

901:8-2-01

State auctioneers commission meetings.

- (A) The commission shall hold quarterly meetings. At the first quarterly meeting of each year, the chairperson shall be elected and shall serve in such capacity for a period of one year.
- (B) The chairperson may call additional meetings. The meetings shall be held at a place and time determined by a majority of the commission members.
- (C) Notice of meetings shall be provided to each member via U.S. mail, facsimile, or electronic mail. Meeting notices will be posted on the Ohio department of agriculture's website. All interested persons may register with the commission to receive notification of all meetings of the commission by providing the commission with self-addressed stamped envelopes for such purpose.
- (D) Notice of emergency and special meetings ~~shall be sent to media outlets and~~ shall be posted at least twenty-four hours prior to the meeting on the department's website and will include the date, time, place, and purpose of the emergency or special meeting.
- (E) In addition to the reimbursement of actual and necessary expenses incurred while performing the duties of the commission, each member shall receive a per diem salary in the amount of one hundred and fifty dollars for each commission meeting attended.

Per paragraph (B)(1) of section 4707.04 of the Revised Code, the state auctioneers commission is tasked with establishing requirements and standards for courses of study in auctioneering and courses of study for purposes of continuing education required under section 4707.101 of the Revised Code. Detailed information regarding the criteria and approval process for auction school courses and continuing education courses may be found at <https://agri.ohio.gov/programs/auctioneers>.

901:8-2-02

Apprentice auctioneer procedure; deposit or return of license.

- (A) **Application.** All application materials and required proofs under sections 4707.09 and 4707.11 of the Revised Code will be completed and submitted at least two weeks prior to an examination date in order for the applicant to be seated. Applications for the exam and license are available by mail upon request and on the department's website. Incomplete applications will be returned.
- (B) **Financial responsibility.** All forms of financial responsibility submitted to the department pursuant to section 4707.11 of the Revised Code will be effective prior to or by the date a license will be issued and continue through the thirtieth day of June of the current licensing period.
- (C) **Fees.** The licensing fee specified in section 4707.10 of the Revised Code and the examination fee specified in section 4707.08 of the Revised Code shall be submitted with each application and neither will be prorated.
- (D) **Examination.** If qualified, the applicant will be notified of the date, time, and place of the examination. Examinations will be held monthly at the Ohio department of agriculture, 8995 East Main street, Reynoldsburg, Ohio. If the applicant fails to appear for the examination, the examination fee shall be forfeited. The application materials and license fee will be returned. If the applicant passes the examination, an apprentice auctioneer license shall be issued to the sponsor and a pocket identification card issued.
- (E) **Identification card.** Apprentice auctioneers shall carry the license identification card at all times when engaged in any auction activity and produce the identification card upon request to any person that has been solicited by the licensee, any law enforcement officer, or to any representative of the department.
- (F) **Apprentice auctioneers 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) **Placing a license on deposit does not waive the three year financial responsibility requirement nor does the period while on deposit count toward the requirement.**
 - (2) **No licensee shall be placed on deposit in an attempt to avoid an action taken against that license under section 4707.15 of the Revised Code.**

901:8-2-03

~~Auctioneer license procedure; deposit~~ 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.~~

~~(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 thereunder shall be maintained at the business address listed on the application.~~

~~(C) Examination. 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.~~

~~(D) Identification card. Licensees shall carry the license identification card at all times when engaged in any auction activity 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.~~

~~(E)~~ (A) Licensees Auctioneers licensed under section 4707.07 of the Revised Code 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 the period while on deposit count toward the three-year requirement.

(2) No licensee shall be placed on deposit in an attempt to avoid an action taken against that license under section 4707.15 of the Revised Code.

*** DRAFT - TO BE RESCINDED ***

901:8-2-04

License procedure for nonresidents requesting reciprocity.

- (A) An applicant applying under a reciprocity agreement shall apply on forms provided on the department's website.
- (B) The department may, at the department's discretion, waive either the testing or schooling requirements.
- (C) All applicants for reciprocal licensure must meet all other conditions of licensure, including fees, the financial responsibility requirements of section 4707.11 of the Revised Code, and all other applicable requirements of Chapter 4707. of the Revised Code.

901:8-2-05

~~License renewals and changes~~ **Changes** that require notification and license renewals.

(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.

(B) License renewal applications are available at <https://eLicense.ohio.gov>. The online portal is the preferred method of renewal and communication with licensees. Paper renewal applications will not be automatically sent to licensees.

- (1) Renewal applications will be available to licensees via the online portal no later than May 1 of the renewal year.
- (2) If a licensee elects to not participate in the online licensing portal, the licensee shall be responsible for contacting the department of agriculture to request a renewal application no earlier than thirty days prior to the expiration of their license.

901:8-2-06

Contracts and records.

Written contracts. Licensees ~~shall~~will 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:

- (A) 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, 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;
- (B) 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;
- (C) 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;
- (D) 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, and~~amount received for the sold item or lot, and name of the buyer.

(E) Auction records are to be maintained for a period of two years. These records shall consist of all documents related to an auction, including, but not limited to:

(1) Auction contract for the sale of the property to be sold;

(2) Online and print advertisements or circulars for the auction;

(3) Any documentation created by the auctioneer that shows an inventory of the seller's property taken or to be sold;

(4) Bidder's registration and information;

(5) Settlement statements;

(6) Online catalogs;

(7) Online bid history;

(8) Seller expenses; and

(9) Trust or client account records.

*** DRAFT - NOT YET FILED ***

901:8-2-07

~~License procedure~~Application and exam procedures for
~~licensees corporations, partnerships, unincorporated~~
~~associations, and auction firms.~~

(A) Applications are available via the online portal located at <https://eLicense.ohio.gov> or by mail upon request ~~and on the department's website.~~

(B) All applications must include:

(1) Completed application forms;

(2) All applicable administrative fees and license fees, pursuant to section 4707.10 of the Revised Code;

(3) Any supporting documentation; and

(4) Name and address:

(a) The name listed on the application shall be identical to the name under which the applicant~~business is registered with the secretary of state and under which the business~~ 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.; and

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

(C) All applicants for reciprocal licensure must meet all other conditions of licensure, including fees, the financial responsibility requirements of section 4707.11 of the Revised Code, and all other applicable requirements of Chapter 4707. of the Revised Code.

(D) The auctioneer applicant must answer seventy-five per cent of the questions correctly to pass the written examination. The auction firm manager applicant must answer seventy per cent of the questions correctly to pass the written examination.

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;
- (5) Moderate or continuing advertising violations; and
- (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 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.

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) 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.

- (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.

901:8-2-10

Auction firm license; claimClaim against auction firm.

(A) A person who asserts 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 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.
- (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 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, a pro rata share shall be made to each aggrieved party.

*** DRAFT - TO BE RESCINDED ***

901:8-2-11

Online auction held in conjunction with live auction.

- (A) If held in conjunction with a live auction, the licensee shall enter into a contract with the owner or consignee of any property the licensee intends to offer for sale online. The contract shall meet the requirements set forth in section 4707.20 of the Revised Code.

- (B) If held in conjunction with a live auction, the licensee shall maintain all records related to the online auction, including, advertisements, contracts, online catalogs, bid history, and expenses and fees for a period of two years.