



## Ohio Revised Code

### Section 4707.32 Recovery against auction firm or firm and licensed auctioneer.

Effective: May 6, 2005

Legislation: Senate Bill 209 - 125th General Assembly

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(A) A person who asserts that the person has been aggrieved solely by the actions of an auction firm that resulted in actual and direct losses to the aggrieved person may seek recovery under the auction firm's financial responsibility that is required under section 4707.074 of the Revised Code. The director of agriculture shall adopt rules under section 4707.19 of the Revised Code that do all of the following:

- (1) Establish procedures for filing a claim against an auction firm's financial responsibility;
- (2) Establish procedures that provide for the equitable disbursement of money for multiple claims against the auction firm that resulted from the same circumstances;
- (3) Establish procedures for providing notice to the department of agriculture from a person seeking recovery under this division;
- (4) Limit an aggrieved person's recovery to the actual and direct losses caused by the auction firm.

(B) A person who asserts that the person has been aggrieved by the actions of both an auction firm and a licensed auctioneer related to an auction that resulted in actual and direct losses to the aggrieved person may file a cause of action with a court of competent jurisdiction claiming that a violation of this chapter or rules adopted under it resulted in the actual and direct losses. The court shall determine if there was a violation of this chapter or rules adopted under it that resulted in those losses. If the court determines that the auction firm, the licensed auctioneer, or both violated this chapter or rules adopted under it and that the violation resulted in the aggrieved person's actual and direct losses, the court shall determine the percentage of culpability, in relation to one hundred per cent, that is attributable to each party to the action from whom the complainant seeks recovery.

If the court finds that the percentage of culpability that is attributable to the licensed auctioneer is greater than zero, the aggrieved person may initiate a claim against the auction recovery fund in



accordance with sections 4707.26 to 4707.31 of the Revised Code to recover that percentage of the actual and direct losses sustained by the person. If the court finds that the percentage of culpability that is attributable to the auction firm is greater than zero, the aggrieved person may recover that percentage of the actual and direct losses sustained by the person under the auction firm's financial responsibility that is required under section 4707.074 of the Revised Code.

The total aggregate amount that is paid to the aggrieved person from the auction recovery fund and the auction firm's financial responsibility shall not exceed the actual and direct losses sustained by the person. In addition, the total aggregate amount that is paid from the auction recovery fund shall not exceed the dollar limitations established in section 4707.29 of the Revised Code, and the total aggregate amount that is paid from the auction firm's financial responsibility shall not exceed the dollar limitations established in section 4707.074 of the Revised Code.

(C) If a person files a cause of action under division (B) of this section, the person immediately shall send written notice to the department of agriculture.