707.03, 4707.04, 4707.05, 4707.06, 4707.07, 11  
4707.071, 4707.072, 4707.08, 4707.09, 4707.10, 4707.11, 4707.111, 12  
4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4707.18, 13  
4707.19, 4707.20, 4707.21, 4707.22, 4707.26, and 4707.99 be 14  
amended and sections 4707.022, 4707.023, 4707.024, 4707.073, 15  
4707.074, 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  
representatives are present in the township for the purpose of  
either selling or offering for sale goods, or soliciting orders  
for future delivery of goods, and does not include ~~an auctioneer or~~  
~~an auctioneer company~~ a person licensed under Chapter 4707. of the  
Revised Code.

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**Sec. 2925.01.** As used in this chapter:

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

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

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

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

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

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

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(b) An amount equal to or exceeding ten grams of a compound,

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mixture, preparation, or substance that is or contains any amount  
of raw or gum opium;

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

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

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

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

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

the federal drug abuse control laws.	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 144  
other state or of the United States that is substantially 145  
equivalent to any section listed in division (G)(1) of this 146  
section; 147

(3) An offense under an existing or former law of this or any 148  
other state, or of the United States, of which planting, 149  
cultivating, harvesting, processing, making, manufacturing, 150  
producing, shipping, transporting, delivering, acquiring, 151  
possessing, storing, distributing, dispensing, selling, inducing 152  
another to use, administering to another, using, or otherwise 153  
dealing with a controlled substance is an element; 154

(4) A conspiracy to commit, attempt to commit, or complicity 155  
in committing or attempting to commit any offense under division 156  
(G)(1), (2), or (3) of this section. 157

(H) "Felony drug abuse offense" means any drug abuse offense 158  
that would constitute a felony under the laws of this state, any 159  
other state, or the United States. 160

(I) "Harmful intoxicant" does not include beer or 161  
intoxicating liquor but means any of the following: 162

(1) Any compound, mixture, preparation, or substance the gas, 163  
fumes, or vapor of which when inhaled can induce intoxication, 164  
excitement, giddiness, irrational behavior, depression, 165  
stupefaction, paralysis, unconsciousness, asphyxiation, or other 166  
harmful physiological effects, and includes, but is not limited 167  
to, any of the following: 168

(a) Any volatile organic solvent, plastic cement, model 169  
cement, fingernail polish remover, lacquer thinner, cleaning 170

fluid, gasoline, or other preparation containing a volatile	171
organic solvent;	172
(b) Any aerosol propellant;	173
(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 board of pharmacy.	200 201
(N) "Juvenile" means a person under eighteen years of age.	202
(O) "Counterfeit controlled substance" means any of the following:	203 204
(1) Any drug that bears, or whose container or label bears, a trademark, trade name, or other identifying mark used without authorization of the owner of rights to that trademark, trade name, or identifying mark;	205 206 207 208
(2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed, or distributed by a person other than the person that manufactured, processed, packed, or distributed it;	209 210 211 212
(3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance;	213 214 215
(4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size, and color, or its markings, labeling, packaging, distribution, or the price for which it is sold or offered for sale.	216 217 218 219 220
(P) An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within one thousand feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within one thousand feet of the boundaries of any school premises.	221 222 223 224 225 226 227
(Q) "School" means any school operated by a board of education, any community school established under Chapter 3314. of	228 229



the Revised Code, or any nonpublic school for which the state  
board of education prescribes minimum standards under section  
3301.07 of the Revised Code, whether or not any instruction,  
extracurricular activities, or training provided by the school is  
being conducted at the time a criminal offense is committed.

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) A person who has been issued a certificate of

registration as a registered barber under Chapter 4709. of the	291
Revised Code;	292
(7) A person licensed and regulated to engage in the business	293
of a debt pooling company by a legislative authority, under	294
authority of Chapter 4710. of the Revised Code;	295
(8) A person who has been issued a cosmetologist's license,	296
hair designer's license, manicurist's license, esthetician's	297
license, natural hair stylist's license, managing cosmetologist's	298
license, managing hair designer's license, managing manicurist's	299
license, managing esthetician's license, managing natural hair	300
stylist's license, cosmetology instructor's license, hair design	301
instructor's license, manicurist instructor's license, esthetics	302
instructor's license, natural hair style instructor's license,	303
independent contractor's license, or tanning facility permit under	304
Chapter 4713. of the Revised Code;	305
(9) A person who has been issued a license to practice	306
dentistry, a general anesthesia permit, a conscious intravenous	307
sedation permit, a limited resident's license, a limited teaching	308
license, a dental hygienist's license, or a dental hygienist's	309
teacher's certificate under Chapter 4715. of the Revised Code;	310
(10) A person who has been issued an embalmer's license, a	311
funeral director's license, a funeral home license, or a crematory	312
license, or who has been registered for an embalmer's or funeral	313
director's apprenticeship under Chapter 4717. of the Revised Code;	314
(11) A person who has been licensed as a registered nurse or	315
practical nurse, or who has been issued a certificate for the	316
practice of nurse-midwifery under Chapter 4723. of the Revised	317
Code;	318
(12) A person who has been licensed to practice optometry or	319
to engage in optical dispensing under Chapter 4725. of the Revised	320
Code;	321

(13) A person licensed to act as a pawnbroker under Chapter 4727. of the Revised Code;	322 323
(14) A person licensed to act as a precious metals dealer under Chapter 4728. of the Revised Code;	324 325
(15) A person licensed as a pharmacist, a pharmacy intern, a wholesale distributor of dangerous drugs, or a terminal distributor of dangerous drugs under Chapter 4729. of the Revised Code;	326 327 328 329
(16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;	330 331
(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;	332 333 334 335
(18) A person licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code;	336 337
(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;	338 339
(20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code;	340 341
(21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code;	342 343
(22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code;	344 345
(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;	346 347
(24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;	348 349
(25) A person who has been licensed to act as a steam	350

engineer under Chapter 4739. of the Revised Code;	351
(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;	352 353 354 355
(27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Chapter 4747. of the Revised Code;	356 357 358
(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;	359 360 361
(29) A person licensed and registered to practice as a nursing home administrator under Chapter 4751. of the Revised Code;	362 363 364
(30) A person licensed to practice as a speech-language pathologist or audiologist under Chapter 4753. of the Revised Code;	365 366 367
(31) A person issued a license as an occupational therapist or physical therapist under Chapter 4755. of the Revised Code;	368 369
(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;	370 371 372 373
(33) A person issued a license to practice dietetics under Chapter 4759. of the Revised Code;	374 375
(34) A person who has been issued a license or limited permit to practice respiratory therapy under Chapter 4761. of the Revised Code;	376 377 378
(35) A person who has been issued a real estate appraiser certificate under Chapter 4763. of the Revised Code;	379 380

(36) A person who has been admitted to the bar by order of 381  
the supreme court in compliance with its prescribed and published 382  
rules. 383

(X) "Cocaine" means any of the following: 384

(1) A cocaine salt, isomer, or derivative, a salt of a 385  
cocaine isomer or derivative, or the base form of cocaine; 386

(2) Coca leaves or a salt, compound, derivative, or 387  
preparation of coca leaves, including ecgonine, a salt, isomer, or 388  
derivative of ecgonine, or a salt of an isomer or derivative of 389  
ecgonine; 390

(3) A salt, compound, derivative, or preparation of a 391  
substance identified in division (X)(1) or (2) of this section 392  
that is chemically equivalent to or identical with any of those 393  
substances, except that the substances shall not include 394  
decocainized coca leaves or extraction of coca leaves if the 395  
extractions do not contain cocaine or ecgonine. 396

(Y) "L.S.D." means lysergic acid diethylamide. 397

(Z) "Hashish" means the resin or a preparation of the resin 398  
contained in marihuana, whether in solid form or in a liquid 399  
concentrate, liquid extract, or liquid distillate form. 400

(AA) "Marihuana" has the same meaning as in section 3719.01 401  
of the Revised Code, except that it does not include hashish. 402

(BB) An offense is "committed in the vicinity of a juvenile" 403  
if the offender commits the offense within one hundred feet of a 404  
juvenile or within the view of a juvenile, regardless of whether 405  
the offender knows the age of the juvenile, whether the offender 406  
knows the offense is being committed within one hundred feet of or 407  
within view of the juvenile, or whether the juvenile actually 408  
views the commission of the offense. 409

(CC) "Presumption for a prison term" or "presumption that a 410

prison term shall be imposed" means a presumption, as described in 411  
division (D) of section 2929.13 of the Revised Code, that a prison 412  
term is a necessary sanction for a felony in order to comply with 413  
the purposes and principles of sentencing under section 2929.11 of 414  
the Revised Code. 415

(DD) "Major drug offender" has the same meaning as in section 416  
2929.01 of the Revised Code. 417

(EE) "Minor drug possession offense" means either of the 418  
following: 419

(1) A violation of section 2925.11 of the Revised Code as it 420  
existed prior to July 1, 1996; 421

(2) A violation of section 2925.11 of the Revised Code as it 422  
exists on and after July 1, 1996, that is a misdemeanor or a 423  
felony of the fifth degree. 424

(FF) "Mandatory prison term" has the same meaning as in 425  
section 2929.01 of the Revised Code. 426

(GG) "Crack cocaine" means a compound, mixture, preparation, 427  
or substance that is or contains any amount of cocaine that is 428  
analytically identified as the base form of cocaine or that is in 429  
a form that resembles rocks or pebbles generally intended for 430  
individual use. 431

(HH) "Adulterate" means to cause a drug to be adulterated as 432  
described in section 3715.63 of the Revised Code. 433

(II) "Public premises" means any hotel, restaurant, tavern, 434  
store, arena, hall, or other place of public accommodation, 435  
business, amusement, or resort. 436

**Sec. 4517.02.** (A) Except as otherwise provided in this 437  
section, no person shall do any of the following: 438

(1) Engage in the business of displaying or selling at retail 439

new motor vehicles or assume to engage in ~~such~~ that business, 440  
unless the person is licensed as a new motor vehicle dealer under 441  
sections 4517.01 to 4517.45 of the Revised Code, or is a 442  
salesperson licensed under those sections and employed by a 443  
licensed new motor vehicle dealer; 444

(2) Engage in the business of offering for sale, displaying 445  
for sale, or selling at retail or wholesale used motor vehicles or 446  
assume to engage in that business, unless the person is licensed 447  
as a dealer under sections 4517.01 to 4517.45 of the Revised Code, 448  
or is a salesperson licensed under those sections and employed by 449  
a licensed used motor vehicle dealer or licensed new motor vehicle 450  
dealer; 451

(3) Engage in the business of regularly making available, 452  
offering to make available, or arranging for another person to use 453  
a motor vehicle, in the manner described in division (M) of 454  
section 4517.01 of the Revised Code, unless the person is licensed 455  
as a motor vehicle leasing dealer under sections 4517.01 to 456  
4517.45 of the Revised Code; 457

(4) Engage in the business of motor vehicle auctioning or 458  
assume to engage in ~~such~~ that business, unless the person is 459  
licensed as a motor vehicle auction owner under sections 4517.01 460  
to 4517.45 ~~and 4707.01 to 4707.99~~ of the Revised Code and the 461  
person uses an auctioneer who is licensed under Chapter 4707. of 462  
the Revised Code to conduct the motor vehicle auctions; 463

(5) Engage in the business of distributing motor vehicles or 464  
assume to engage in ~~such~~ that business, unless the person is 465  
licensed as a distributor under sections 4517.01 to 4517.45 of the 466  
Revised Code; 467

