

901:8-2-03

**Auctioneer license procedure; deposit or return of license.**

(A) Applications for the auctioneer exam and license are available by mail upon request and on the department's website: ~~www.ohioagriculture.gov~~.

(B) Name and address.

(1) The name listed on the application shall be identical to the name under which the applicant intends to conduct all auction activities. If the applicant intends to use any name other than the applicant's personal name, the name must be registered either as a fictitious or trade name with the secretary of state pursuant to section 1329.01 of the Revised Code.

(2) The address of applicant for licensing purposes shall be the permanent physical business address of the applicant. Post office boxes are not acceptable. All records required under Chapter 4707. of the Revised Code and the rules adopted ~~under it thereunder~~ shall be maintained at the business address listed on the application.

~~(C) Photograph. A photograph of the applicant, measuring two inches by two inches, taken not more than sixty days prior to the date of the examination shall be filed with each application.~~

~~(D) Examination.~~

~~(1) If qualified, the applicant shall be notified of the date, time and place of the examination. If the applicant fails to appear for the scheduled examination, the twenty-five dollar examination fee shall be forfeited and the application materials and license fee shall be returned.~~

~~(2)~~(C) Examination. The applicant must pass both the written and oral examinations to be issued a license. The applicant must answer seventy-five per cent of the questions correctly to pass the written examination. The Ohio auctioneers commission shall administer and grade the oral examination. The applicant must score seventy points in order to pass the oral examination. The commission shall notify the department if the applicant has passed or failed the examination. The oral examination grading rubric may be found in appendix A to this rule.

~~(E)~~(D) Identification card. Licensees shall carry ~~their~~the license identification card at all times ~~they are when~~ engaged in any auction activity. ~~The identification card shall be produced and produce the identification card~~ upon request to any person that has been solicited by the licensee, any law enforcement officer, and to any representative of the department.

~~(F) The license shall be immediately returned to the department if it becomes void or invalid, for any reason.~~

~~(G)~~(E) Licensees may apply to place their license on deposit, in accordance with section 4707.091 of the Revised Code, for a term not to exceed two years. The licensee shall return the wall license and pocket identification card with the application.

- (1) If the auctioneer is under the financial responsibility requirement, placing a license on deposit does not waive this requirement, nor does ~~it~~ the period while on deposit count toward the ~~three year~~ three-year requirement.
- (2) No licensee shall ~~place their license~~ be placed on deposit in an attempt to avoid an action taken against ~~their~~ that license under section 4707.15 of the Revised Code.

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Certification

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Date

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Rule Amplifies: 4707.07, 4707.10, 4707.11  
Prior Effective Dates: 03/21/2006, 05/11/2009, 04/17/2015

<b>Name:</b> <ul style="list-style-type: none"> <li>• <b>Sponsor:</b></li> <li>• <b>Auction School:</b></li> <li>• <b>Length of Apprenticeship:</b></li> <li>• <b># of Auctions:</b></li> <li>• <b>Type of Auctions:</b></li> </ul>	<b><u>Total Possible Points</u></b>	<b><u>Score</u></b>
<b>Professional Demeanor</b> <ul style="list-style-type: none"> <li>• Initial Command</li> <li>• Professionalism</li> <li>• Poise</li> </ul>	<b>30</b>	
<b>Body Language, Eye Contact, Surveying of crowd.</b>	<b>10</b>	
<b>Salesmanship of item</b> Being understood, as to: <ul style="list-style-type: none"> <li>• Opening remarks as to what student will sell</li> <li>• What bid is</li> <li>• Specifically let it be known item has been sold</li> <li>• To whom article sold to</li> <li>• What article sold for</li> <li>• Speak Loudly enough to be heard by those in attendance</li> <li>• Talk clearly and be understood</li> <li>• Timeliness of selling</li> </ul>	<b>50</b>	
<b>Tempo and chant</b>	<b>10</b>	
<b><u>Comments:</u></b>	<b><u>Total Score</u></b>	

**Total Scoring: Score of 70 or higher passes**

901:8-2-05

**License renewals and changes that require notification.**

~~(A) Thirty days prior to the expiration of a license, the department shall notify the licensee of the expiration date of his license and shall forward an appropriate application to the licensee.~~

~~(1) The licensee shall complete the application, provide all applicable documentation and return it to the department with the renewal fee. Any application received by the department that has missing information, that does not include all of the correct and necessary documentation, or does not have the correct renewal fee will be considered incomplete and will be returned.~~

