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Am. H. B. No. 321

Representatives Kick, Young, B.

Cosponsors: Representatives Ginter, Stephens, Riedel, Lanese, Seitz, Jordan, Stoltzfus, Jones, Cross, Fowler Arthur, Miller, J., Koehler, Abrams, Brent, Carruthers, Crossman, Ferguson, Hicks-Hudson, Jarrells, Leland, Lightbody, Miller, A., O'Brien, Robinson, Sobbecki, Upchurch, Weinstein, Wilkin

A BILL

To amend sections 4707.01, 4707.02, 4707.021, 1
4707.04, 4707.05, 4707.06, 4707.07, 4707.073, 2
4707.08, 4707.091, 4707.10, 4707.11, 4707.12, 3
4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4
4707.18, 4707.19, 4707.20, 4707.21, 4707.22, and 5
4707.25; to enact sections 4707.101 and 6
4707.153; and to repeal sections 4707.071 and 7
4707.09 of the Revised Code to eliminate the 8
apprentice auctioneer and special auctioneer's 9
license and to make other revisions to the law 10
governing auctions. 11

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

Section 1. That sections 4707.01, 4707.02, 4707.021, 12
4707.04, 4707.05, 4707.06, 4707.07, 4707.073, 4707.08, 4707.091, 13
4707.10, 4707.11, 4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 14
4707.171, 4707.18, 4707.19, 4707.20, 4707.21, 4707.22, and 15
4707.25 be amended and sections 4707.101 and 4707.153 of the 16
Revised Code be enacted to read as follows: 17

Sec. 4707.01. As used in this chapter: 18

~~(A)~~—"Auction" means a method of sale of real or personal 19
property, goods, or chattels, at a predetermined date and time, 20
by means of a verbal exchange, regular mail, telecommunications, 21
the internet, an electronic transmission, or a physical gesture 22
between an auctioneer ~~or apprentice auctioneer~~ and members of 23
the audience or prospective purchasers, the exchanges and 24
gestures consisting of a series of invitations for offers made 25
by the auctioneer and offers by members of the audience or 26
prospective purchasers, with the right to acceptance of offers 27
with the auctioneer ~~or apprentice auctioneer~~. "Auction" includes 28
a sale of real or personal property, goods, or chattels in which 29
there has been a solicitation or invitation by advertisement to 30
the public for an advance in bidding using sealed bidding, 31
provided that the bids are opened and there is a call for an 32
advancement of the bids. 33

~~(B)~~—"Auctioneer" means any person who engages, or who by 34
advertising or otherwise holds the person out as being able to 35
engage, in the calling for, recognition of, and the acceptance 36
of, offers for the purchase of real or personal property, goods, 37
or chattels at auction either directly or through the use of 38
other licensed auctioneers ~~or apprentice auctioneers~~. 39

~~(C)~~ "Apprentice auctioneer" means any individual who is 40
~~sponsored by an auctioneer to deal or engage in any activities~~ 41
~~mentioned in division (A) of this section.~~ 42

~~(D)~~ "Special auctioneer" means any person who currently is 43
~~subject to section 4707.071 of the Revised Code.~~ 44

~~(E)~~—"Absolute auction" means an auction of real or 45
personal property to which all of the following apply: 46

- (1) The property is sold to the highest bidder without reserve. 47
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- (2) The auction does not require a minimum bid. 49
- (3) The auction does not require competing bids of any type by the seller or an agent of the seller. 50
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- (4) The seller of the property cannot withdraw the property from auction after the auction is opened and there is public solicitation or calling for bids unless no bid is made within a reasonable time. 52
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- ~~(F)~~—"Reserve auction" means an auction in which the seller or an agent of the seller reserves the right to establish a stated minimum bid, the right to reject or accept any or all bids, or the right to withdraw the real or personal property at any time prior to the completion of the auction by the auctioneer. 56
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- ~~(G)~~—"Auction mediation company" means a company that provides a forum through the internet for a person to sell the person's real or personal property via the submission of silent bids using a computer or other electronic device. 62
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- ~~(H)~~—"Public authority" means any board or commission of the state or any officer of such a board or commission, or any political subdivision of the state. 66
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- ~~(I)~~—"Estate auction" means the auction of real or personal property of a deceased person. 69
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- ~~(J)~~—"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. 71
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~~(K)~~—"Person" means an individual, sole proprietor, 75
corporation, limited liability company, association, or 76
partnership. 77

~~(I)~~—"Auction firm" means a person who provides auction 78
services for online or live auctions. 79

~~(M)~~—"Auction services" means arranging, managing, and 80
sponsoring a personal property auction. "Auction services" 81
includes the taking and advertising of personal property on 82
consignment to be sold at an online or live auction by a 83
licensed auctioneer for a fee or other consideration. 84

~~(N)~~—"Consignee" means a person or auction firm that, in 85
the regular course of business, takes personal property on 86
consignment to be sold at an online or live auction by a 87
licensed auctioneer. 88

~~(O)~~—"Firm manager" means the individual designated by an 89
auction firm who is responsible for ensuring that the auction 90
firm complies with this chapter. 91

~~(P)~~—"Sealed bidding" means a method of submitting a bid in 92
writing by one or more persons following which the bids are 93
opened at an advertised, predetermined time and place, and, 94
after a review of all the bids received, the real or personal 95
property is awarded to the highest and most responsive bidder. 96

~~(Q)~~—"Multi-parcel auction" means any auction of real or 97
personal property in which multiple parcels or lots are offered 98
for sale in various amalgamations, including as individual 99
parcels or lots, combinations of parcels or lots, and all 100
parcels or lots as a whole. 101

"Live auction" means an auction that is hosted by an 102
auctioneer in real time when the auctioneer and the audience of 103

bidders are in the same physical location. 104

"Online auction" means an auction or sale at auction of 105
real or personal property that is conducted via a web site or 106
similar interactive communication media in which the web site or 107
similar interactive communication media accepts and rejects bids 108
and declares items, parcels, or lots sold. 109

Sec. 4707.02. (A) No person shall act as an auction firm,~~—~~ 110
~~or~~ auctioneer, ~~apprentice auctioneer, or special auctioneer—~~ 111
within this state without a license issued by the department of 112
agriculture. No auction shall be conducted in this state except 113
by an auctioneer licensed by the department. 114

Except as provided in division (D) of this section, the 115
department shall not issue or renew a license if the applicant 116
or licensee has been convicted of a felony or crime involving 117
fraud or theft in this or another state at any time during the 118
ten years immediately preceding application or renewal. 119

(B) Division (A) of this section does not apply to any of 120
the following: 121

(1) Sales at auction that either are required by law to be 122
at auction, other than sales pursuant to a judicial order or 123
decree, or are conducted by or under the direction of a public 124
authority; 125

(2) The owner of any real or personal property desiring to 126
sell the property at auction, provided that the property was not 127
acquired for the purpose of resale; 128

(3) An auction mediation company; 129

(4) An auction that is conducted in a course of study for 130
auctioneers that is approved by the state auctioneers commission 131

created under section 4707.03 of the Revised Code for purposes 132
of student training and is supervised by a licensed auctioneer; 133

(5) (a) An auction that is sponsored by a nonprofit or 134
charitable organization that is registered in this state under 135
Chapter 1702. or Chapter 1716. of the Revised Code, 136
respectively, if the auction only involves the property of the 137
members of the organization and the auction is part of a fair 138
that is organized by an agricultural society under Chapter 1711. 139
of the Revised Code or by the Ohio expositions commission under 140
Chapter 991. of the Revised Code at which an auctioneer who is 141
licensed under this chapter physically conducts the auction; 142