(6) Make more than five casual sales of motor vehicles in a 468  
twelve-month period, commencing with the day of the month in which 469  
the first such sale is made, nor provide a location or space for 470



the sale of motor vehicles at a flea market, without obtaining a  
license as a dealer under sections 4517.01 to 4517.45 of the  
Revised Code; ~~it~~ provided ~~however~~ that nothing in this section shall  
be construed to prohibit the disposition without a license of a  
motor vehicle originally acquired and held for purposes other than  
sale, rental, or lease to an employee, retiree, officer, or  
director of the person making the disposition, to a corporation  
affiliated with the person making the disposition, or to a person  
licensed under sections 4517.01 to 4517.45 of the Revised Code;

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

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

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

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

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

(3) The leasing, rental, and interchange of motor vehicles 502  
used directly in the rendition of a public utility service by 503  
regulated motor carriers. 504

(D) When a partnership licensed under sections 4517.01 to 505  
4517.45 of the Revised Code is dissolved by death, the surviving 506  
partners may operate under the license for a period of sixty days, 507  
and the heirs or representatives of deceased persons and receivers 508  
or trustees in bankruptcy appointed by any competent authority may 509  
operate under the license of the person succeeded in possession by 510  
~~such~~ that heir, representative, receiver, or trustee in 511  
bankruptcy. 512

(E) No remanufacturer shall engage in the business of selling 513  
at retail any new motor vehicle without having written authority 514  
from the manufacturer or distributor of the vehicle to sell new 515  
motor vehicles and to perform repairs under the terms of the 516  
manufacturer's or distributor's new motor vehicle warranty, 517  
unless, at the time of the sale of the vehicle, each customer is 518  
furnished with a binding agreement ensuring that the customer has 519  
the right to have the vehicle serviced or repaired by a new motor 520  
vehicle dealer who is franchised to sell and service vehicles of 521  
the same line-make as the chassis of the remanufactured vehicle 522  
purchased by the customer and whose service or repair facility is 523  
located within either twenty miles of the remanufacturer's 524  
location and place of business or twenty miles of the customer's 525  
residence or place of business. If there is no such new motor 526  
vehicle dealer located within twenty miles of the remanufacturer's 527  
location and place of business or the customer's residence or 528  
place of business, the binding agreement furnished to the customer 529  
may be with the new motor vehicle dealer who is franchised to sell 530  
and service vehicles of the same line-make as the chassis of the 531  
remanufactured vehicle purchased by the customer and whose service 532  
or repair facility is located nearest to the remanufacturer's 533

location and place of business or the customer's residence or 534  
place of business. Additionally, at the time of sale of any 535  
vehicle, each customer of the remanufacturer shall be furnished 536  
with a warranty issued by the remanufacturer for a term of at 537  
least one year. 538

(F) Except as otherwise provided in this division, whoever 539  
violates this section is guilty of a minor misdemeanor and shall 540  
be subject to a mandatory fine of one hundred dollars. If the 541  
offender previously has been convicted of or pleaded guilty to a 542  
violation of this section, whoever violates this section is guilty 543  
of a misdemeanor of the first degree and shall be subject to a 544  
mandatory fine of one thousand dollars. 545

**Sec. 4707.01.** As used in ~~sections 4707.01 to 4707.22 and~~ 546  
~~4707.99 of the Revised Code~~ this chapter: 547

(A) "Auction" means a method of sale of real or personal 548  
property, goods, or chattels, at a predetermined date and time, by 549  
means of a verbal exchange, regular mail, telecommunications, the 550  
internet, an electronic transmission, or a physical gesture 551  
between an auctioneer or apprentice auctioneer and members of the 552  
audience or prospective purchasers, the exchanges and gestures 553  
consisting of a series of invitations for offers made by the 554  
auctioneer and offers by members of the audience or prospective 555  
purchasers, with the right to acceptance of offers with the 556  
auctioneer or apprentice auctioneer. "Auction" includes a sale of 557  
real or personal property, goods, or chattels in which there has 558  
been a solicitation or invitation by advertisement to the public 559  
for an advance in bidding using sealed bidding, provided that the 560  
bids are opened and there is a call for an advancement of the 561  
bids. 562

(B) "Auctioneer" means any person who engages, or who by 563  
advertising or otherwise holds ~~self~~ the person out as being able 564

to engage, in the calling for, recognition of, and the acceptance 565  
of, offers for the purchase of real or personal property, goods, 566  
or chattels at auction either directly or through the use of other 567  
licensed auctioneers or apprentice auctioneers. 568

(C) "Apprentice auctioneer" means any individual who is 569  
sponsored by an auctioneer to deal or engage in any activities 570  
mentioned in division (A) of this section. 571

~~(D) "Auction company" means any person, excluding licensed 572  
auctioneers, who does business solely in the auctioneer's 573  
individual name, who sells, either directly or through agents, 574  
real or personal property, goods, or chattels at auction, or who 575  
arranges, sponsors, manages, conducts, or advertises auctions and 576  
who was licensed as an auction company by the department of 577  
agriculture as of May 1, 1991. An auction company does not mean 578  
either of the following: 579~~

~~(1) A sale barn or livestock auction market that is used 580  
exclusively for the auctioneering of livestock and is licensed by 581  
the department of agriculture under Chapter 943. of the Revised 582  
Code; 583~~

~~(2) A business that is licensed by the bureau of motor 584  
vehicles under Chapter 4517. of the Revised Code and is 585  
exclusively engaged in the auction sale of motor vehicles to 586  
dealers licensed by either the bureau of motor vehicles or a 587  
bureau of motor vehicles of another jurisdiction or its 588  
equivalent. 589~~

~~(E) "Special auctioneer" means any person who is licensed as 590  
an auction company by the department of agriculture as of May 1, 591  
1991, and currently is subject to section 4707.071 of the Revised 592  
Code. 593~~

(E) "Absolute auction" means an auction of real or personal 594  
property to which all of the following apply: 595

<u>(1) The property is sold to the highest bidder without</u>	596
<u>reserve.</u>	597
<u>(2) The auction does not require a minimum bid.</u>	598
<u>(3) The auction does not require competing bids of any type</u>	599
<u>by the seller or an agent of the seller.</u>	600
<u>(4) The seller of the property cannot withdraw the property</u>	601
<u>from auction after the auction is opened and there is public</u>	602
<u>solicitation or calling for bids.</u>	603
<u>(F) "Reserve auction" means an auction in which the seller or</u>	604
<u>an agent of the seller reserves the right to establish a stated</u>	605
<u>minimum bid, the right to reject or accept any or all bids, or the</u>	606
<u>right to withdraw the real or personal property at any time prior</u>	607
<u>to the completion of the auction by the auctioneer.</u>	608
<u>(G) "Auction mediation company" means a company that provides</u>	609
<u>a forum through the internet for a person to sell the person's</u>	610
<u>real or personal property that was not originally acquired for the</u>	611
<u>purpose of resale via the submission of silent bids using a</u>	612
<u>computer or other electronic device.</u>	613
<u>(H) "Public authority" means any board or commission of the</u>	614
<u>state or any officer of such a board or commission, or any</u>	615
<u>political subdivision of the state.</u>	616
<u>(I) "Estate auction" means the auction of real or personal</u>	617
<u>property of a deceased person.</u>	618
<u>(J) "Absentee bidding" means a method by which a potential</u>	619
<u>purchaser authorizes a proxy to place on behalf of the potential</u>	620
<u>purchaser a written or oral bid to an auctioneer or auction firm</u>	621
<u>or an agent of an auctioneer or auction firm.</u>	622
<u>(K) "Person" means an individual, sole proprietor,</u>	623
<u>corporation, limited liability company, association, or</u>	624
<u>partnership.</u>	625

(L) "Auction firm" means a person who provides auction services. 626  
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(M) "Auction services" means arranging, managing, and sponsoring a personal property auction. "Auction services" includes the taking and advertising of personal property on consignment to be sold at auction by a licensed auctioneer. 628  
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(N) "Consignee" means a person or auction firm that takes personal property on consignment to be sold at auction by a licensed auctioneer. 632  
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(O) "Firm manager" means the individual designated by an auction firm who is responsible for ensuring that the auction firm complies with this chapter. 635  
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(P) "Sealed bidding" means a method of submitting a bid in writing by one or more persons following which the bids are opened at an advertised, predetermined time and place, and, after a review of all the bids received, the real or personal property is awarded to the highest and most responsive bidder. 638  
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**Sec. 4707.02.** No person shall act as an auction firm, 643  
auctioneer, apprentice auctioneer, or special auctioneer within 644  
this state without a license issued by the department of 645  
agriculture. No auction shall be conducted in this state except by 646  
an auctioneer licensed by the department. 647

The department shall not issue or renew a license if the 648  
applicant or licensee has been convicted of a felony or crime 649  
involving fraud or theft in this or another state at any time 650  
during the ten years immediately preceding application or renewal. 651

This section does not apply to: 652

(A) Sales at auction ~~conducted by or under the direction of~~ 653  
~~any public authority, or sales~~ that either are required by law to 654  
be at auction, other than sales pursuant to a judicial order or 655

decree, or that are conducted by or under the direction of a 656  
public authority; 657

(B) The owner of any real or personal property desiring to 658  
sell the property at auction, provided that the property was not 659  
acquired for the purpose of resale; 660

(C) An auction mediation company; 661

(D) An auction that is conducted in a course of study for 662  
auctioneers that is approved by the state auctioneers commission 663  
created under section 4707.03 of the Revised Code for purposes of 664  
student training and is supervised by a licensed auctioneer; 665

(E) An auction that is sponsored by a nonprofit or charitable 666  
organization that is registered in this state under Chapter 1702. 667  
or Chapter 1716. of the Revised Code, respectively, if the auction 668  
only involves the property of the members of the organization and 669  
the auction is part of a fair that is organized by an agricultural 670  
society under Chapter 1711. of the Revised Code or by the Ohio 671  
expositions commission under Chapter 991. of the Revised Code at 672  
which an auctioneer who is licensed under this chapter physically 673  
conducts the auction; 674

(F) A person licensed as a livestock dealer under Chapter 675  
943. of the Revised Code who exclusively sells livestock and uses 676  
an auctioneer who is licensed under this chapter to conduct the 677  
auction; 678

(G) A person licensed as a motor vehicle auction owner under 679  
Chapter 4517. of the Revised Code who exclusively sells motor 680  
vehicles and who uses an auctioneer who is licensed under this 681  
chapter to conduct the auction. 682

**Sec. 4707.021.** Only an auctioneer who is licensed under this 683  
chapter and who is licensed as a real state estate broker who is 684  
licensed or a real estate salesperson under Chapter 4735. of the 685

Revised Code ~~and who is licensed as an auctioneer under this~~ 686  
~~chapter may~~ shall sign an auction contract for the sale of real 687  
property at auction. A real estate broker who is licensed under 688  
Chapter 4735. of the Revised Code, but who is not licensed as an 689  
auctioneer under this chapter shall not sign an auction contract 690  
or conduct an auction, but may contract for the sale of real 691  
property at auction only if either of the following applies: 692

(A) The auctioneer who signs the auction contract and who 693  
conducts the auction is a salesperson licensed under Chapter 4735. 694  
of the Revised Code and is associated with the real estate broker 695  
who contracts for the sale of real property. 696

(B) The real estate broker enters into a cooperative 697  
agreement with another real estate broker licensed under Chapter 698  
4735. of the Revised Code with whom an auctioneer licensed under 699  
this chapter is associated and the auctioneer ~~conducts~~ is solely 700  
responsible for signing the auction contract and conducting the 701  
auction. 702

