

AN ACT

To amend sections 4707.01, 4707.02, 4707.021, 4707.04, 4707.05, 4707.06, 4707.07, 4707.073, 4707.08, 4707.091, 4707.10, 4707.11, 4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4707.18, 4707.19, 4707.20, 4707.21, 4707.22, 4707.25, 5322.01, and 5322.03; to enact sections 4707.101 and 4707.153; and to repeal sections 4707.071 and 4707.09 of the Revised Code to eliminate the apprentice auctioneer and special auctioneer's license, to make other revisions to the law governing auctions, and to make changes to the lien enforcement notice and towing provisions of the self-service storage facilities law.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4707.01, 4707.02, 4707.021, 4707.04, 4707.05, 4707.06, 4707.07, 4707.073, 4707.08, 4707.091, 4707.10, 4707.11, 4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4707.18, 4707.19, 4707.20, 4707.21, 4707.22, 4707.25, 5322.01, and 5322.03 be amended and sections 4707.101 and 4707.153 of the Revised Code be enacted to read as follows:

Sec. 4707.01. As used in this chapter:

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

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

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

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

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

- (1) The property is sold to the highest bidder without reserve.
- (2) The auction does not require a minimum bid.
- (3) The auction does not require competing bids of any type by the seller or an agent of the seller.
- (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.

~~(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.

~~(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.

~~(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.

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

~~(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.

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

~~(L)~~ "Auction firm" means a person who provides auction services for online or live auctions.

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

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

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

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

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

"Live auction" means an auction that is hosted by an auctioneer in real time.

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

Sec. 4707.02. (A) No person shall act as an auction firm, or auctioneer, apprentice auctioneer,

~~or special auctioneer~~ within this state without a license issued by the department of agriculture. No auction shall be conducted in this state except by an auctioneer licensed by the department.

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

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

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

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

(3) An auction mediation company;

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

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

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

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

(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;

(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;

~~(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;~~

~~(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;

~~(10)~~ (9) An auction at which the champion of a national or international bid calling contest appears, provided that both of the following apply:

(a) The champion is not paid a commission.

(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.

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

(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.

(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.

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:

(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.

(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.

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

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

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

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

(a) Courses of study in auctioneering;

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

(2) The commission triennially shall review the courses of study in auctioneering that are

offered at institutions and continuing education providers in order to determine whether the courses comply with ~~those~~ the requirements and standards established under division (B)(1) of this section. The commission shall approve institutions and continuing education providers that offer courses that comply with the requirements and standards. If an institution or continuing education provider is not approved, the institution or continuing education provider may reapply for approval within a year of the disapproval. If at that time the commission approves the institution or continuing education provider, the institution or continuing education provider shall be approved for the remainder of the triennial period. The commission, prior to the triennial review, may place on probationary status or revoke the approval of any institution or continuing education provider that provides a course of study ~~in auctioneering~~ if the institution or continuing education provider fails to comply with the requirements and standards established under ~~this division (B)(1) of this section~~.

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

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

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

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

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

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

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

Sec. 4707.06. The department of agriculture shall maintain a record of the names and addresses of all auction firms; ~~and auctioneers, apprentice auctioneers, and special auctioneers~~ licensed by the department. This record shall also include a list of all persons whose licenses have been suspended or revoked as well as any other information relative to the enforcement of this chapter that the department considers of interest to the public.

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

- (1) Has attained the age of at least eighteen years;
- (2) Has ~~done one of the following:~~
 - (a) ~~Met the apprenticeship requirements set forth in section 4707.09 of the Revised Code;~~
 - (b) Met the requirements of section 4707.12 of the Revised Code successfully completed a course of study in auctioneering at an institution that is approved by the state auctioneers commission.
- (3) Has a general knowledge of the following:
 - (a) The requirements of the Revised Code relative to auctioneers;
 - (b) The auction profession;
 - (c) The principles involved in conducting an auction;
 - (d) Any local and federal laws regarding the profession of auctioneering.
- (4) Has satisfied the financial responsibility requirements established under section 4707.11 of the Revised Code if applicable.

(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 has had two years of experience as an auctioneer immediately preceding the date of application that includes at a minimum twelve auctions in which the applicant was a bid caller in the reciprocal state.~~

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

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

- (1) Is in good standing with the secretary of state if the applicant is a corporation;
- (2) Is of trustworthy character;
- (3) Has provided proof of financial responsibility as required in section 4707.11 of the Revised Code;
- (4) Is registered with the secretary of state or a local authority, as applicable, to do business in this state;
- (5) Has complied with any other requirement that the director establishes in rules adopted under section 4707.19 of the Revised Code.

