



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Jeff Grim

H.B. 480*

132nd General Assembly
(As Reported by H. Civil Justice)

Reps. Hill, Scherer, Seitz

BILL SUMMARY

- Authorizes the Department of Agriculture to specifically regulate multi-parcel auctions.
- Specifies that a multi-parcel auction is 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.
- Requires a contract for a multi-parcel auction to include a statement that specifies that the auction will be a multi-parcel auction.
- Requires all advertisements for a multi-parcel auction to 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.
- Authorizes an auctioneer or auction firm to advertise an absolute auction as a multi-parcel auction if the auctioneer complies with requirements governing advertising, sales, and bidding established in current law and by the bill.
- Authorizes the Department to deny, refuse to renew, suspend, or revoke an auctioneer license for both of the following:
 - Specifying that an auction is a multi-parcel auction, but not conducting the auction as specified; and

* This analysis was prepared before the report of the House Civil Justice Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

--Failing to display a notice conspicuously at the clerk's desk or on a bid card that clearly states an explanation of the multi-parcel auction process.

CONTENT AND OPERATION

Overview

Auctions in Ohio are regulated by the Ohio Department of Agriculture. A person who wishes to act as an auctioneer or auction firm must obtain a license to do so from the Department. An auctioneer or auction firm must comply with requirements governing auction contracts, advertising, records, and sales. The Department may deny, refuse to renew, suspend, or revoke a license for certain causes, including failure to display proper signs relating to an auction.

Current law generally governs three types of auctions — absolute, reserve, and estate auctions. The bill adds a multi-parcel auction as a new type of auction subject to regulation by the Department. A multi-parcel auction is 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.¹ For a demonstration and description of how multi-parcel auctions work, see the links below:

<https://www.youtube.com/watch?v=lvyl6GKUeA0> (provided by the Ohio Department of Agriculture)

<https://assets.recenter.tamu.edu/documents/articles/1801.pdf>

A multi-parcel auction can be held as an absolute auction or a reserve auction, which are described below:²

Absolute Auction	Reserve Auction
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;	An auction in which the seller or an agent of the seller reserves the right to: (1) Establish a stated minimum bid; (2) Reject or accept any or all bids; or (3) Withdraw the real or personal property at any time prior to the completion of the auction by the auctioneer.

¹ R.C. 4707.01(Q).

² R.C. 4707.01(E) and (F).



Absolute Auction	Reserve Auction
<p>(3) The auction does not require competing bids of any type by the seller or an agent of the seller; and</p> <p>(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.</p>	

Multi-parcel auction contracts

The bill requires a contract for a multi-parcel auction between an auctioneer or auction firm and the owner or consignee of any property to include a statement that specifies that the auction will be a multi-parcel auction. Current law provisions governing auction contracts also apply to a multi-parcel auction, including, but not limited to, all of the following:

(1) A requirement that the contract include a description of the property to be sold and the terms and conditions of the auction;

(2) A requirement that the contract include a statement indicating that the auctioneer is properly bonded or that an aggrieved person may initiate a claim with the Department; and

(3) A requirement that the auction contract set forth the date and location of the auction and the name of the owner of the property that is the subject of the auction.³

Auction advertising, sales, and bidding

The bill requires all advertisements for a multi-parcel auction, excluding road signs, to 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. In addition, it applies current law provisions governing advertising, sales, and bidding to multi-parcel auctions, including the following:

(1) A requirement that property that is the subject of an absolute auction have no liens or encumbrances unless those liens or encumbrances are provided for;

(2) A provision that generally prohibits the seller or anyone acting on behalf of the seller in an absolute auction from bidding in or participating in the bidding process of the auction;

³ R.C. 4707.20.



(3) A requirement that an auctioneer or auction firm who advertises to hold or conduct an auction indicate in the advertisement the name of the auctioneer or firm and whether the auctioneer is an auctioneer or apprentice auctioneer;

(4) A requirement that an auctioneer or auction firm post a sign at the auction that states all of the following:

--The name of all auctioneers or firms involved in the auction;

--That the auctioneers or firms are licensed by the Department; and

--The address of the Department.

(5) A requirement that an auctioneer or auction firm post the sign at the auction's main entrance, place of registration, or cashier; and

(6) A requirement that an advertisement for the sale of real property at auction contain the auctioneer's name and the name of the licensed real estate broker.⁴

Enforcement

The bill authorizes the Department to deny, refuse to renew, suspend, or revoke an auctioneer or auction firm license for both of the following causes related to multi-parcel auctions:

(1) Specifying that an auction is a multi-parcel auction, but not conducting the auction as specified; and

(2) Failing to display a notice conspicuously at the auction clerk's desk or on a bid card that includes a clear explanation of the multi-parcel auction process.⁵

The bill retains all existing causes for which the Department may deny, refuse to renew, suspend, or revoke a license, including:

(1) Violation of any provisions of the law governing auctioneers and rules adopted under it; and

(2) Obtaining a license through fraudulent representation; and

⁴ R.C. 4707.023 and 4707.22.

⁵ R.C. 4707.15(D) and (N).



(3) Any conduct of a person that is licensed under the law that demonstrates bad faith, dishonesty, incompetency, or untruthfulness.⁶

HISTORY

ACTION	DATE
Introduced	01-24-17
Reported, H. Civil Justice	---

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⁶ R.C. 4707.15(A), (H), and (J).