An apprentice auctioneer who is licensed as a real estate 703  
broker or real estate salesperson under Chapter 4735. of the 704  
Revised Code may act as a bid caller in the sale of real property 705  
at auction if the sponsoring auctioneer is licensed under this 706  
chapter and is licensed as a real estate broker or real estate 707  
salesperson under Chapter 4735. of the Revised Code. 708

Nothing in this section shall be construed to permit a 709  
business to contract for the sale of real property at auction 710  
through an individual who is not licensed under this chapter and 711  
Chapter 4735. of the Revised Code. 712

**Sec. 4707.022.** (A) An auction shall be a reserve auction 713  
unless explicitly stated otherwise in the contract for the auction 714  
and in the terms and conditions governing the auction. For 715  
purposes of a reserve auction, there need not be an announcement 716



or indication that the reserve is attained. 717

(B) A person licensed under this chapter shall not use 718  
absentee bidding unless the owner of the real or personal property 719  
being sold provides prior written permission to use absentee 720  
bidding. 721

(C) A person licensed under this chapter shall be an agent of 722  
the owner or consignee of the real or personal property for 723  
purposes of all aspects of the auction. 724

**Sec. 4707.023.** (A) No person licensed under this chapter 725  
shall advertise, offer for sale, or sell real or personal property 726  
by absolute auction unless all of the following apply: 727

(1) One of the following applies: 728

(a) Except for current tax obligations, easements, or 729  
restrictions of record of the seller, there are no liens or 730  
encumbrances on the property in favor of any other person. 731

(b) Every holder of a lien or encumbrance, by execution of 732  
the auction contract or other written agreement provided to the 733  
auctioneer, agrees to the absolute auction without regard to the 734  
amount of the highest bid or to the identity of the highest 735  
bidder. 736

(c) A financially sound person, firm, trust, or estate, by 737  
execution of the auction contract or other written agreement 738  
provided to the auctioneer, guarantees the complete discharge and 739  
satisfaction of all liens and encumbrances, as applicable, 740  
immediately after the absolute auction or at the closing without 741  
regard to the amount of the highest bid or to the identity of the 742  
highest bidder. 743

(2) The seller of the real or personal property at the time 744  
of advertising and at the time of the absolute auction has a bona 745

fide intention to transfer ownership of the property to the 746  
highest bidder regardless of the amount of the highest bid and 747  
without reliance on any agreement that a particular bid or bid 748  
level be attained in order to transfer the property. 749

(3) The auction contract requires that the auction be 750  
conducted as an absolute auction, specifies that the auction is 751  
not a reserve auction, and prohibits the seller or anyone acting 752  
on behalf of the seller to bid or participate in the bidding 753  
process of the auction. 754

(B) Division (A) of this section does not prohibit any of the 755  
following: 756

(1) The bidding of a secured party or lien holder, other than 757  
the seller, at an absolute auction, provided that the bids are 758  
bona fide offers, that the bidding does not constitute bid rigging 759  
or a reserve for the seller, and that the bidding is not for the 760  
purpose of aiding or assisting or on behalf of the seller or the 761  
auctioneer; 762

(2) The bidding by an individual or a party to a dissolution 763  
of marriage, partnership, or corporation on real or personal 764  
property being sold at auction pursuant to the dissolution; 765

(3) The advertising of real or personal property to be sold 766  
by absolute auction and by reserve auction within the same 767  
advertisement or for auction on the same date and at the same 768  
place, provided that the advertisement is not misleading and 769  
clearly identifies the property that is to be sold by absolute 770  
auction and the property that is to be sold by reserve auction. 771

(C) A person licensed under this chapter may make a bona fide 772  
bid on the licensee's own behalf at an absolute auction and at a 773  
reserve auction, provided that the licensee provides full 774  
disclosure that the licensee may make a bona fide bid to the 775  
seller and at the auction. 776

(D) A seller or a person on behalf of a seller may make a bid 777  
if the auction is a reserve auction and the auctioneer provides 778  
full disclosure before bidding begins that the seller retains the 779  
right to bid. No person licensed under this chapter knowingly 780  
shall receive such a bid in the absence of full disclosure. 781

(E) Except in the case of a dissolution as provided in 782  
division (B)(2) of this section, a person licensed under this 783  
chapter shall not knowingly receive a bid by a seller or a person 784  
on the seller's behalf at an absolute auction. 785

**Sec. 4707.024.** (A) Not later than seventy-two hours after the 786  
end of an auction, a person licensed under this chapter shall 787  
deposit in one or more trust or escrow accounts all money received 788  
from the sale of an owner's or consignee's personal property at 789  
auction unless the licensee pays the money to the owner or 790  
consignee immediately after the end of the auction. 791

(B) For purposes of this section, a person licensed under 792  
this chapter shall designate a trust or escrow account that 793  
contains an owner's or consignee's money as "client trust account" 794  
or with words of similar meaning. In addition, a trust or escrow 795  
account only shall contain money received from the sale of 796  
personal property at auction that has not been disbursed and money 797  
for expenses regarding the auction, including commission and 798  
advertisement fees, that are specifically delineated in the 799  
auction contract. 800

(C) Except for the payment of money to the owner or consignee 801  
immediately after the end of the auction, a person licensed under 802  
this chapter shall pay the owner or consignee with money from the 803  
client's trust or escrow account. In addition, the licensee may 804  
pay expenses, including commission and advertisement fees, that 805  
are specifically delineated in the auction contract with money 806  
from the trust or escrow account. Money in the trust or escrow 807

account shall not be disbursed for any purpose that is  
inconsistent with this section. In addition, the money shall not  
be commingled with the licensee's personal or business money. In  
administering the trust or escrow account, the licensee shall keep  
detailed records that show deposits, withdrawals, and interest  
accrued, if applicable.

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

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

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

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

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(A) The governor, with the advice and consent of the senate,  
shall appoint a commission consisting of ~~three~~ five members, each  
of whom immediately prior to the date of appointment has been a  
resident of this state for at least five years, ~~and whose~~

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. Four members shall have been an auctioneer for a period of at least five years has been that of an auctioneer prior to appointment. One member shall be a member of the public who represents the interests of consumers, is not licensed under this chapter, does not have any management responsibility in the auctioneering industry, does not formulate any policy of the auctioneering industry, does not have a financial interest in the auctioneering industry, and does not have any other connection with the auctioneering profession. Terms

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

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

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

**Sec. 4707.04.** (A) The state auctioneers commission shall,

upon qualification of the member or members appointed in each 869  
year, select from its members a chairperson, and shall serve in an 870  
advisory capacity to the department of agriculture for the purpose 871  
of carrying out ~~sections 4707.01 to 4707.22 of the Revised Code~~ 872  
this chapter. The commission shall meet not less than four times 873  
annually. 874

(B) The commission shall establish requirements and standards 875  
for courses of study in auctioneering. The commission triennially 876  
shall review courses of study in auctioneering that are offered at 877  
institutions in order to determine whether the courses comply with 878  
those requirements and standards. The commission shall approve 879  
institutions that offer courses that comply with the requirements 880  
and standards. If an institution is not approved, the institution 881  
may reapply for approval within a year of the disapproval. If at 882  
that time the commission approves the institution, the institution 883  
shall be approved for the remainder of the triennial period. The 884  
commission, prior to the triennial review, may place on 885  
probationary status or revoke the approval of any institution that 886  
provides a course of study in auctioneering if the institution 887  
fails to comply with the requirements and standards established 888  
under this division. 889

(C) Members of the commission who are licensed auctioneers 890  
under this chapter shall administer the oral licensing examination 891  
required under section 4707.08 of the Revised Code. 892

(D) Each commissioner shall receive the commissioner's actual 893  
and necessary expenses incurred in the discharge of ~~such the~~ 894  
commissioner's duties. Each commissioner also shall receive a per 895  
diem salary from the auctioneers fund created in section 4707.05 896  
of the Revised Code for each meeting attended. The director of 897  
agriculture shall adopt rules in accordance with Chapter 119. of 898  
the Revised Code establishing the per diem salary. 899

(E) The commission may form subcommittees for purposes of 900

research, education, and promotion of the auctioneering 901  
profession. If a majority of the members of the commission 902  
approves, the members of a subcommittee may be reimbursed from the 903  
auction education fund created in section 4707.171 of the Revised 904  
Code for the actual and necessary expenses incurred in the 905  
discharge of their duties. 906

(F) Serving as a member of the commission does not constitute 907  
holding a public office or position of employment under the laws 908  
of this state and does not constitute grounds for removal of 909  
public officers or employees from their offices or positions of 910  
employment. 911

(G) The commission may advise the director on actions of the 912  
director as required under this chapter. 913

**Sec. 4707.05.** Except as otherwise provided in section 4707.25 914  
of the Revised Code, all fees and charges collected by the 915  
department of agriculture pursuant to this chapter shall be paid 916  
into the state treasury to the credit of the auctioneers fund, 917  
which is hereby created. All expenses incurred by the department 918  
in administering this chapter shall be paid out of the fund. The 919  
total expenses incurred by the department in the administration of 920  
this chapter shall not exceed the total fees, charges, fines, and 921  
penalties imposed under sections 4707.08, 4707.10, and 4707.99 of 922  
the Revised Code and paid to the treasurer of state. The 923  
department may conduct education programs for the enlightenment 924  
and benefit of all auctioneers who have paid fees pursuant to 925  
sections 4707.08 and 4707.10 of the Revised Code. 926

~~Out of the moneys credited pursuant to this section, the fund~~ 927  
~~shall be assessed a proportionate share of the administrative~~ 928  
~~costs of the department in accordance with procedures prescribed~~ 929  
~~by the director of agriculture and approved by the director of~~ 930  
~~budget and management. The assessment shall be paid from the~~ 931

~~auctioneers fund to the division of administration fund.~~ 932

At the end of each fiscal year, if the balance of the fund is 933  
greater than three hundred thousand dollars, the director of 934  
agriculture shall request the director of budget and management 935  
to, and the director of budget and management shall, transfer 936  
twenty-five per cent of the balance that is in excess of three 937  
hundred thousand dollars to the auction recovery fund created in 938  
section 4707.25 of the Revised Code. 939

**Sec. 4707.06.** The department of agriculture shall maintain a 940  
record of the names and addresses of all auction firms, 941  
auctioneers ~~and~~, apprentice auctioneers, and special auctioneers 942  
licensed by the department. This record shall also include a list 943  
of all persons whose licenses have been suspended or revoked, as 944  
well as any other information relative to the enforcement of 945  
~~sections 4707.01 to 4707.22 of the Revised Code, as this chapter~~ 946  
that the department ~~may deem~~ considers of interest to the public. 947

**Sec. 4707.07.** (A) The department of agriculture may grant 948  
auctioneers' licenses to those ~~persons deemed~~ individuals who are 949  
determined to be qualified by the department. Each ~~person~~ 950  
individual who applies for an auctioneer's license shall furnish 951  
to the department, on forms provided by the department, 952  
satisfactory proof that the applicant: 953

(1) Has a good reputation; 954

(2) Is of trustworthy character; 955

(3) Has attained the age of at least eighteen years; 956

(4) Has done one of the following: 957

(a) Met the apprenticeship requirements set forth in section 958  
4707.09 of the Revised Code; 959