~~(2) Within thirty days of the receipt of a complete application, the department shall mail a license to each person whose application has been approved.~~

~~(B)~~(A) All partnerships, associations, limited liability companies, or corporations to which any of the following changes occur are required to submit a reapplication for license:

- (1) Incorporation or change in the status of the business organization;
- (2) Sale of a partnership or sole proprietorship;
- (3) Change in the number of partners in a partnership;
- (4) Changes in the officers or changes in the controlling interest of a corporation;
- (5) Change in the trade name or name under which the license was issued;
- (6) Termination of an association, corporation, or partnership; or
- (7) Change in controlling ownership interest of the limited liability company.

~~(C) Termination of sponsorship. Any sponsor that intends to terminate the sponsorship of an apprentice auctioneer shall provide the apprentice and the department with written notice, by certified mail, with return receipt, a minimum of ten days prior to the date of termination. The sponsor shall return the apprentice license with the notice mailed to the department.~~

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4707.08, 4707.09, 4707.10  
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901:8-2-06

**Contracts, ~~and records and other requirements.~~**

- (A) Written contracts. Licensees shall enter into a written contract with the owner or consignee of any property the licensee intends to offer for sale. The contract shall include but is not limited to:
- (1) The type of auction to be conducted: The contract must clearly and specifically state if the auction is an absolute auction or a reserve auction. If the auction is an absolute auction, ~~that the~~ article or lot cannot be withdrawn after an auctioneer calls for bids on an article or lot unless no bid is made within a reasonable time;
  - (2) The owner or consignor shall be paid at time of settlement, either immediately upon the completion of the auction, or within fifteen days after the date of the auction, unless otherwise stated in the contract;
  - (3) All unsold property shall be returned to the owner or consignor at the time of the settlement, either immediately upon the completion of the auction, or within fifteen days after the date of the auction unless otherwise stated in the contract;
  - (4) The owner or consignor shall be provided an itemized account of all property sold at the time of settlement, either immediately upon completion of the auction, or within fifteen days after the date of the auction. The itemization shall include the item or lot sold, amount received for the sold item or lot, and name of the buyer.
- ~~(B) The wall license of the licensee shall be displayed in a location that is easily viewable by the public at the licensee's business location.~~
- ~~(C) At every auction conducted, a legible notice shall be posted in an easily viewable location for all auction attendees, which states the name of the auctioneer(s) conducting the auction, the terms and conditions of the auction and a statement which reads the auctioneer(s) and/or company is license by the department of agriculture, is bonded in favor of the state of Ohio or if applicable, participates in the auction recovery fund.~~

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901:8-2-08

**Classification of offenses; investigative costs and civil penalties.**

(A) A minor offense includes but is not limited to:

- (1) Financial harm to the owner of the item being auctioned, consignor, or public in an amount up to one thousand dollars;
- (2) Failure to produce copies of documents;
- (3) Failure to display required notices;
- (4) Minor advertising violations; and
- (5) Failure to enter into a contract (first offense only).

(B) The department may assess a civil penalty up to one hundred dollars for the first minor offense and up to two hundred dollars for each subsequent minor offense. If a licensee should commit a minor offense found in paragraph (A) of this rule more than five times in a twelve month period each subsequent offense shall be considered a major offense according to paragraph (C)(2) of this rule.

(C) A major offense includes but is not limited to:

- (1) Financial harm to the owner, consignor, or public amounting from one thousand one dollars to five thousand dollars;
- (2) A minor offense found in paragraph (A) of this rule which the licensee has violated more than five times in a twelve month period;
- (3) Acting without a license as an auctioneer, apprentice auctioneer, corporation, partnership, unincorporated association, or auction firm;
- (4) Aiding an unlicensed entity;
- ~~(4)~~(5) Moderate or continuing advertising violations; and
- ~~(5)~~(6) Bad faith, dishonesty, or failure to return funds or property pursuant to the terms of a contract, or failure to return funds or property within the required ~~fifteen day~~fifteen-day return period.

(D) The department may assess a civil penalty of one hundred dollars and up to five hundred dollars for the first major violation. The department may assess a civil penalty of five hundred dollars and up to one thousand dollars for each subsequent major violation.