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

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

- (1) If the applicant is a limited liability company or a general or limited partnership, not less than fifty per cent of the members or general partners have a current license issued under section 4707.07 of the Revised Code.
- (2) If the applicant is a corporation, not less than fifty per cent of the directors and the president or chief executive have a current license issued under section 4707.07 of the Revised Code.
- (3) If the applicant is an unincorporated association, not less than fifty per cent of the members have a current license issued under section 4707.07 of the Revised Code.

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

(E) Upon the issuance of a license under this section, a corporation, limited liability company, partnership, or unincorporated association shall designate an individual from among its directors, partners, or members who is licensed under section 4707.07 of the Revised Code as its agent for purposes of communication with the department. If that individual ceases to be the agent, the corporation, limited liability company, partnership, or unincorporated association shall notify the department not later than ten days after the day on which the individual ceases to be the agent. Upon notification to the department, the license of the corporation, limited liability company, partnership,

or unincorporated association, as applicable, immediately shall terminate. If the corporation, limited liability company, partnership, or unincorporated association notifies the department of the designation of a new agent in accordance with the requirements of this division and pays a fee in the amount of ten dollars, the department shall issue the corporation, limited liability company, partnership, or unincorporated association a new license.

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

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

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

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

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

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

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

(2) If an applicant for a license fails to pass the examination on the third attempt, the applicant shall attend auction school a second time before the applicant may take the examination. If an applicant for a license fails to pass the examination on the fourth attempt, the applicant shall not

take the examination for at least one year from the date of the last failed attempt.

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

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

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

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

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

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

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

(c) ~~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 section 4707.11 of the Revised Code, the auctioneer ~~or apprentice auctioneer~~, beginning at the time of reacquisition, shall maintain proof of financial responsibility for the remainder of the time required under that section.

Sec. 4707.10. (A) ~~The fee for each apprentice auctioneer's or auction firm license issued by the department of agriculture is one hundred dollars, and the annual renewal fee for any such license is one hundred dollars. All licenses expire annually on the last day of June of each year and shall be renewed according to the standard renewal procedures of Chapter 4745. of the Revised Code, or the procedures of this section. Any licensee under this chapter who wishes to renew the licensee's license, but fails to do so before the first day of July shall reapply for licensure in the same manner and pursuant to the same requirements as for initial licensure, unless before the first day of~~

~~September of the year of expiration, the former licensee pays to the department, in addition to the regular renewal fee, a late renewal penalty of one hundred dollars.~~

~~(B)(1)~~ Each person to whom the department issues an auctioneer's license or ~~special auctioneer's~~ auction firm license shall pay a licensure fee. Those licenses are biennial and expire in accordance with the schedule established in division ~~(B)(2)-(A)(2)~~ of this section. If such a license is issued during the first year of a biennium, the licensee shall pay a fee in the amount of two hundred dollars. If the license is issued during the second year of a biennium, the licensee shall pay a fee in the amount of one hundred dollars. With respect to an auctioneer's license, the fees apply regardless of whether the license is issued to an individual under section 4707.07 of the Revised Code or to a corporation, limited liability company, partnership, or association under section 4707.073 of the Revised Code.

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

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

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

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

~~(C)(B)(1)~~ To renew an auctioneer's license, the licensee shall include with a renewal application an affidavit stating that the licensee has completed eight hours of continuing education in accordance with section 4707.101 of the Revised Code during the two years immediately preceding renewal of the licensee's license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4707.11. (A) Except as provided in division (B) of this section, each application for a license issued under this chapter shall be accompanied by proof of financial responsibility in the form of either an irrevocable letter of credit or a cash bond or a surety bond in the amount of twenty-five

thousand dollars. If the applicant gives a surety bond, the bond shall be executed by a surety company authorized to do business in this state.

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

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

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

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

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

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

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

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

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

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

Sec. 4707.14. (A) Each person licensed under this chapter shall have a definite place of

business in this state.

