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Representative Hill

**Cosponsors: Representatives Scherer, Seitz, Anielski, Dever, Green, Hambley,
Koehler, Miller, Perales, Rezabek, Riedel, Rogers, Schaffer, Wiggam, Wilkin,
Speaker Smith**

Senators Hackett, Beagle

A BILL

To amend sections 2329.152, 2329.17, 2329.211, 1
2329.28, 2329.52, 4707.01, 4707.023, 4707.15, 2
4707.20, and 4707.22 of the Revised Code to 3
establish requirements governing multi-parcel 4
auctions and to amend Ohio's foreclosure 5
procedures. 6

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

Section 1. That sections 2329.152, 2329.17, 2329.211, 7
2329.28, 2329.52, 4707.01, 4707.023, 4707.15, 4707.20, and 8
4707.22 of the Revised Code be amended to read as follows: 9

Sec. 2329.152. (A) In every action demanding the judicial 10
or execution sale of real estate, the county sheriff shall sell 11
the real estate at a public auction, unless the judgment 12
creditor files a motion with the court for an order authorizing 13
a specified private selling officer to sell the real estate at a 14
public auction. If the court authorizes a private selling 15
officer to sell the real estate, the judgment creditor may seek 16

to have the property sold by the private selling officer 17
authorized by the court or by the county sheriff. If the 18
judgment creditor elects to have the property sold by the 19
private selling officer authorized by the court, the judgment 20
creditor shall file with the clerk of the court a praecipe 21
requesting the issuance of an order of appraisal to the sheriff 22
and an order of sale to the private selling officer authorized 23
by the court. Upon the filing of that praecipe, the clerk of the 24
court shall immediately issue both of the following: 25

(1) An order of appraisal to the sheriff, who shall obtain 26
an appraisal of the real estate in conformity with sections 27
2329.17 and 2329.18 of the Revised Code; 28

(2) An order of sale to the private selling officer, who, 29
after the return or determination of the appraisal, shall 30
advertise and sell the real estate in conformity with applicable 31
provisions of sections 2329.01 to 2329.61 of the Revised Code. 32

(B) (1) As used in this division: 33

(a) "Business day" means a calendar day that is not a 34
Saturday or Sunday or a legal holiday as defined in section 1.14 35
of the Revised Code. 36

(b) "Remote bid" means a bid submitted in writing via 37
facsimile, electronic mail, or overnight delivery or courier. 38

(2) If the sale of the real estate is conducted at a 39
physical location and not online, then each judgment creditor 40
and lienholder who was a party to the action may submit a remote 41
bid to the sheriff or the private selling officer. Each sheriff 42
and private selling officer shall establish and maintain a 43
facsimile number or an electronic mail address for use by 44
judgment creditors and lienholders in submitting remote bids. 45

Each remote bid shall be of a fixed maximum amount and shall be 46
delivered to the sheriff or private selling officer on or before 47
four-thirty p.m. on the business day immediately preceding the 48
date of the sale. 49

(3) Before the sale, the sheriff or the private selling 50
officer shall confirm receipt of the remote bid by sending 51
notice of such receipt via facsimile or electronic mail to the 52
judgment creditor or lienholder who submitted the remote bid. 53
During the sale, the sheriff or the private selling officer 54
shall place the remote bid on behalf of the judgment creditor or 55
lienholder who submitted the remote bid. After the sale, the 56
sheriff or the private selling officer shall provide notice of 57
the results of the sale not later than the close of business on 58
the day of the sale to all judgment creditors and lienholders 59
who submitted remote bids. Such notice shall be sent via 60
facsimile or electronic mail to the judgment creditor or 61
lienholder or by posting the results of the sale on a public web 62
site. 63

(4) If a sheriff or private selling officer fails to place 64
a remote bid on behalf of a judgment creditor or lienholder to 65
the prejudice of the judgment creditor or lienholder, then, upon 66
the filing of a motion to vacate the sale within ten business 67
days after the sale date, the sale shall be vacated. 68