(b) Met the requirements of section 4707.12 of the Revised 960



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(5) Has a general knowledge of the following:	962
(a) The requirements of the Revised Code relative to auctioneers;	963 964
(b) The auction profession;	965
(c) The principles involved in conducting an auction;	966
(d) <u>Any local and federal laws regarding the profession of auctioneering.</u>	967 968
(6) Has satisfied the financial responsibility requirements established under section 4707.11 of the Revised Code if applicable.	969 970 971
(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.	972 973 974 975 976
(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>	977 978 979 980 981
<del>An application for an auctioneer's license filed by a partnership or association shall contain a listing of the names of all of the licensed partners, members, or other persons who are authorized to perform the functions of an auctioneer as agents of the applicant. An application filed by a corporation shall contain the names of its president and of each of its licensed officers and any other person who is authorized to perform the functions of an auctioneer as an agent of the applicant.</del>	982 983 984 985 986 987 988 989
(D) A licensee may do business under more than one registered	990

name ~~if~~, but not to exceed three registered names, provided that 991  
the names have been approved by the department. The department may 992  
reject the application of any person seeking licensure under this 993  
chapter if the name or names to be used by the applicant are 994  
likely to mislead the public, or if the name or names do not 995  
distinguish the applicant from the name or names of any existing 996  
person licensed under this chapter. If an applicant applies to the 997  
department to do business under ~~more than two~~ three names, the 998  
department may charge a fee of ten dollars for the third name ~~and~~ 999  
~~each additional name.~~ 1000

(D) The department, in its discretion, may waive the 1001  
schooling and apprenticeship requirements for a resident of this 1002  
state, provided that the resident holds a valid auctioneer license 1003  
that was issued by a state with which the department has entered 1004  
into a reciprocal licensing agreement and the resident is in good 1005  
standing with that state. The applicant shall provide proof that 1006  
is satisfactory to the department that the applicant has had two 1007  
years of experience as an auctioneer immediately preceding the 1008  
date of application that includes at a minimum twelve auctions in 1009  
which the applicant was a bid caller in the reciprocal state. 1010

**Sec. 4707.071.** (A) On May 1, 1991, all persons licensed as 1011  
auction companies under former section 4707.071 of the Revised 1012  
Code shall comply with all provisions of this chapter that are 1013  
applicable to auctioneers except as provided in divisions (B) and 1014  
(C) of this section. Such persons, however, do not have to serve 1015  
an apprenticeship or attend a course of study under section 1016  
4707.09 of the Revised Code or submit to an examination under 1017  
section 4707.08 of the Revised Code as long as they do not engage 1018  
in the calling for, recognition of, and the acceptance of, offers 1019  
for the purchase of personal property at auction and do not 1020  
conduct auctions at any location other than the definite place of 1021  
business required in section 4707.14 of the Revised Code. 1022

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

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

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

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

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

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

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

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

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

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

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

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

~~(7)~~(G) Has not applied for or previously obtained a license 1084  
under this section; 1085

(H) Has provided proof of financial responsibility in the 1086  
form of either an irrevocable letter of credit or a cash bond or a 1087  
surety bond in the amount of fifty thousand dollars. If the 1088  
applicant gives a surety bond, the bond shall be executed by a 1089  
surety company authorized to do business in this state. A bond 1090  
shall be made to the department and shall be conditioned that the 1091  
applicant shall comply with this chapter and rules adopted under 1092  
it, including refraining from conduct described in section 4707.15 1093  
of the Revised Code. All bonds shall be on a form approved by the 1094  
director of agriculture. 1095

**Sec. 4707.073. (A) No corporation, general or limited** 1096  
**partnership, or unincorporated association shall act or hold** 1097  
**itself out as an auctioneer without a valid auctioneer's license** 1098  
**issued under this section. This section does not apply to a person** 1099  
**who is issued a license under section 4707.071 of the Revised** 1100  
**Code.** 1101

(B) The department of agriculture may grant an auctioneer's 1102  
license to a corporation, general or limited partnership, or 1103  
unincorporated association that is determined to be qualified by 1104  
the department. Every applicant for a license under this section 1105  
shall furnish to the department, on forms provided by the 1106  
department, satisfactory proof that the applicant: 1107

(1) Is in good standing with the secretary of state if the 1108  
applicant is a corporation; 1109

(2) Is of trustworthy character; 1110

(3) Has provided proof of financial responsibility as 1111  
required in section 4707.11 of the Revised Code; 1112

(4) Is registered with the secretary of state or a local 1113

authority, as applicable, to do business in this state; 1114

(5) Has complied with any other requirement that the director establishes in rules adopted under section 4707.19 of the Revised Code. 1115  
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(C) An application submitted under this section shall list the names of all of the owners, directors, partners, or members of the applicant, as applicable, and shall indicate those that have an auctioneer's license issued under section 4707.07 of the Revised Code. 1118  
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(D)(1) The department shall not issue a license under this section unless one of the following applies, as applicable: 1123  
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(a) If the applicant is a general or limited partnership, not less than fifty per cent of the general partners have a current license issued under section 4707.07 of the Revised Code. 1125  
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(b) If the applicant is a corporation, not less than fifty per cent of the directors and the president or chief executive have a current license issued under section 4707.07 of the Revised Code. 1128  
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(c) If the applicant is an unincorporated association, not less than fifty per cent of the members have a current license issued under section 4707.07 of the Revised Code. 1132  
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Failure of a corporation, partnership, or unincorporated association to maintain the applicable requirements of this division after the issuance of a license under this section may be sufficient cause for the revocation of the license under section 4707.15 of the Revised Code. 1135  
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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 1140  
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with the requirements established in division (D)(1) of this 1144  
section. If such a corporation, partnership, or unincorporated 1145  
association fails to comply with those requirements, the license 1146  
of the corporation, partnership, or unincorporated association 1147  
immediately shall terminate. 1148

(E) Upon the issuance of a license under this section, a 1149  
corporation, partnership, or unincorporated association shall 1150  
designate an individual from among its directors, partners, or 1151  
members who is licensed under section 4707.07 of the Revised Code 1152  
as its agent for purposes of communication with the department. If 1153  
that individual ceases to be the agent, the corporation, 1154  
partnership, or unincorporated association shall notify the 1155  
department not later than ten days after the day on which the 1156  
individual ceases to be the agent. Upon notification to the 1157  
department, the license of the corporation, partnership, or 1158  
unincorporated association, as applicable, immediately shall 1159  
terminate. If the corporation, partnership, or unincorporated 1160  
association notifies the department of the designation of a new 1161  
agent in accordance with the requirements of this division and 1162  
pays a fee in the amount of ten dollars, the department shall 1163  
issue the corporation, partnership, or unincorporated association 1164  
a new license. 1165

(F) This section does not preclude a corporation, 1166  
partnership, or unincorporated association from selling real 1167  
property at auction, provided that the requirements of this 1168  
section and section 4707.021 and Chapter 4735. of the Revised Code 1169  
are satisfied. 1170

(G) A person licensed as a real estate broker under Chapter 1171  
4735. of the Revised Code shall not be required to obtain a 1172  
license under this section if the person complies with sections 1173  
4707.021 and 4707.22 of the Revised Code. 1174

Sec. 4707.074. (A) A person who is not otherwise licensed 1175  
under this chapter and who only provides auction services or holds 1176  
the person's self out as providing auction services shall do so 1177  
only with a valid auction firm license issued under this section. 1178  
This section does not apply to either of the following: 1179

(1) A person licensed as a motor vehicle auction owner under 1180  
Chapter 4517. of the Revised Code who exclusively sells motor 1181  
vehicles and who uses an auctioneer who is licensed under this 1182  
chapter to conduct the auction; 1183

(2) A person licensed as a livestock dealer under Chapter 1184  
943. of the Revised Code who exclusively sells livestock and uses 1185  
an auctioneer who is licensed under this chapter to conduct the 1186  
auction. 1187

(B) The department of agriculture may grant an auction firm 1188  
license to an auction firm that is determined to be qualified by 1189  
the department. Every applicant for an auction firm license shall 1190  
furnish to the department, on forms provided by the department, 1191  
satisfactory proof that the applicant: 1192

(1) Is in good standing with the secretary of state if the 1193  
applicant is a corporation; 1194

(2) Is of trustworthy character; 1195

(3) Is registered with the secretary of state or a local 1196  
authority, as applicable, to do business in this state; 1197

(4) Has complied with any other requirement that the director 1198  
establishes in rules adopted under section 4707.19 of the Revised 1199  
Code; 1200

(5) Has a general knowledge of the requirements of the 1201  
Revised Code and the general principles regarding auctions, 1202  
auctioneering, and auction management; 1203



<u>(6) Has provided proof of financial responsibility in the</u>	1204
<u>amount of fifty thousand dollars in the form of a surety bond, an</u>	1205
<u>irrevocable letter of credit, or cashbond;</u>	1206
<u>(7) Employs a firm manager as required under division (D) of</u>	1207
<u>this section.</u>	1208
<u>(C) An application submitted under this section for an</u>	1209
<u>auction firm license shall list the names of all of the owners,</u>	1210
<u>directors, partners, or members of the applicant, as applicable.</u>	1211
<u>(D) An auction firm shall designate a firm manager. The firm</u>	1212
<u>manager shall have sufficient authority in the operation of the</u>	1213
<u>auction firm to ensure compliance with this chapter and rules</u>	1214
<u>adopted under it. If the firm manager does not have a current</u>	1215
<u>license issued under section 4707.07 of the Revised Code, the firm</u>	1216
<u>manager shall pass the written examination held under section</u>	1217
<u>4707.08 of the Revised Code before the department may issue a</u>	1218
<u>license under this section to the auction firm.</u>	1219
<u>(E)(1) An auction firm license issued under this section</u>	1220
<u>immediately shall terminate if any of the following occurs:</u>	1221
<u>(a) The auction firm incorporates.</u>	1222
<u>(b) The auction firm ceases to operate as a corporation.</u>	1223
<u>(c) The auction firm changes ownership.</u>	1224
<u>(d) If the auction firm is a partnership, the firm changes</u>	1225
<u>the number of partners in the partnership or changes the partners</u>	1226
<u>comprising the partnership.</u>	1227
<u>(e) The auction firm changes the firm manager.</u>	1228
<u>(f) The auction firm changes the name under which the firm</u>	1229
<u>conducts business.</u>	1230
<u>(g) The auction firm changes its permanent business location.</u>	1231
<u>If a license terminates under this division, the licensee</u>	1232

immediately shall cease auction services, notify the department of 1233  
the termination, and return the terminated license to the 1234  
department. 1235

(2) Not later than ten days prior to the date on which an 1236  
auction firm license will terminate pursuant to division 1237  
(E)(1)(a), (b), (c), or (d) of this section, the auction firm may 1238  
submit an application for a new auction firm license in accordance 1239  
with division (B) of this section. If the auction firm submits the 1240  
application, returns the terminated license, and pays a fee in the 1241  
amount of one hundred dollars, the department may issue a new 1242  
license under this section. 1243

(3) If a license terminates pursuant to division (E)(1)(e), 1244  
(f), or (g) of this section and the formerly licensed auction firm 1245  
notifies the department, returns the terminated license, and pays 1246  
a fee in the amount of ten dollars, the department shall issue a 1247  
new license under this division. 1248

(F) For purposes of the financial responsibility that is 1249  
required under division (B) of this section, if a person provides 1250  
a surety bond, the bond shall be executed by a surety company that 1251  
is authorized to do business in this state. The bond shall be made 1252  
payable to the department and shall include a condition that 1253  
requires the applicant to comply with this chapter and rules 1254  
adopted under it, including a requirement that the person refrain 1255  
from conduct described in section 4707.15 of the Revised Code. A 1256  
bond shall be on a form that is approved by the director. A person 1257  
who is issued a license under this section shall maintain the 1258  
financial responsibility that is required under division (B) of 1259  
this section for as long as the person is licensed. 1260

