



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

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Sub. H.B. 480*

132nd General Assembly
(As Reported by S. Agriculture)

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

BILL 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 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:

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

--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

- Removes a requirement that private selling officers managing foreclosure auctions report appraisal costs to the court.
- Requires the sheriff who arranges the appraisal of a property to be sold at foreclosure auction by a private selling officer to report appraisal costs to the court.
- Exempts a private selling officer who has complied with other reporting requirements in Ohio law from returning an order of sale with proceedings indorsed thereon to the clerk of courts.
- 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.
- Establishes that the seven-day period within which an online foreclosure auction managed by a private selling officer must be open for refers to calendar days counted by excluding the first day the auction is open and including all subsequent days.
- Allows a 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.
- Allows properties that do not sell at an online foreclosure auction to be brought to subsequent sales without regard to minimum bidding requirements, as current law does for properties that do not sell at in-person auctions.

CONTENT AND OPERATION

Multi-parcel auctions

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=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:²

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>

¹ R.C. 4707.01(Q).

² R.C. 4707.01(E) and (F).



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) 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;

³ R.C. 4707.20.

--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

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

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

⁴ R.C. 4707.023 and 4707.22.

⁵ R.C. 4707.15(D) and (N).

⁶ R.C. 4707.15(A), (H), and (J).



judgment creditor (the person who brought the foreclosure suit).⁷ The bill makes several changes to the manner in which PSOs and sheriffs conduct foreclosure auctions.

Length of online auctions

A PSO is authorized by continuing law to market the real estate and conduct the public auction at any physical location in the county where the real estate is located or online. If the auction is conducted online, existing law requires that it be open for bidding for a minimum of seven days. The bill establishes that these are calendar days, counted by excluding the day the auction is first open for bidding and including all subsequent days.⁸

Reporting requirements

Under existing law, in cases where a PSO is appointed, the PSO must give the court a report listing all appraisal, publication, marketing, and other expenses of the sale, as well as the PSO's fees for marketing the real estate and conducting the sale, including any fee charged by the title agent or title insurance company for administrative services, if applicable, and title, escrow, and closing services. The bill removes the requirement that appraisal costs be included in the PSO's report.⁹ A corresponding change requires that the sheriff deliver a written statement of appraisal costs to the clerk of court. Continuing law requires that, even if a PSO is appointed to complete a foreclosure sale, the sheriff arranges the property's appraisal.¹⁰

Existing law also requires the "levying officer," the person selling property at a foreclosure auction, to return the "writ of execution," which is 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 bill establishes that electronic indorsements are to be deemed valid and exempts a PSO that has submitted the report discussed in the above paragraph from the duty to return a writ of execution to the clerk of courts.¹¹

⁷ R.C. 2329.152(A).

⁸ R.C. 2329.152(C)(1) and (E)(1)(a).

⁹ R.C. 2329.152(D)(2).

¹⁰ R.C. 2329.17(B).

¹¹ R.C. 2329.28.



Subsequent foreclosure auctions

Continuing law 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 may include a provisional second sale date. The bill allows a provisional second sale date to be utilized if a required deposit is not paid after the first sale.

Under continuing law, purchasers at foreclosure sales, other than judgment creditors, are required to pay a deposit and foreclosure sales are deemed invalid when purchasers fail to meet the deposit requirements on time.

Existing law also makes provision for 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 not less than seven and not more than 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 bill expands the availability of second and subsequent auctions for unsold properties to properties attempted to be sold via an online foreclosure auction. For purposes of determining the dates for any subsequent online auctions, the bill establishes that the online auction's first day is considered the date of the auction.¹²

HISTORY

ACTION	DATE
Introduced	01-24-17
Reported, H. Civil Justice	05-22-18
Passed House (93-0)	06-27-18
Reported, S. Agriculture	---

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¹² R.C. 2329.211(A)(2) and 2329.52(B) and R.C. 2329.26(A)(1)(a)(i), not in the bill.