(C) (1) A judgment creditor that obtains a court order 69
authorizing a specified private selling officer to sell the real 70
estate at a public auction pursuant to division (A) of this 71
section may instruct the private selling officer to postpone the 72
sale of the real estate one or more times, provided, however 73
that all rescheduled sale dates shall be within one hundred 74
eighty days of the initial sale date. Upon receiving this 75

instruction, the private selling officer shall postpone the sale 76
of the real estate by announcing that the sale is postponed. If 77
the sale is at a physical location, this announcement shall be 78
made at the sale and shall include the date, time, and place of 79
the rescheduled sale of the real estate. If the sale is online, 80
this announcement shall be made on the auction web site and 81
shall include the date of the rescheduled sale of real estate. 82
Each such announcement shall be deemed to meet the notice 83
requirement in section 2329.26 of the Revised Code. 84

(2) If the judgment creditor does not wish to postpone the 85
sale of the real estate, the judgment creditor may instruct the 86
private selling officer to cancel the sale of the real estate. 87
Upon receiving this instruction, the private selling officer 88
shall cancel the sale of the real estate by announcing that the 89
sale is canceled. If the sale is at a physical location, this 90
announcement shall be made at the sale. If the sale is online, 91
this announcement shall be made on the auction web site and 92
shall remain posted there until at least the end of the ~~seven-~~ 93
~~day~~ seven-calendar-day bidding period described in division (E) 94
(1) (a) of section 2329.152 of the Revised Code. 95

(3) If the sale of the real estate is postponed or 96
canceled as described in divisions (C) (1) and (2) of this 97
section, all bids made on the real estate prior to the 98
postponement or cancellation of the sale shall be void. 99

(D) (1) If the judgment creditor obtains a court order to 100
have the real estate sold by a private selling officer, then: 101

(a) The cost of the appraisal required by section 2329.17 102
of the Revised Code shall be taxed as costs in the case. 103

(b) The cost of the advertisement required by section 104

2329.26 of the Revised Code shall be taxed as costs in the case. 105

(c) The fee charged by the private selling officer and all 106
costs incurred by the private selling officer other than the 107
costs described in divisions (D) (1) (a) and (b) of this section 108
shall be taxed as costs in the case up to an amount equal to one 109
and one-half per cent of the sale price of the real estate. To 110
the extent the fees and costs described in division (D) (1) (c) of 111
this section exceed one and one-half per cent of the sale price 112
of the real estate, they shall not be included in the amount 113
necessary to redeem real estate under section 2329.33 of the 114
Revised Code or in the calculation of any deficiency judgment 115
under section 2329.08 of the Revised Code but rather shall be 116
paid by the buyer of the property, the judgment creditor, or 117
from the judgment creditor's portion of the proceeds of the 118
sale. 119

(2) The private selling officer shall file with the court 120
that issued the order of sale an itemized report of all 121
~~appraisal,~~ publication, marketing, and other expenses of a sale 122
conducted under this section and all fees charged by the private 123
selling officer for marketing the real estate or conducting the 124
sale of the real estate, including the fee charged by the title 125
agent or title insurance company for administrative services, if 126
applicable, and title, escrow, and closing services. 127

(E) (1) The private selling officer who conducts a sale 128
under this section may do any of the following: 129

(a) Market the real estate and conduct the public auction 130
of the real estate online or at any physical location in the 131
county in which the real estate is situated. If the auction 132
occurs online, the auction shall be open for bidding for a 133
minimum of seven calendar days, counted by excluding the day the 134