(E) A serious offense includes, but is not limited to:

- (1) Financial loss to the owner, consignor, or public in an amount of five thousand one dollars and over;
  - (2) Failure to report a conviction of a felony or fraud;
  - (3) Fraud, theft, commingling of funds, bid rigging, or misrepresentation;
  - (4) Providing false information on a license application; and
  - (5) Continued failure to return funds or property pursuant to the terms of a contract, or continued failure to return funds and property within the required fifteen day period.
- (F) The department may assess a civil penalty of one thousand dollars and up to five thousand dollars for the first serious violation. The department may assess a civil penalty of five thousand dollars and up to ten thousand dollars for each subsequent serious violation.
- ~~(G) All money received from civil penalties collected under this section shall be equally divided and deposited to the auctioneer education fund created in section 4707.171 of the Revised Code and to the auctioneer recovery fund created in section 4707.25 of the Revised Code.~~

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901:8-2-09

**Auctioneer fund; claim against fund.**

- (A) If the balance of the recovery fund is four hundred thousand dollars or less, the state treasurer shall deposit two dollars and fifty cents from each licensing fee into the auctioneer recovery fund. If the balance of the fund is four hundred thousand dollars and greater, no fees shall be deposited into the fund.
- ~~(B) In order to initiate a claim, the aggrieved party shall file a complaint and an application for recovery with the department in accordance with section 4707.16 of the Revised Code. The application shall specify the nature of the act or transaction on which the claim for recovery is being made, and shall include documentation of the actual and direct losses incurred.~~
- ~~(C)~~(B) If the department determines as a result of an investigation that the licensee has violated Chapter 4707. of the Revised Code or the rules adopted thereunder, and the aggrieved party has incurred actual and direct losses, the department shall notify the bond company or banking institution to compensate the aggrieved party for the actual and direct losses.
- ~~(D)~~(C) If the licensee is also eligible under the auction recovery fund, the aggrieved party must comply with the requirements of sections 4707.26 to 4707.29 of the Revised Code as applicable, to receive any additional funds.

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4707.29, 4707.30, 4707.31  
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901:8-2-10

**Auction firm license; claim against auction firm.**

~~(A) Applications are available by mail upon request and on the department's website: [www.ohioagriculture.gov](http://www.ohioagriculture.gov). All application forms must be complete, all applicable administrative fees and license fees must be received by the department pursuant to section 4707.10 of the Revised Code, and any supporting documentation must be submitted with the application. Incomplete applications will be returned.~~

~~(B) If the firm manager is not licensed pursuant to section 4707.07 of the Revised Code, the firm manager shall take and pass a written examination before the firm license will be issued.~~

~~(1) An application, application fee pursuant to section 4707.10 of the Revised Code and an examination fee of fifteen dollars must be received two weeks prior to the examination date.~~

~~(2) A score of at least seventy per cent and over is required to pass.~~

~~(3) If a passing score is not achieved, the firm manager may re-take the examination on the next scheduled examination date and upon payment of a fifteen dollar examination fee.~~

~~(4) If the firm manager does not pass the examination on the second attempt, the firm manager may not take the examination again for at least thirty days.~~

~~(5) If the firm manager does not pass the examination on the third attempt, the firm manager may not take the examination for at least one year.~~

~~(C)~~(A) A person who asserts ~~they have been aggrieved~~ a potential violation by the actions of an auction firm shall:

(1) Initiate a claim against the letter of credit, cash bond, or surety bond of the auction firm by filing a complaint in accordance with section 4707.16 of the Revised Code with the department with an application for recovery. The application for recovery shall specify the nature of the act or transaction on which the applicant claims recovery, include documentation ~~and/or~~ and evidence of the actual and direct losses associated with the licensee, and explain what activities have been pursued to recover the losses. The application for recovery is available on the department's website: [www.ohioagriculture.gov](http://www.ohioagriculture.gov).

(2) Upon receipt of the application for recovery, the department shall conduct an investigation to determine if the licensee engaged in conduct described in section 4707.15 of the Revised Code or has otherwise violated Chapter 4707. of the Revised Code or the rules adopted thereunder.

- (3) If the department determines ~~that~~ the licensee has violated Chapter 4707. of the Revised Code or the rules adopted thereunder and the aggrieved party has incurred actual and direct losses, the department shall contact the bonding company or banking institution to have the aggrieved party compensated for the losses claimed.
- (4) If there are multiple claimants to the licensee's bond or letter of credit and the actual and direct losses exceed the amount of financial coverage available, ~~the department a pro rata share shall distribute to each aggrieved party a pro rata share~~ be made to each aggrieved party.

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