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

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

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

- (1) Obtaining a license through false or fraudulent representation;
- (2) Making any substantial misrepresentation in an application for a license;
- (3) A continued course of misrepresentation or for making false promises through agents, advertising, or otherwise;
- (4) Specifying that an auction is a reserve auction, absolute auction, multi-parcel auction, or estate auction, but not conducting the auction as specified;
- (5) Failing to account for or remit, within a reasonable time, any money or property belonging to others that comes into the licensee's possession, and for commingling funds of others with the licensee's own, or failing to keep funds of others in an escrow or trust account, except that in the case of a transaction involving real estate, such funds shall be maintained in accordance with division (A)(26) of section 4735.18 of the Revised Code;
- (6) Paying valuable consideration to any person who has violated this chapter;
- (7) Except as provided in division (B) of this section, conviction in a court of competent jurisdiction of this state or any other state of a criminal offense involving fraud, forgery, embezzlement, false pretenses, extortion, conspiracy to defraud, or another similar offense or a felony;
- (8) Violation of this chapter or rules adopted under it;
- (9) Failure to furnish voluntarily at the time of execution, copies of all written instruments prepared by the auctioneer or auction firm;
- (10) Any conduct of a person that is licensed under this chapter that demonstrates bad faith, dishonesty, incompetency, or untruthfulness;
- (11) Any other conduct of a person that is licensed under this chapter that constitutes improper, fraudulent, or dishonest dealings;
- (12) Failing prior to the sale at public auction to enter into a written contract with the owner or consignee of any property to be sold, containing the terms and conditions upon which the licensee received the property for auction;
- (13) The use of any power of attorney to circumvent this chapter;
- (14) Failure to display either of the following:
 - (a) The sign required under section 4707.22 of the Revised Code; or
 - (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.
- (15) Failure to notify the department of any conviction of a felony or crime involving fraud

within fifteen days of conviction;

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

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

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

(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;

(20) Engaging in auctioneering or providing auction services without a license or during the suspension of a license;

(21) Attempting to cheat or cheating on an auctioneer examination or aiding another to cheat on an examination.

(B) 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.

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

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

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

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

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

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

(B) If an auctioneer's or auction firm's license is suspended under division (A) of this section, the auctioneer or auction firm manager of the auction firm shall provide proof of completion of the continuing education requirements not later than one hundred eighty days after the date that the suspension is issued. If such an auctioneer or auction firm manager fails to submit the proof of completion of the continuing education requirements within that time period, the license is automatically revoked. The director shall provide the former licensee an opportunity for an administrative hearing on the revocation in accordance with Chapter 119. of the Revised Code.

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

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

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

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

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

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

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

(F) For purposes of this section, investigative costs incurred by the department are

recoverable either by the issuance of an administrative order of the department or by an order of a court of competent jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

- (1) The owner of the property to be sold or the owner's agent or the consignee;
- (2) The date of the auction or a termination date of the contract or agreement;
- (3) The location of the auction;
- (4) The terms and conditions of the auction;
- (5) All of the fees to be charged by the auctioneer or the auction firm, which shall include commissions, rentals, advertising, and labor;
- (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 firm's; or auctioneer's; ~~apprentice auctioneer's, or special auctioneer's~~

possession or under the auction firm's, ~~or auctioneer's, apprentice auctioneer's, or special auctioneer's~~ control that the auction firm, ~~or auctioneer, apprentice auctioneer, or special auctioneer~~ is authorized to collect; ~~nor shall the auction firm, auctioneer, apprentice auctioneer, or special auctioneer neglect~~

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) The address of the department of agriculture.

The sign shall be posted at the main entrance of the auction, at the place of registration for the auction, or by the cashier for the auction. The sign shall be of a size not smaller than eight and one-

half inches by eleven inches. The letters and numbers on the sign shall be of adequate size to be readily seen by an individual with normal vision when viewing it.

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

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

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

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

(B) The director shall ascertain the balance of the fund on the first day of July each year. If the balance of the fund is greater than two million dollars, the director may utilize, during the fiscal year beginning on that first day of July, the portion of the fund that is greater than two million dollars to sponsor educational programs or to underwrite research that is beneficial to persons licensed under this chapter and to the public. If the balance of the fund is at least four million dollars, the portion of license fees collected under this chapter that otherwise would be credited to the fund under this section shall be credited to the auctioneers fund during the fiscal year beginning on that first day of July.

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

(C) The director shall collect from the fund a service fee in an amount equal to the interest

rate specified in division (A) of section 1343.03 of the Revised Code multiplied by the annual interest earned on the assets of the fund to defray the expenses incurred by the department of agriculture in the administration of the fund.