<u>auction is first open for bidding and, notwithstanding section</u>	135
<u>1.14 of the Revised Code, including all subsequent days.</u>	136
(b) Hire a title insurance agent licensed under Chapter	137
3953. of the Revised Code or title insurance company authorized	138
to do business under that chapter to assist the private selling	139
officer in performing administrative services;	140
(c) Execute to the purchaser, or to the purchaser's legal	141
representatives, a deed of conveyance of the real estate sold;	142
(d) Record on behalf of the purchaser the deed conveying	143
title to the real estate sold, notwithstanding that the deed may	144
not actually have been delivered to the purchaser prior to its	145
recording.	146
(2) By placing a bid at a sale conducted pursuant to this	147
section, a purchaser appoints the private selling officer who	148
conducts the sale as agent of the purchaser for the sole purpose	149
of accepting delivery of the deed.	150
(3) The private selling officer who conducts the sale	151
shall hire a title insurance agent licensed under Chapter 3953.	152
of the Revised Code or title insurance company authorized to do	153
business under that chapter to perform title, escrow, and	154
closing services related to the sale of the real estate.	155
(F) The fee charged by the title agent or title insurance	156
company for services provided under divisions (E) (1) (b) and (3)	157
of this section shall be taxed as costs in the case provided	158
they are reasonable. Fees less than or equal to five hundred	159
dollars are presumed to be reasonable. Fees exceeding five	160
hundred dollars shall be paid only if authorized by a court	161
order.	162
Sec. 2329.17. (A) When execution is levied upon lands and	163

tenements, the sheriff shall call an inquest of three 164
disinterested freeholders, who are residents of, and real 165
property owners in, the county where the lands taken in 166
execution are situated, who shall appraise the property so 167
levied upon, upon actual view. 168

(B) If the property to be appraised is residential 169
property, the freeholders selected by the sheriff shall return 170
to the sheriff an estimate of the value of the property in money 171
within twenty-one calendar days of the issuance of the order of 172
appraisal by the clerk of the court. ~~If-~~ 173

If the court has ordered or the clerk of the court has 174
issued an order for a private selling officer to advertise and 175
sell the appraised property, the freeholders selected by the 176
sheriff shall also deliver a copy of their appraisal to the 177
private selling officer contemporaneously with their delivery of 178
their appraisal to the sheriff. Upon receipt of the freeholders' 179
appraisal, the sheriff shall deliver a written statement of the 180
appraisal's costs to the clerk of courts. 181

(C) If the freeholders selected by the sheriff under 182
division (B) of this section do not deliver their appraisal 183
within twenty-one calendar days of the issuance of the order of 184
appraisal by the clerk of the court as required by division (B) 185
of this section, then all of the following shall occur: 186

(1) The cost of the appraisal by the freeholders shall not 187
be payable to the freeholders or taxed as costs in the case. 188

(2) The appraised value of the property shall be the most 189
recent appraised value of the property as shown on the records 190
of the county auditor, unless, for good cause shown, the court 191
authorizes a separate appraisal of the property. 192

(3) The advertisement and sale of the property shall 193
proceed immediately in accordance with the order of 194
advertisement and sale issued by the clerk of the court. 195

If a separate appraisal of the property is obtained, the 196
cost of the appraisal shall be included as an expense of the 197
sale pursuant to division (D) of section 2329.152 of the Revised 198
Code. 199

(D) If the property to be appraised is commercial 200
property, the freeholders selected by the sheriff shall return 201
to the sheriff an estimate of the value of the property in money 202
in accordance with the timing or other requirements, if any, 203
that may be established for the sale. 204

(E) The municipal corporation or township in which the 205
real property is situated may inspect prior to the judicial sale 206
any structures located on lands subject to a writ of execution. 207

Sec. 2329.211. (A) (1) In every action demanding the 208
judicial or execution sale of residential property, if the 209
judgment creditor is the purchaser at the sale, the purchaser 210
shall not be required to make a sale deposit. All other 211
purchasers shall make a sale deposit as follows: 212

(a) If the appraised value of the residential property is 213
less than or equal to ten thousand dollars, the deposit shall be 214
two thousand dollars. 215

(b) If the appraised value of the residential property is 216
greater than ten thousand dollars but less than or equal to two 217
hundred thousand dollars, the deposit shall be five thousand 218
dollars. 219

(c) If the appraised value of the residential property is 220
greater than two hundred thousand dollars, the deposit shall be 221

ten thousand dollars. 222

(2) The timing of the deposit and other payment 223
requirements shall be established by the court or the person 224
conducting the sale and included in the advertisement of the 225
sale. If the purchaser fails to meet the timing or other 226
requirements of the deposit, the sale shall be invalid and the 227
residential property may be brought to sale on the provisional 228
second sale date, if any, described in division (B) of section 229
2329.52 of the Revised Code, and included in the notice required 230
by division (A) (1) (a) (i) of section 2329.26 of the Revised Code. 231

(3) If the sale is held online, the deposit may be made by 232
a financial transaction device as defined in section 301.28 of 233
the Revised Code. 234

(B) In every action demanding the judicial or execution 235
sale of commercial property, the purchaser at the sale shall 236
make a deposit pursuant to the requirements, if any, established 237
for the sale. 238

Sec. 2329.28. ~~The~~ (A) Except as provided in division (B) 239
of this section, the levying officer shall indorse on the writ 240
of execution the officer's proceedings thereon, and the clerk of 241
the court of common pleas, upon the return thereof, immediately 242
shall record all such indorsements at length, in the execution 243
docket, or other docket provided for that purpose. Electronic 244
indorsements shall be deemed valid. That record shall be a part 245
of the record of the court of common pleas. 246

(B) A private selling officer who has complied with 247
division (D) (2) of section 2329.152 of the Revised Code shall be 248
exempt from division (A) of this section. 249

Sec. 2329.52. (A) Except as otherwise provided in division 250

(B) of this section, when premises are ordered to be sold, if 251
said premises, or a part thereof, remain unsold for want of 252
bidders after having been once appraised, advertised, and 253
offered for sale, the court from which the order of sale issued 254
may, on motion of the plaintiff or defendant and from time to 255
time until said premises are disposed of, order a new 256
appraisement and sale or direct the amount for which said 257
premises, or a part thereof, may be sold. 258

The court may order that the premises be sold as follows: 259
One third cash in hand, one third in nine months from the day of 260
sale, and the remaining one third in eighteen months from the 261
day of sale, the deferred payments to draw interest at six per 262
cent and be secured by a mortgage on the premises. 263

(B) (1) When a residential property is ordered to be sold 264
pursuant to a residential mortgage loan foreclosure action, ~~and~~ 265
~~the sale will be held at a physical location and not online, and~~ 266
if the property remains unsold after the first auction, then a 267
second auction shall be held and the property shall be sold to 268
the highest bidder without regard to the minimum bid requirement 269
in section 2329.20 of the Revised Code, but subject to section 270
2329.21 of the Revised Code relating to costs, allowances, and 271
real estate taxes. This second auction shall be held not earlier 272
than seven days and not later than thirty days after the first 273
auction. A residential property that remains unsold after two 274
auctions may be subsequently offered for sale without regard to 275
the minimum bid requirement in section 2329.20 of the Revised 276
Code, but subject to section 2329.21 of the Revised Code 277
relating to costs, allowances, and real estate taxes, or 278
disposed of in any other manner pursuant to this chapter or any 279
other provision of the Revised Code. 280

(2) For purposes of division (B)(1) of this section, the 281
first day an online auction is open for bidding shall be 282
considered the date of the auction. 283

Sec. 4707.01. As used in this chapter: 284

(A) "Auction" means a method of sale of real or personal 285
property, goods, or chattels, at a predetermined date and time, 286
by means of a verbal exchange, regular mail, telecommunications, 287
the internet, an electronic transmission, or a physical gesture 288
between an auctioneer or apprentice auctioneer and members of 289
the audience or prospective purchasers, the exchanges and 290
gestures consisting of a series of invitations for offers made 291
by the auctioneer and offers by members of the audience or 292
prospective purchasers, with the right to acceptance of offers 293
with the auctioneer or apprentice auctioneer. "Auction" includes 294
a sale of real or personal property, goods, or chattels in which 295
there has been a solicitation or invitation by advertisement to 296
the public for an advance in bidding using sealed bidding, 297
provided that the bids are opened and there is a call for an 298
advancement of the bids. 299

(B) "Auctioneer" means any person who engages, or who by 300
advertising or otherwise holds the person out as being able to 301
engage, in the calling for, recognition of, and the acceptance 302
of, offers for the purchase of real or personal property, goods, 303
or chattels at auction either directly or through the use of 304
other licensed auctioneers or apprentice auctioneers. 305

(C) "Apprentice auctioneer" means any individual who is 306
sponsored by an auctioneer to deal or engage in any activities 307
mentioned in division (A) of this section. 308

(D) "Special auctioneer" means any person who currently is 309

subject to section 4707.071 of the Revised Code.	310
(E) "Absolute auction" means an auction of real or	311
personal property to which all of the following apply:	312
(1) The property is sold to the highest bidder without	313
reserve.	314
(2) The auction does not require a minimum bid.	315
(3) The auction does not require competing bids of any	316
type by the seller or an agent of the seller.	317
(4) The seller of the property cannot withdraw the	318
property from auction after the auction is opened and there is	319
public solicitation or calling for bids.	320
(F) "Reserve auction" means an auction in which the seller	321
or an agent of the seller reserves the right to establish a	322
stated minimum bid, the right to reject or accept any or all	323
bids, or the right to withdraw the real or personal property at	324
any time prior to the completion of the auction by the	325
auctioneer.	326
(G) "Auction mediation company" means a company that	327
provides a forum through the internet for a person to sell the	328
person's real or personal property via the submission of silent	329
bids using a computer or other electronic device.	330
(H) "Public authority" means any board or commission of	331
the state or any officer of such a board or commission, or any	332
political subdivision of the state.	333
(I) "Estate auction" means the auction of real or personal	334
property of a deceased person.	335
(J) "Absentee bidding" means a method by which a potential	336

purchaser authorizes a proxy to place on behalf of the potential 337
purchaser a written or oral bid to an auctioneer or auction firm 338
or an agent of an auctioneer or auction firm. 339

(K) "Person" means an individual, sole proprietor, 340
corporation, limited liability company, association, or 341
partnership. 342

(L) "Auction firm" means a person who provides auction 343
services. 344

(M) "Auction services" means arranging, managing, and 345
sponsoring a personal property auction. "Auction services" 346
includes the taking and advertising of personal property on 347
consignment to be sold at auction by a licensed auctioneer. 348

(N) "Consignee" means a person or auction firm that takes 349
personal property on consignment to be sold at auction by a 350
licensed auctioneer. 351

(O) "Firm manager" means the individual designated by an 352
auction firm who is responsible for ensuring that the auction 353
firm complies with this chapter. 354

(P) "Sealed bidding" means a method of submitting a bid in 355
writing by one or more persons following which the bids are 356
opened at an advertised, predetermined time and place, and, 357
after a review of all the bids received, the real or personal 358
property is awarded to the highest and most responsive bidder. 359

(Q) "Multi-parcel auction" means any auction of real or 360
personal property in which multiple parcels or lots are offered 361
for sale in various amalgamations, including as individual 362
parcels or lots, combinations of parcels or lots, and all 363
parcels or lots as a whole. 364

Sec. 4707.023. (A) No person licensed under this chapter 365
shall advertise, offer for sale, or sell real or personal 366
property by absolute auction unless all of the following apply: 367

(1) One of the following applies: 368

(a) Except for current tax obligations, easements, or 369
restrictions of record of the seller, there are no liens or 370
encumbrances on the property in favor of any other person. 371

(b) Every holder of a lien or encumbrance, by execution of 372
the auction contract or other written agreement provided to the 373
auctioneer, agrees to the absolute auction without regard to the 374
amount of the highest bid or to the identity of the highest 375
bidder. 376

(c) A financially sound person, firm, trust, or estate, by 377
execution of the auction contract or other written agreement 378
provided to the auctioneer, guarantees the complete discharge 379
and satisfaction of all liens and encumbrances, as applicable, 380
immediately after the absolute auction or at the closing without 381
regard to the amount of the highest bid or to the identity of 382
the highest bidder. 383

(2) The seller of the real or personal property at the 384
time of advertising and at the time of the absolute auction has 385
a bona fide intention to transfer ownership of the property to 386
the highest bidder regardless of the amount of the highest bid 387
and without reliance on any agreement that a particular bid or 388
bid level be attained in order to transfer the property. 389

(3) The auction contract requires that the auction be 390
conducted as an absolute auction, specifies that the auction is 391
not a reserve auction, and prohibits the seller or anyone acting 392
on behalf of the seller to bid or participate in the bidding 393

process of the auction.	394
(B) Division (A) of this section does not prohibit any of	395
the following:	396
(1) The bidding of a secured party or lien holder, other	397
than the seller, at an absolute auction, provided that the bids	398
are bona fide offers, that the bidding does not constitute bid	399
rigging or a reserve for the seller, and that the bidding is not	400
for the purpose of aiding or assisting or on behalf of the	401
seller or the auctioneer;	402
(2) The bidding by an individual or a party to a	403
dissolution of marriage, partnership, or corporation on real or	404
personal property being sold at auction pursuant to the	405
dissolution;	406
(3) The advertising of real or personal property to be	407
sold by absolute auction and by reserve auction within the same	408
advertisement or for auction on the same date and at the same	409
place, provided that the advertisement is not misleading and	410
clearly identifies the property that is to be sold by absolute	411
auction and the property that is to be sold by reserve auction.	412
(C) A person licensed under this chapter may make a bona	413
fide bid on the licensee's own behalf at an absolute auction and	414
at a reserve auction, provided that the licensee provides full	415
disclosure that the licensee may make a bona fide bid to the	416
seller and at the auction.	417
(D) A seller or a person on behalf of a seller may make a	418
bid if the auction is a reserve auction and the auctioneer	419
provides full disclosure before bidding begins that the seller	420
retains the right to bid. No person licensed under this chapter	421
knowingly shall receive such a bid in the absence of full	422

disclosure.	423
(E) Except in the case of a dissolution as provided in	424
division (B) (2) of this section, a person licensed under this	425
chapter shall not knowingly receive a bid by a seller or a	426
person on the seller's behalf at an absolute auction.	427
<u>(F) A person licensed under this chapter may advertise an</u>	428
<u>absolute auction as a multi-parcel auction if the person</u>	429
<u>licensed complies with this section and section 4707.22 of the</u>	430
<u>Revised Code.</u>	431
Sec. 4707.15. The department of agriculture may deny,	432
refuse to renew, suspend, or revoke the license of any auction	433
firm, auctioneer, apprentice auctioneer, or special auctioneer	434
for any of the following causes:	435
(A) Obtaining a license through false or fraudulent	436
representation;	437
(B) Making any substantial misrepresentation in an	438
application for a license;	439
(C) A continued course of misrepresentation or for making	440
false promises through agents, advertising, or otherwise;	441
(D) Specifying that an auction is a reserve auction,	442
absolute auction, <u>multi-parcel auction,</u> or estate auction, but	443
not conducting the auction as specified;	444
(E) Failing to account for or remit, within a reasonable	445
time, any money or property belonging to others that comes into	446
the licensee's possession, and for commingling funds of others	447
with the licensee's own, or failing to keep funds of others in	448
an escrow or trust account, except that in the case of a	449
transaction involving real estate, such funds shall be	450

maintained in accordance with division (A) (26) of section	451
4735.18 of the Revised Code;	452
(F) Paying valuable consideration to any person who has	453
violated this chapter;	454
(G) Conviction in a court of competent jurisdiction of	455
this state or any other state of a criminal offense involving	456
fraud, forgery, embezzlement, false pretenses, extortion,	457
conspiracy to defraud, or another similar offense or a felony;	458
(H) Violation of this chapter or rules adopted under it;	459
(I) Failure to furnish voluntarily at the time of	460
execution, copies of all written instruments prepared by the	461
auctioneer or auction firm;	462
(J) Any conduct of a person that is licensed under this	463
chapter that demonstrates bad faith, dishonesty, incompetency,	464
or untruthfulness;	465
(K) Any other conduct that constitutes improper,	466
fraudulent, or dishonest dealings;	467
(L) Failing prior to the sale at public auction to enter	468
into a written contract with the owner or consignee of any	469
property to be sold, containing the terms and conditions upon	470
which the licensee received the property for auction;	471
(M) The use of any power of attorney to circumvent this	472
chapter;	473
(N) Failure to display the <u>either of the following:</u>	474
<u>(1) The sign</u> required under section 4707.22 of the Revised	475
Code and a <u>;</u> or	476
<u>(2) A notice</u> conspicuously at the clerk's desk or on a bid	477

card that clearly states the terms and conditions of the auction 478
and, if applicable, an explanation of the multi-parcel auction 479
process; 480

(O) Failure to notify the department of any conviction of 481
a felony or crime involving fraud within fifteen days of 482
conviction; 483

(P) Aiding an unlicensed person in the performance of 484
services or acts that require a license under this chapter; 485

(Q) The suspension or revocation of a license to engage in 486
auctioneering or other disciplinary action by the licensing 487
authority of another state; 488

(R) The refusal or disapproval by the licensing authority 489
of another state of an application for a license to engage in 490
auctioneering; 491

(S) Failure of a licensee to notify the department of 492
agriculture within fifteen days of a disciplinary action against 493
the licensee by another state's applicable governing authority; 494

(T) Engaging in auctioneering or providing auction 495
services without a license or during the suspension of a 496
license; 497

(U) Attempting to cheat or cheating on an auctioneer 498
examination or aiding another to cheat on an examination. 499

Sec. 4707.20. (A) Except when conducting an auction under 500
division (B) (5) (b) of section 4707.02 of the Revised Code, no 501
person shall act as an auction firm, auctioneer, or special 502
auctioneer until the person has first entered into a written 503
contract or agreement in duplicate with the owner or consignee 504
of any property to be sold, containing the terms and conditions 505

upon which the licensee receives or accepts the property for 506
sale at auction. The contracts or agreements shall, for a period 507
of two years, be kept on file in the office of every person so 508
licensed. No apprentice auctioneer shall be authorized to enter 509
into such a contract or agreement without the written consent of 510
the apprentice auctioneer's sponsoring auctioneer, and all 511
contracts or agreements shall be made in the name of and on 512
behalf of the sponsoring auctioneer. In addition, an apprentice 513
auctioneer shall not enter into an auction contract for the sale 514
of real property in the name of the sponsoring auctioneer 515
regardless of whether the apprentice auctioneer is licensed as a 516
real estate broker or salesperson. 517

(B) On all contracts or agreements between an auction 518
firm, auctioneer, or special auctioneer and the owner or 519
consignee, there shall appear a prominent statement indicating 520
that the auction firm, auctioneer, or special auctioneer is 521
licensed by the department of agriculture, and either that the 522
licensee is bonded in favor of the state or that an aggrieved 523
person may initiate a claim against the auction recovery fund 524
created in section 4707.25 of the Revised Code as a result of 525
the licensee's actions, whichever is applicable. 526

(C) The auction firm, auctioneer, or special auctioneer 527
who contracts with the owner is liable for the settlement of all 528
money received, including the payment of all expenses incurred 529
only by the licensee and the distribution of all funds, in 530
connection with an auction. 531

(D) For purposes of this section, a contract or agreement 532
shall specify all of the following: 533

(1) The owner of the property to be sold or the owner's 534
agent or the consignee; 535

(2) The date of the auction or a termination date of the contract or agreement;	536 537
(3) The location of the auction;	538
(4) The terms and conditions of the auction;	539
(5) All of the fees to be charged by the auctioneer or the auction firm, which shall include commissions, rentals, advertising, and labor;	540 541 542
(6) An explanation of the settlement of the auction that includes the disbursement of interest money, if applicable;	543 544
(7) A statement establishing the responsibility for bad checks, debts, and unpaid auction items;	545 546
(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.	547 548 549 550 551
(9) A statement of the auctioneer's or auction firm's policy regarding absentee bidding;	552 553
(10) A brief description of the real or personal property to be sold;	554 555
(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.	556 557 558 559
<u>(12) If the sale is a multi-parcel auction, a statement between the owner or owners of the real or personal property and the auctioneer, auction firm, or special auctioneer attesting</u>	560 561 562

that the type of auction will be a multi-parcel auction. 563

Sec. 4707.22. (A) Any person licensed under this chapter 564
who advertises, by linear advertisements or otherwise, to hold 565
or conduct an auction shall indicate in the advertisement the 566
licensee's name or the name registered with the department of 567
agriculture and that the licensee is an auctioneer or apprentice 568
auctioneer. Any apprentice auctioneer who advertises, as 569
provided in this section, also shall indicate in the 570
apprentice's advertisement the name of the auctioneer under whom 571
the apprentice is licensed. The name of the auctioneer shall be 572
displayed in equal prominence with the name of the apprentice 573
auctioneer in the advertisement. Any such licensee who 574
advertises in a manner other than as provided in this section is 575
guilty of violating division (C) of section 4707.15 of the 576
Revised Code. 577

(B) An auction firm licensed under this chapter that 578
advertises, by linear advertisements or otherwise, to solicit or 579
receive consignments or to provide auction services shall 580
indicate in the advertisement the name of the auction firm. In 581
addition, an advertisement of an auction of consignments or an 582
advertisement by an auction firm of an auction for which the 583
auction firm will provide auction services shall comply with 584
divisions (A) and (D) of this section. 585

(C) If an auction to be advertised is an absolute auction, 586
all advertisements for the auction shall unequivocally state 587
that the auction is an absolute auction. 588

(D) If an advertisement for an auction contains the words 589
"estate auction," or words to that effect, the person licensed 590
under this chapter who advertises shall do both of the 591
following: 592

(1) Enter into an agreement directly with the executor, 593
administrator, or court appointed designee of the estate 594
property; 595

(2) List prominently in the advertisement the county in 596
which the estate is located and the probate court case number of 597
the estate. 598

(E) All persons licensed under this chapter that conduct 599
or are involved in an auction jointly are responsible for the 600
posting of a sign at the auction. The sign shall contain all of 601
the following: 602

(1) The name of all licensed persons involved in the 603
auction; 604

(2) A statement that the persons are licensed by the 605
department of agriculture; 606

(3) The address of the department of agriculture. 607

The sign shall be posted at the main entrance of the 608
auction, at the place of registration for the auction, or by the 609
cashier for the auction. The sign shall be of a size not smaller 610
than eight and one-half inches by eleven inches. The letters and 611
numbers on the sign shall be of adequate size to be readily seen 612
by an individual with normal vision when viewing it. 613

(F) An advertisement for the sale of real property at 614
auction shall contain the name of the licensed auctioneer who is 615
entering into the auction contract and the name of the real 616
estate broker licensed under Chapter 4735. of the Revised Code 617
who is involved in the sale. Compliance with this section shall 618
not require a real estate broker licensed under Chapter 4735. of 619
the Revised Code to obtain a license under section 4707.073 of 620
the Revised Code. 621

(G) If an auction to be advertised is a multi-parcel 622
auction, all advertisements for the auction, excluding road 623
signs, shall state that the auction will be offered in various 624
amalgamations, including as individual parcels or lots, 625
combinations of parcels or lots, and all parcels or lots as a 626
whole. 627

Section 2. That existing sections 2329.152, 2329.17, 628
2329.211, 2329.28, 2329.52, 4707.01, 4707.023, 4707.15, 4707.20, 629
and 4707.22 of the Revised Code are hereby repealed. 630