(G) An auction firm licensed under this section shall not 1261  
conduct the bid calling for the sale of real or personal property 1262  
at auction. 1263

Sec. 4707.08. (A) The department of agriculture shall hold 1264  
written examinations four times each year for the purpose of 1265  
testing the qualifications required for obtaining a license under 1266  
section 4707.07 of the Revised Code and twelve times each year for 1267  
obtaining a license under section 4707.09 of the Revised Code and 1268  
for unlicensed auction firm managers as required under division 1269  
(D) of section 4707.074 of the Revised Code. The written 1270  
examination shall be held at the department or at an alternative 1271  
location determined by the department. In addition to the written 1272  
examination, auctioneer license applicants shall pass an oral 1273  
examination administered by the state auctioneers commission on 1274  
the same date and at the same location as the written examination. 1275  
An examination shall not be required for the renewal of any 1276  
license unless ~~such~~ the license has been revoked, suspended, or 1277  
allowed to expire without renewal, in which case the applicant 1278  
shall take and pass the appropriate examinations offered by the 1279  
department. 1280

An examination fee of twenty-five dollars shall be collected 1281  
from each person taking the auctioneer examination and fifteen 1282  
dollars from each person taking either the apprentice auctioneer 1283  
examination or the auction firm manager examination to defray 1284  
expenses of holding ~~such~~ the examinations. 1285

(B) All applications and proofs ~~must~~ shall be filed by each 1286  
applicant before the scheduled date of examination, and ~~must~~ shall 1287  
be accompanied by ~~a bond~~ proof of financial responsibility and a 1288  
license fee. In order to be seated for an examination held under 1289  
this section, an applicant shall have a complete application on 1290  
file with the department not later than fourteen days prior to the 1291  
examination date. 1292

(C) If a court of competent jurisdiction or the department, 1293  
at an administrative hearing, has found that an applicant 1294

conducted an auction, provided auction services, or acted as an 1295  
auctioneer without a license issued under this chapter, the 1296  
department may refuse to allow the applicant to take an 1297  
examination under this section or may deny the issuance of a 1298  
license to the applicant for a period of two years. 1299

(D)(1) If an applicant for a license fails to pass the 1300  
examination, the applicant may take the examination on the next 1301  
scheduled date for the examination. If an applicant fails to pass 1302  
the examination on the second consecutive attempt, the applicant 1303  
shall not take the examination on the next scheduled date for the 1304  
examination. 1305

(2) If an applicant for a license fails to pass the 1306  
examination on the third attempt, the applicant shall attend 1307  
auction school a second time before the applicant may take the 1308  
examination. If an applicant for a license fails to pass the 1309  
examination on the fourth attempt, the applicant shall not take 1310  
the examination for at least one year from the date of the last 1311  
failed attempt. 1312

(3) If an individual who is taking the examination for an 1313  
auction firm manager fails to pass the examination on the third 1314  
attempt, the individual shall not take the examination for one 1315  
year from the date of the last failed attempt. 1316

**Sec. 4707.09.** The department of agriculture may grant 1317  
apprentice auctioneers' licenses to those persons deemed that are 1318  
determined to be qualified by the department. Every applicant for 1319  
an apprentice auctioneer's license shall pass an examination 1320  
relating to the skills, knowledge, and statutes and rules 1321  
governing auctioneers. Every applicant for an apprentice 1322  
auctioneer's license shall furnish to the department, on forms 1323  
provided by the department, satisfactory proof that the applicant: 1324

(A) Has a good reputation;	1325
(B) Is of trustworthy character;	1326
(C) Has attained the age of at least eighteen years;	1327
(D) Has obtained a written promise of a licensed auctioneer to sponsor the applicant during the applicant's apprenticeship;	1328 1329
(E) Has satisfied the financial responsibility requirements established under section 4707.11 of the Revised Code if applicable;	1330 1331 1332
<u>(F) Has successfully completed a course of study in auctioneering at an institution that is approved by the state auctioneers commission.</u>	1333 1334 1335
Before an apprentice may take the auctioneer's license examination, the apprentice shall serve an apprenticeship of at least twelve months, <del>successfully complete a course of study in auctioneering at an institution that is approved every three years by the state auctioneers commission,</del> and <del>conduct,</del> <u>participate</u> as a bid caller, <u>in</u> at least twelve auction sales under the direct supervision of the sponsoring licensed auctioneer, which <del>sales</del> <u>auctions</u> shall be certified by the licensed auctioneer on the apprentice's application for an auctioneer's license. <u>No</u> <u>apprentice auctioneer shall be under the sponsorship of more than</u> <u>one licensed auctioneer at one time.</u>	1336 1337 1338 1339 1340 1341 1342 1343 1344 1345 1346
If an auctioneer intends to terminate sponsorship of an apprentice auctioneer, the sponsoring auctioneer shall notify the apprentice auctioneer of the sponsoring auctioneer's intention by certified mail, return receipt requested, at least ten days prior to the effective date of termination and, at the same time, shall deliver or mail by certified mail to the department <del>of agriculture</del> a copy of the termination notice and the license of the apprentice auctioneer. No apprentice auctioneer shall perform any acts under	1347 1348 1349 1350 1351 1352 1353 1354

authority of the apprentice's license after the effective date of 1355  
the termination until the apprentice receives a new license 1356  
~~bearing the name and address of the apprentice's new sponsor.~~ No 1357  
more than one license shall be issued to any apprentice auctioneer 1358  
for the same period of time. 1359

No licensed auctioneer shall have under the licensed 1360  
auctioneer's sponsorship more than two apprentice auctioneers at 1361  
one time. No auctioneer shall sponsor an apprentice auctioneer if 1362  
the auctioneer has not been licensed and in good standing for a 1363  
period of at least two years immediately before sponsoring the 1364  
apprentice auctioneer. A sponsoring auctioneer whose license is 1365  
suspended or revoked shall send to the department the apprentice 1366  
auctioneer's license not later than fourteen days after the 1367  
suspension or revocation. If a sponsoring auctioneer's license is 1368  
suspended or revoked, the apprentice auctioneer shall obtain a 1369  
written promise of sponsorship from another licensed auctioneer 1370  
before performing any acts under the authority of an apprentice 1371  
auctioneer's license. The apprentice auctioneer shall send a copy 1372  
of the written promise of sponsorship of another auctioneer to the 1373  
department. If the department receives a copy of such a written 1374  
promise of sponsorship and the apprentice pays the fee established 1375  
by the department, the department shall issue a new license to the 1376  
apprentice. 1377

An apprentice auctioneer may terminate the apprentice's 1378  
sponsorship with an auctioneer by notifying the auctioneer of the 1379  
apprentice's intention by certified mail, return receipt 1380  
requested, at least ten days prior to the effective date of 1381  
termination. At the same time, the apprentice shall deliver or 1382  
mail by certified mail to the department ~~of agriculture~~ a copy of 1383  
the termination notice. Upon receiving the termination notice, the 1384  
sponsoring auctioneer shall promptly deliver or mail by certified 1385  
mail to the department the license of the apprentice auctioneer. 1386

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

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

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

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

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

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

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

<u>dollars;</u>	1417
<u>(b) In the case of an auctioneer whose license is reacquired</u>	1418
<u>during the first half of the biennium according to the biennial</u>	1419
<u>schedule established in division (B) of section 4707.10 of the</u>	1420
<u>Revised Code, two hundred dollars;</u>	1421
<u>(c) In the case of an auctioneer whose license is reacquired</u>	1422
<u>during the second half of the biennium according to that biennial</u>	1423
<u>schedule, one hundred dollars.</u>	1424
<u>(3) Pays the assessment that is levied under section 4707.25</u>	1425
<u>of the Revised Code for the current year, if applicable;</u>	1426
<u>(4) Provides proof of financial responsibility as required in</u>	1427
<u>section 4707.11 of the Revised Code, if applicable;</u>	1428
<u>(5) Complies with any other requirement established in rules</u>	1429
<u>adopted by the director under section 4707.19 of the Revised Code.</u>	1430
<u>(D) If an auctioneer or apprentice auctioneer, at the time of</u>	1431
<u>placing the auctioneer's or apprentice auctioneer's license on</u>	1432
<u>deposit, as applicable, has not maintained proof of financial</u>	1433
<u>responsibility for the entire period of time required under</u>	1434
<u>section 4707.11 of the Revised Code, the auctioneer or apprentice</u>	1435
<u>auctioneer, beginning at the time of reacquisition, shall maintain</u>	1436
<u>proof of financial responsibility for the remainder of the time</u>	1437
<u>required under that section.</u>	1438
<del>Sec. 4707.10. (A) For purposes of this section, the</del>	1439
<del>department of agriculture shall adopt rules in accordance with</del>	1440
<del>section 4707.19 of the Revised Code prescribing fees that</del>	1441
<del>licensees must pay and license renewal deadlines and procedures</del>	1442
<del>with which licensees must comply. Until those rules are adopted,</del>	1443
<del>licensees shall pay the fees and comply with the license renewal</del>	1444
<del>deadlines and procedures established in this section.</del>	1445
<del>(B) The fee for each auctioneer's, apprentice auctioneer's,</del>	1446



~~er special auctioneer's or auction firm~~ license issued by the 1447  
department is one hundred dollars, and the annual renewal fee for 1448  
any such license is one hundred dollars. All licenses expire 1449  
annually on the last day of June of each year and shall be renewed 1450  
according to the standard renewal procedures of Chapter 4745. of 1451  
the Revised Code, or the procedures of this section. Any licensee 1452  
under this chapter who wishes to renew the licensee's license, but 1453  
fails to do so before the first day of July shall reapply for 1454  
licensure in the same manner and pursuant to the same requirements 1455  
as for initial licensure, unless before the first day of September 1456  
of the year of expiration, the former licensee pays to the 1457  
department, in addition to the regular renewal fee, a late renewal 1458  
penalty of one hundred dollars. 1459

(B)(1) Each person to whom the department issues an 1460  
auctioneer's license or special auctioneer's license shall pay a 1461  
licensure fee. Those licenses are biennial and expire in 1462  
accordance with the schedule established in division (B)(2) of 1463  
this section. If such a license is issued during the first year of 1464  
a biennium, the licensee shall pay a fee in the amount of two 1465  
hundred dollars. If the license is issued during the second year 1466  
of a biennium, the licensee shall pay a fee in the amount of one 1467  
hundred dollars. With respect to an auctioneer's license, the fees 1468  
apply regardless of whether the license is issued to an individual 1469  
under section 4707.07 of the Revised Code or to a corporation, 1470  
partnership, or association under section 4707.073 of the Revised 1471  
Code. 1472

All auctioneer's licenses and special auctioneer's licenses 1473  
expire on the last day of June of the biennium. The licenses shall 1474  
be renewed in accordance with the standard renewal procedures of 1475  
Chapter 4745. of the Revised Code or the procedures in this 1476  
section and upon the licensee's payment to the department of a 1477  
renewal fee of two hundred dollars. A licensee who wishes to renew 1478

the licensee's license, but who fails to do so before the first 1479  
day of July following the license's expiration, shall reapply for 1480  
licensure in the same manner and pursuant to the same requirements 1481  
as for the initial licensure unless before the first day of 1482  
September following the expiration, the former licensee pays to 1483  
the department, in addition to the regular renewal fee, a late 1484  
renewal penalty of one hundred dollars. 1485

