



# 中华人民共和国拍卖法

Auction Law of the People's  
Republic of China

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# **Auction Law of the People's Republic of China**

( Adopted at the 20th Meeting of the Standing Committee of the Eighth National People's Congress on July 5, 1996, promulgated by Order No. 70 of the President of the People's Republic of China on July 5, 1996, and effective as of July 1, 1997 )

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## **第一章 总 则**

**第一条** 为了规范拍卖行为，维护拍卖秩序，保护拍卖活动各方当事人的合法权益，制定本法。

**第二条** 本法适用于中华人民共和国境内拍卖企业进行的拍卖活动。

**第三条** 拍卖是指以公开竞价的形式，将特定物品或者财产权利转让给最高应价者的买卖方式。

**第四条** 拍卖活动应当遵守有关法律、行政法规，遵循公开、公平、公正、诚实信用的原则。

**第五条** 国务院负责管理拍卖业的部门对全国拍卖业实施监督管理。

省、自治区、直辖市的人民政府和设区的市的人民政府负责管理拍卖业的部门对本行政区域内的拍卖业实施监督管理。

公安机关对拍卖业按照特种行业实施治安管理。

## **第二章 拍卖标的**

**第六条** 拍卖标的应当是委托人所有或者依法可以处分的物品或者财产权利。

## Chapter I General Provisions

**Article 1** This Law is enacted for the purpose of standardizing acts of auction, maintaining order of auction and protecting the lawful rights and interests of all the parties in activities of auction.

**Article 2** This Law applies to auction activities conducted by auction enterprises within the territory of the People's Republic of China.

**Article 3** Auction refers to the means of selling and buying by which specific articles or goods or property rights are transferred through public bidding to the bidder that offers the highest price.

**Article 4** The parties in activities of auction shall abide by the relevant laws and administrative rules and regulations and adhere to the principles of openness, fairness, justice and good faith.

**Article 5** The department in charge of administration of the auction trade under the State Council shall exercise supervision over and administration of the auction trade throughout the country.

The departments in charge of administration of the auction trade under the people's governments of provinces, autonomous regions, municipalities directly under the Central Government, or cities divided into districts shall exercise supervision over and administration of the auction trade in their respective administrative regions.

The public security organ shall exercise public order control over the auction trade in the same way as they deal with special trades.

## Chapter II Objects of Auction

**Article 6** Objects of auction shall be the articles or goods or property rights which are owned by the client or which the client may dispose of according to law.

**第七条** 法律、行政法规禁止买卖的物品或者财产权利，不得作为拍卖标的。

**第八条** 依照法律或者按照国务院规定需经审批才能转让的物品或者财产权利，在拍卖前，应当依法办理审批手续。

委托拍卖的文物，在拍卖前，应当经拍卖人住所地的文物行政管理部门依法鉴定、许可。

**第九条** 国家行政机关依法没收的物品，充抵税款、罚款的物品和其他物品，按照国务院规定应当委托拍卖的，由财产所在地的省、自治区、直辖市的人民政府和设区的市的人民政府指定的拍卖人进行拍卖。

拍卖由人民法院依法没收的物品，充抵罚金、罚款的物品以及无法返还的追回物品，适用前款规定。

### **第三章 拍卖当事人**

#### **第一节 拍 卖 人**

**第十条** 拍卖人是指依照本法和《中华人民共和国公



**Article 7** Articles or goods or property rights prohibited for sale by laws or administrative rules and regulations shall not be made objects of auction.

**Article 8** With respect to the articles or goods or property rights whose transference is subject to examination and approval as provided for by laws or regulations of the State Council, the parties concerned shall, prior to their auction, go through the formalities for the examination and approval according to law.

With respect to the cultural relics under authorization for auction, they shall, prior to their auction, be subject to appraisal and permission given according to law by the administrative department for cultural relics in the place where the auctioneer's residence is located.

**Article 9** With respect to articles or goods confiscated or used to offset tax money or fines by the administrative organs of the State in accordance with law and other articles or goods, all of which should be auctioned through authorization as prescribed by regulations of the State Council, the auction shall be conducted by auctioneers designated by the people's governments of the provinces, autonomous regions or municipalities directly under the Central Government or of the cities divided into districts, where such property is located.

Auction of articles or goods confiscated or used to offset tax money or fines by the People's Courts in accordance with law and other articles or goods that are retrieved but cannot be returned to their owners shall be governed by the provisions of the preceding paragraph.