(b) Sales at an auction sponsored by a charitable, 143
religious, or civic organization that is tax exempt under 144
subsection 501(c) (3) of the Internal Revenue Code, or by a 145
public school, chartered nonpublic school, or community school, 146
if no person in the business of organizing, arranging, or 147
conducting an auction for compensation and no consignor of 148
consigned items sold at the auction, except such organization or 149
school, receives compensation from the proceeds of the auction. 150
As used in division (B) (5) (b) of this section, "compensation" 151
means money, a thing of value other than participation in a 152
charitable event, or a financial benefit. 153

(c) Sales at an auction sponsored by an organization that 154
is tax exempt under subsection 501(c) (6) of the Internal Revenue 155
Code and that is a part of a national, regional, or state 156
convention or conference that advances or promotes the auction 157
profession in this state when the property to be sold is donated 158
to or is the property of the organization and the proceeds 159
remain within the organization or are donated to a charitable 160
organization that is tax exempt under subsection 501(c) (3) of 161

the Internal Revenue Code.	162
(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;	163 164 165 166
(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;	167 168 169 170 171
(8) Sales of real or personal property conducted by means of the internet, provided that they are not conducted in conjunction with a live auction;	172 173 174
(9) A bid calling contest that is approved by the commission and that is conducted for the purposes of the advancement or promotion of the auction profession in this state;	175 176 177 178
(10) (9) An auction at which the champion of a national or international bid calling contest appears, provided that both of the following apply:	179 180 181
(a) The champion is not paid a commission.	182
(b) The auction is conducted under the direct supervision of an auctioneer licensed under this chapter in order to ensure that the champion complies with this chapter and rules adopted under it.	183 184 185 186
(C) (1) No person shall advertise or hold oneself out as an auction firm, <u>or</u> auctioneer, apprentice auctioneer, or special auctioneer without a license issued by the department of	187 188 189

agriculture.	190
(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.	191 192 193
(D) The department shall not refuse to issue a license to an applicant because of a criminal conviction unless the refusal is in accordance with section 9.79 of the Revised Code.	194 195 196
Sec. 4707.021. Only an auctioneer who is licensed under this chapter and who is licensed as a real estate broker or a real estate salesperson under Chapter 4735. of the Revised Code shall sign an auction contract for the sale of real property at auction. A real estate broker who is licensed under Chapter 4735. of the Revised Code, but who is not licensed as an auctioneer under this chapter shall not sign an auction contract or conduct an auction, but may contract for the sale of real property at auction only if either of the following applies:	197 198 199 200 201 202 203 204 205
(A) The auctioneer who signs the auction contract and who conducts the auction is a salesperson licensed under Chapter 4735. of the Revised Code and is associated with the real estate broker who contracts for the sale of real property.	206 207 208 209
(B) The real estate broker enters into a cooperative agreement with another real estate broker licensed under Chapter 4735. of the Revised Code with whom an auctioneer licensed under this chapter is associated and the auctioneer is solely responsible for signing the auction contract and conducting the auction.	210 211 212 213 214 215
An apprentice auctioneer who is licensed as a real estate broker or real estate salesperson under Chapter 4735. of the Revised Code may act as a bid caller in the sale of real	216 217 218

~~property at auction if the sponsoring auctioneer is licensed~~ 219
~~under this chapter and is licensed as a real estate broker or~~ 220
~~real estate salesperson under Chapter 4735. of the Revised Code.~~ 221

Nothing in this section shall be construed to permit a 222
business to contract for the sale of real property at auction 223
through an individual who is not licensed under this chapter and 224
Chapter 4735. of the Revised Code. 225

Sec. 4707.04. (A) The state auctioneers commission shall, 226
upon qualification of the member or members appointed in each 227
year, select from its members a chairperson, and shall serve in 228
an advisory capacity to the department of agriculture for the 229
purpose of carrying out this chapter. The commission shall meet 230
not less than four times annually. 231

(B) (1) The commission shall establish requirements and 232
standards for ~~courses~~ both of the following: 233

(a) Courses of study in auctioneering; 234

(b) Courses of study for purposes of continuing education 235
under section 4707.101 of the Revised Code. ~~The~~ 236

(2) The commission triennially shall review the courses of 237
study ~~in auctioneering~~ that are offered at institutions and 238
continuing education providers in order to determine whether the 239
courses comply with ~~these~~ the requirements and standards 240
established under division (B) (1) of this section. The 241
commission shall approve institutions and continuing education 242
providers that offer courses that comply with the requirements 243
and standards. If an institution or continuing education 244
provider is not approved, the institution or continuing 245
education provider may reapply for approval within a year of the 246
disapproval. If at that time the commission approves the 247

institution or continuing education provider, the institution or 248
continuing education provider shall be approved for the 249
remainder of the triennial period. The commission, prior to the 250
triennial review, may place on probationary status or revoke the 251
approval of any institution or continuing education provider 252
that provides a course of study ~~in auctioneering~~ if the 253
institution or continuing education provider fails to comply 254
with the requirements and standards established under ~~this~~ 255
division (B) (1) of this section. 256

~~(C) Members of the commission who are licensed auctioneers~~ 257
~~under this chapter shall administer the oral licensing~~ 258
~~examination required under section 4707.08 of the Revised Code.~~ 259

~~(D)~~ Each commissioner shall receive the commissioner's 260
actual and necessary expenses incurred in the discharge of the 261
commissioner's duties. Each commissioner also shall receive a 262
per diem salary from the auctioneers fund created in section 263
4707.05 of the Revised Code for each meeting attended. The 264
director of agriculture shall adopt rules in accordance with 265
Chapter 119. of the Revised Code establishing the per diem 266
salary. 267

~~(E)~~ (D) The commission may form subcommittees for purposes 268
of research, education, and promotion of the auctioneering 269
profession. If a majority of the members of the commission 270
approves, the members of a subcommittee may be reimbursed from 271
the auction education fund created in section 4707.171 of the 272
Revised Code for the actual and necessary expenses incurred in 273
the discharge of their duties. 274

~~(F)~~ (E) Serving as a member of the commission does not 275
constitute holding a public office or position of employment 276
under the laws of this state and does not constitute grounds for 277

removal of public officers or employees from their offices or 278
positions of employment. 279

~~(G)~~ (F) The commission may advise the director on actions 280
of the director as required under this chapter. 281

Sec. 4707.05. Except as otherwise provided in section 282
4707.25 of the Revised Code, all fees and charges collected by 283
the department of agriculture pursuant to this chapter shall be 284
paid into the state treasury to the credit of the auctioneers 285
fund, which is hereby created. All expenses incurred by the 286
department in administering this chapter shall be paid out of 287
the fund. The total expenses incurred by the department in the 288
administration of this chapter shall not exceed the total fees, 289
charges, fines, and penalties imposed under sections 4707.08, 290
4707.10, and 4707.99 of the Revised Code and paid to the 291
treasurer of state. The department may conduct education 292
programs for the enlightenment and benefit of all auctioneers 293
who have paid fees pursuant to sections 4707.08 and 4707.10 of 294
the Revised Code. 295

~~At the end of each fiscal year, if the balance of the fund~~ 296
~~is greater than three hundred thousand dollars, the director of~~ 297
~~agriculture shall request the director of budget and management~~ 298
~~to, and the director of budget and management shall, transfer~~ 299
~~twenty five per cent of the balance that is in excess of three~~ 300
~~hundred thousand dollars to the auction recovery fund created in~~ 301
~~section 4707.25 of the Revised Code.~~ 302