(2) The biennial expiration of an auctioneer's license or 1486  
special auctioneer's license shall occur in accordance with the 1487  
following schedule: 1488

(a) The license shall expire in odd-numbered years if the 1489  
business name or last name, as applicable, of the licensee begins 1490  
with the letters "A" through "J" or with the letters "X" through 1491  
"Z." 1492

(b) The license shall expire in even-numbered years if the 1493  
business name or last name, as applicable, of the licensee begins 1494  
with the letters "K" through "W." 1495

(C) Any person who fails to renew the person's license before 1496  
the first day of July is prohibited from engaging in any activity 1497  
specified or comprehended in section 4707.01 of the Revised Code 1498  
until such time as the person's license is renewed or a new 1499  
license is issued. Renewal of a license between the first day of 1500  
July and the first day of September does not relieve any person 1501  
from complying with this division. The department may refuse to 1502  
renew the license of or issue a new license to any person who 1503  
violates this division. 1504

(D) The department shall prepare and deliver to each licensee 1505  
a permanent license certificate and an identification card, the 1506  
appropriate portion of which shall be carried on the person of the 1507  
licensee at all times when engaged in any type of auction 1508  
activity, and part of which shall be posted with the permanent 1509

certificate in a conspicuous location at the licensee's place of  
business. 1510  
1511

(E) Notice in writing shall be given to the department by 1512  
each auctioneer or apprentice auctioneer licensee of any change of 1513  
principal business location or any change or addition to the name 1514  
or names under which business is conducted, whereupon the 1515  
department shall issue a new license for the unexpired period. Any 1516  
change of business location or change or addition of names without 1517  
notification to the department shall automatically cancel any 1518  
license previously issued. For each new auctioneer or apprentice 1519  
auctioneer license issued upon the occasion of a change in 1520  
business location or a change in or an addition of names under 1521  
which business is conducted, the department may collect a fee of 1522  
ten dollars for each change in location, or name or each added 1523  
name unless the notification of the change occurs concurrently 1524  
with the renewal application or unless otherwise provided in 1525  
section 4707.07 of the Revised Code. 1526

**Sec. 4707.11.** (A) Except as provided in division (B) of this 1527  
section, each application for a license issued under this chapter 1528  
shall be accompanied by proof of financial responsibility in the 1529  
form of either an irrevocable letter of credit or a cash bond or a 1530  
surety bond in the amount of twenty-five thousand dollars. If the 1531  
applicant gives a surety bond, the bond shall be executed by a 1532  
surety company authorized to do business in this state. 1533

A bond shall be made payable to the department of agriculture 1534  
and shall ~~be conditioned~~ include a condition that requires the 1535  
applicant ~~shall~~ to comply with this chapter and rules adopted 1536  
under it, including ~~refraining a requirement that the person~~ 1537  
refrain from conduct described in section 4707.15 of the Revised 1538  
Code. All bonds shall be on a form approved by the director of 1539  
agriculture. 1540

A licensee shall maintain proof of financial responsibility 1541  
for three years following the date of initial licensure. After the 1542  
three-year period, a licensee who has not engaged in conduct 1543  
described in section 4707.15 of the Revised Code and has not 1544  
otherwise violated this chapter or rules adopted under it during 1545  
that period shall no longer be required to maintain proof of 1546  
financial responsibility except as otherwise provided in this 1547  
section. 1548

A licensee whose license expires without being renewed under 1549  
section 4707.10 of the Revised Code or is suspended under section 1550  
4707.30 of the Revised Code shall give proof of financial 1551  
responsibility in accordance with this section in order to obtain 1552  
reinstatement or reactivation of the license. 1553

(B) Division (A) of this section does not apply to ~~either~~ any 1554  
of the following: 1555

(1) A licensee whose license was issued prior to July 1, 1556  
2003, provided that the license continues to be renewed under 1557  
section 4707.10 of the Revised Code and is not suspended under 1558  
section 4707.15 or 4707.30 of the Revised Code; 1559

(2) An apprentice auctioneer licensee whose license was 1560  
issued under section 4707.09 of the Revised Code prior to July 1, 1561  
2003, and who applies for an auctioneer's license under section 1562  
4707.07 of the Revised Code on or after July 1, 2003, provided 1563  
that the apprentice auctioneer's license is not suspended under 1564  
section 4707.15 or 4707.30 of the Revised Code, and, if necessary, 1565  
continues to be renewed under section 4707.10 of the Revised Code, 1566  
prior to the issuance of the auctioneer's license to the 1567  
applicant; 1568

(3) An auction firm license that is issued under section 1569  
4707.074 of the Revised Code. 1570

**Sec. 4707.111.** The state, through the department of 1571  
agriculture and in accordance with this chapter, shall solely 1572  
regulate auctioneers, auction firms, and the conduct of auction 1573  
sales. 1574

By enactment of this chapter, it is the intent of the general 1575  
assembly to preempt municipal corporations and other political 1576  
subdivisions from the regulation and licensing of auctioneers, 1577  
auction firms, and auction sales. 1578

At least twenty-four hours prior to an auction, the person 1579  
licensed under this chapter to conduct the auction shall notify, 1580  
via telephone, mail, or personal delivery, the chief of police of 1581  
the municipal corporation in which the auction site is located, 1582  
or, if the site is in the unincorporated area of a county, the 1583  
county sheriff as to the location and time of the auction and give 1584  
to that officer a general description of the items offered for 1585  
sale. A licensee who conducts regular auction sales on a fixed day 1586  
at the same location is required to provide such notice to the 1587  
chief of police or county sheriff only once. However, the licensee 1588  
shall notify the chief of police or county sheriff if the auctions 1589  
subsequently are discontinued or are conducted on a different day 1590  
or at a different location. 1591

**Sec. 4707.12.** A nonresident may operate as an auctioneer, 1592  
apprentice auctioneer, or special auctioneer within the state by 1593  
conforming to this chapter. 1594

The department of agriculture may, within its discretion, 1595  
waive the testing and schooling requirements for a nonresident, 1596  
provided that the nonresident holds a valid auctioneer or 1597  
apprentice auctioneer license issued by a state with which the 1598  
department has entered into a reciprocal licensing agreement. 1599  
Nonresidents wishing to so operate in this state shall make 1600

application in writing to the department and furnish the 1601  
department with proof of their ability to conduct an auction, 1602  
proof of license and ~~bond if they reside in a state with these~~ 1603  
~~requirements~~ financial responsibility, as well as other 1604  
information ~~which that~~ the department may request. If a state with 1605  
which the department has entered into a reciprocal licensing 1606  
agreement does not require an apprenticeship, the applicant shall 1607  
provide proof of license for a period of at least one year prior 1608  
to receipt of the application. 1609

This section does not apply to nonresident auctioneers who 1610  
~~reside in states under the laws of which similar recognition and~~ 1611  
~~courtesies are~~ do not extended to licensed auctioneers of this 1612  
have a license from a state with which the department has entered 1613  
into a reciprocal licensing agreement. 1614

**Sec. 4707.14.** (A) Each person licensed under ~~sections 4707.07~~ 1615  
~~to 4707.22 of the Revised Code~~ this chapter shall have a definite 1616  
place of business in this state. 1617

(B) Except as provided in division (C) of this section, if 1618  
the licensee is a nonresident, it is not necessary for ~~him~~ the 1619  
licensee to maintain an active place of business within this state 1620  
if ~~he~~ the licensee maintains such a place of business in the state 1621  
where ~~he~~ the licensee is a resident. 1622

(C) A nonresident ~~former auction company licensee~~ who is 1623  
licensed as a special auctioneer under section 4707.071 of the 1624  
Revised Code shall have a definite place of business within the 1625  
state and shall not conduct auctions anywhere else in the state 1626  
other than ~~his~~ the licensee's place of business. 1627

**Sec. 4707.15.** The department of agriculture may deny, refuse 1628  
to renew, suspend, or revoke the license of any auction firm, 1629  
auctioneer, apprentice auctioneer, or special auctioneer for any 1630

of the following causes:	1631
(A) Obtaining a license through false or fraudulent representation;	1632 1633
(B) Making any substantial misrepresentation in an application for <del>an auctioneer's, apprentice auctioneer's, or special auctioneer's</del> <u>a</u> license;	1634 1635 1636
(C) A continued course of misrepresentation or for making false promises through agents, advertising, or otherwise;	1637 1638
(D) <u>Specifying that an auction is a reserve auction, absolute auction, or estate auction, but not conducting the auction as specified;</u>	1639 1640 1641
(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;	1642 1643 1644 1645 1646 1647 1648 1649
<del>(E)</del> (F) Paying valuable consideration to any person who has violated this chapter;	1650 1651
<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;	1652 1653 1654 1655
<del>(G)</del> (H) Violation of this chapter <u>or rules adopted under it;</u>	1656
<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>	1657 1658 1659
<del>(I)</del> (J) Any conduct of <del>an auctioneer which</del> <u>a person that is</u>	1660

<u>licensed under this chapter that demonstrates bad faith,</u>	1661
dishonesty, incompetency, or untruthfulness;	1662
<del>(J)</del> (K) Any other conduct that constitutes improper,	1663
fraudulent, or dishonest dealings;	1664
<del>(K)</del> (L) Failing prior to the sale at public auction to enter	1665
into a written contract with the owner or consignee of any	1666
property to be sold, containing the terms and conditions upon	1667
which <del>such</del> <u>the</u> licensee received the property for <del>sale</del> <u>auction</u> ;	1668
<del>(L)</del> (M) The use of any power of attorney to circumvent this	1669
chapter;	1670
<del>(M)</del> (N) Failure to display <u>the sign required under section</u>	1671
<u>4707.22 of the Revised Code and</u> a notice conspicuously at the	1672
clerk's desk or on a bid card that clearly states the terms and	1673
conditions of the <del>sale, the name of the auctioneer or special</del>	1674
<del>auctioneer conducting the sale, and that the auctioneer or special</del>	1675
<del>auctioneer is licensed by the department of agriculture and has</del>	1676
<del>filed a bond</del> <u>auction</u> ;	1677
<del>(N)</del> (O) Failure to notify the department of any conviction of	1678
a felony or crime involving fraud within fifteen days of	1679
conviction;	1680
<del>(O) Acting in the capacity of an auctioneer, whether for</del>	1681
<del>valuable consideration or not, for any special auctioneer that is</del>	1682
<del>not licensed under this chapter</del> (P) <u>Aiding an unlicensed person in</u>	1683
<u>the performance of services or acts that require a license under</u>	1684
<u>this chapter</u> ;	1685
(O) <u>The suspension or revocation of a license to engage in</u>	1686
<u>auctioneering or other disciplinary action by the licensing</u>	1687
<u>authority of another state</u> ;	1688
(R) <u>The refusal or disapproval by the licensing authority of</u>	1689
<u>another state of an application for a license to engage in</u>	1690