Sec. 5322.01. As used in sections 5322.01 to 5322.05 of the Revised Code:

(A) "Self-service storage facility" means any real property that is designed and used only for the purpose of renting or leasing individual storage space in the facility under the following conditions:

(1) The occupants have access to the storage space only for the purpose of storing and removing personal property.

(2) The owner does not issue a warehouse receipt, bill of lading, or other document of title, as defined in section 1301.201 of the Revised Code, for the personal property stored in the storage space.

"Self-service storage facility" does not include any garage used principally for parking motor vehicles, any garage or storage area in a private residence, an establishment licensed pursuant to sections 915.14 to 915.24 of the Revised Code, or any property of a bank or savings and loan association that contains vaults, safe deposit boxes, or other receptacles for the uses, purposes, and benefits of the bank's or savings and loan association's customers.

(B) "Owner" means a person that is the owner or operator of a self-service storage facility, the lessor or sublessor of an entire self-service storage facility, the agent of any of the foregoing, or any other person authorized by any of the foregoing to manage the facility or to receive rent from an occupant pursuant to a rental agreement.

(C) "Occupant" means a person that rents storage space at a self-service storage facility pursuant to a rental agreement that the person enters into with the owner.

(D) "Rental agreement" means any written agreement that is entered into by the owner and the occupant and that establishes the terms and conditions of the occupant's use of storage space at a self-service storage facility.

(E) "Personal property" means money and every animate or inanimate tangible thing that is the subject of ownership, except anything forming part of a parcel of real estate, as defined in section 5701.02 of the Revised Code, and except anything that is an agricultural commodity, as defined in division (A) of section 926.01 of the Revised Code.

(F) "Late fee" means any fee or charge assessed for an occupant's failure to pay rent when due. "Late fee" does not include interest on a debt, reasonable expenses incurred in the collection of unpaid rent, or costs associated with the enforcement of any other remedy provided by statute or contract.

(G) "Last known address" means either of the following:

(1) The mailing address ~~or electronic mail address~~ provided by the occupant in the most recent rental agreement or the mailing address ~~or electronic mail address~~ provided by the occupant in a subsequent written notice of a change of address;

(2) The mailing address ~~or electronic mail address~~ of any of the persons described in division (A) of section 5322.03 of the Revised Code that is provided by any of those persons to the owner of a self-service storage facility or that is discovered by the owner of a self-service storage facility.

Sec. 5322.03. An owner's lien created by division (A) of section 5322.02 of the Revised Code

for a claim that has become due may be enforced only as follows:

(A) The following persons shall be notified in accordance with divisions (B) and (C) of this section:

(1) All persons whom the owner has actual knowledge of and who claim an interest in the personal property;

(2) All persons holding liens on any motor vehicle or watercraft amongst the property;

(3) All persons who have filed security agreements in the name of the occupant evidencing a security interest in the personal property with either the secretary of state or the county recorder of the county in which the self-service storage facility is located or the Ohio county of the last known address of the occupant.

~~(B)(1) The Except as otherwise provided in division (B)(2) of this section, the notice shall be delivered in person, sent by certified mail, sent by electronic mail, or sent by first-class mail or private delivery service with a certificate or verification of mailing to the last known address of each person who is required to be notified by division (A) of this section;~~

~~(2) If the notice is sent by electronic mail, then the notice shall also be sent via either certified or first-class mail to the last known address of each person who is required to be notified by division (A) of this section.~~
(2)(a) The notice may be sent by electronic mail to the occupant only if both of the following apply:

(i) The occupant agreed to receive the notice via electronic mail and provided an electronic mail address to the owner in the original agreement or in a subsequent amendment to the agreement.

(ii) The owner sends the notice via electronic mail in such a way as to establish, with a response or return receipt, that the message was delivered to the occupant's electronic mail address.

(b) If it cannot be established in accordance with division (B)(2)(a) of this section that the notice was delivered, the owner shall use another method of delivery authorized by division (B)(1) of this section.

(C) The notice shall include all of the following:

(1) The name and last known address of the occupant who rented the storage space in which the personal property was stored;

(2) An itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;

(3) A brief and general description of the personal property subject to the lien. The description shall be reasonably adequate to permit the person notified to identify it except that any container including, but not limited to, a trunk, valise, or box that is locked, fastened, sealed, or tied in a manner that deters immediate access to its contents and that has not been opened by the owner prior to the date on which the notice is given may be described as such without describing its contents.

