



# OHIO LEGISLATIVE SERVICE COMMISSION

## Final Analysis

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### **Am. Sub. H.B. 480** 132nd General Assembly (As Passed by the General Assembly)

**Reps.** Hill, Scherer, Seitz, Anielski, Dever, Green, Hambley, Koehler, Miller, Perales, Rezabek, Riedel, Rogers, Schaffer, Wiggam, Wilkin, R. Smith

**Sens.** Hackett, Beagle, Eklund, Gardner, Lehner, Peterson, Terhar, Wilson

**Effective date:** March 20, 2019

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## ACT SUMMARY

### Multi-parcel auctions

- Authorizes the Department of Agriculture to specifically regulate multi-parcel auctions.
- Specifies that a multi-parcel auction is any auction of 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 specify 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 or combinations of parcels or lots and all parcels or lots as a whole.
- Authorizes a licensed auctioneer or auction firm to advertise an absolute auction as a multi-parcel auction if the licensee complies with requirements governing advertising, sales, and bidding as established in continuing law and by the act.

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\* This version updates the effective date.

- Authorizes the Department to deny, refuse to renew, suspend, or revoke a license for both of the following:
  - Specifying that an auction is a multi-parcel auction, but not conducting the auction as specified; and
  - 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.

## **Modifications to Ohio's foreclosure procedures**

- Establishes that the seven-day period within which an online foreclosure auction managed by a private selling officer must be open refers to calendar days counted by excluding the first day the auction is open and including all subsequent days.
- Establishes that a sheriff's proceedings, when indorsed on an order of sale that is returned to the clerk of courts after a foreclosure sale, may be indorsed electronically on the order of sale.
- Requires residential properties that do not sell at an online foreclosure auction to be brought to subsequent sales without regard to minimum bidding requirements, as required for residential properties that do not sell at in-person auctions under continuing law.
- Permits a residential property involved in a foreclosure sale deemed invalid due to the buyer's failure to pay the deposit to be brought to sale on a provisional second sale date included in the notice of foreclosure.

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## **CONTENT AND OPERATION**

### **Multi-parcel auctions**

#### **Overview**

The act establishes requirements for conducting multi-parcel auctions, and grants the Department of Agriculture specific authority to regulate them. 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 of the parcels or lots as a whole.<sup>1</sup> For a demonstration and description of how multi-parcel auctions work, see the links below:

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<sup>1</sup> R.C. 4707.01(Q).

<https://www.youtube.com/watch?v=bkvEcVoOhLI> (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:<sup>2</sup>

Absolute Auction	Reserve Auction
<p>An auction of real or personal property to which all of the following apply:</p> <p>(1) The property is sold to the highest bidder without reserve;</p> <p>(2) The auction does not require a minimum bid;</p> <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>	<p>An auction in which the seller or an agent of the seller reserves the right to:</p> <p>(1) Establish a stated minimum bid;</p> <p>(2) Reject or accept any or all bids; or</p> <p>(3) Withdraw the real or personal property at any time prior to the completion of the auction by the auctioneer.</p>

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.<sup>3</sup>

### Multi-parcel auction contracts

The act 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. Continuing law provisions governing auction contracts also apply to a multi-parcel auction, including:

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

<sup>2</sup> R.C. 4707.01(E) and (F).

<sup>3</sup> R.C. Chapter 4707.



(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.<sup>4</sup>

### **Auction advertising, sales, and bidding**

The act 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 of the parcels or lots as a whole. In addition, it applies continuing law provisions governing advertising, sales, and bidding to multi-parcel auctions. A licensed auctioneer or auction house may advertise an absolute auction as a multi-parcel auction, provided the licensee complies with these requirements.<sup>5</sup>

### **Enforcement**

The act 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.<sup>6</sup>

The act 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;

(2) Obtaining a license through fraudulent representation; and

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<sup>4</sup> R.C. 4707.20.

<sup>5</sup> R.C. 4707.023 and 4707.22.

<sup>6</sup> 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.<sup>7</sup>

## **Modifications to Ohio's foreclosure procedures**

Continuing law calls for real estate that is in foreclosure to be sold at public auction by the county sheriff or by a private selling officer (PSO) requested by the judgment creditor (the person who brought the foreclosure suit).<sup>8</sup> The act makes a few changes to the manner in which PSOs and sheriffs conduct foreclosure auctions.

### **Length of online auctions**

A PSO is authorized to market the real estate and conduct the public auction at a physical location or online. If the auction is conducted online, continuing law requires that it be open for bidding for a minimum of seven days. The act establishes that these are calendar days, counted by excluding the day the auction is first open for bidding and including all subsequent days.<sup>9</sup>

### **Reporting requirement**

Continuing law requires the "levying officer" (the person selling property at a foreclosure auction) to return the "writ of execution" (the order directing the sale of the property) to the clerk of courts after the sale is completed. When doing so, the levying officer must indorse that officer's proceedings on the writ and the clerk must record all those indorsements in the court's execution docket. The act establishes that electronic indorsements are to be deemed valid.<sup>10</sup>

### **Subsequent foreclosure auctions**

Continuing law makes provision for residential properties that do not sell at a foreclosure auction held in a physical location. In those instances, the property must be offered for sale at a second auction and sold to the highest bidder without regard to the minimum bid requirements, though other requirements regarding costs and taxes still apply. That second sale must be held between seven and 30 days after the first auction. If the property remains unsold after the second auction, a third may be held, or the property may be disposed of in any other manner approved by the Revised Code. The act expands the availability of second and subsequent auctions for unsold residential

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<sup>7</sup> R.C. 4707.15(A), (H), and (J).

<sup>8</sup> R.C. 2329.152(A).

<sup>9</sup> R.C. 2329.152(C)(2) and (E)(1)(a).

<sup>10</sup> R.C. 2329.28.



properties to residential properties attempted to be sold via an *online* foreclosure auction. For purposes of determining the dates for any subsequent online auctions, the act establishes that the online auction's first day is considered the date of the auction.

Continuing law also requires notices to be sent to certain parties to foreclosure actions, such as the judgment debtor (the party whose property is being foreclosed upon) and other persons who hold debt secured by the property. That notice must include a provisional second sale date, if applicable. In addition, purchasers at foreclosure sales, other than judgment creditors, are required to pay a deposit and foreclosure sales are deemed invalid if purchasers fail to meet the deposit requirements on time. The act allows the provisional second sale date that is stated in the notice to be utilized if a required deposit is not paid after the first sale.<sup>11</sup>

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## HISTORY

ACTION	DATE
Introduced	01-24-18
Reported, H. Civil Justice	05-22-18
Passed House (93-0)	06-27-18
Reported, S. Agriculture	12-05-18
Passed Senate (31-0)	12-13-18
House concurred in Senate amendments (86-0)	12-13-18

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<sup>11</sup> R.C. 2329.211(A)(2) and 2329.52(B) and R.C. 2329.26(A)(1)(a)(i), not in the act.