<u>auctioneering;</u>	1691
<u>(S) Failure of a licensee to notify the department of agriculture within fifteen days of a disciplinary action against the licensee by another state's applicable governing authority;</u>	1692 1693 1694
<u>(T) Engaging in auctioneering or providing auction services without a license or during the suspension of a license;</u>	1695 1696
<u>(U) Attempting to cheat or cheating on an auctioneer examination or aiding another to cheat on an examination.</u>	1697 1698
<b>Sec. 4707.151.</b> (A) No person shall engage in bid rigging.	1699
(B) As used in this section, "bid rigging" means a conspiracy between auctioneers, apprentice auctioneers, special auctioneers, any participants in an auction, or any other persons who agree not to bid against each other at an auction or who otherwise conspire to decrease <u>or increase</u> the number or amounts of bids offered at auction.	1700 1701 1702 1703 1704 1705
<b>Sec. 4707.16.</b> (A) The department of agriculture may, upon its own motion, and shall, upon the verified written complaint of any person, investigate the actions of any <u>auction firm</u> , auctioneer, apprentice auctioneer, or special auctioneer, any applicant for an <u>auction firm's</u> , auctioneer's, apprentice auctioneer's, or special auctioneer's license, or any person who assumes to act in that capacity, if the complaint, together with other evidence presented in connection with it, makes out a prima-facie case.	1706 1707 1708 1709 1710 1711 1712 1713 1714
If the department determines that any such applicant is not entitled to receive a license, a license shall not be granted to <del>such</del> <u>the</u> applicant, and if the department determines that any licensee is guilty of a violation of section 4707.14 or 4707.15 of the Revised Code, the department may suspend or revoke the	1715 1716 1717 1718 1719

license. Any auction firm, auctioneer, apprentice auctioneer, or 1720  
special auctioneer who has had the auction firm's, auctioneer's, 1721  
apprentice auctioneer's, or special auctioneer's license revoked 1722  
shall not be issued another such license for a period of two years 1723  
from the date of revocation. 1724

(B) The department may investigate complaints concerning the 1725  
violation of sections 4707.02 and 4707.15 of the Revised Code and 1726  
may subpoena witnesses in connection with such investigations as 1727  
provided in this section. The department may make application to 1728  
the court of common pleas for an order enjoining the violation of 1729  
sections 4707.02 and 4707.15 of the Revised Code, and upon a 1730  
showing by the department that any licensed auction firm, 1731  
auctioneer, apprentice auctioneer, or special auctioneer has 1732  
violated or is about to violate section 4707.15 of the Revised 1733  
Code, or any person has violated or is about to violate section 1734  
4707.02 of the Revised Code, an injunction, restraining order, or 1735  
other order as may be appropriate shall be granted by the court. 1736

(C) The department may compel by subpoena the attendance of 1737  
witnesses to testify in relation to any matter over which it has 1738  
jurisdiction and ~~which~~ that is the subject of inquiry and 1739  
investigation by it, and require the production of any book, 1740  
paper, or document pertaining to ~~such~~ that matter. In case any 1741  
person fails to file any statement or report, obey any subpoena, 1742  
give testimony, or produce any books, records, or papers as 1743  
required by such a subpoena, the court of common pleas of any 1744  
county in the state, upon application made to it by the 1745  
department, shall compel obedience by attachment proceedings for 1746  
contempt, as in the case of disobedience of the requirements of a 1747  
subpoena issued from ~~such~~ that court, or a refusal to testify 1748  
therein. 1749

(D) When the department determines that a person not licensed 1750  
under this chapter is engaged in or is believed to be engaged in 1751

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

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

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

**Sec. 4707.171.** There is hereby created in the state treasury the auction education fund. Seven dollars and fifty cents of each fee collected for an initial or renewed auctioneer's auction firm's or apprentice auctioneer's license shall be credited to the auction education fund. In addition, seven dollars and fifty cents out of each one hundred dollars that is collected as a fee for an initial or renewed auctioneer's license or for a renewed special auctioneer's license shall be credited to the fund. All interest

earned on moneys deposited in the state treasury to the credit of 1783  
the auction education fund shall be credited to the fund. 1784

The ~~Ohio~~ state auctioneers commission shall use any moneys 1785  
from the auction education fund to advance and underwrite 1786  
education and research in the auction field for the benefit of 1787  
those licensed under this chapter and the auctioneering public and 1788  
to cooperate with associations of auctioneers and other groups for 1789  
the education of auctioneers and the advancement of the auction 1790  
profession in this state. 1791

**Sec. 4707.18.** No person engaged in the business of, or acting 1792  
in the capacity of, an auction firm, auctioneer, or special 1793  
auctioneer shall bring or maintain any action in the courts of 1794  
this state for the collection of compensation for any services 1795  
performed as an auction firm or auctioneer without first alleging 1796  
and proving that the person was a duly licensed auction firm, 1797  
auctioneer, or special auctioneer at the time the alleged cause of 1798  
action arose. 1799

**Sec. 4707.19. (A)** The director of agriculture may adopt 1800  
reasonable rules necessary for the implementation of this chapter 1801  
in accordance with Chapter 119. of the Revised Code. In addition, 1802  
the director shall adopt rules in accordance with Chapter 119. of 1803  
the Revised Code that establish the portion of license fees 1804  
collected under this chapter that are to be deposited into the 1805  
auction recovery fund under section 4707.25 of the Revised Code. 1806

~~The~~ 1807

No person shall fail to comply with a rule adopted under this 1808  
chapter. 1809

(B) The director shall adopt rules that establish a schedule 1810  
of civil penalties for violations of this chapter, rules adopted 1811  
under it, or orders issued under it. The rules shall provide that 1812

the civil penalty for the first violation of this chapter, rule, 1813  
or order shall not exceed five thousand dollars and the civil 1814  
penalty for each subsequent offense shall not exceed ten thousand 1815  
dollars. In addition, the director, in establishing the schedule 1816  
of civil penalties in the rules, shall consider past violations of 1817  
this chapter and rules adopted under it, the severity of a 1818  
violation, and the amount of actual or potential damage to the 1819  
public or the auction profession. 1820

(C) The department of agriculture may hear testimony in 1821  
matters relating to the duties imposed on it, and any person 1822  
authorized by the director may administer oaths. The department 1823  
may require other proof of the honesty, truthfulness, and good 1824  
reputation of any person named in the application for an auction 1825  
firm's, auctioneer's, apprentice auctioneer's, or special 1826  
auctioneer's license before admitting the applicant to an 1827  
examination or issuing a license. 1828

**Sec. 4707.20.** (A) No person shall act as an auction firm, 1829  
auctioneer, or special auctioneer ~~on a sale at auction~~ until the 1830  
person has first entered into a written contract or agreement in 1831  
duplicate with the owner or consignee of any property to be sold, 1832  
containing the terms and conditions upon which the licensee 1833  
receives or accepts the property for sale at auction. The 1834  
contracts or agreements shall, for a period of two years, be kept 1835  
on file in the office of every person so licensed. No apprentice 1836  
auctioneer shall be authorized to enter into such a contract or 1837  
agreement without the written consent of the apprentice 1838  
auctioneer's sponsoring auctioneer, and all contracts or 1839  
agreements shall be made in the name of and on behalf of the 1840  
sponsoring auctioneer. In addition, an apprentice auctioneer shall 1841  
not enter into an auction contract for the sale of real property 1842  
in the name of the sponsoring auctioneer regardless of whether the 1843

apprentice auctioneer is licensed as a real estate broker or 1844  
salesperson. 1845

(B) On all contracts or agreements between an auction firm, 1846  
auctioneer, or special auctioneer and the owner or consignee, 1847  
there shall appear a prominent statement indicating that the 1848  
auction firm, auctioneer, or special auctioneer is licensed by the 1849  
department of agriculture, and either that the licensee is bonded 1850  
in favor of the state or that an aggrieved person may initiate a 1851  
claim against the auction recovery fund created in section 4707.25 1852  
of the Revised Code as a result of the licensee's actions, 1853  
whichever is applicable. 1854

(C) The auction firm, auctioneer, or special auctioneer who 1855  
contracts with the owner is liable for the settlement of all money 1856  
received, including the payment of all expenses incurred only by 1857  
the licensee and the distribution of all funds, in connection with 1858  
an auction. 1859

(D) For purposes of this section, a contract or agreement 1860  
shall specify all of the following: 1861

(1) The owner of the property to be sold or the owner's agent 1862  
or the consignee; 1863

(2) The date of the auction or a termination date of the 1864  
contract or agreement; 1865

(3) The location of the auction; 1866

(4) The terms and conditions of the auction; 1867

(5) All of the fees to be charged by the auctioneer or the 1868  
auction firm, which shall include commissions, rentals, 1869  
advertising, and labor; 1870

(6) An explanation of the settlement of the auction that 1871  
includes the disbursement of interest money, if applicable; 1872

(7) A statement establishing the responsibility for bad 1873

checks, debts, and unpaid auction items; 1874

(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. 1875  
1876  
1877  
1878

(9) A statement of the auctioneer's or auction firm's policy regarding absentee bidding; 1879  
1880

(10) A brief description of the real or personal property to be sold; 1881  
1882

(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. 1883  
1884  
1885  
1886

**Sec. 4707.21.** No auction firm, auctioneer, apprentice auctioneer, or special auctioneer shall willfully neglect or refuse to furnish the department of agriculture statistics or other information in the auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's possession or under the auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's control, ~~which~~ that the auction firm, auctioneer, apprentice auctioneer, or special auctioneer is authorized to collect; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer neglect or refuse, for more than thirty days, to answer questions submitted on circulars; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer knowingly answer any such questions falsely; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer refuse to obey subpoenas and give testimony. Licensees shall keep records relative to any auction sale for at least two years from the date of ~~sale~~ sale auction. These records shall include 1887  
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settlement sheets, written contracts, and copies of any 1904  
advertising that lists the items for ~~sale~~ auction, as applicable. 1905

**Sec. 4707.22.** (A) Any ~~auctioneer, apprentice auctioneer, or~~ 1906  
~~special auctioneer~~ person licensed under this chapter who 1907  
advertises, by linear advertisements or otherwise, to hold or 1908  
conduct an auction shall indicate in ~~such~~ the advertisement ~~his~~ 1909  
the licensee's name or the name registered with the department of 1910  
agriculture and that ~~he~~ the licensee is an auctioneer or 1911  
apprentice auctioneer. Any apprentice auctioneer who advertises, 1912  
as provided in this section, ~~must~~ also shall indicate in ~~his~~ the 1913  
apprentice's advertisement the name of the auctioneer under whom 1914  
~~he~~ the apprentice is licensed. The name of the auctioneer shall be 1915  
displayed in equal prominence with the name of the apprentice 1916  
auctioneer in ~~such~~ the advertisement. Any such licensee who 1917  
advertises in a manner other than as provided in this section is 1918  
guilty of violating division (C) of section 4707.15 of the Revised 1919  
Code. 1920

(B) An auction firm licensed under this chapter that 1921  
advertises, by linear advertisements or otherwise, to solicit or 1922  
receive consignments or to provide auction services shall indicate 1923  
in the advertisement the name of the auction firm. In addition, an 1924  
advertisement of an auction of consignments or an advertisement by 1925  
an auction firm of an auction for which the auction firm will 1926  
provide auction services shall comply with divisions (A) and (D) 1927  
of this section. 1928

(C) If an auction to be advertised is an absolute auction, 1929  
all advertisements for the auction shall unequivocally state that 1930  
the auction is an absolute auction. 1931

(D) If an advertisement for an auction contains the words 1932  
"estate auction," or words to that effect, the person licensed 1933  
under this chapter who advertises shall do both of the following: 1934



(1) Enter into an agreement directly with the executor, administrator, or court appointed designee of the estate property; 1935  
1936

(2) List prominently in the advertisement the county in which the estate is located and the probate court case number of the estate. 1937  
1938  
1939

(E) All persons licensed under this chapter that conduct or are involved in an auction jointly are responsible for the posting of a sign at the auction. The sign shall contain all of the following: 1940  
1941  
1942  
1943

(1) The name of all licensed persons involved in the auction; 1944

(2) A statement that the persons are licensed by the department of agriculture; 1945  
1946

(3) The address of the department of agriculture. 1947

The sign shall be posted at the main entrance of the auction, at the place of registration for the auction, or by the cashier for the auction. The sign shall be of a size not smaller than eight and one-half inches by eleven inches. The letters and numbers on the sign shall be of adequate size to be readily seen by an individual with normal vision when viewing it. 1948  
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1950  
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(F) An advertisement for the sale of real property at auction shall contain the name of the licensed auctioneer who is entering into the auction contract and the name of the real estate broker licensed under Chapter 4735. of the Revised Code who is involved in the sale. Compliance with this section shall not require a real estate broker licensed under Chapter 4735. of the Revised Code to obtain a license under section 4707.073 of the Revised Code. 1954  
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1956  
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1960

**Sec. 4707.26.** (A)(1) A person who asserts that they have the person has been aggrieved by the actions of a person licensed under this chapter that resulted in actual and direct losses to the aggrieved person may initiate a claim against the auction 1961  
1962  
1963  
1964

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

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

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

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

(c) The licensee is not an auction firm.

