

## State of Oregon Revised Statutes

**698.635 Definitions.** As used in ORS 698.640 and 698.650:

(1) Auction or auction sale means the sale of or offer to sell real or personal property by public outcry or to the highest bidders.

(2) Auctioneer means any person who sells or offers to sell property at auction, either on the persons own behalf or for another person.

(3) Auction mart means any fixed or established place designed, intended or used for the conduct of auction sales where more than one sale has been held in any one calendar year. [1983 c.404 s.1]

**698.640 Requirements for auction sales, auctioneers and auction marts; violation as unlawful trade practice; penalty.** Except as provided in ORS 698.650, this section establishes requirements for auction sales, auctioneers and auction marts. The requirements under this section are in addition to any provisions relating to auctions under ORS 72.3280. A person who violates any requirement under this section commits an unlawful practice as described in ORS 646.608 (1)(v). The requirements under this section are subject to enforcement and penalty as provided under ORS 646.605 to 646.652. The following requirements are established for auction sales, auctioneers and auction marts as described:

(1) Any advertisement of an auction sale shall include the name of the auctioneer who will conduct the auction sale or the person responsible for the conduct of the auction sale.

(2) An auctioneer and the operator of an auction mart shall not use any method of bidding at an auction that will allow property to be purchased in an undisclosed manner on behalf of the auctioneer or auction mart operator.

(3) An auctioneer or auction mart operator shall not use any method of bidding at an auction that allows the auctioneer or auction mart operator to avoid selling any property offered for sale at auction.

(4) An auctioneer or auction mart operator shall not employ or use another person to act as a bidder or buyer at the auction on behalf of the auctioneer or operator of the auction mart.

(5) Any time an auctioneer or auction mart operator receives money that is owed to clients of the auctioneer or auction mart operator from the sale of the clients goods, the auctioneer or auction mart operator must comply with all of the following if the money is not immediately paid to the client at the time of auction:

(a) Any such money maintained in an account must be kept in a trust account where the money is held in trust for the client and identified and accounted for separately in a manner that will allow the money to be distinguished from the moneys of the auctioneer or operator that are subject to the debts of the auctioneer or operator. The account required by this paragraph must be separate from any account used by the auctioneer or operator for personal reasons or other business reasons.

(b) The client has a right to an accounting from the auctioneer or auction mart operator for any money that the auctioneer or auction mart operator received in payment for the clients goods that is not paid to the client.

(c) The auctioneer or auction mart operator must pay the client the money owed to the client before the end of 21 calendar days after the auction at which the clients goods were sold unless the parties have mutually agreed to another time of payment in writing. [1965 c.313 s.4; 1983 c.404 s.2; 1985 c.822 s.1]

**698.650 Exemptions.** This section establishes exemptions from the requirements for auctions, auction marts and auctioneers established under ORS 698.640. The exemptions are as described in the following:

(1) Nothing in ORS 698.640 applies to any auction, auctioneer or auction mart regulated under ORS chapter 599.

(2) Nothing in ORS 698.640 applies to the sale of timber at any auction or auction mart or by any auctioneer. In addition, the sale of timber at auction is with reserve unless the timber is in explicit terms put up without reserve. [1983 c.404 s.3]

**72.3280 Sale by auction.** (1) In a sale by auction if goods are put up in lots each lot is the subject of a separate sale.

(2) A sale by auction is complete when the auctioneer so announces by the fall of the hammer or in other customary manner. Where a bid is made while the hammer is falling in acceptance of a prior bid the auctioneer may in the auctioneers discretion reopen the bidding or declare the goods sold under the bid on which the hammer was falling.

(3) Such a sale is with reserve unless the goods are in explicit terms put up without reserve. In an auction with reserve the auctioneer may withdraw the goods at any time until the auctioneer announces completion of the sale. In an auction without reserve, after the auctioneer calls for bids on an article or lot, that article or lot cannot be withdrawn unless no bid is made within a reasonable time. In either case a bidder may retract a bid until the auctioneers announcement of completion of the sale, but a bidders retraction does not revive any previous bid.

(4) If the auctioneer knowingly receives a bid on the sellers behalf or the seller makes or procures such a bid, and notice has not been given that liberty for such bidding is reserved, the buyer may at the buyers option avoid the sale or take the goods at the price of the last good faith bid prior to the completion of the sale. This subsection shall not apply to any bid at a forced sale. [1961 c.726 s.72.3280; 1983 c.404 s.4; 1985 c.822 s.2]