

As Reported by the Senate Agriculture Committee

125th General Assembly

Regular Session

2003-2004

Sub. S. B. No. 209

Senator Mumper

A B I L L

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

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

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

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

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

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

(B) As used in this section: 40

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

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

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

Sec. 2925.01. As used in this chapter: 56

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Any aerosol propellant;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

distributor of dangerous drugs under Chapter 4729. of the Revised Code;	325 326
(16) A person who is authorized to practice as a physician assistant under Chapter 4730. of the Revised Code;	327 328
(17) A person who has been issued a certificate to practice medicine and surgery, osteopathic medicine and surgery, a limited branch of medicine, or podiatry under Chapter 4731. of the Revised Code;	329 330 331 332
(18) A person licensed as a psychologist or school psychologist under Chapter 4732. of the Revised Code;	333 334
(19) A person registered to practice the profession of engineering or surveying under Chapter 4733. of the Revised Code;	335 336
(20) A person who has been issued a license to practice chiropractic under Chapter 4734. of the Revised Code;	337 338
(21) A person licensed to act as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code;	339 340
(22) A person registered as a registered sanitarian under Chapter 4736. of the Revised Code;	341 342
(23) A person licensed to operate or maintain a junkyard under Chapter 4737. of the Revised Code;	343 344
(24) A person who has been issued a motor vehicle salvage dealer's license under Chapter 4738. of the Revised Code;	345 346
(25) A person who has been licensed to act as a steam engineer under Chapter 4739. of the Revised Code;	347 348
(26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Chapter 4741. of the Revised Code;	349 350 351 352
(27) A person who has been issued a hearing aid dealer's or	353

fitter's license or trainee permit under Chapter 4747. of the 354
Revised Code; 355

(28) A person who has been issued a class A, class B, or 356
class C license or who has been registered as an investigator or 357
security guard employee under Chapter 4749. of the Revised Code; 358

(29) A person licensed and registered to practice as a 359
nursing home administrator under Chapter 4751. of the Revised 360
Code; 361

(30) A person licensed to practice as a speech-language 362
pathologist or audiologist under Chapter 4753. of the Revised 363
Code; 364

(31) A person issued a license as an occupational therapist 365
or physical therapist under Chapter 4755. of the Revised Code; 366

(32) A person who is licensed as a professional clinical 367
counselor or professional counselor, licensed as a social worker 368
or independent social worker, or registered as a social work 369
assistant under Chapter 4757. of the Revised Code; 370

(33) A person issued a license to practice dietetics under 371
Chapter 4759. of the Revised Code; 372

(34) A person who has been issued a license or limited permit 373
to practice respiratory therapy under Chapter 4761. of the Revised 374
Code; 375

(35) A person who has been issued a real estate appraiser 376
certificate under Chapter 4763. of the Revised Code; 377

(36) A person who has been admitted to the bar by order of 378
the supreme court in compliance with its prescribed and published 379
rules. 380

(X) "Cocaine" means any of the following: 381

(1) A cocaine salt, isomer, or derivative, a salt of a 382
cocaine isomer or derivative, or the base form of cocaine; 383

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

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

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

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

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

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

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

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

2929.01 of the Revised Code.	414
(EE) "Minor drug possession offense" means either of the following:	415 416
(1) A violation of section 2925.11 of the Revised Code as it existed prior to July 1, 1996;	417 418
(2) A violation of section 2925.11 of the Revised Code as it exists on and after July 1, 1996, that is a misdemeanor or a felony of the fifth degree.	419 420 421
(FF) "Mandatory prison term" has the same meaning as in section 2929.01 of the Revised Code.	422 423
(GG) "Crack cocaine" means a compound, mixture, preparation, or substance that is or contains any amount of cocaine that is analytically identified as the base form of cocaine or that is in a form that resembles rocks or pebbles generally intended for individual use.	424 425 426 427 428
(HH) "Adulterate" means to cause a drug to be adulterated as described in section 3715.63 of the Revised Code.	429 430
(II) "Public premises" means any hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort.	431 432 433
Sec. 4707.01. As used in sections 4707.01 to 4707.22 and 4707.99 of the Revised Code <u>this chapter</u> :	434 435
(A) "Auction" means a <u>method of sale of real or personal property, goods, or chattels, at a predetermined date and time, by means of a verbal exchange, regular mail, telecommunications, the internet, an electronic transmission, or a physical gesture between an auctioneer or apprentice auctioneer and members of the audience or prospective purchasers, the exchanges and gestures consisting of a series of invitations for offers made by the auctioneer and offers by members of the audience or prospective</u>	436 437 438 439 440 441 442 443

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) "Estate auction" means the auction of real or personal property of a deceased person. 505
506

(J) "Sealed bidding" means a method of submitting a bid in writing by one or more persons following which the bids are opened at an advertised, predetermined time and place, and, after a review of all the bids received, the real or personal property is awarded to the highest and most responsive bidder. 507
508
509
510
511

(K) "Absentee bidding" means a method by which a potential purchaser authorizes a proxy to place on behalf of the potential purchaser a written or oral bid to an auctioneer or auction firm or an agent of an auctioneer or auction firm. 512
513
514
515

(L) "Person" means an individual, sole proprietor, corporation, limited liability company, association, or partnership. 516
517
518

(M) "Auction firm" means a person who provides auction services. 519
520

(N) "Auction services" means arranging, managing, and sponsoring a personal property auction. "Auction services" includes the taking and advertising of personal property on consignment to be sold at auction by a licensed auctioneer. 521
522
523
524

(O) "Consignee" means a person or auction firm that takes personal property on consignment to be sold at auction by a licensed auctioneer. 525
526
527

(P) "Firm manager" means the individual designated by an auction firm who is responsible for ensuring that the auction firm complies with this chapter. 528
529
530

Sec. 4707.02. No person shall act as an auction firm, 531
auctioneer, apprentice auctioneer, or special auctioneer within 532
this state without a license issued by the department of 533
agriculture. No auction shall be conducted in this state except by 534

an auctioneer licensed by the department. 535

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

This section does not apply to: 540

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

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

(C) An auction mediation company; 547

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) One of the following applies: 608

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

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

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

highest bidder.

623

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

624

625

626

627

628

629

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

630

631

632

633

634

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

635

636

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

637

638

639

640

641

642

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

643

644

645

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

646

647

648

649

650

651

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

652

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) <u>Has at least a high school diploma or its equivalent, or holds a valid license issued under this chapter prior to June 30, 2004, and seeks to timely renew the license, if applicable;</u>	837
	838
	839
(5) Has done one of the following:	840
(a) Met the apprenticeship requirements set forth in section 4707.09 of the Revised Code;	841
	842
(b) Met the requirements of section 4707.12 of the Revised Code.	843
	844
(5) (6) Has a general knowledge of the following:	845
(a) The requirements of the Revised Code relative to auctioneers;	846
	847
(b) The auction profession;	848
(c) The principles involved in conducting an auction;	849
(d) <u>Any local and federal laws regarding the occupation of auctioneering.</u>	850
	851
(6) (7) Has satisfied the financial responsibility requirements established under section 4707.11 of the Revised Code if applicable.	852
	853
	854
(B) Auctioneers who served apprenticeships and who hold licenses issued before May 1, 1991, and who seek renewal of their licenses, are not subject to the additional apprenticeship requirements imposed by section 4707.08 <u>4707.09</u> of the Revised Code.	855
	856
	857
	858
	859
(C) The department may issue an auctioneer's license to a partnership, association, or corporation if all the partners, members, or officers thereof who are authorized to perform the functions of an auctioneer as agents of the applicant are themselves licensed as auctioneers under this chapter.	860
	861
	862
	863
	864
An application for an auctioneer's license filed by a	865

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

~~(D) A licensee may do business under more than one registered
name if the names have been approved by the department. The
department may reject the application of any person seeking
licensure under this chapter if the name or names to be used by
the applicant are likely to mislead the public, or if the name or
names do not distinguish the applicant from the name or names of
any existing person licensed under this chapter. If an applicant
applies to the department to do business under more than two
names, the department may charge a fee of ten dollars that is
established in rules adopted by the director of agriculture under
section 4707.19 of the Revised Code for the third name and each
additional name.~~

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

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

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

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

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

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

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

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

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

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

(1) Has a good reputation; 956

(2) Is of trustworthy character; 957

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

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

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

Failure of a corporation, partnership, or unincorporated association to maintain the applicable requirements of this division after the issuance of a license under this section may be sufficient cause for the revocation of the license under section 4707.15 of the Revised Code. 1018
1019
1020
1021
1022

(2) Not later than two years after the effective date of this section, a corporation, partnership, or unincorporated association that was issued a license under section 4707.07 of the Revised Code on or before the effective date of this section shall comply with the requirements established in division (D)(1) of this section. If such a corporation, partnership, or unincorporated association fails to comply with those requirements, the license of the corporation, partnership, or unincorporated association immediately shall terminate. 1023
1024
1025
1026
1027
1028
1029
1030
1031

(E) Upon the issuance of a license under this section, a corporation, partnership, or unincorporated association shall designate an individual from among its directors, partners, or members who is licensed under section 4707.07 of the Revised Code as its agent for purposes of communication with the department. If that individual ceases to be the agent, the corporation, partnership, or unincorporated association shall notify the department not later than ten days after the day on which the individual ceases to be the agent. Upon notification to the department, the license of the corporation, partnership, or unincorporated association, as applicable, immediately shall terminate. If the corporation, partnership, or unincorporated association notifies the department of the designation of a new agent in accordance with the requirements of this division and pays the fee established by the director of agriculture in rules adopted under section 4707.19 of the Revised Code, the department shall issue the corporation, partnership, or unincorporated association a new license. 1032
1033
1034
1035
1036
1037
1038
1039
1040
1041
1042
1043
1044
1045
1046
1047
1048
1049

(F) For purposes of this section, the director may adopt 1050
rules under section 4707.19 of the Revised Code establishing 1051
license fees and procedures and deadlines for the issuance of a 1052
license under this section. Until the director adopts those rules, 1053
a license issued under this section shall take effect on July 1 of 1054
one year and expire on June 30 of the following year, and the fee 1055
for an initial and renewal license shall be one hundred dollars. 1056
In addition, a license shall be renewed before July 1 of each 1057
year, except that a license may be renewed before September 1 of 1058
the year of expiration if the licensee pays the renewal fee and an 1059
additional fee of one hundred dollars. 1060

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) <u>Specifying that an auction is a reserve auction, absolute auction, or estate auction, but not conducting the auction as specified;</u>	1508
	1509
	1510
(E) Failing to account for or remit, within a reasonable time, any money <u>or property</u> belonging to others that comes into the licensee's possession, and for commingling funds of others with the licensee's own, or failing to keep such funds of others in an escrow or trustee <u>trust</u> account, except that in the case of a transaction involving real estate, such funds shall be maintained in accordance with division (A)(26) of section 4735.18 of the Revised Code;	1511
	1512
	1513
	1514
	1515
	1516
	1517
	1518
(E) (F) Paying valuable consideration to any person who has violated this chapter;	1519
	1520
(F) (G) Conviction in a court of competent jurisdiction of this state or any other state of a criminal offense involving <u>fraud, forgery, embezzlement, false pretenses, extortion, conspiracy to defraud, or another similar offense</u> or a felony;	1521
	1522
	1523
	1524
(G) (H) Violation of this chapter <u>or rules adopted under it;</u>	1525
(H) (I) Failure to furnish voluntarily at the time of execution, copies of all written instruments prepared by the auctioneer <u>or auction firm;</u>	1526
	1527
	1528
(I) (J) Any conduct of an auctioneer which <u>a person that is licensed under this chapter that</u> demonstrates bad faith, dishonesty, incompetency, or untruthfulness;	1529
	1530
	1531
(J) (K) Any other conduct that constitutes improper, fraudulent, or dishonest dealings;	1532
	1533
(K) (L) Failing prior to the sale at public auction to enter into a written contract with the owner or consignee of any property to be sold, containing the terms and conditions upon which such <u>the</u> licensee received the property for sale <u>auction;</u>	1534
	1535
	1536
	1537