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

(B) Upon receipt of a verified ~~compliant~~ complaint and application, the department shall conduct an investigation in

accordance with section 4707.16 of the Revised Code. After the 1996  
investigation, if the department determines that the licensee has 1997  
engaged in conduct described in section 4707.15 of the Revised 1998  
Code or otherwise has violated this chapter or rules adopted under 1999  
it, the department shall propose to take action to suspend or 2000  
revoke the licensee's license under section 4707.15 of the Revised 2001  
Code or to initiate a criminal action against the licensee under 2002  
section 4707.99 of the Revised Code, or both. The department shall 2003  
issue a letter to the applicant indicating the department's 2004  
proposed action and the date of any hearing that the department 2005  
has scheduled regarding the matter. 2006

(C) Upon exhaustion of administrative remedies or criminal 2007  
proceedings that results in a finding that the licensee has 2008  
engaged in conduct described in section 4707.15 of the Revised 2009  
Code or otherwise has violated this chapter or rules adopted under 2010  
it, the department shall issue a notice in accordance with Chapter 2011  
119. of the Revised Code via certified mail to the applicant 2012  
indicating that the applicant may request a hearing for relief 2013  
from the auction recovery fund. An applicant who seeks recovery 2014  
from the fund of any actual and direct losses suffered as a result 2015  
of a licensee's conduct shall submit, not later than thirty days 2016  
following receipt of the notice, a request for a hearing to the 2017  
department. 2018

Upon the timely receipt of a request for a hearing, the 2019  
department shall provide the applicant with the opportunity to 2020  
appear at an adjudication hearing to offer proof and evidence of 2021  
the actual and direct losses. Whenever possible, the department 2022  
shall require all applicants whose claims to the fund arose from 2023  
an underlying transaction involving the same licensee to be joined 2024  
in one adjudication under this section so that the rights of all 2025  
applicants may be equitably adjudicated and settled. On behalf of 2026  
the fund, the department may defend claims against the fund and 2027

shall have recourse to all appropriate means of defense and 2028  
review, including examination of witnesses, and verification of 2029  
actual losses. 2030

(D) Upon the conclusion of the adjudication hearing, the 2031  
hearing officer shall issue a report and recommendation in favor 2032  
of making payment to an applicant from the fund if, during the 2033  
course of the adjudication hearing, all of the following have been 2034  
shown: 2035

(1) The licensee has engaged in conduct described in section 2036  
4707.15 of the Revised Code or otherwise has violated this chapter 2037  
or rules adopted under it. 2038

(2) The licensee's conduct or violation is associated with an 2039  
act that only a person licensed under this chapter lawfully may 2040  
perform and the act resulted in direct and actual losses to the 2041  
applicant. 2042

(3) The applicant filed a verified complaint and application 2043  
with the department as required by this section. 2044

(4) The applicant is not the spouse of the licensee nor the 2045  
personal representative of the licensee's spouse. 2046

(5) If the licensee either provided an irrevocable letter of 2047  
credit or gave bond in accordance with section 4707.11 of the 2048  
Revised Code, the applicant first sought recovery under the 2049  
irrevocable letter of credit or bond before applying for payment 2050  
from the fund. 2051

The amount of any payment from the fund to the applicant 2052  
shall consist of an amount that is equal to the portion of the 2053  
actual and direct losses incurred by the applicant that remain 2054  
unpaid. The amount of the payment is subject to the dollar 2055  
limitation established in section 4707.29 of the Revised Code. 2056

If the hearing officer determines that not all of the items 2057

described in divisions (D)(1) to (5) of this section have been 2058  
shown during the course of the adjudication hearing, the hearing 2059  
officer shall issue a report and recommendation against making 2060  
payment from the fund to the applicant. 2061

(E) Pursuant to section 119.09 of the Revised Code, a hearing 2062  
officer or the hearing officer's representative shall forward by 2063  
certified mail a copy of the hearing officer's written report and 2064  
recommendation to the applicant or the applicant's attorney or 2065  
other representative not later than five days after the date on 2066  
which the report and recommendation are filed. 2067

Not later than ten days after receiving such a copy, the 2068  
applicant may file with the department written objections to the 2069  
report and recommendation. The department may grant extensions of 2070  
time to the applicant within which to file objections. 2071

The objections shall be considered by the department before 2072  
it approves, modifies, or disapproves the recommendation. The 2073  
department may order additional testimony to be taken or permit 2074  
the introduction of further documentary evidence. 2075

The recommendation of the hearing officer may be approved, 2076  
modified, or disapproved by order of the director of agriculture. 2077  
The order shall not be issued until more than ten days have 2078  
elapsed following the applicant's receipt of the report and 2079  
recommendation as provided by this section. The director's 2080  
approval, modification, or disapproval of the hearing officer's 2081  
recommendation shall have the same effect as if the hearing had 2082  
been conducted by the director. 2083

No recommendation shall be final until approved, modified, or 2084  
disapproved by the director as indicated by the order entered on 2085  
the record of proceedings of the department. If the director 2086  
modifies or disapproves the recommendations of the hearing 2087  
officer, the director shall include in the record of the 2088

proceedings the reasons for the modification or disapproval. 2089

After an order is entered on its journal, the department 2090  
shall make payment, if applicable, to the applicant from the 2091  
auction recovery fund in accordance with the order and shall 2092  
provide to the applicant by certified mail, return receipt 2093  
requested, a copy of the order and a statement of the time and 2094  
method by which an appeal may be perfected. In addition, the 2095  
department shall mail a copy of the order to the attorney or other 2096  
representative of the applicant. 2097

(F) An order of the director issued under this section 2098  
constitutes a final determination of the director for purposes of 2099  
appeal. An applicant who is denied compensation from the auction 2100  
recovery fund or who receives an award less than the award 2101  
requested may appeal the order of the director. Notices of appeal 2102  
shall be filed in the manner provided in section 119.12 of the 2103  
Revised Code. 2104

Sec. 4707.32. (A) A person who asserts that the person has 2105  
been aggrieved solely by the actions of an auction firm that 2106  
resulted in actual and direct losses to the aggrieved person may 2107  
seek recovery under the auction firm's financial responsibility 2108  
that is required under section 4707.074 of the Revised Code. The 2109  
director of agriculture shall adopt rules under section 4707.19 of 2110  
the Revised Code that do all of the following: 2111

(1) Establish procedures for filing a claim against an 2112  
auction firm's financial responsibility; 2113

(2) Establish procedures that provide for the equitable 2114  
disbursement of money for multiple claims against the auction firm 2115  
that resulted from the same circumstances; 2116

(3) Establish procedures for providing notice to the 2117  
department of agriculture from a person seeking recovery under 2118

this division; 2119

(4) Limit an aggrieved person's recovery to the actual and 2120  
direct losses caused by the auction firm. 2121

(B) A person who asserts that the person has been aggrieved 2122  
by the actions of both an auction firm and a licensed auctioneer 2123  
related to an auction that resulted in actual and direct losses to 2124  
the aggrieved person may file a cause of action with a court of 2125  
competent jurisdiction claiming that a violation of this chapter 2126  
or rules adopted under it resulted in the actual and direct 2127  
losses. The court shall determine if there was a violation of this 2128  
chapter or rules adopted under it that resulted in those losses. 2129  
If the court determines that the auction firm, the licensed 2130  
auctioneer, or both violated this chapter or rules adopted under 2131  
it and that the violation resulted in the aggrieved person's 2132  
actual and direct losses, the court shall determine the percentage 2133  
of culpability, in relation to one hundred per cent, that is 2134  
attributable to each party to the action from whom the complainant 2135  
seeks recovery. 2136

If the court finds that the percentage of culpability that is 2137  
attributable to the licensed auctioneer is greater than zero, the 2138  
aggrieved person may initiate a claim against the auction recovery 2139  
fund in accordance with sections 4707.26 to 4707.31 of the Revised 2140  
Code to recover that percentage of the actual and direct losses 2141  
sustained by the person. If the court finds that the percentage of 2142  
culpability that is attributable to the auction firm is greater 2143  
than zero, the aggrieved person may recover that percentage of the 2144  
actual and direct losses sustained by the person under the auction 2145  
firm's financial responsibility that is required under section 2146  
4707.074 of the Revised Code. 2147

The total aggregate amount that is paid to the aggrieved 2148  
person from the auction recovery fund and the auction firm's 2149

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.

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(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.

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**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.

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~~(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.

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~~(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.

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(D) Notwithstanding section 1901.31, 1907.20, or 2335.37 of

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the Revised Code, the clerk of the court shall transmit to the 2180  
treasurer of state for deposit into the state treasury to the 2181  
credit of the auction education fund created in section 4707.171 2182  
of the Revised Code fifty per cent of any fine imposed under this 2183  
section. 2184

**Section 2.** That existing sections 505.94, 2925.01, 4517.02, 2185  
4707.01, 4707.02, 4707.021, 4707.03, 4707.04, 4707.05, 4707.06, 2186  
4707.07, 4707.071, 4707.072, 4707.08, 4707.09, 4707.10, 4707.11, 2187  
4707.111, 4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 2188  
4707.18, 4707.19, 4707.20, 4707.21, 4707.22, 4707.26, and 4707.99 2189  
of the Revised Code are hereby repealed. 2190

**Section 3.** To facilitate implementation of the schedule for 2191  
the biennial expiration of auctioneer's licenses and special 2192  
auctioneer's licenses that is established in division (B)(2) of 2193  
section 4707.10 of the Revised Code, as amended by this act, both 2194  
of the following apply with respect to such licenses that are 2195  
issued during the time period beginning July 1, 2005, and ending 2196  
June 30, 2006: 2197

(A) Upon payment of a licensure fee in the amount of two 2198  
hundred dollars, an applicant for an initial license or license 2199  
renewal whose last name or business name, as applicable, begins 2200  
with the letters "A" through "J" or with the letters "X" through 2201  
"Z" shall be issued a license that expires on June 30, 2007. 2202

(B) Upon payment of a licensure fee in the amount of one 2203  
hundred dollars, an applicant for an initial license or license 2204  
renewal whose last name or business name, as applicable, begins 2205  
with the letters "K" through "W" shall be issued a license that 2206  
expires on June 30, 2006. 2207

The provisions concerning license renewal that are 2208  
established in section 4707.10 of the Revised Code, as amended by 2209

this act, apply to all licenses that expire after the effective  
date of this act.

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