



Ohio Revised Code

Section 4707.023 Requirements for absolute auction - bid by licensee or seller.

Effective: May 6, 2005

Legislation: Senate Bill 209 - 125th General Assembly

(A) No person licensed under this chapter shall advertise, offer for sale, or sell real or personal property by absolute auction unless all of the following apply:

(1) One of the following applies:

(a) Except for current tax obligations, easements, or restrictions of record of the seller, there are no liens or encumbrances on the property in favor of any other person.

(b) Every holder of a lien or encumbrance, by execution of the auction contract or other written agreement provided to the auctioneer, agrees to the absolute auction without regard to the amount of the highest bid or to the identity of the highest bidder.

(c) A financially sound person, firm, trust, or estate, by execution of the auction contract or other written agreement provided to the auctioneer, guarantees the complete discharge and satisfaction of all liens and encumbrances, as applicable, immediately after the absolute auction or at the closing without regard to the amount of the highest bid or to the identity of the highest bidder.

(2) The seller of the real or personal property at the time of advertising and at the time of the absolute auction has a bona fide intention to transfer ownership of the property to the highest bidder regardless of the amount of the highest bid and without reliance on any agreement that a particular bid or bid level be attained in order to transfer the property.

(3) The auction contract requires that the auction be conducted as an absolute auction, specifies that the auction is not a reserve auction, and prohibits the seller or anyone acting on behalf of the seller to bid or participate in the bidding process of the auction.

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



- (1) The bidding of a secured party or lien holder, other than the seller, at an absolute auction, provided that the bids are bona fide offers, that the bidding does not constitute bid rigging or a reserve for the seller, and that the bidding is not for the purpose of aiding or assisting or on behalf of the seller or the auctioneer;
 - (2) The bidding by an individual or a party to a dissolution of marriage, partnership, or corporation on real or personal property being sold at auction pursuant to the dissolution;
 - (3) The advertising of real or personal property to be sold by absolute auction and by reserve auction within the same advertisement or for auction on the same date and at the same place, provided that the advertisement is not misleading and clearly identifies the property that is to be sold by absolute auction and the property that is to be sold by reserve auction.
- (C) A person licensed under this chapter may make a bona fide bid on the licensee's own behalf at an absolute auction and at a reserve auction, provided that the licensee provides full disclosure that the licensee may make a bona fide bid to the seller and at the auction.
- (D) A seller or a person on behalf of a seller may make a bid if the auction is a reserve auction and the auctioneer provides full disclosure before bidding begins that the seller retains the right to bid. No person licensed under this chapter knowingly shall receive such a bid in the absence of full disclosure.
- (E) Except in the case of a dissolution as provided in division (B)(2) of this section, a person licensed under this chapter shall not knowingly receive a bid by a seller or a person on the seller's behalf at an absolute auction.