Sec. 4707.06. The department of agriculture shall maintain 303
a record of the names and addresses of all auction firms, and 304
auctioneers, ~~apprentice auctioneers, and special auctioneers~~ 305
licensed by the department. This record shall also include a 306
list of all persons whose licenses have been suspended or 307

revoked as well as any other information relative to the 308
enforcement of this chapter that the department considers of 309
interest to the public. 310

Sec. 4707.07. (A) The department of agriculture may grant 311
~~an auctioneer's licenses~~ license to ~~those individuals who are an~~ 312
individual who is determined to be qualified by the department. 313
Each individual who applies for an auctioneer's license shall 314
furnish to the department, on forms provided by the department, 315
satisfactory proof that the applicant: 316

(1) Has attained the age of at least eighteen years; 317

(2) Has ~~done one of the following:~~ 318

~~(a) Met the apprenticeship requirements set forth in~~ 319
~~section 4707.09 of the Revised Code;~~ 320

~~(b) Met the requirements of section 4707.12 of the Revised~~ 321
~~Code~~ successfully completed a course of study in auctioneering at 322
an institution that is approved by the state auctioneers 323
commission. 324

(3) Has a general knowledge of the following: 325

(a) The requirements of the Revised Code relative to 326
auctioneers; 327

(b) The auction profession; 328

(c) The principles involved in conducting an auction; 329

(d) Any local and federal laws regarding the profession of 330
auctioneering. 331

(4) Has satisfied the financial responsibility 332
requirements established under section 4707.11 of the Revised 333
Code if applicable. 334

~~(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 4707.09 of the Revised Code~~If the department determines that an application is incomplete, the department shall notify the applicant that the application is incomplete and inform the applicant of the information that is missing from the application. An applicant shall submit the additional information within ninety days after being notified by the department that the application is incomplete. If an applicant fails to submit the required information within that ninety-day period, the department shall deny the application and the applicant shall forfeit the application fee to the department.

(C) A licensee may do business under more than one registered name, but not to exceed three registered names, provided that 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 three names, the department may charge a fee of ten dollars for the third name.

~~(D) The department, in its discretion, may waive the schooling and apprenticeship requirements for a resident of this state, provided that the resident holds a valid auctioneer's 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— 366
has had two years of experience as an auctioneer immediately— 367
preceding the date of application that includes at a minimum— 368
twelve auctions in which the applicant was a bid caller in the— 369
reciprocal state.— 370~~

Sec. 4707.073. (A) No corporation, limited liability 371
company, general or limited partnership, or unincorporated 372
association shall act or hold itself out as an auctioneer 373
without a valid auctioneer's license issued under this section. 374
~~This section does not apply to a person who is issued a license— 375
under section 4707.071 of the Revised Code.— 376~~

(B) The department of agriculture may grant an 377
auctioneer's license to a corporation, limited liability 378
company, general or limited partnership, or unincorporated 379
association that is determined to be qualified by the 380
department. Every applicant for a license under this section 381
shall furnish to the department, on forms provided by the 382
department, satisfactory proof that the applicant: 383

(1) Is in good standing with the secretary of state if the 384
applicant is a corporation; 385

(2) Is of trustworthy character; 386

(3) Has provided proof of financial responsibility as 387
required in section 4707.11 of the Revised Code; 388

(4) Is registered with the secretary of state or a local 389
authority, as applicable, to do business in this state; 390

(5) Has complied with any other requirement that the 391
director establishes in rules adopted under section 4707.19 of 392
the Revised Code. 393

(C) An application submitted under this section shall list 394
the names of all of the owners, directors, partners, or members 395
of the applicant, as applicable, and shall indicate those that 396
have an auctioneer's license issued under section 4707.07 of the 397
Revised Code. 398

(D) The department shall not issue a license under this 399
section unless one of the following applies, as applicable: 400

(1) If the applicant is a limited liability company or a 401
general or limited partnership, not less than fifty per cent of 402
the members or general partners have a current license issued 403
under section 4707.07 of the Revised Code. 404

(2) If the applicant is a corporation, not less than fifty 405
per cent of the directors and the president or chief executive 406
have a current license issued under section 4707.07 of the 407
Revised Code. 408

(3) If the applicant is an unincorporated association, not 409
less than fifty per cent of the members have a current license 410
issued under section 4707.07 of the Revised Code. 411

Failure of a corporation, limited liability company, 412
partnership, or unincorporated association to maintain the 413
applicable requirements of this division after the issuance of a 414
license under this section may be sufficient cause for the 415
revocation of the license under section 4707.15 of the Revised 416
Code. 417

(E) Upon the issuance of a license under this section, a 418
corporation, limited liability company, partnership, or 419
unincorporated association shall designate an individual from 420
among its directors, partners, or members who is licensed under 421
section 4707.07 of the Revised Code as its agent for purposes of 422

communication with the department. If that individual ceases to 423
be the agent, the corporation, limited liability company, 424
partnership, or unincorporated association shall notify the 425
department not later than ten days after the day on which the 426
individual ceases to be the agent. Upon notification to the 427
department, the license of the corporation, limited liability 428
company, partnership, or unincorporated association, as 429
applicable, immediately shall terminate. If the corporation, 430
limited liability company, partnership, or unincorporated 431
association notifies the department of the designation of a new 432
agent in accordance with the requirements of this division and 433
pays a fee in the amount of ten dollars, the department shall 434
issue the corporation, limited liability company, partnership, 435
or unincorporated association a new license. 436

(F) This section does not preclude a corporation, limited 437
liability company, partnership, or unincorporated association 438
from selling real property at auction, provided that the 439
requirements of this section and section 4707.021 and Chapter 440
4735. of the Revised Code are satisfied. 441

(G) A person licensed as a real estate broker under 442
Chapter 4735. of the Revised Code shall not be required to 443
obtain a license under this section if the person complies with 444
sections 4707.021 and 4707.22 of the Revised Code. 445

Sec. 4707.08. (A) The department of agriculture shall hold 446
written examinations ~~four times each year for the purpose of~~ 447
~~testing the qualifications required for obtaining a license~~ 448
~~under section 4707.07 of the Revised Code and twelve times each~~ 449
year for obtaining a license under section ~~4707.09~~ 4707.07 of 450
the Revised Code and for unlicensed auction firm managers as 451
required under division (D) of section 4707.074 of the Revised 452

Code. The written examination shall be held at the department or 453
at an alternative location determined by the department. ~~In~~ 454
~~addition to the written examination, auctioneer license~~ 455
~~applicants shall pass an oral examination administered by the~~ 456
~~state auctioneers commission on the same date and at the same~~ 457
~~location as the written examination.~~ An examination shall not be 458
required for the renewal of any license unless the license has 459
been revoked, ~~suspended,~~ or allowed to expire without renewal, 460
in which case the applicant shall take and pass the appropriate 461
~~examinations~~ examination offered by the department. 462

An examination fee of twenty-five dollars shall be 463
collected from each person taking the auctioneer examination and 464
fifteen dollars from each person taking ~~either the apprentice~~ 465
~~auctioneer examination or~~ the auction firm manager examination 466
to defray expenses of holding the examinations. 467

(B) All applications and proofs shall be filed by each 468
applicant before the scheduled date of examination, and shall be 469
accompanied by proof of financial responsibility and a license 470
fee. In order to be seated for an examination held under this 471
section, an applicant shall have a complete application on file 472
with the department not later than fourteen days prior to the 473
examination date. 474

(C) If a court of competent jurisdiction or the 475
department, at an administrative hearing, has found that an 476
applicant conducted an auction, provided auction services, or 477
acted as an auctioneer without a license issued under this 478
chapter, the department may refuse to allow the applicant to 479
take an examination under this section or may deny the issuance 480
of a license to the applicant for a period of two years. 481