(4) A notice of denial of access to the personal property, if a denial of access is permitted under the terms of the rental agreement, which notice provides the name, street address, and telephone number of the person whom the person notified may contact to pay the claim and to either obtain the personal property or enter into a rental agreement for the storage of the personal property;

(5) A demand for payment within a specified time not less than ten days after delivery of the notice;

(6) A conspicuous statement that unless the claim is paid within that time the personal property will be advertised for sale and will be sold by auction and that, if no person purchases the personal property at the auction, the personal property may be sold at a private sale or destroyed;

(7) The street or internet address of the place at which the sale will be held, if the sale will be held at a place other than the self-service storage facility in which the personal property was stored.

(D)(1) Any notice given pursuant to this section that is sent by first-class mail or private delivery service with a certificate or verification of mailing shall be deemed delivered when it is deposited with the United States postal service or private delivery service and properly addressed with proper postage prepaid.

(2) Any notice given pursuant to this section that is sent by electronic mail to an occupant shall be deemed delivered when ~~it is properly addressed and sent~~ the owner receives a response or return receipt.

(E) The sale of the personal property shall conform to the terms of the notice as provided for in this section.

(F) The sale of the personal property may be held at the self-service storage facility or, if the street or internet address of the place was included in the notice as required by division (C)(7) of this section, on the internet or at the nearest suitable place to the self-service storage facility at which the personal property is stored.

(G) After the expiration of the time given in the notice, an advertisement of the sale shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county in which the self-service storage facility is located or any other commercially reasonable manner. The manner of advertisement shall be deemed commercially reasonable if at least three independent bidders register for, view, or attend the sale. The advertisement shall include all of the following:

(1) A brief and general description of the personal property as required by division (C)(3) of this section, except that the description shall describe the contents of any trunk, valise, or box that is locked, fastened, sealed, or tied in a manner that deters immediate access to its contents, if the trunk, valise, or box is opened by the owner prior to the date on which the advertisement of sale is published;

(2) The name and last known address of the occupant who rented the storage space in which the personal property was stored;

(3) The street address of the self-service storage facility;

(4) The time, place, and manner of the sale.

The sale shall take place at least fifteen days after the first publication.

(H)(1) Any person who has a security interest in, or who holds a lien against, a motor vehicle or watercraft may pay the amount necessary to satisfy the lien created by division (A) of section 5322.02 of the Revised Code and the reasonable expenses incurred under this section. That person, upon payment of the amount necessary to satisfy the lien plus expenses, may enter into a new rental agreement for the storage of the motor vehicle or watercraft. Any person who presents proof of a security interest in or lien on a motor vehicle or watercraft or a court order authorizing the person to take possession of a motor vehicle or watercraft may immediately remove the motor vehicle or watercraft from the self-service storage facility without satisfying the lien or expenses of the owner.

(2) Before any sale of personal property other than a motor vehicle or watercraft pursuant to

this section, any person who has a legal interest or a security interest in, or who holds a lien against, any personal property other than a motor vehicle or watercraft may pay the amount necessary to satisfy the lien created by division (A) of section 5322.02 of the Revised Code and the reasonable expenses incurred under this section and remove the personal property in which the person has the interest or against which the person holds the lien. After removal of all the personal property, including any motor vehicle or watercraft, from the storage space of the self-service storage facility by any means under this section, the owner may enter into a rental agreement with a new occupant for the storage space, and the owner has no obligation to the prior occupant of that storage space.

(3) Upon receipt of the payment from a person other than the occupant, the owner may, at the owner's sole discretion, enter into a new rental agreement for the storage of the personal property or, if the person meets the conditions set forth in division (H)(2) of this section, shall permit the person to remove the personal property from the self-service storage facility.

(4) If the occupant pays the amount necessary to satisfy the lien created by division (A) of section 5322.02 of the Revised Code and the reasonable expenses incurred under this section, the occupant shall immediately remove all of the occupant's personal property from the self-service storage facility, unless the owner of the self-service storage facility agrees to enter into a new rental agreement for the storage of the property.

(I)(1) If property on which there is a lien under division (A) of section 5322.02 of the Revised Code is not sold at auction, but is claimed under division (H) of this section and the owner's lien is satisfied, then all legal or security interest in, or any other liens held against, the property shall remain intact.

(2) A purchaser at auction in good faith, except an owner or an owner's agent, of the personal property sold to satisfy an owner's lien created by division (A) of section 5322.02 of the Revised Code takes the property free and clear of any rights of persons against whom the lien was valid, or any persons who had an interest in, or who held, any other lien against the property, despite noncompliance by the owner with the requirements of this section.