## **Chapter III Parties to Auction**

### **Section 1 Auctioneer**

**Article 10** An auctioneer refers to an enterprise legal person that

司法》设立的从事拍卖活动的企业法人。

**第十一条** 拍卖企业可以在设区的市设立。设立拍卖企业必须经所在地的省、自治区、直辖市人民政府负责管理拍卖业的部门审核许可，并向工商行政管理部门申请登记，领取营业执照。

**第十二条** 设立拍卖企业，应当具备下列条件：

- (一) 有一百万元人民币以上的注册资本；
- (二) 有自己的名称、组织机构、住所和章程；
- (三) 有与从事拍卖业务相适应的拍卖师和其他工作人员；
- (四) 有符合本法和其他有关法律规定的拍卖业务规则；
- (五) 有公安机关颁发的特种行业许可证；
- (六) 符合国务院有关拍卖业发展的规定；
- (七) 法律、行政法规规定的其他条件。

**第十三条** 拍卖企业经营文物拍卖的，应当有一千万元人民币以上的注册资本，有具有文物拍卖专业知识的人员。

**第十四条** 拍卖活动应当由拍卖师主持。

is established in accordance with this Law and the Company Law of the People's Republic of China and engaged in activities of auction.

**Article 11** Auction enterprises may be established in cities divided into districts. Establishment of an auction enterprise shall be subject to examination, verification and permission by the department in charge of the auction trade under the people's government of the province, autonomous region, or municipality directly under the Central Government in the place where the enterprise is to be established and shall be registered with the administrative department for industry and commerce for obtaining of a business license.

**Article 12** To establish an auction enterprise, the following conditions shall be satisfied:

- (1) having a registered capital of RMB one million yuan or more;
- (2) having its own name, organizational structure, premises and Articles of Association;
- (3) having auction masters and other employees commensurate to the trade;
- (4) having rules for the auction trade that conform to the provisions of this Law and other relevant laws;
- (5) having the permit for special trade issued by the public security organ;
- (6) complying with the regulations of the State Council regarding development of the auction trade; and
- (7) other conditions as provided for by laws or administrative rules and regulations.

**Article 13** An auction enterprise engaged in the auction of cultural relics shall have a registered capital of RMB 10 million yuan or more and employees equipped with the professional knowledge about auction of cultural relics.

**Article 14** Auction activities shall be presided over by auction masters.

**第十五条** 拍卖师应当具备下列条件：

- (一) 具有高等院校专科以上学历和拍卖专业知识；
- (二) 在拍卖企业工作两年以上；
- (三) 品行良好。

被开除公职或者吊销拍卖师资格证书未满五年的，或者因故意犯罪受过刑事处罚的，不得担任拍卖师。

**第十六条** 拍卖师资格审核，由拍卖行业协会统一组织。经考核合格的，由拍卖行业协会发给拍卖师资格证书。

**第十七条** 拍卖行业协会是依法成立的社会团体法人，是拍卖业的自律性组织。拍卖行业协会依照本法并根据章程，对拍卖企业和拍卖师进行监督。

**第十八条** 拍卖人有权要求委托人说明拍卖标的的来源和瑕疵。

拍卖人应当向竞买人说明拍卖标的的瑕疵。

**第十九条** 拍卖人对委托人交付拍卖的物品负有保管义务。

**第二十条** 拍卖人接受委托后，未经委托人同意，不得委托其他拍卖人拍卖。

**第二十一条** 委托人、买受人要求对其身份保密的，拍卖人应当为其保密。

**Article 15** An auction master shall satisfy the following requirements:

- (1) having acquired a 3 – year college education or a higher education and professional knowledge about auction;
- (2) having worked two years at least in an auction enterprise; and
- (3) being a person of good conduct.

If a person has been discharged from public employment or his qualification certificate of auction master rescinded for less than five years or has been subjected to criminal punishment for intentional offense, he shall not be employed as an auction master.

**Article 16** Examination for qualification of auction masters shall be arranged exclusively by the Auction Trade Association. Persons who pass the examination shall be issued qualification certificates for auction masters by the said association.

**Article 17** The Auction Trade Association is a public organization legal person established in accordance with law and a self – disciplined organization for the trade of auction. The Auction Trade Association shall, in accordance with this Law and its own Articles of Association, exercise supervision over auction enterprises and masters.

**Article 18** An auctioneer shall have the right to request his clients to make clear the origins and defects of the objects of auction.

An auctioneer shall make defects of the objects of auction known to bidders.

**Article 19** An auctioneer shall have the obligation of taking care of the articles or goods delivered by his clients to him for auction sale.

**Article 20** After accepting authorization, the auctioneer may not authorize another auctioneer to perform the auction without prior consent of his client.