(D) (1) If an applicant for a license fails to pass the 482

examination, the applicant may take the examination on the next 483
scheduled date for the examination. If an applicant fails to 484
pass the examination on the second consecutive attempt, the 485
applicant shall not take the examination on the next scheduled 486
date for the examination. 487

(2) If an applicant for a license fails to pass the 488
examination on the third attempt, the applicant shall attend 489
auction school a second time before the applicant may take the 490
examination. If an applicant for a license fails to pass the 491
examination on the fourth attempt, the applicant shall not take 492
the examination for at least one year from the date of the last 493
failed attempt. 494

(3) If an individual who is taking the examination for an 495
auction firm manager fails to pass the examination on the third 496
attempt, the individual shall not take the examination for one 497
year from the date of the last failed attempt. 498

Sec. 4707.091. (A) Prior to the expiration of an 499
auctioneer's ~~or apprentice auctioneer's~~ license, an auctioneer 500
~~or apprentice auctioneer~~ may submit an application to the 501
department of agriculture, on forms provided by the department, 502
to place the license on deposit with the department for a period 503
not to exceed two years. Not later than fourteen days after 504
receipt of an application under this section, the department 505
shall accept or deny the application. 506

(B) If the department accepts the application, an 507
auctioneer ~~or apprentice auctioneer~~ who has a license on deposit 508
with the department under this section shall not act as an 509
auctioneer ~~or apprentice auctioneer~~ while the license is on 510
deposit. In addition, such an auctioneer shall not be required 511
to pay an assessment under section 4707.25 of the Revised Code. 512

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

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

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

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

~~(b)~~ In the case of an auctioneer whose license is reacquired during the first half of the biennium according to the biennial schedule established in division ~~(B)~~ (A) of section 4707.10 of the Revised Code, two hundred dollars;

~~(e)~~ (b) In the case of an auctioneer whose license is reacquired during the second half of the biennium according to that biennial schedule, one hundred dollars.

(3) Pays the assessment that is levied under section 4707.25 of the Revised Code for the current year, if applicable;

(4) Provides proof of financial responsibility as required in section 4707.11 of the Revised Code, if applicable;

(5) Complies with any other requirement established in rules adopted by the director under section 4707.19 of the Revised Code.

(D) If an auctioneer ~~or apprentice auctioneer~~, at the time of placing the auctioneer's ~~or apprentice auctioneer's~~ license on deposit, ~~as applicable,~~ has not maintained proof of financial

responsibility for the entire period of time required under 541
section 4707.11 of the Revised Code, the auctioneer ~~or~~ 542
~~apprentice auctioneer~~, beginning at the time of reacquisition, 543
shall maintain proof of financial responsibility for the 544
remainder of the time required under that section. 545

Sec. 4707.10. (A) ~~The fee for each apprentice auctioneer's~~ 546
~~or auction firm license issued by the department of agriculture~~ 547
~~is one hundred dollars, and the annual renewal fee for any such~~ 548
~~license is one hundred dollars. All licenses expire annually on~~ 549
~~the last day of June of each year and shall be renewed according~~ 550
~~to the standard renewal procedures of Chapter 4745. of the~~ 551
~~Revised Code, or the procedures of this section. Any licensee~~ 552
~~under this chapter who wishes to renew the licensee's license,~~ 553
~~but fails to do so before the first day of July shall reapply~~ 554
~~for licensure in the same manner and pursuant to the same~~ 555
~~requirements as for initial licensure, unless before the first~~ 556
~~day of September of the year of expiration, the former licensee~~ 557
~~pays to the department, in addition to the regular renewal fee,~~ 558
~~a late renewal penalty of one hundred dollars.~~ 559

~~(B)~~(1) Each person to whom the department issues an 560
auctioneer's license or special auctioneer's auction firm 561
license shall pay a licensure fee. Those licenses are biennial 562
and expire in accordance with the schedule established in 563
division ~~(B) (2)~~ (A) (2) of this section. If such a license is 564
issued during the first year of a biennium, the licensee shall 565
pay a fee in the amount of two hundred dollars. If the license 566
is issued during the second year of a biennium, the licensee 567
shall pay a fee in the amount of one hundred dollars. With 568
respect to an auctioneer's license, the fees apply regardless of 569
whether the license is issued to an individual under section 570
4707.07 of the Revised Code or to a corporation, limited 571

liability company, partnership, or association under section 572
4707.073 of the Revised Code. 573

All auctioneer's licenses and ~~special auctioneer's auction~~ 574
firm licenses expire on the last day of June of the biennium. 575
The licenses shall be renewed in accordance with the standard 576
renewal procedures of Chapter 4745. of the Revised Code or the 577
procedures in this section and upon the licensee's payment to 578
the department of a renewal fee of two hundred dollars. A 579
licensee who wishes to renew the licensee's license, but who 580
fails to do so before the first day of July following the 581
license's expiration, shall reapply for licensure in the same 582
manner and pursuant to the same requirements as for the initial 583
licensure unless before the first day of September following the 584
expiration, the former licensee pays to the department, in 585
addition to the regular renewal fee, a late renewal penalty of 586
one hundred dollars. 587

(2) The biennial expiration of an auctioneer's license or 588
~~special auctioneer's auction firm~~ license shall occur in 589
accordance with the following schedule: 590

(a) The license shall expire in odd-numbered years if the 591
business name or last name, as applicable, of the licensee 592
begins with the letters "A" through "J" or with the letters "X" 593
through "Z." 594

(b) The license shall expire in even-numbered years if the 595
business name or last name, as applicable, of the licensee 596
begins with the letters "K" through "W." 597

~~(C)~~ (B) (1) To renew an auctioneer's license, the licensee 598
shall include with a renewal application an affidavit stating 599
that the licensee has completed eight hours of continuing 600

education in accordance with section 4707.101 of the Revised 601
Code during the two years immediately preceding renewal of the 602
licensee's license. 603

(2) To renew an auction firm's license, the auction firm 604
manager of the licensed auction firm shall include with a 605
renewal application an affidavit stating that the auction firm 606
manager has completed eight hours of continuing education in 607
accordance with section 4707.101 of the Revised Code during the 608
two years immediately preceding renewal of the auction firm's 609
license. 610

The director of agriculture shall not renew an auctioneer 611
or auction firm license unless the applicant demonstrates that 612
all continuing education requirements have been completed. 613

(C) Any person who fails to renew the person's license 614
before the first day of July is prohibited from engaging in any 615
activity specified or comprehended in section 4707.01 of the 616
Revised Code until such time as the person's license is renewed 617
or a new license is issued. Renewal of a license between the 618
first day of July and the first day of September does not 619
relieve any person from complying with this division. The 620
department may refuse to renew the license of or issue a new 621
license to any person who violates this division. 622

(D) The department shall prepare and deliver to each 623
licensee a permanent license certificate and an identification 624
card, the appropriate portion of which shall be carried on the 625
person of the licensee at all times when engaged in any type of 626
auction activity, and part of which shall be posted with the 627
permanent certificate in a conspicuous location at the 628
licensee's place of business. 629

(E) Notice in writing shall be given to the department by 630
each auctioneer ~~or apprentice auctioneer~~ licensee of any change 631
of principal business location or any change or addition to the 632
name or names under which business is conducted, whereupon the 633
department shall issue a new license for the unexpired period. 634
Any change of business location or change or addition of names 635
without notification to the department shall automatically 636
cancel any license previously issued. For each new auctioneer's 637
~~or apprentice auctioneer's~~ license issued upon the occasion of a 638
change in business location or a change in or an addition of 639
names under which business is conducted, the department may 640
collect a fee of ten dollars for each change in location, or 641
name or each added name unless the notification of the change 642
occurs concurrently with the renewal application or unless 643
otherwise provided in section 4707.07 of the Revised Code. 644

