

THE AUCTION LAW OF
THE PEOPLE'S REPUBLIC
OF CHINA

中華人民共和國拍賣法



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**THE AUCTION LAW
OF THE
PEOPLE'S REPUBLIC OF CHINA**

中华人民共和国拍卖法

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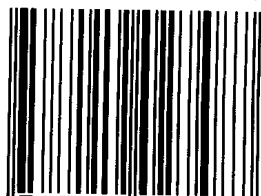
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THE AUCTION LAW OF THE PEOPLE'S REPUBLIC OF CHINA

(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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CHAPTER I

GENERAL PROVISIONS

Article 1 In order to standardize auction transactions, maintain orderliness in auctions and protect the lawful rights and interests of the parties to auction transactions, this Law is formulated.

Article 2 This Law is applicable to auction transactions conducted by auction enterprises within the borders of the People's Republic of China.

Article 3 An auction is a public sale at which specific goods or property rights are sold to the person who offers the highest price.

Article 4 Auctions shall be governed by the related laws and administrative regulations, and observe the principles of openness, fairness, justice, honesty and good faith.

Article 5 The departments in charge of the auction trade under the State Council supervise and administer the nation's auction trade.

The sections in charge of the auction trade under the people's governments of provinces, autonomous regions

and municipalities, and of cities divided into districts, supervise and administer the auction trade in their own administrative divisions.

The public security organs exercise security administration over the auction trade as a special trade.

CHAPTER II

AUCTION ITEMS

Article 6 Auction items shall be goods or property rights that the clients own or are legally entitled to dispose of.

Article 7 Goods or property rights prohibited from being sold by laws and administrative regulations cannot be auction items.

Article 8 If the goods or property rights must be examined and approved before being transferred, according to law or stipulations of the State Council, the procedures for examination and approval shall be performed in accordance with the law before auction.

Cultural relics to be auctioned shall be authenticated and given permission in accordance with the law by the cultural relics administration departments of the place of the auctioneer's residence before the auction.

Article 9 Goods confiscated legally by state administrative organs or used to charge against tax payment or fines, and other goods that shall be auctioned according to the stipulations of the State Council are to be auctioned by an auctioneer designated by the people's government of

the province, autonomous region, municipality or city divided into districts, where the property to be auctioned is located.

The preceding paragraph is applicable to the auctioning of goods confiscated legally by people's courts or used to charge against tax payment or fines, and recovered goods that cannot be returned.

CHAPTER III

AUCTION PARTIES

SECTION 1 AUCTIONEERS

Article 10 An auctioneer refers to an enterprise as a legal person established in accordance with this Law and the Company Law of the People's Republic of China to undertake auction transactions.

Article 11 Auction enterprises may be established in cities divided into districts. The establishment of an auction enterprise must be verified and permitted by the department in charge of auction trade under the people's government of the province, autonomous region or municipality where the enterprise is located, and must apply to the relevant industrial and commercial administration department for registration and the issuing of a business certificate.

Article 12 An auction enterprise must satisfy the following requirements before it may be established:

- (1) Having one million RMB or more of registered capital;
- (2) Having its own designation, organization, domicile and articles of association;

(3) Having auctioneers and other staff that are suitable for undertaking auction business;

(4) Having auction business regulations in conformity with the provisions of this Law and other related laws;

(5) Having a special trade license issued by a public security organ;

(6) Complying with the stipulations of the State Council concerning the development of the auction trade;

(7) Satisfying other requirements provided by laws and administrative regulations.

Article 13 If an auction enterprise undertakes cultural relics auctions, it shall have ten million RMB or more in registered capital and personnel with specialized knowledge of the auctioning of cultural relics.

Article 14 An auction shall be presided over by an auctioneer.

Article 15 Auctioneers shall satisfy the following requirements:

(1) Having a junior college or higher education level and specialized knowledge of the auction business;

(2) Have worked in auction enterprises for two years or longer;

(3) Be of good character.

Those who have been dismissed from their jobs or whose auctioneer qualification certificates have been cancelled cannot act as auctioneers for a period of five

years after their dismissal or the cancellation of their certificates. Those who have been given criminal sanctions for intentional crimes cannot be auctioneers.

Article 16 The auction trade society organizes examinations of auctioneer qualification and issues auctioneer qualification certificates to those who pass the relevant examination.

