

Auctioneer Program Enforcement Concerns
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Staying up to date with Ohio auctioneer laws is important for auctioneers and consumers. At the request of the OAA Board of Directors and to help you stay in compliance, we have compiled a list of four concerns the Ohio Department of Agriculture sees commonly.

Auctioneer contracts. The department is seeing an increase in the number of auctioneers who:

1. Do not have a contract with the owner or seller of the goods being sold; or
2. Have a contract that fails to meet the minimum requirements found in R.C. 4707.20; or
3. Fail to comply with the written terms of their own contracts.

Many auctioneers are using generic contracts purchased from someone else, which they are not filling out completely, or whose terms they do not understand. If you purchase contracts from a supply company, make sure the contract meets the requirements under Ohio law and that you understand the contract you are executing.

The next concern is the **handling of funds.** If you do not specify in the contract, you must pay the owner or consignor within 15 days of the auction. You are also required to maintain a client trust account if you do not settle the day of the auction and/or if you keep your client's money longer than 72 hours following the auction. Business and personal funds cannot be commingled with the client's money. For example, you cannot pay your building rent, payroll, and utilities from your client account. The department is also seeing an increased number of bounced checks sent to owners or consignors.

Another problem includes the **advertisement of absolute auctions.** All auctions in Ohio are reserve auctions unless otherwise stated. R.C. 4707.22(C) requires that if an auction is advertised as an absolute auction, the advertisement must state it is an absolute auction. This means you must use the term "absolute". You cannot simply substitute phrases such as "no minimums, no reserves" or "sells to the highest bidders" for the word "absolute." You must also have a contract with the seller that clearly identifies it as an absolute auction.

The final area of concern is the increasing number of **corporations, partnerships, or associations that are not properly licensed.** This includes limited liability companies which are a form of a corporation. With a change in the auction law in May 2005, a corporation, partnership, or association is now required to have its own license if it is representing itself as able to conduct auctions or able to provide auction services. For example, if you work for XYZ Company and XYZ Company advertises that it has an auction division or that it provides auction services, then XYZ Company must have a license issued under R.C. Chapter 4707. Application forms are available at www.ohioagriculture.gov/auction.

If you have questions regarding whether or not you are in compliance with Ohio law, please seek legal advice from your legal counsel.