Sec. 4707.101. (A) A licensed auctioneer shall complete 645
eight hours of continuing education in accordance with this 646
section prior to renewal of the license under section 4707.10 of 647
the Revised Code. The auction firm manager of a licensed auction 648
firm shall complete eight hours of continuing education in 649
accordance with this section prior to the renewal of the auction 650
firm license under section 4707.10 of the Revised Code. 651

(B) (1) Except as provided in division (B) (2) of this 652
section, a licensed auctioneer and an auction firm manager shall 653
complete the eight hours of continuing education as follows: 654

(a) Three of the hours shall include areas of instruction 655
in any of the following areas: an overview of this chapter and 656
rules adopted under it, including any recent amendments to that 657
chapter or rules; contract law; the uniform commercial code; 658
auction ethics; or trust or escrow accounts. 659

(b) Five of the hours shall include areas of instruction 660
in any of the following areas: advertising and marketing; 661
business math and accounting; insurance and liability; federal 662
firearms law; business management; motor vehicle auctions; real 663
estate auctions; or personal property auctions. 664

(2) If a licensed auctioneer has been issued a license 665
with a period of validity of twelve months or less, the 666
auctioneer shall complete four hours of continuing education as 667
follows: 668

(a) One hour in the areas of instruction described in 669
division (B) (1) (a) of this section; 670

(b) Three hours in the areas of instruction described in 671
division (B) (1) (b) of this section. 672

(C) A licensed auctioneer or an auction firm manager of a 673
licensed auction firm may complete an area of instruction for 674
continuing education hours in another state if both of the 675
following apply: 676

(1) The area of instruction has been approved by the 677
appropriate state governing body in the other state. 678

(2) The Ohio auctioneers commission approves the 679
completion of the area of instruction by the auctioneer or an 680
auction firm manager in the other state. 681

Sec. 4707.11. (A) Except as provided in division (B) of 682
this section, each application for a license issued under this 683
chapter shall be accompanied by proof of financial 684
responsibility in the form of either an irrevocable letter of 685
credit or a cash bond or a surety bond in the amount of twenty- 686
five thousand dollars. If the applicant gives a surety bond, the 687
bond shall be executed by a surety company authorized to do 688

business in this state. 689

A bond shall be made payable to the department of 690
agriculture and shall include a condition that requires the 691
applicant to comply with this chapter and rules adopted under 692
it, including a requirement that the person refrain from conduct 693
described in section 4707.15 of the Revised Code. All bonds 694
shall be on a form approved by the director of agriculture. 695

A licensee shall maintain proof of financial 696
responsibility for three years following the date of initial 697
licensure. After the three-year period, a licensee who has not 698
engaged in conduct described in section 4707.15 of the Revised 699
Code and has not otherwise violated this chapter or rules 700
adopted under it during that period shall no longer be required 701
to maintain proof of financial responsibility except as 702
otherwise provided in this section. 703

A licensee whose license expires without being renewed 704
under section 4707.10 of the Revised Code or is suspended under 705
section 4707.15 or 4707.30 of the Revised Code shall give proof 706
of financial responsibility in accordance with this section in 707
order to obtain reinstatement or reactivation of the license. 708

(B) Division (A) of this section does not apply to ~~any~~ 709
either of the following: 710

(1) A licensee whose license was issued prior to July 1, 711
2003, provided that the license continues to be renewed under 712
section 4707.10 of the Revised Code and is not suspended under 713
section 4707.15 or 4707.30 of the Revised Code; 714

~~(2) An apprentice auctioneer licensee whose license was 715
issued under section 4707.09 of the Revised Code prior to July 716
1, 2003, and who applies for an auctioneer's license under 717~~

~~section 4707.07 of the Revised Code on or after July 1, 2003,~~ 718
~~provided that the apprentice auctioneer's license is not~~ 719
~~suspended under section 4707.15 or 4707.30 of the Revised Code,~~ 720
~~and, if necessary, continues to be renewed under section 4707.10~~ 721
~~of the Revised Code, prior to the issuance of the auctioneer's~~ 722
~~license to the applicant;~~ 723

~~(3) An auction firm license that is issued under section~~ 724
~~4707.074 of the Revised Code.~~ 725

Sec. 4707.12. A nonresident may operate as an auctioneer,~~—~~ 726
~~apprentice auctioneer, or special auctioneer~~ within the state by 727
conforming to this chapter. 728

The department of agriculture may, within its discretion, 729
waive the testing and schooling requirements for a nonresident, 730
provided that the nonresident holds a valid auctioneer ~~or~~ 731
~~apprentice auctioneer~~ license issued by a state with which the 732
department has entered into a reciprocal licensing agreement. 733
Nonresidents wishing to so operate in this state shall make 734
application in writing to the department and furnish the 735
department with proof of their ability to conduct an auction, 736
proof of license and financial responsibility, as well as other 737
information that the department may request. ~~If a state with~~ 738
~~which the department has entered into a reciprocal licensing~~ 739
~~agreement does not require an apprenticeship, the applicant~~ 740
~~shall provide proof of license for a period of at least one year~~ 741
~~prior to receipt of the application.~~ 742

~~This section does not apply to~~ A nonresident auctioneer 743
~~who do not have a license~~ auctioneer from a state with which the 744
department has not entered into a reciprocal licensing agreement 745
shall not operate as an auctioneer in this state, unless that 746
nonresident auctioneer is issued a license under this chapter. 747

Sec. 4707.14. (A) Each person licensed under this chapter 748
shall have a definite place of business in this state. 749

~~(B) Except as provided in division (C) of this section, if~~ 750
~~the~~ If a licensee is a nonresident, it is not necessary for the 751
licensee to maintain an active place of business within this 752
state if the licensee maintains such a place of business in the 753
state where the licensee is a resident. 754

~~(C) A nonresident who is licensed as a special auctioneer~~ 755
~~under section 4707.071 of the Revised Code shall have a definite~~ 756
~~place of business within the state and shall not conduct~~ 757
~~auctions anywhere else in the state other than the licensee's~~ 758
~~place of business.~~ 759

Sec. 4707.15. (A) The department of agriculture may deny, 760
refuse to renew, suspend, or revoke the license of any auction 761
firm, or auctioneer, ~~apprentice auctioneer, or special~~ 762
~~auctioneer~~ for any of the following causes: 763

(1) Obtaining a license through false or fraudulent 764
representation; 765

(2) Making any substantial misrepresentation in an 766
application for a license; 767

(3) A continued course of misrepresentation or for making 768
false promises through agents, advertising, or otherwise; 769

(4) Specifying that an auction is a reserve auction, 770
absolute auction, multi-parcel auction, or estate auction, but 771
not conducting the auction as specified; 772