Article 17 The auction trade society is a legal-body social organization and a self-contained organization of the auction trade. The auction trade society, in accordance with this Law and its articles, supervises auction enterprises and auctioneers.

Article 18 An auctioneer has the right to require clients to explain the source of the auction items and any defects.

An auctioneer shall disclose to the bidders any defects in the auction items.

Article 19 Auctioneers are obligated to keep safe the auction items entrusted to them by their clients.

Article 20 After receiving a client's entrustment, the auctioneer must not transfer it to any other auctioneer without the consent of the client.

Article 21 If the clients and vendees require the auctioneer to keep their identities secret, the auctioneer has a duty to do so.

Article 22 The auctioneer and his staff must not, in a bidder's capacity, participate in auctions organized by themselves, and must not authorize other people to bid.

Article 23 An auctioneer must not auction his own goods or rights of properties in an auction organized by himself.

Article 24 After closing a deal, the auctioneer shall, according to the engagement, deliver the money from selling the auction item to the client and transfer the item to the vendee.

SECTION 2 CLIENTS

Article 25 Clients means citizens, legal entities or other organizations that authorize auctioneers to auction their goods or rights of properties.

Article 26 Clients may go through procedures of entrusted auction by themselves, or authorize agents to do it for them.

Article 27 Clients shall explain the sources of auction items to the auctioneer, as well as disclosing any flaws in them.

Article 28 Clients have the right to determine the reserve price of an auction item and require the auctioneer to keep it secret.

Before auctioning a state-owned asset, if an evaluation is needed according to law or the stipulations of the State Council, it shall be evaluated by the legally established evaluation organ, and the reserve price of the auction item is to be determined according to the evaluation results.

Article 29 Clients can take back auction items before the auction starts. If they do so, they shall pay the auctioneer the agreed charge; if there is no agreed charge, they shall pay the auctioneer reasonable expenses.

Article 30 Clients must not participate in bidding or authorize other people to bid.

Article 31 If an auction item is to be transferred by the client in accordance with an agreement, after closing the deal, the client shall transfer the auction item to the vendee.

SECTION 3 BIDDERS

Article 32 Bidders refers to citizens, legal entities or other organizations who participate in the bidding for the auction items.

Article 33 If there are provisions in the terms of sale of the auction items in the law and administrative regulations, the bidders shall satisfy the stipulated conditions.

Article 34 Bidders may bid by themselves, or authorize representatives to bid.

Article 35 Bidders have the right to know of any flaws in auction items, check auction items and consult related auction materials.

Article 36 A bidder cannot withdraw his bid once he has made it; and his bid loses binding force if another bidder offers a higher price.

Article 37 Bidders must not maliciously conspire with each other or with the auction house to harm others' interests.

SECTION 4 VENDEES

Article 38 Vendee refers to the bidder who buys an auction item at the highest price.

Article 39 A vendee shall pay the purchase price of the auction item according to the agreement. If he or she fails to pay it according to the agreement, he or she shall bear responsibility for the breach of the agreement, or the auction house may auction the item again, with the permission of the client.

If an auction item is to be auctioned again, the original vendee shall pay the commission that he himself and the client were to pay in the case of the first auction; if the

second auction purchase price is lower than the original one, the original vendee shall pay the difference.

Article 40 If the vendee fails to obtain an auction item according to the agreement, he or she has the right to demand that the auction house or the client bear responsibility for breach of the agreement.

If the vendee does not accept the auction item in accordance with the agreement, he or she shall pay the storage fee.

CHAPTER IV

AUCTION PROCEDURE

SECTION 1 ENTRUSTMENT OF AUCTION

Article 41 While entrusting an auction house to auction goods or property rights, the client shall provide his or her identity certificate and, if the auction house so demands, the certificate title to the auction item or the certificate and other materials proving that the client is legally entitled to dispose of the auction item.

Article 42 The auction house shall verify the related documents and materials provided by the client. After receiving entrustment, the auction house shall sign a written contract of entrusted auction with the client.

Article 43 The auction item is to be authenticated if the auction house considers that it is necessary to do so.

If the expert conclusion is different from the conditions of the auction item stated in the entrusted auction contract, the auction house has the right to demand correction or cancel the contract.

Article 44 The entrusted auction contract shall contain the following items: