

**As Reported by the Senate Ways and Means and Economic
Development Committee**

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Sub. H. B. No. 48

Representative Gibbs

**Cosponsors: Representatives Fessler, Seitz, McGregor, J., Setzer, Brown,
Collier, Wagner, Wagoner, Combs, Aslanides, Bacon, Bolon, Chandler,
Driehaus, Evans, Flowers, Hagan, R., Hite, Schlichter, Batchelder, Blessing,
Domenick, Gardner, Hagan, J., Hughes, Luckie, Mecklenborg, Patton,
Raussen, Schindel, Schneider, Stewart, D., Wachtmann, Williams, B.,
Zehringer**

**Senators Amstutz, Stivers, Miller, D., Kearney, Sawyer, Spada, Schaffer,
Schuler**

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A B I L L

To amend sections 307.12, 505.10, 4707.02, 4707.20, 1
4707.21, and 4707.26 of the Revised Code to exempt 2
certain tax exempt organizations and schools that 3
sell donated items at auction from license and 4
contract requirements for the auction, to require 5
those organizations and schools to maintain 6
auction records for two years, to preclude claims 7
against the Auction Recovery Fund for any loss 8
associated with those types of auctions, and to 9
reduce from fifteen to ten days the minimum 10
bidding period for internet auctions of certain 11
township or county personal property. 12
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 307.12, 505.10, 4707.02, 4707.20, 14
4707.21, and 4707.26 of the Revised Code be amended to read as 15
follows: 16

Sec. 307.12. (A) Except as otherwise provided in divisions 17
(D), (E), and (G) of this section, when the board of county 18
commissioners finds, by resolution, that the county has personal 19
property, including motor vehicles acquired for the use of county 20
officers and departments, and road machinery, equipment, tools, or 21
supplies, ~~which~~ that is not needed for public use, is obsolete, or 22
is unfit for the use for which it was acquired, and when the fair 23
market value of the property to be sold or donated under this 24
division is, in the opinion of the board, in excess of two 25
thousand five hundred dollars, the board may do either of the 26
following: 27

(1) Sell the property at public auction or by sealed bid to 28
the highest bidder. Notice of the time, place, and manner of the 29
sale shall be published in a newspaper of general circulation in 30
the county at least ten days prior to the sale, and a typewritten 31
or printed notice of the time, place, and manner of the sale shall 32
be posted at least ten days before the sale in the offices of the 33
county auditor and the board of county commissioners. 34

If a board conducts a sale of property by sealed bid, the 35
form of the bid shall be as prescribed by the board, and each bid 36
shall contain the name of the person submitting it. Bids received 37
shall be opened and tabulated at the time stated in the notice. 38
The property shall be sold to the highest bidder, except that the 39
board may reject all bids and hold another sale, by public auction 40
or sealed bid, in the manner prescribed by this section. 41

(2) Donate any motor vehicle that does not exceed four 42
thousand five hundred dollars in value to a nonprofit organization 43

exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 44
and (c)(3) for the purpose of meeting the transportation needs of 45
participants in the Ohio works first program established under 46
Chapter 5107. of the Revised Code and participants in the 47
prevention, retention, and contingency program established under 48
Chapter 5108. of the Revised Code. 49

(B) When the board of county commissioners finds, by 50
resolution, that the county has personal property, including motor 51
vehicles acquired for the use of county officers and departments, 52
and road machinery, equipment, tools, or supplies, ~~which~~ that is 53
not needed for public use, is obsolete, or is unfit for the use 54
for which it was acquired, and when the fair market value of the 55
property to be sold or donated under this division is, in the 56
opinion of the board, two thousand five hundred dollars or less, 57
the board may do either of the following: 58

(1) Sell the property by private sale, without advertisement 59
or public notification; 60

(2) Donate the property to an eligible nonprofit organization 61
that is located in this state and is exempt from federal income 62
taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating 63
any property under this division, the board shall adopt a 64
resolution expressing its intent to make unneeded, obsolete, or 65
unfit-for-use county personal property available to these 66
organizations. The resolution shall include guidelines and 67
procedures the board considers necessary to implement a donation 68
program under this division and shall indicate whether the county 69
will conduct the donation program or the board will contract with 70
a representative to conduct it. If a representative is known when 71
the resolution is adopted, the resolution shall provide contact 72
information such as the representative's name, address, and 73
telephone number. 74

The resolution shall include within its procedures a 75

requirement that any nonprofit organization desiring to obtain 76
donated property under this division shall submit a written notice 77
to the board or its representative. The written notice shall 78
include evidence that the organization is a nonprofit organization 79
that is located in this state and is exempt from federal income 80
taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of 81
the organization's primary purpose; a description of the type or 82
types of property the organization needs; and the name, address, 83
and telephone number of a person designated by the organization's 84
governing board to receive donated property and to serve as its 85
agent. 86

After adoption of the resolution, the board shall publish, in 87
a newspaper of general circulation in the county, notice of its 88
intent to donate unneeded, obsolete, or unfit-for-use county 89
personal property to eligible nonprofit organizations. The notice 90
shall include a summary of the information provided in the 91
resolution and shall be published at least twice. The second and 92
any subsequent notice shall be published not less than ten nor 93
more than twenty days after the previous notice. A similar notice 94
also shall be posted continually in a conspicuous place in the 95
offices of the county auditor and the board of county 96
commissioners, and, if the county maintains a web site on the 97
internet, the notice shall be posted continually at that web site. 98

The board or its representative shall maintain a list of all 99
nonprofit organizations that notify the board or its 100
representative of their desire to obtain donated property under 101
this division and that the board or its representative determines 102
to be eligible, in accordance with the requirements set forth in 103
this section and in the donation program's guidelines and 104
procedures, to receive donated property. 105

The board or its representatives also shall maintain a list 106
of all county personal property the board finds to be unneeded, 107

obsolete, or unfit for use and to be available for donation under 108
this division. The list shall be posted continually in a 109
conspicuous location in the offices of the county auditor and the 110
board of county commissioners, and, if the county maintains a web 111
site on the internet, the list shall be posted continually at that 112
web site. An item of property on the list shall be donated to the 113
eligible nonprofit organization that first declares to the board 114
or its representative its desire to obtain the item unless the 115
board previously has established, by resolution, a list of 116
eligible nonprofit organizations that shall be given priority with 117
respect to the item's donation. Priority may be given on the basis 118
that the purposes of a nonprofit organization have a direct 119
relationship to specific public purposes of programs provided or 120
administered by the board. A resolution giving priority to certain 121
nonprofit organizations with respect to the donation of an item of 122
property shall specify the reasons why the organizations are given 123
that priority. 124

(C) Members of the board of county commissioners shall 125
consult with the Ohio ethics commission, and comply with the 126
provisions of Chapters 102. and 2921. of the Revised Code, with 127
respect to any sale or donation under division (A) or (B) of this 128
section to a nonprofit organization of which a county 129
commissioner, any member of the county commissioner's family, or 130
any business associate of the county commissioner is a trustee, 131
officer, board member, or employee. 132

(D) Notwithstanding anything to the contrary in division (A), 133
(B), or (E) of this section and regardless of the property's 134
value, the board of county commissioners may sell or donate county 135
personal property, including motor vehicles, to the federal 136
government, the state, or any political subdivision of the state 137
without advertisement or public notification. 138

(E) Notwithstanding anything to the contrary in division (A), 139

(B), or (G) of this section and regardless of the property's 140
value, the board of county commissioners may sell personal 141
property, including motor vehicles acquired for the use of county 142
officers and departments, and road machinery, equipment, tools, or 143
supplies, ~~which~~ that is not needed for public use, is obsolete, or 144
is unfit for the use for which it was acquired, by internet 145
auction. The board shall adopt, during each calendar year, a 146
resolution expressing its intent to sell that property by internet 147
auction. The resolution shall include a description of how the 148
auctions will be conducted and shall specify the number of days 149
for bidding on the property, which shall be no less than ~~fifteen~~ 150
ten days, including Saturdays, Sundays, and legal holidays. The 151
resolution shall indicate whether the county will conduct the 152
auction or the board will contract with a representative to 153
conduct the auction and shall establish the general terms and 154
conditions of sale. If a representative is known when the 155
resolution is adopted, the resolution shall provide contact 156
information such as the representative's name, address, and 157
telephone number. 158

After adoption of the resolution, the board shall publish, in 159
a newspaper of general circulation in the county, notice of its 160
intent to sell unneeded, obsolete, or unfit-for-use county 161
personal property by internet auction. The notice shall include a 162
summary of the information provided in the resolution and shall be 163
published at least twice. The second and any subsequent notice 164
shall be published not less than ten nor more than twenty days 165
after the previous notice. A similar notice also shall be posted 166
continually throughout the calendar year in a conspicuous place in 167
the offices of the county auditor and the board of county 168
commissioners, and, if the county maintains a web site on the 169
internet, the notice shall be posted continually throughout the 170
calendar year at that web site. 171

When property is to be sold by internet auction, the board or 172
its representative may establish a minimum price that will be 173
accepted for specific items and may establish any other terms and 174
conditions for the particular sale, including requirements for 175
pick-up or delivery, method of payment, and sales tax. This type 176
of information shall be provided on the internet at the time of 177
the auction and may be provided before that time upon request 178
after the terms and conditions have been determined by the board 179
or its representative. 180

(F) When a county officer or department head determines that 181
county-owned personal property under the jurisdiction of the 182
officer or department head, including motor vehicles, road 183
machinery, equipment, tools, or supplies, is not of immediate 184
need, the county officer or department head may notify the board 185
of county commissioners, and the board may lease that personal 186
property to any municipal corporation, township, or other 187
political subdivision of the state. The lease shall require the 188
county to be reimbursed under terms, conditions, and fees 189
established by the board, or under contracts executed by the 190
board. 191

(G) If the board of county commissioners finds, by 192
resolution, that the county has vehicles, equipment, or machinery 193
~~which~~ that is not needed, or is unfit for public use, and the 194
board desires to sell the vehicles, equipment, or machinery to the 195
person or firm from which it proposes to purchase other vehicles, 196
equipment, or machinery, the board may offer to sell the vehicles, 197
equipment, or machinery to that person or firm, and to have the 198
selling price credited to the person or firm against the purchase 199
price of other vehicles, equipment, or machinery. 200

(H) If the board of county commissioners advertises for bids 201
for the sale of new vehicles, equipment, or machinery to the 202
county, it may include in the same advertisement a notice of the 203

willingness of the board to accept bids for the purchase of 204
county-owned vehicles, equipment, or machinery ~~which~~ that is 205
obsolete or not needed for public use, and to have the amount of 206
those bids subtracted from the selling price of the other 207
vehicles, equipment, or machinery as a means of determining the 208
lowest responsible bidder. 209

(I) If a board of county commissioners determines that county 210
personal property is not needed for public use, or is obsolete or 211
unfit for the use for which it was acquired, and that the property 212
has no value, the board may discard or salvage that property. 213

(J) A county engineer, in the engineer's discretion, may 214
dispose of scrap construction materials on such terms as the 215
engineer determines reasonable, including disposal without 216
recovery of costs, if the total value of the materials does not 217
exceed twenty-five thousand dollars. The engineer shall maintain 218
records of all dispositions made under this division, including 219
identification of the origin of the materials, the final 220
disposition, and copies of all receipts resulting from the 221
dispositions. 222

As used in division (I) of this section, "scrap construction 223
materials" means construction materials that result from a road or 224
bridge improvement, remain after the improvement is completed, and 225
are not reusable. Construction material that is metal and that 226
results from a road or bridge improvement and remains after the 227
improvement is completed is scrap construction material only if it 228
cannot be used in any other road or bridge improvement or other 229
project in its current state. 230

Sec. 505.10. (A) The board of township trustees may accept, 231
on behalf of the township, the donation by bequest, devise, deed 232
of gift, or otherwise, of any real or personal property for any 233
township use. When the township has property, including motor 234

vehicles, road machinery, equipment, and tools, ~~which~~ that the 235
board, by resolution, finds is not needed for public use, is 236
obsolete, or is unfit for the use for which it was acquired, the 237
board may sell and convey that property or otherwise dispose of it 238
in accordance with this section. Except as otherwise provided in 239
sections 505.08, 505.101, and 505.102 of the Revised Code, the 240
sale or other disposition of unneeded, obsolete, or unfit-for-use 241
property shall be made in accordance with one of the following: 242

(1) If the fair market value of property to be sold is, in 243
the opinion of the board, in excess of two thousand five hundred 244
dollars, the sale shall be by public auction or by sealed bid to 245
the highest bidder. The board shall publish notice of the time, 246
place, and manner of the sale once a week for three weeks in a 247
newspaper published, or of general circulation, in the township, 248
the last of those publications to be at least five days before the 249
date of sale, and shall post a typewritten or printed notice of 250
the time, place, and manner of the sale in the office of the board 251
for at least ten days prior to the sale. 252