(5) Failing to account for or remit, within a reasonable 773
time, any money or property belonging to others that comes into 774
the licensee's possession, and for commingling funds of others 775

with the licensee's own, or failing to keep funds of others in	776
an escrow or trust account, except that in the case of a	777
transaction involving real estate, such funds shall be	778
maintained in accordance with division (A) (26) of section	779
4735.18 of the Revised Code;	780
(6) Paying valuable consideration to any person who has	781
violated this chapter;	782
(7) Except as provided in division (B) of this section,	783
conviction in a court of competent jurisdiction of this state or	784
any other state of a criminal offense involving fraud, forgery,	785
embezzlement, false pretenses, extortion, conspiracy to defraud,	786
or another similar offense or a felony;	787
(8) Violation of this chapter or rules adopted under it;	788
(9) Failure to furnish voluntarily at the time of	789
execution, copies of all written instruments prepared by the	790
auctioneer or auction firm;	791
(10) Any conduct of a person that is licensed under this	792
chapter that demonstrates bad faith, dishonesty, incompetency,	793
or untruthfulness;	794
(11) Any other conduct of a person that is licensed under	795
this chapter that constitutes improper, fraudulent, or dishonest	796
dealings;	797
(12) Failing prior to the sale at public auction to enter	798
into a written contract with the owner or consignee of any	799
property to be sold, containing the terms and conditions upon	800
which the licensee received the property for auction;	801
(13) The use of any power of attorney to circumvent this	802
chapter;	803

(14) Failure to display either of the following:	804
(a) The sign required under section 4707.22 of the Revised Code; or	805 806
(b) A notice conspicuously at the clerk's desk or on a bid card that clearly states the terms and conditions of the auction and, if applicable, an explanation of the multi-parcel auction process.	807 808 809 810
(15) Failure to notify the department of any conviction of a felony or crime involving fraud within fifteen days of conviction;	811 812 813
(16) Aiding an unlicensed person in the performance of services or acts that require a license under this chapter;	814 815
(17) The suspension or revocation of a license to engage in auctioneering or other disciplinary action by the licensing authority of another state;	816 817 818
(18) The refusal or disapproval by the licensing authority of another state of an application for a license to engage in auctioneering;	819 820 821
(19) 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;	822 823 824
(20) Engaging in auctioneering or providing auction services without a license or during the suspension of a license;	825 826 827
(21) Attempting to cheat or cheating on an auctioneer examination or aiding another to cheat on an examination.	828 829
(B) The department shall not refuse to issue a license to	830

an applicant because of a criminal conviction unless the refusal 831
is in accordance with section 9.79 of the Revised Code. 832

Sec. 4707.151. (A) No person shall engage in bid rigging. 833

(B) As used in this section, "bid rigging" means a 834
conspiracy between auctioneers, ~~apprentice auctioneers, special-~~ 835
~~auctioneers,~~ any participants in an auction, or any other 836
persons who agree not to bid against each other at an auction or 837
who otherwise conspire to decrease or increase the number or 838
amounts of bids offered at auction. 839

Sec. 4707.153. (A) An auctioneer license or auction firm 840
license is automatically suspended if the following apply, as 841
applicable: 842

(1) The director of agriculture determines that a licensed 843
auctioneer has failed to complete the continuing education 844
requirements established under section 4707.101 of the Revised 845
Code. 846

(2) The director determines the auction firm manager of a 847
licensed auction firm has failed to complete the continuing 848
education requirements established under section 4707.101 of the 849
Revised Code. 850

A license is automatically suspended on the date on which 851
the director makes a determination under division (A) (1) or (2) 852
of this section. The director shall provide the offending 853
licensee with an opportunity for an administrative hearing on 854
the suspension in accordance with Chapter 119. of the Revised 855
Code. 856

(B) If an auctioneer's or auction firm's license is 857
suspended under division (A) of this section, the auctioneer or 858
auction firm manager of the auction firm shall provide proof of 859

completion of the continuing education requirements not later 860
than one hundred eighty days after the date that the suspension 861
is issued. If such an auctioneer or auction firm manager fails 862
to submit the proof of completion of the continuing education 863
requirements within that time period, the license is 864
automatically revoked. The director shall provide the former 865
licensee an opportunity for an administrative hearing on the 866
revocation in accordance with Chapter 119. of the Revised Code. 867

(C) If an auctioneer or auction firm license is revoked 868
under this section, the former licensee shall not apply for a 869
new license under this chapter earlier than one year after the 870
revocation. The applicant shall comply with all requirements 871
under section 4707.07 or 4707.074 of the Revised Code, as 872
applicable. 873

Sec. 4707.16. (A) The department of agriculture may, upon 874
its own motion, and shall, upon the verified written complaint 875
of any person, investigate the actions of any auction firm, ~~or~~ 876
~~auctioneer, apprentice auctioneer, or special auctioneer,~~ any 877
applicant for an auction firm's, ~~or~~ auctioneer's, ~~apprentice-~~ 878
~~auctioneer's, or special auctioneer's~~ license, or any person who 879
assumes to act in that capacity, if the complaint, together with 880
other evidence presented in connection with it, makes out a 881
prima-facie case. 882

If the department determines that any such applicant is 883
not entitled to receive a license, a license shall not be 884
granted to the applicant, and if the department determines that 885
any licensee is guilty of a violation of section 4707.14 or 886
4707.15 of the Revised Code, the department may suspend or 887
revoke the license. Any auction firm, ~~or~~ auctioneer, ~~apprentice-~~ 888
~~auctioneer, or special auctioneer~~ who has had the auction 889

firm's, or auctioneer's, ~~apprentice auctioneer's, or special-~~ 890
~~auctioneer's~~ license revoked shall not be issued another such 891
license for a period of two years from the date of revocation. 892

(B) The department may investigate complaints concerning 893
the violation of sections 4707.02 and 4707.15 of the Revised 894
Code and may subpoena witnesses in connection with such 895
investigations as provided in this section. The department may 896
make application to the court of common pleas for an order 897
enjoining the violation of sections 4707.02 and 4707.15 of the 898
Revised Code, and upon a showing by the department that any 899
licensed auction firm, or auctioneer, ~~apprentice auctioneer, or~~ 900
~~special auctioneer~~ has violated or is about to violate section 901
4707.15 of the Revised Code, or any person has violated or is 902
about to violate section 4707.02 of the Revised Code, an 903
injunction, restraining order, or other order as may be 904
appropriate shall be granted by the court. 905

(C) The department may compel by subpoena the attendance 906
of witnesses to testify in relation to any matter over which it 907
has jurisdiction and that is the subject of inquiry and 908
investigation by it, and require the production of any book, 909
paper, or document pertaining to that matter. In case any person 910
fails to file any statement or report, obey any subpoena, give 911
testimony, or produce any books, records, or papers as required 912
by such a subpoena, the court of common pleas of any county in 913
the state, upon application made to it by the department, shall 914
compel obedience by attachment proceedings for contempt, as in 915
the case of disobedience of the requirements of a subpoena 916
issued from that court, or a refusal to testify therein. 917

(D) When the department determines that a person not 918
licensed under this chapter is engaged in or is believed to be 919

engaged in activities for which a license is required under this 920
chapter, the department may issue an order to that person 921
requiring the person to show cause as to why the person should 922
not be subject to licensing under this chapter. If the 923
department, after a hearing, determines that the activities in 924
which the person is engaged are subject to licensing under this 925
chapter, the department may issue a cease-and-desist order that 926
shall describe the person and activities that are subject to the 927
order. A cease-and-desist order issued under this section shall 928
be enforceable in and may be appealed to the common pleas courts 929
of this state under Chapter 119. of the Revised Code. 930

(E) In addition to the remedies provided under this 931
section and irrespective of whether an adequate remedy at law 932
exists, the department may apply to a court of common pleas for 933
a temporary or permanent injunction or other appropriate relief 934
for continued violations of this chapter. For purposes of this 935
division, the court of common pleas shall be the court of common 936
pleas of Licking county or the court of common pleas of the 937
county where the violation occurs. 938

(F) For purposes of this section, investigative costs 939
incurred by the department are recoverable either by the 940
issuance of an administrative order of the department or by an 941
order of a court of competent jurisdiction. 942

