

Rule Summary and Fiscal Analysis (Part A)**Department of Agriculture**

Agency Name

Enforcement and Compliance

Division

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901:8-2-11

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Online auction held in conjunction with live auction.**RULE SUMMARY**1. Is the rule being filed for five year review (FYR)? **No**2. Are you proposing this rule as a result of recent legislation? **Yes**Bill Number: **HB131**General Assembly: **131**Sponsor: **Pelanda**3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**4. Statute(s) authorizing agency to adopt the rule: **4707.19**5. Statute(s) the rule, as filed, amplifies or implements: **4707.02**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

In 2016, H.B. 131, 131st G.A. clarified Chapter 4707 by stating that the chapter does not apply to #sales of real or personal property conducted by means of the internet provided that they are not conducted in conjunction with a live auction.# This amendment clarified that licensure requirements apply when auctions are conducted by means of the internet in conjunction with a live auction.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

Ohio Administrative Code (OAC) section 901:8-2-11 is proposed in response to that legislative amendment. The rule outlines the procedure for holding online auctions in conjunction with live auctions. The rule requires entering into a contract and clarifies records that must be maintained for online auctions conducted in conjunction with live auctions.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

Pursuant to section 121.76 of the Revised Code, the code sections incorporated into this rule are exempt from compliance with sections 121.71 to 121.74 of the Revised Code

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so. If applicable, indicate each specific paragraph of the rule that has been modified:

Not Applicable.

12. Five Year Review (FYR) Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the

scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

Not applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Prior to legislative changes, auctioneers have always been required to enter into an auction contract for live auctions. The legislative changes clarified that Chapter 4707 applies to online auctions when they are performed in conjunction with a live auction. Therefore, the rule imposes no new requirements, and only extends the requirements for contracts and recordkeeping to those auctioneers and auctioneer firms already required to be licensed for online auctions conducted in conjunction with live auctions. The quantified impact of this rule is minimal based on the existence of a similar requirement.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component

dealing with environmental protection as defined in R. C. 121.39? **No**

S.B. 2 (129th General Assembly) Questions

18. Has this rule been filed with the Common Sense Initiative Office pursuant to R.C. 121.82? **Yes**

19. Specific to this rule, answer the following:

A.) Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? **Yes**

All licensed and apprentice auctioneers in the state of Ohio must have a license with the Department of Agriculture.

B.) Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? **No**

No, however, violations to this rule would be subject to OAC 901:8-2-08.

C.) Does this rule require specific expenditures or the report of information as a condition of compliance? **No**