If the board conducts the sale of the property by sealed bid, 253
the form of the bid shall be as prescribed by the board, and each 254
bid shall contain the name of the person submitting it. Bids 255
received shall be opened and tabulated at the time stated in the 256
published and posted notices. The property shall be sold to the 257
highest bidder, except that the board may reject all bids and hold 258
another sale, by public auction or sealed bid, in the manner 259
prescribed by this section. 260

(2) If the fair market value of property to be sold is, in 261
the opinion of the board, two thousand five hundred dollars or 262
less, the board may do either of the following: 263

(a) Sell the property by private sale, without advertisement 264
or public notification; 265

(b) Donate the property to an eligible nonprofit organization 266
that is located in this state and is exempt from federal income 267
taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating 268
any property under this division, the board shall adopt a 269
resolution expressing its intent to make unneeded, obsolete, or 270
unfit-for-use township property available to these organizations. 271
The resolution shall include guidelines and procedures the board 272
considers to be necessary to implement the donation program and 273
shall indicate whether the township will conduct the donation 274
program or the board will contract with a representative to 275
conduct it. If a representative is known when the resolution is 276
adopted, the resolution shall provide contact information such as 277
the representative's name, address, and telephone number. 278

The resolution shall include within its procedures a 279
requirement that any nonprofit organization desiring to obtain 280
donated property under this division shall submit a written notice 281
to the board or its representative. The written notice shall 282
include evidence that the organization is a nonprofit organization 283
that is located in this state and is exempt from federal income 284
taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of 285
the organization's primary purpose; a description of the type or 286
types of property the organization needs; and the name, address, 287
and telephone number of a person designated by the organization's 288
governing board to receive donated property and to serve as its 289
agent. 290

After adoption of the resolution, the board shall publish, in 291
a newspaper of general circulation in the township, notice of its 292
intent to donate unneeded, obsolete, or unfit-for-use township 293
property to eligible nonprofit organizations. The notice shall 294
include a summary of the information provided in the resolution 295
and shall be published at least twice. The second and any 296
subsequent notice shall be published not less than ten nor more 297

than twenty days after the previous notice. A similar notice also 298
shall be posted continually in the board's office, and, if the 299
township maintains a web site on the internet, the notice shall be 300
posted continually at that web site. 301

The board or its representatives shall maintain a list of all 302
nonprofit organizations that notify the board or its 303
representative of their desire to obtain donated property under 304
this division and that the board or its representative determines 305
to be eligible, in accordance with the requirements set forth in 306
this section and in the donation program's guidelines and 307
procedures, to receive donated property. 308

The board or its representative also shall maintain a list of 309
all township property the board finds to be unneeded, obsolete, or 310
unfit for use and to be available for donation under this 311
division. The list shall be posted continually in a conspicuous 312
location in the board's office, and, if the township maintains a 313
web site on the internet, the list shall be posted continually at 314
that web site. An item of property on the list shall be donated to 315
the eligible nonprofit organization that first declares to the 316
board or its representative its desire to obtain the item unless 317
the board previously has established, by resolution, a list of 318
eligible nonprofit organizations that shall be given priority with 319
respect to the item's donation. Priority may be given on the basis 320
that the purposes of a nonprofit organization have a direct 321
relationship to specific public purposes of programs provided or 322
administered by the board. A resolution giving priority to certain 323
nonprofit organizations with respect to the donation of an item of 324
property shall specify the reasons why the organizations are given 325
that priority. 326

(3) If the board finds, by resolution, that the township has 327
motor vehicles, road machinery, equipment, or tools ~~which~~ that are 328
not needed or are unfit for public use, and the board wishes to 329

sell the motor vehicles, road machinery, equipment, or tools to 330
the person or firm from which it proposes to purchase other motor 331
vehicles, road machinery, equipment, or tools, the board may offer 332
to sell the motor vehicles, road machinery, equipment, or tools to 333
that person or firm, and to have the selling price credited to the 334
person or firm against the purchase price of other motor vehicles, 335
road machinery, equipment, or tools. 336

(4) If the board advertises for bids for the sale of new 337
motor vehicles, road machinery, equipment, or tools to the 338
township, it may include in the same advertisement a notice of the 339
willingness of the board to accept bids for the purchase of 340
township-owned motor vehicles, road machinery, equipment, or tools 341
~~which~~ that are obsolete or not needed for public use, and to have 342
the amount of those bids subtracted from the selling price of the 343
new motor vehicles, road machinery, equipment, or tools, as a 344
means of determining the lowest responsible bidder. 345

(5) When a township has title to real property, the board of 346
township trustees, by resolution, may authorize the transfer and 347
conveyance of that property to any other political subdivision of 348
the state upon such terms as are agreed to between the board and 349
the legislative authority of that political subdivision. 350

(6) When a township has title to real property and the board 351
of township trustees wishes to sell or otherwise transfer the 352
property, the board, upon a unanimous vote of its members and by 353
resolution, may authorize the transfer and conveyance of that real 354
property to any person upon whatever terms are agreed to between 355
the board and that person. 356

(7) If the board of township trustees determines that 357
township personal property is not needed for public use, or is 358
obsolete or unfit for the use for which it was acquired, and that 359
the property has no value, the board may discard or salvage that 360
property. 361

(B) When the board has offered property at public auction 362
under this section and has not received an acceptable offer, the 363
board, by resolution, may enter into a contract, without 364
advertising or bidding, for the sale of that property. The 365
resolution shall specify a minimum acceptable price and the 366
minimum acceptable terms for the contract. The minimum acceptable 367
price shall not be lower than the minimum price established for 368
the public auction. 369

(C) Members of the board shall consult with the Ohio ethics 370
commission and comply with the provisions of Chapters 102. and 371
2921. of the Revised Code, with respect to any sale or donation 372
under division (A)(2) of this section to a nonprofit organization 373
of which a township trustee, any member of the township trustee's 374
family, or any business associate of the township trustee is a 375
trustee, officer, board member, or employee. 376

(D) Notwithstanding anything to the contrary in division (A) 377
or (B) of this section and regardless of the property's value, the 378
board may sell personal property, including motor vehicles, road 379
machinery, equipment, tools, or supplies, ~~which~~ that is not needed 380
for public use, is obsolete, or is unfit for the use for which it 381
was acquired, by internet auction. The board shall adopt, during 382
each calendar year, a resolution expressing its intent to sell 383
that property by internet auction. The resolution shall include a 384
description of how the auctions will be conducted and shall 385
specify the number of days for bidding on the property, which 386
shall be no less than ~~fifteen~~ ten days, including Saturdays, 387
Sundays, and legal holidays. The resolution shall indicate whether 388
the township will conduct the auction or the board will contract 389
with a representative to conduct the auction and shall establish 390
the general terms and conditions of sale. If a representative is 391
known when the resolution is adopted, the resolution shall provide 392
contact information such as the representative's name, address, 393

and telephone number. 394

After adoption of the resolution, the board shall publish, in 395
a newspaper of general circulation in the township, notice of its 396
intent to sell unneeded, obsolete, or unfit-for-use township 397
personal property by internet auction. The notice shall include a 398
summary of the information provided in the resolution and shall be 399
published at least twice. The second and any subsequent notice 400
shall be published not less than ten nor more than twenty days 401
after the previous notice. A similar notice also shall be posted 402
continually throughout the calendar year in a conspicuous place in 403
the board's office, and, if the township maintains a web site on 404
the internet, the notice shall be posted continually throughout 405
the calendar year at that web site. 406

When property is to be sold by internet auction, the board or 407
its representative may establish a minimum price that will be 408
accepted for specific items and may establish any other terms and 409
conditions for the particular sale, including requirements for 410
pick-up or delivery, method of payment, and sales tax. This type 411
of information shall be provided on the internet at the time of 412
the auction and may be provided before that time upon request, 413
after the terms and conditions have been determined by the board 414
or its representative. 415

Sec. 4707.02. (A) No person shall act as an auction firm, 416
auctioneer, apprentice auctioneer, or special auctioneer within 417
this state without a license issued by the department of 418
agriculture. No auction shall be conducted in this state except by 419
an auctioneer licensed by the department. 420

The department shall not issue or renew a license if the 421
applicant or licensee has been convicted of a felony or crime 422
involving fraud or theft in this or another state at any time 423
during the ten years immediately preceding application or renewal. 424

~~This (B) Division (A) of this~~ section does not apply to any 425
of the following: 426

~~(A)(1)~~ Sales at auction that either are required by law to be 427
at auction, other than sales pursuant to a judicial order or 428
decree, or ~~that~~ are conducted by or under the direction of a 429
public authority; 430

~~(B)(2)~~ The owner of any real or personal property desiring to 431
sell the property at auction, provided that the property was not 432
acquired for the purpose of resale; 433

~~(C)(3)~~ An auction mediation company; 434

~~(D)(4)~~ An auction that is conducted in a course of study for 435
auctioneers that is approved by the state auctioneers commission 436
created under section 4707.03 of the Revised Code for purposes of 437
student training and is supervised by a licensed auctioneer; 438

~~(E)(5)(a)~~ An auction that is sponsored by a nonprofit or 439
charitable organization that is registered in this state under 440
Chapter 1702. or Chapter 1716. of the Revised Code, respectively, 441
if the auction only involves the property of the members of the 442
organization and the auction is part of a fair that is organized 443
by an agricultural society under Chapter 1711. of the Revised Code 444
or by the Ohio expositions commission under Chapter 991. of the 445
Revised Code at which an auctioneer who is licensed under this 446
chapter physically conducts the auction; or 447

(b) Sales at an auction sponsored by a charitable, religious, 448
or civic organization that is tax exempt under subsection 449
501(c)(3) of the Internal Revenue Code, or by a public school, 450
chartered nonpublic school, or community school, if no person in 451
the business of organizing, arranging, or conducting an auction 452
for compensation and no consignor of consigned items sold at the 453
auction, except such organization or school, receives compensation 454
from the proceeds of the auction. As used in division (B)(5)(b) of 455

this section, "compensation" means money, a thing of value other than participation in a charitable event, or a financial benefit.

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~~(F)~~(6) A person licensed as a livestock dealer under Chapter 943. of the Revised Code who exclusively sells livestock and uses an auctioneer who is licensed under this chapter to conduct the auction;

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~~(G)~~(7) A person licensed as a motor vehicle auction owner under Chapter 4517. of the Revised Code who exclusively sells motor vehicles to a person licensed under Chapter 4517. of the Revised Code and who uses an auctioneer who is licensed under this chapter to conduct the auction;

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~~(H)~~(8) A person who sells real or personal property by means of the internet.

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(C)(1) No person shall advertise or hold oneself out as an auction firm, auctioneer, apprentice auctioneer, or special auctioneer without a license issued by the department of agriculture.

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(2) Division (C)(1) of this section does not apply to an individual who is the subject of an advertisement regarding an auction conducted under division (B)(5)(b) of this section.

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Sec. 4707.20. (A) ~~No~~ Except when conducting an auction under division (B)(5)(b) of section 4707.02 of the Revised Code, no person shall act as an auction firm, auctioneer, or special auctioneer until the person has first entered into a written contract or agreement in duplicate with the owner or consignee of any property to be sold, containing the terms and conditions upon which the licensee receives or accepts the property for sale at auction. The contracts or agreements shall, for a period of two years, be kept on file in the office of every person so licensed.

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No apprentice auctioneer shall be authorized to enter into such a contract or agreement without the written consent of the apprentice auctioneer's sponsoring auctioneer, and all contracts or agreements shall be made in the name of and on behalf of the sponsoring auctioneer. In addition, an apprentice auctioneer shall not enter into an auction contract for the sale of real property in the name of the sponsoring auctioneer regardless of whether the apprentice auctioneer is licensed as a real estate broker or salesperson.

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

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

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

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

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

(3) The location of the auction;

(4) The terms and conditions of the auction;

(5) All of the fees to be charged by the auctioneer or the auction firm, which shall include commissions, rentals, advertising, and labor;	517 518 519
(6) An explanation of the settlement of the auction that includes the disbursement of interest money, if applicable;	520 521
(7) A statement establishing the responsibility for bad checks, debts, and unpaid auction items;	522 523
(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.	524 525 526 527
(9) A statement of the auctioneer's or auction firm's policy regarding absentee bidding;	528 529
(10) A brief description of the real or personal property to be sold;	530 531
(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.	532 533 534 535
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 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	536 537 538 539 540 541 542 543 544 545 546

firm, auctioneer, apprentice auctioneer, or special auctioneer 547
knowingly answer any such questions falsely; and nor shall the 548
auction firm, auctioneer, apprentice auctioneer, or special 549
auctioneer refuse to obey subpoenas and give testimony. Licensees, 550
as well as charitable, religious, or civic organizations and 551
schools that sponsor an auction under division (B)(5)(b) of 552
section 4707.02 of the Revised Code, shall keep records relative 553
to any auction ~~sale~~ for at least two years from ~~the~~ its date ~~of~~ 554
~~action~~. These records shall include settlement sheets, written 555
contracts, and copies of any advertising that lists the items for 556
auction, as applicable. 557

Sec. 4707.26. (A)(1) A person who asserts that the person has 558
been aggrieved by the actions of a person licensed under this 559
chapter that resulted in actual and direct losses to the aggrieved 560
person may initiate a claim against the auction recovery fund 561
either under this section or section 4707.261 of the Revised Code. 562
If an aggrieved person who wishes to seek recovery from the 563
auction recovery fund has obtained a final judgment in a court of 564
competent jurisdiction against the licensee, the aggrieved person 565
shall initiate the claim in accordance with section 4707.261 of 566
the Revised Code. If an aggrieved person who wishes to seek 567
recovery from the auction recovery fund has not obtained a final 568
judgment in a court of competent jurisdiction against the 569
licensee, the aggrieved person shall initiate the claim in 570
accordance with this section. 571

(2) An aggrieved person may initiate a claim against the 572
auction recovery fund under this section if all of the following 573
apply: 574

(a) The loss was associated with an act or transaction that 575
only a person licensed under this chapter lawfully may perform. 576

(b) The licensee's actions are described in section 4707.15 577

of the Revised Code or otherwise violate this chapter or rules 578
adopted under it. 579

(c) The licensee is not an auction firm. 580

(d) The loss was not associated with an auction conducted 581
under division (B)(5)(b) of section 4707.02 of the Revised Code. 582

To initiate a claim against the fund, an aggrieved person 583
shall file a verified complaint with the department of agriculture 584
in accordance with section 4707.16 of the Revised Code. The 585
verified complaint shall include an application to the department 586
that requests recovery of the applicant's actual and direct losses 587
and that is made on forms that the department provides. The 588
application for recovery shall specify the nature of the act or 589
transaction on which the applicant's claim is based, the actual 590
and direct losses sustained by the applicant, and any activities 591
that the applicant has pursued as a remedy for the losses. 592

(B) Upon receipt of a verified complaint and application, the 593
department shall conduct an investigation in accordance with 594
section 4707.16 of the Revised Code. After the investigation, if 595
the department determines that the licensee has engaged in conduct 596
described in section 4707.15 of the Revised Code or otherwise has 597
violated this chapter or rules adopted under it, the department 598
shall propose to take action to suspend or revoke the licensee's 599
license under section 4707.15 of the Revised Code or to initiate a 600
criminal action against the licensee under section 4707.99 of the 601
Revised Code, or both. The department shall issue a letter to the 602
applicant indicating the department's proposed action and the date 603
of any hearing that the department has scheduled regarding the 604
matter. 605

(C) Upon exhaustion of administrative remedies or criminal 606
proceedings that results in a finding that the licensee has 607
engaged in conduct described in section 4707.15 of the Revised 608

Code or otherwise has violated this chapter or rules adopted under 609
it, the department shall issue a notice in accordance with Chapter 610
119. of the Revised Code via certified mail to the applicant 611
indicating that the applicant may request a hearing for relief 612
from the auction recovery fund. An applicant who seeks recovery 613
from the fund of any actual and direct losses suffered as a result 614
of a licensee's conduct shall submit, not later than thirty days 615
following receipt of the notice, a request for a hearing to the 616
department. 617

Upon the timely receipt of a request for a hearing, the 618
department shall provide the applicant with the opportunity to 619
appear at an adjudication hearing to offer proof and evidence of 620
the actual and direct losses. Whenever possible, the department 621
shall require all applicants whose claims to the fund arose from 622
an underlying transaction involving the same licensee to be joined 623
in one adjudication under this section so that the rights of all 624
applicants may be equitably adjudicated and settled. On behalf of 625
the fund, the department may defend claims against the fund and 626
shall have recourse to all appropriate means of defense and 627
review, including examination of witnesses, and verification of 628
actual losses. 629

(D) Upon the conclusion of the adjudication hearing, the 630
hearing officer shall issue a report and recommendation in favor 631
of making payment to an applicant from the fund if, during the 632
course of the adjudication hearing, all of the following have been 633
shown: 634

(1) The licensee has engaged in conduct described in section 635
4707.15 of the Revised Code or otherwise has violated this chapter 636
or rules adopted under it. 637

(2) The licensee's conduct or violation is associated with an 638
act that only a person licensed under this chapter lawfully may 639
perform and the act resulted in direct and actual losses to the 640

applicant. 641

(3) The applicant filed a verified complaint and application 642
with the department as required by this section. 643

(4) The applicant is not the spouse of the licensee ~~nor~~ or 644
the personal representative of the licensee's spouse. 645

(5) If the licensee either provided an irrevocable letter of 646
credit or gave bond in accordance with section 4707.11 of the 647
Revised Code, the applicant first sought recovery under the 648
irrevocable letter of credit or bond before applying for payment 649
from the fund. 650

The amount of any payment from the fund to the applicant 651
shall consist of an amount that is equal to the portion of the 652
actual and direct losses incurred by the applicant that remain 653
unpaid. The amount of the payment is subject to the dollar 654
limitation established in section 4707.29 of the Revised Code. 655

If the hearing officer determines that not all of the items 656
described in divisions (D)(1) to (5) of this section have been 657
shown during the course of the adjudication hearing, the hearing 658
officer shall issue a report and recommendation against making 659
payment from the fund to the applicant. 660

(E) Pursuant to section 119.09 of the Revised Code, a hearing 661
officer or the hearing officer's representative shall forward by 662
certified mail a copy of the hearing officer's written report and 663
recommendation to the applicant or the applicant's attorney or 664
other representative not later than five days after the date on 665
which the report and recommendation are filed. 666

Not later than ten days after receiving such a copy, the 667
applicant may file with the department written objections to the 668
report and recommendation. The department may grant extensions of 669
time to the applicant within which to file objections. 670

The objections shall be considered by the department before 671
it approves, modifies, or disapproves the recommendation. The 672
department may order additional testimony to be taken or permit 673
the introduction of further documentary evidence. 674

The recommendation of the hearing officer may be approved, 675
modified, or disapproved by order of the director of agriculture. 676
The order shall not be issued until more than ten days have 677
elapsed following the applicant's receipt of the report and 678
recommendation as provided by this section. The director's 679
approval, modification, or disapproval of the hearing officer's 680
recommendation shall have the same effect as if the hearing had 681
been conducted by the director. 682

No recommendation shall be final until approved, modified, or 683
disapproved by the director as indicated by the order entered on 684
the record of proceedings of the department. If the director 685
modifies or disapproves the recommendations of the hearing 686
officer, the director shall include in the record of the 687
proceedings the reasons for the modification or disapproval. 688

After an order is entered on its journal, the department 689
shall make payment, if applicable, to the applicant from the 690
auction recovery fund in accordance with the order and shall 691
provide to the applicant by certified mail, return receipt 692
requested, a copy of the order and a statement of the time and 693
method by which an appeal may be perfected. In addition, the 694
department shall mail a copy of the order to the attorney or other 695
representative of the applicant. 696

(F) An order of the director issued under this section 697
constitutes a final determination of the director for purposes of 698
appeal. An applicant who is denied compensation from the auction 699
recovery fund or who receives an award less than the award 700
requested may appeal the order of the director. Notices of appeal 701
shall be filed in the manner provided in section 119.12 of the 702

Revised Code. 703

Section 2. That existing sections 307.12, 505.10, 4707.02, 704
4707.20, 4707.21, and 4707.26 of the Revised Code are hereby 705
repealed. 706

Section 3. Section 505.10 of the Revised Code is presented in 707
this act as a composite of the section as amended by both Sub. 708
H.B. 204 and Sub. H.B. 323 of the 125th General Assembly. The 709
General Assembly, applying the principle stated in division (B) of 710
section 1.52 of the Revised Code that amendments are to be 711
harmonized if reasonably capable of simultaneous operation, finds 712
that the composite is the resulting version of the section in 713
effect prior to the effective date of the section as presented in 714
this act. 715