Sec. 4707.171. There is hereby created in the state 943
treasury the auction education fund. Seven dollars and fifty 944
cents of each fee collected for an initial or renewed auction 945
firm's ~~or apprentice auctioneer's~~ license shall be credited to 946
the auction education fund. In addition, seven dollars and fifty 947
cents out of each one hundred dollars that is collected as a fee 948
for an initial or renewed auctioneer's license ~~or for a renewed~~ 949

~~special auctioneer's license~~ shall be credited to the fund. All 950
interest earned on moneys deposited in the state treasury to the 951
credit of the auction education fund shall be credited to the 952
fund. 953

The state auctioneers commission shall use any moneys from 954
the auction education fund to advance and underwrite education 955
and research in the auction field for the benefit of those 956
licensed under this chapter and the auctioneering public and to 957
cooperate with associations of auctioneers and other groups for 958
the education of auctioneers and the advancement of the auction 959
profession in this state. 960

Sec. 4707.18. No person engaged in the business of, or 961
acting in the capacity of, an auction firm, or auctioneer, ~~or~~ 962
~~special auctioneer~~ shall bring or maintain any action in the 963
courts of this state for the collection of compensation for any 964
services performed as an auction firm or auctioneer without 965
first alleging and proving that the person was a duly licensed 966
auction firm, or auctioneer, ~~or special auctioneer~~ at the time 967
the alleged cause of action arose. 968

Sec. 4707.19. (A) The director of agriculture may adopt 969
reasonable rules necessary for the implementation of this 970
chapter in accordance with Chapter 119. of the Revised Code. In 971
addition, the director shall adopt rules in accordance with 972
Chapter 119. of the Revised Code that establish the portion of 973
license fees collected under this chapter that are to be 974
deposited into the auction recovery fund under section 4707.25 975
of the Revised Code. 976

No person shall fail to comply with a rule adopted under 977
this chapter. 978

(B) The director shall adopt rules that establish a 979
schedule of civil penalties for violations of this chapter, 980
rules adopted under it, or orders issued under it. The rules 981
shall provide that the civil penalty for the first violation of 982
this chapter, rule, or order shall not exceed five thousand 983
dollars and the civil penalty for each subsequent offense shall 984
not exceed ten thousand dollars. In addition, the director, in 985
establishing the schedule of civil penalties in the rules, shall 986
consider past violations of this chapter and rules adopted under 987
it, the severity of a violation, and the amount of actual or 988
potential damage to the public or the auction profession. 989

(C) The department of agriculture may hear testimony in 990
matters relating to the duties imposed on it, and any person 991
authorized by the director may administer oaths. The department 992
may require other proof of the honesty and truthfulness of any 993
person named in the application for an auction firm's, or 994
~~auctioneer's, apprentice auctioneer's, or special auctioneer's~~ 995
license before admitting the applicant to an examination or 996
issuing a license. 997

Sec. 4707.20. (A) Except when conducting an auction under 998
division (B) (5) (b) of section 4707.02 of the Revised Code, no 999
person shall act as an auction firm, or ~~or special~~ 1000
~~auctioneer~~ until the person has first entered into a written 1001
contract or agreement in duplicate with the owner or consignee 1002
of any property to be sold, containing the terms and conditions 1003
upon which the licensee receives or accepts the property for 1004
sale at auction. The contracts or agreements shall, for a period 1005
of two years, be kept on file in the office of every person so 1006
licensed. ~~No apprentice auctioneer shall be authorized to enter~~ 1007
~~into such a contract or agreement without the written consent of~~ 1008
~~the apprentice auctioneer's sponsoring auctioneer, and all~~ 1009

~~contracts or agreements shall be made in the name of and on- 1010
behalf of the sponsoring auctioneer. In addition, an apprentice- 1011
auctioneer shall not enter into an auction contract for the sale- 1012
of real property in the name of the sponsoring auctioneer- 1013
regardless of whether the apprentice auctioneer is licensed as a 1014
real estate broker or salesperson. 1015~~

(B) On all contracts or agreements between an auction 1016
firm, or auctioneer, ~~or special auctioneer~~ and the owner or 1017
consignee, there shall appear a prominent statement indicating 1018
that the auction firm, or auctioneer, ~~or special auctioneer~~ is 1019
licensed by the department of agriculture, and either that the 1020
licensee is bonded in favor of the state or that an aggrieved 1021
person may initiate a claim against the auction recovery fund 1022
created in section 4707.25 of the Revised Code as a result of 1023
the licensee's actions, whichever is applicable. 1024

(C) The auction firm, or auctioneer, ~~or special auctioneer~~ 1025
who contracts with the owner is liable for the settlement of all 1026
money received, including the payment of all expenses incurred 1027
only by the licensee and the distribution of all funds, in 1028
connection with an auction. 1029

(D) For purposes of this section, a contract or agreement 1030
shall specify all of the following: 1031

(1) The owner of the property to be sold or the owner's 1032
agent or the consignee; 1033

(2) The date of the auction or a termination date of the 1034
contract or agreement; 1035

(3) The location of the auction; 1036

(4) The terms and conditions of the auction; 1037

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

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

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

(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.

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

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

(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.

(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, ~~or~~ auction firm, ~~or special auctioneer~~ attesting that the type of auction will be a multi-parcel auction.

Sec. 4707.21. (A) No auction firm, ~~or~~ auctioneer, ~~apprentice auctioneer, or special auctioneer~~ shall willfully do any of the following:

(1) Willfully neglect or refuse to furnish the department

of agriculture statistics or other information in the auction 1066
firm's, ~~or~~ auctioneer's, ~~apprentice auctioneer's, or special~~ 1067
~~auctioneer's~~ possession or under the auction firm's, ~~or~~ 1068
auctioneer's, ~~apprentice auctioneer's, or special auctioneer's~~ 1069
control that the auction firm, ~~or~~ auctioneer, ~~apprentice~~ 1070
~~auctioneer, or special auctioneer~~ is authorized to collect; ~~nor~~ 1071
~~shall the auction firm, auctioneer, apprentice auctioneer, or~~ 1072
~~special auctioneer neglect~~ 1073

(2) Neglect or refuse, for more than thirty days, to 1074
answer questions submitted on circulars; ~~nor shall the auction~~ 1075
~~firm, auctioneer, apprentice auctioneer, or special auctioneer~~ 1076
~~knowingly~~ 1077

(3) Knowingly answer any ~~such~~ questions submitted on 1078
circulars specified in division (A) (2) of this section falsely; 1079
~~and nor shall the auction firm, auctioneer, apprentice~~ 1080
~~auctioneer, or special auctioneer refuse~~ 1081

(4) Refuse to obey subpoenas and give testimony. ~~Licensees~~ 1082

(B) Licensees, as well as charitable, religious, or civic 1083
organizations and schools that sponsor an auction under division 1084
(B) (5) (b) of section 4707.02 of the Revised Code, shall keep 1085
records relative to any auction for at least two years from its 1086
date. These records shall include settlement sheets, written 1087
contracts, and copies of any advertising that lists the items 1088
for auction, as applicable. 1089

Sec. 4707.22. (A) Any person licensed under this chapter 1090
who advertises, by linear advertisements or otherwise, to hold 1091
or conduct an auction shall indicate in the advertisement the 1092
licensee's name or the name registered with the department of 1093
agriculture and that the licensee is an auctioneer ~~or apprentice~~ 1094