**Article 21** An auctioneer shall keep the identity of his client or vendee confidential if so requested.

**第二十二条** 拍卖人及其工作人员不得以竞买人的身份参与自己组织的拍卖活动，并不得委托他人代为竞买。

**第二十三条** 拍卖人不得在自己组织的拍卖活动中拍卖自己的物品或者财产权利。

**第二十四条** 拍卖成交后，拍卖人应当按照约定向委托人交付拍卖标的的价款，并按照约定将拍卖标的移交给买受人。

## **第二节 委 托 人**

**第二十五条** 委托人是指委托拍卖人拍卖物品或者财产权利的公民、法人或者其他组织。

**第二十六条** 委托人可以自行办理委托拍卖手续，也可以由其代理人代为办理委托拍卖手续。

**第二十七条** 委托人应当向拍卖人说明拍卖标的的来源和瑕疵。

**第二十八条** 委托人有权确定拍卖标的的保留价并要求拍卖人保密。

拍卖国有资产，依照法律或者按照国务院规定需要评估的，应当经依法设立的评估机构评估，并根据评估结果确定拍卖标的的保留价。

**第二十九条** 委托人在拍卖开始前可以撤回拍卖标的。委托人撤回拍卖标的的，应当向拍卖人支付约定的费用；未作约定的，应当向拍卖人支付为拍卖支出的合理费用。

**Article 22** An auctioneer and his employees may not get involved as bidders in the auction sale which is arranged by themselves and may not authorize another to act as a bidder on their behalf.

**Article 23** An auctioneer may not put his own articles or goods or property rights on an auction sale which is arranged by himself.

**Article 24** When an auction transaction is concluded, the auctioneer shall deliver the money paid for the objects of auction to the clients as agreed and transfer the objects of auction to the vendees as agreed.

## Section 2 Client

**Article 25** A client refers to a citizen, legal person or other organization that authorizes an auctioneer to auction his or its articles, goods or property rights.

**Article 26** A client may go through the formalities for authorization of auction by himself or through his agent.

**Article 27** A client shall make clear the origins and defects of the objects of auction to the auctioneer.

**Article 28** A client shall have the right to determine the reservation price for the objects of auction and require the auctioneer to keep it confidential.

With respect to auction of State assets, assessment of which is required by law or regulations of the State Council, assessment shall be made by the appraisal institution established according to law, and reservation prices for the objects of auction shall be determined on the basis of the assessment made.

**Article 29** A client may withdraw the objects of auction before the auction sale commences. In such a case, the client shall pay to the auctioneer the expenses as agreed; in the absence of such an agreement, the client shall pay to the auctioneer a reasonable amount of expenses.

**第三十条** 委托人不得参与竞买，也不得委托他人代为竞买。

**第三十一条** 按照约定由委托人移交拍卖标的的，拍卖成交后，委托人应当将拍卖标的移交给买受人。

### **第三节 竞 买 人**

**第三十二条** 竞买人是指参加竞购拍卖标的的公民、法人或者其他组织。

**第三十三条** 法律、行政法规对拍卖标的的买卖条件有规定的，竞买人应当具备规定的条件。

**第三十四条** 竞买人可以自行参加竞买，也可以委托其代理人参加竞买。

**第三十五条** 竞买人有权了解拍卖标的的瑕疵，有权查验拍卖标的和查阅有关拍卖资料。

**第三十六条** 竞买人一经应价，不得撤回，当其他竞买人有更高应价时，其应价即丧失约束力。

**第三十七条** 竞买人之间、竞买人与拍卖人之间不得恶意串通，损害他人利益。

### **第四节 买 受 人**

**第三十八条** 买受人是指以最高应价购得拍卖标的的竞买人。

**第三十九条** 买受人应当按照约定支付拍卖标的的价款，未按照约定支付价款的，应当承担违约责任，或者由拍卖人征得委托人的同意，将拍卖标的再行拍卖。



**Article 30** A client may not participate in bidding and may not authorize another to bid on his behalf.

**Article 31** Where it is agreed that the objects of auction shall be transferred by the client, after the auction transaction is concluded, the client shall transfer the objects of auction to the vendees.

### **Section 3 Bidder**

**Article 32** A bidder refers to a citizen, legal person or other organization that participates in the bidding for objects of auction.

**Article 33** Where requirements for selling and buying of objects of auction are prescribed in law or administrative rules and regulations, a bidder shall meet those requirements.

**Article 34** A bidder may take part in bidding by himself or authorize his agent to participate in it.

**Article 35** A bidder shall have the right to be informed of defects of the objects of auction and the right to inspect them and to have access to information pertaining to them.

**Article 36** Once a bidder bids for a price, it shall be irrevocable, and it shall lose its binding force as soon as another bidder offers a higher price.

**Article 37** Bidders or bidders and auctioneers may not collude with each other out of ill intention to harm the interests of another.

### **Section 4 Vendee**

**Article 38** A vendee refers to a bidder who purchases an object of auction at the highest price offered by him.

**Article 39** A vendee shall pay for the object of auction at the price agreed, failing that, he shall bear liabilities for default or, with the consent of the client, the auctioneer may put the object of auction up at auction again.