(J) The owner may examine any personal property to be sold pursuant to this section. The examination may include, but is not limited to, the opening of any trunk, valise, box, or other container that is locked, fastened, sealed, tied, or otherwise closed in a manner that deters immediate access to its contents.

(K)(1) If the property upon which ~~the lien created under division (A) of this section is claimed~~ 5322.02 of the Revised Code creates a lien is a motor vehicle, trailer, or a watercraft, the owner ~~shall~~ may, at the owner's sole discretion, have the motor vehicle, trailer, or watercraft towed from the premises if any of the following circumstances applies:

(a) The notice was delivered or sent pursuant to division (B) of this section to all persons holding a lien on the motor vehicle, trailer, or watercraft, and thirty days have elapsed since the notice was delivered or sent ~~without a response from any of those persons~~.

(b) Rent and other charges related to the property remain unpaid or unsatisfied by the occupant for sixty days, and no lien holders have been identified.

(c) The owner is planning to hold or has held a sale ~~at auction~~ of for the personal property that was stored in the self-service storage ~~unit~~ space with that motor vehicle, trailer, or watercraft, in which case the motor vehicle, trailer, or watercraft ~~shall~~ may, at the owner's sole discretion, be towed

prior to or following the ~~auction~~ sale.

(2) The owner shall not be liable for the motor vehicle, trailer, or watercraft or any damages to the motor vehicle, trailer, or watercraft once the ~~tower-towing service~~ or storage facility takes possession of the property. The notice delivered or sent pursuant to division (B) of this section to all persons holding a lien on the motor vehicle, trailer, or watercraft shall include the name of the towing ~~company~~ service or storage facility. The name and the street address of the towing ~~company~~ service or storage facility shall also be made available to the occupant or any lien holder upon the presentation of a document of title or another document that confirms an interest in the motor vehicle, trailer, or watercraft.

As used in this division, "towing service or storage facility" means any for-hire motor carrier that removes a motor vehicle, trailer, or watercraft from a self-service storage facility pursuant to this division and any place to which that for-hire motor carrier delivers the motor vehicle, trailer, or watercraft.

(L) The owner may satisfy the owner's lien from the proceeds of any sale held pursuant to this section, but shall mail the balance, if any, by certified mail, or by first class mail or private delivery service with a certificate or verification of mailing, to the occupant at the occupant's last known mailing address. If the balance is returned to the owner after the owner mailed the balance by certified mail, first class mail, or private delivery service to the occupant or if the mailing address of the occupant is not known, the owner shall hold the balance for two years after the date of the sale for delivery on demand to the occupant or to any other person who would have been entitled to possession of the personal property. After the expiration of the two-year period, the balance shall become unclaimed funds, as defined in division (B) of section 169.01 of the Revised Code, and shall be disposed of pursuant to Chapter 169. of the Revised Code.

(M) An owner may buy at any public sale held pursuant to this section.

(N) The rights provided by this section shall be in addition to all other rights allowed by law to a creditor against a debtor.

(O)(1) If the owner complies with the requirements for sale under this section, the owner's liability to persons who have an interest in the personal property sold is limited to the balance of the proceeds of the sale after the owner has satisfied the owner's lien.

(2) The owner is liable for damages caused by the failure to comply with the requirements for sale under this section and is liable for conversion for willful violation of the requirements for sale under this section.

(P) If no person purchases the personal property at the auction and if the owner has complied with this section, the owner may do any of the following:

- (1) Advertise and sell the personal property pursuant to divisions (F) to (O) of this section;
- (2) Sell the personal property at a private sale;
- (3) Dispose of the personal property in any manner considered appropriate by the owner including, but not limited to, destroying the personal property.

SECTION 2. That existing sections 4707.01, 4707.02, 4707.021, 4707.04, 4707.05, 4707.06, 4707.07, 4707.073, 4707.08, 4707.091, 4707.10, 4707.11, 4707.12, 4707.14, 4707.15, 4707.151, 4707.16, 4707.171, 4707.18, 4707.19, 4707.20, 4707.21, 4707.22, 4707.25, 5322.01, and 5322.03 of

the Revised Code are hereby repealed.

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 later of October 9, 2021, or the effective date of this section. October 9, 2021, is the effective date of an earlier amendment to those sections by H.B. 263 of the 133rd General Assembly.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the ____ day of _____, A. D. 20 ____.

Secretary of State.

File No. _____ Effective Date _____