~~auctioneer. Any apprentice auctioneer who advertises, as~~ 1095
~~provided in this section, also shall indicate in the~~ 1096
~~apprentice's advertisement the name of the auctioneer under whom~~ 1097
~~the apprentice is licensed. The name of the auctioneer shall be~~ 1098
~~displayed in equal prominence with the name of the apprentice~~ 1099
~~auctioneer in the advertisement. Any such licensee who~~ 1100
advertises in a manner other than as provided in this section is 1101
guilty of violating division (C) of section 4707.15 of the 1102
Revised Code. 1103

(B) An auction firm licensed under this chapter that 1104
advertises, by linear advertisements or otherwise, to solicit or 1105
receive consignments or to provide auction services shall 1106
indicate in the advertisement the name of the auction firm. In 1107
addition, an advertisement of an auction of consignments or an 1108
advertisement by an auction firm of an auction for which the 1109
auction firm will provide auction services shall comply with 1110
divisions (A) and (D) of this section. 1111

(C) If an auction to be advertised is an absolute auction, 1112
all advertisements for the auction shall unequivocally state 1113
that the auction is an absolute auction. 1114

(D) If an advertisement for an auction contains the words 1115
"estate auction," or words to that effect, the person licensed 1116
under this chapter who advertises shall do both of the 1117
following: 1118

(1) Enter into an agreement directly with the executor, 1119
administrator, or court appointed designee of the estate 1120
property; 1121

(2) List prominently in the advertisement the county in 1122
which the estate is located and the probate court case number of 1123

the estate. 1124

(E) All persons licensed under this chapter that conduct 1125
or are involved in an auction jointly are responsible for the 1126
posting of a sign at the auction. The sign shall contain all of 1127
the following: 1128

(1) The name of all licensed persons involved in the 1129
auction; 1130

(2) A statement that the persons are licensed by the 1131
department of agriculture; 1132

(3) The address of the department of agriculture. 1133

The sign shall be posted at the main entrance of the 1134
auction, at the place of registration for the auction, or by the 1135
cashier for the auction. The sign shall be of a size not smaller 1136
than eight and one-half inches by eleven inches. The letters and 1137
numbers on the sign shall be of adequate size to be readily seen 1138
by an individual with normal vision when viewing it. 1139

(F) An advertisement for the sale of real property at 1140
auction shall contain the name of the licensed auctioneer who is 1141
entering into the auction contract and the name of the real 1142
estate broker licensed under Chapter 4735. of the Revised Code 1143
who is involved in the sale. Compliance with this section shall 1144
not require a real estate broker licensed under Chapter 4735. of 1145
the Revised Code to obtain a license under section 4707.073 of 1146
the Revised Code. 1147

(G) If an auction to be advertised is a multi-parcel 1148
auction, all advertisements for the auction, excluding road 1149
signs, shall state that the auction will be offered in various 1150
amalgamations, including as individual parcels or lots, 1151
combinations of parcels or lots, and all parcels or lots as a 1152

whole. 1153

Sec. 4707.25. (A) The auction recovery fund is hereby 1154
created in the state treasury. The fund shall be administered by 1155
the director of agriculture. The treasurer of state shall credit 1156
all of the following to the fund: ~~any moneys transferred to it~~ 1157
~~from the auctioneers fund created under section 4707.05 of the~~ 1158
~~Revised Code;~~ except as otherwise provided in this section, a 1159
portion, in an amount specified in rules adopted under section 1160
4707.19 of the Revised Code, of license fees collected under 1161
this chapter; any assessments levied under this section; 1162
repayments made to the auction recovery fund under section 1163
4707.30 of the Revised Code by persons licensed under this 1164
chapter; and interest earned on the assets of the fund. 1165

Moneys credited to the fund shall be used to make payments 1166
to persons in accordance with sections 4707.26 and 4707.31 of 1167
the Revised Code and to persons who obtain a final judgment in 1168
accordance with section 4707.261 and sections 4707.27 to 4707.30 1169
of the Revised Code in a court of competent jurisdiction against 1170
a person licensed under this chapter on the grounds of conduct 1171
by the licensee that is described in section 4707.15 of the 1172
Revised Code or that otherwise violates this chapter or rules 1173
adopted under it and that is associated with an act or 1174
transaction that only a licensee lawfully may perform. In the 1175
case of a final judgment, the amount of the payments shall be 1176
limited to any portion of the final judgment that remains 1177
unpaid. In all cases, the amount of the payments is subject to 1178
the dollar limitations established in section 4707.29 of the 1179
Revised Code. 1180

(B) The director shall ascertain the balance of the fund 1181
on the first day of July each year. If the balance of the fund 1182

is greater than two million dollars, the director may utilize, 1183
during the fiscal year beginning on that first day of July, the 1184
portion of the fund that is greater than two million dollars to 1185
sponsor educational programs or to underwrite research that is 1186
beneficial to persons licensed under this chapter and to the 1187
public. If the balance of the fund is at least four million 1188
dollars, the portion of license fees collected under this 1189
chapter that otherwise would be credited to the fund under this 1190
section shall be credited to the auctioneers fund during the 1191
fiscal year beginning on that first day of July. 1192

If the balance of the fund is less than four hundred 1193
thousand dollars, the director shall levy an assessment against 1194
each person who holds a valid license issued under this chapter. 1195
The amount of the assessment shall be determined by subtracting 1196
the balance of the fund from five hundred thousand dollars and 1197
dividing the resulting total by the number of persons recorded 1198
under section 4707.06 of the Revised Code as holding a valid 1199
license issued under this chapter. All assessments that are 1200
collected shall be credited to the fund. 1201

(C) The director shall collect from the fund a service fee 1202
in an amount equal to the interest rate specified in division 1203
(A) of section 1343.03 of the Revised Code multiplied by the 1204
annual interest earned on the assets of the fund to defray the 1205
expenses incurred by the department of agriculture in the 1206
administration of the fund. 1207

Section 2. That existing sections 4707.01, 4707.02, 1208
4707.021, 4707.04, 4707.05, 4707.06, 4707.07, 4707.073, 4707.08, 1209
4707.091, 4707.10, 4707.11, 4707.12, 4707.14, 4707.15, 4707.151, 1210
4707.16, 4707.171, 4707.18, 4707.19, 4707.20, 4707.21, 4707.22, 1211
and 4707.25 of the Revised Code are hereby repealed. 1212

Section 3. That sections 4707.071 and 4707.09 of the Revised Code are hereby repealed.

Section 4. A person that holds a valid special auctioneer license issued under section 4707.071 of the Revised Code, as that section existed prior to its repeal by H.B. ___ of the 134th General Assembly, may continue to operate under the special auctioneer license until an application for an auction firm license submitted to the Department of Agriculture is approved or until twelve months after the effective date of this section has expired, whichever is earliest.

The Director of Agriculture shall adopt any necessary procedures or requirements for purposes of implementing this section.

Section 5. A person that holds a valid apprentice auctioneer license issued under section 4707.09 of the Revised Code, as that section existed prior to its repeal by H.B. ___ of the 134th General Assembly, may continue to operate under the apprentice auctioneer license until an application for an auctioneer license submitted to the Department of Agriculture is approved or until twelve months after the effective date of this section has expired, whichever is earliest.

The Director of Agriculture shall adopt any necessary procedures or requirements for purposes of implementing this section.

Section 6. The Director of Agriculture shall establish procedures to effectuate the transition of the auction firm license from an annual license to a biennial license under section 4707.10 of the Revised Code.

Section 7. Sections 4707.02, 4707.07, 4707.15, and 4707.19

of the Revised Code as presented in this act take effect on the	1242
later of October 9, 2021, or the effective date of this section.	1243
October 9, 2021, is the effective date of an earlier amendment	1244
to those sections by H.B. 263 of the 133rd General Assembly.	1245