(L) (M) The use of any power of attorney to circumvent this chapter;	1538 1539
(M) (N) Failure to display <u>the sign required under section 4707.22 of the Revised Code and</u> a notice conspicuously at the clerk's desk or on a bid card that clearly states the terms and conditions of the sale, the name of the auctioneer or special auctioneer conducting the sale, and that the auctioneer or special auctioneer is licensed by the department of agriculture and has filed a bond <u>auction;</u>	1540 1541 1542 1543 1544 1545 1546
(N) (O) Failure to notify the department of any conviction of a felony or crime involving fraud within fifteen days of conviction;	1547 1548 1549
(O) Acting in the capacity of an auctioneer, whether for valuable consideration or not, for any special auctioneer that is not licensed under this chapter (P) <u>Aiding an unlicensed person in the performance of services or acts that require a license under this chapter;</u>	1550 1551 1552 1553 1554
(Q) <u>The suspension or revocation of a license to engage in auctioneering or other disciplinary action by the licensing authority of another state;</u>	1555 1556 1557
(R) <u>The refusal or disapproval by the licensing authority of another state of an application for a license to engage in auctioneering;</u>	1558 1559 1560
(S) <u>Failure of a licensee to notify the department of agriculture within fifteen days of a disciplinary action against the licensee by another state's applicable governing authority;</u>	1561 1562 1563
(T) <u>Engaging in auctioneering or providing auction services without a license or during the suspension of a license;</u>	1564 1565
(U) <u>Attempting to cheat or cheating on an auctioneer examination or aiding another to cheat on an examination.</u>	1566 1567

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The location of the auction; 1743

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

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

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

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

(8) A statement indicating whether the auction is a reserve auction or an absolute auction. In addition, the statement shall include the definition of reserve auction or absolute auction from section 4707.01 of the Revised Code, as applicable. 1752
1753
1754
1755

(9) A statement of the auctioneer's or auction firm's policy regarding absentee bidding; 1756
1757

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

(11) If the sale is of real or personal property at absolute auction, a statement affirming that the seller of the real or personal property has a bona fide intention to transfer ownership of the property to the highest bidder. 1760
1761
1762
1763

Sec. 4707.21. No auction firm, auctioneer, apprentice auctioneer, or special auctioneer shall willfully neglect or refuse to furnish the department of agriculture statistics or other information in the auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's possession or under the auction firm's, auctioneer's, apprentice auctioneer's, or special auctioneer's control, ~~which that~~ the auction firm, auctioneer, apprentice auctioneer, or special auctioneer is authorized to collect; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer neglect or refuse, for more than thirty days, to answer questions submitted on circulars; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer knowingly answer any such questions falsely; nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer refuse to obey subpoenas and give testimony. Licensees shall keep records relative to any auction sale for at least two 1764
1765
1766
1767
1768
1769
1770
1771
1772
1773
1774
1775
1776
1777
1778
1779

years from the date of ~~sale~~ auction. These records shall include 1780
settlement sheets, written contracts, and copies of any 1781
advertising that lists the items for ~~sale~~ auction, as applicable. 1782

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

limitation established in section 4707.29 of the Revised Code. 1933

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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