

China - Auction Law, 1996

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**Auction Law of the People’s Republic of China
(Adopted at the 20th Meeting of the Standing Committee
of the 8th National People’s Congress on July 5, 1996)** 1

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1 **Auction Law of the People's Republic of China**
2 **(Adopted at the 20th Meeting of the Standing**
3 **Committee of the 8th National People's Congress on**
4 **July 5, 1996)**

5 **Chapter I - General Provisions**

6 **Article 1**

7 This Law has been formulated with a view to standardizing the auc-
8 tion behavior, safeguarding the auction order, and protecting the
9 legitimate rights and interests of various parties involved in auction
10 activity.

11 **Article 2**

12 This Law shall apply to the auction activity carried out by auc-
13 tion enterprises within the territory of the People's Republic of
14 China.

15 **Article 3**

16 Auction means the buying and selling form through which desig-
17 nated articles or property rights are transferred, in the form of public
18 bidding, to those providing the highest bidding price.

19 **Article 4**

20 Auction activity shall abide by relevant laws and administrative de-
crees, and follow the principle of openness, fairness, impartiality,
honesty and credibility.

11 **Article 5**

12 The State Council is responsible for managing the department in
13 charge of the auctioning industry, which will exercise supervision
14 over and management of the national auctioning industry.

15 **Article 6**

16 People's governments of various provinces, autonomous regions
17 and municipalities directly under the central government and peo-
18 ple's governments of cities with districts are responsible for man-
19 aging the departments in charge of the auctioning industry, which
20 will exercise supervision over and management of the auctioning
industry within their respective administrative regions.

Public security departments shall exercise security control over the
auctioning industry as special industry.

16 **Chapter II - Auction Targets**

17 **Article 6**

18 Auction target shall be articles or the property rights owned by
19 trustees or disposable according to law.

19 **Article 7**

20 Articles or property rights whose purchase and sale are prohibited
by laws and administrative decrees shall not be taken as auction
targets.

Article 8

Articles or property rights whose transfer is subject to the examination and approval according to law or in accordance with State Council provisions shall, before being auctioned, go through examination and approval procedures according to law.

Cultural relics consigned for sale shall, before being auctioned, be assessed and permitted according to law by the cultural administrative department where the auctioneer resides.

Article 9

Should articles confiscated by the state administrative department according to law, articles used to pay taxes or fines and other kinds of articles be auctioned on consignment in accordance with State Council provisions, they shall be auctioned by the auctioneers designated by the people's governments with districts where such property lies.

The auction of articles confiscated by a people's court according to law, articles used to pay fines and found articles that cannot be returned are subject to the stipulation of the above paragraph.

Chapter Three - Parties Involved in Auction**Section III - Auctioneers****Article 10**

An auctioneer is an enterprise legal person that has been established to engage in auction activity in accordance with this Law and the Corporate Law of the People's Republic of China.

21

Article 11

An auction enterprise may be set up in a city with districts. The establishment of an auction enterprise is subject to the examination and approval by the department in charge of managing the auctioning industry as authorized by the people government of a province, an autonomous region and a municipality directly under the central government where it is located, and shall apply and register with the administrative department for industry and commerce receive a business license.

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Article 12

Whoever establishes an auction enterprise shall meet the following requirements:

- (1) Having a registered capital of at least one million yuan;
- (2) Having his own name, organizational setup, residence and articles of association;
- (3) Having auctioneers and other staff qualified for the auctioning business;
- (4) Having formulated rules on the auction business that comply with this Law and the stipulations of other relevant laws;
- (5) Having the permit on a special industry issued by the public security department;
- (6) Complying with the State Council provisions regarding the development of the auctioning industry; and
- (7) Meeting other requirements as prescribed by laws and administrative decrees.

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	Article 13	42	Article 17	54
43	Should an auction enterprise handle the auction of cultural relics, it shall have a registered capital of at least 10 million yuan and have personnel with the professional expertise of relics auction.		The Auctioning Industry Association is a mass organization legal person established according to law and a self-disciplining organization in the auctioning industry. The Auctioning Industry Association shall exercise supervision over auction enterprises and auctioneers in accordance with this Law and its articles of Association.	55
44	Article 14			
45	Auction activity shall be presided over by an auctioneer.			
46	Article 15		Article 18	56
47	An auctioneer shall meet the following requirements:		An auctioneer has the right to ask the trustee to state the source and drawbacks of auction targets.	57
48	(1) Having a university or college education and professional expertise of auction;		The auctioneer shall state the drawbacks of auction targets to the bidders.	58
49	(2) Having worked in an auctioning enterprise for more than two years; and			
50	(3) Having a moral integrity.		Article 19	59
51	Those who have been dismissed from their posts and those for whom five years have not passed since their auctioneer certificates were revoked, or those who have been meted out criminal punishment for deliberately committing a crime may not serve as auctioneers.		An auctioneer has the obligation of taking care of articles submitted by the trustee for auction.	60
52	Article 16		Article 20	61
53	The examinations for the qualification of auctioneers shall be organized exclusively by the auction Industry Association. Those passing the examinations shall be issued auctioneer qualification certificates by the Auctioning Industry Association.		Upon accepting trust, an auctioneer shall not trust other auctioneers for auction unless approved by the trustee.	62
			Article 21	63
			Should a trustee or a buyer ask to keep secret of his or her identity, the auctioneer shall keep secret for him or her.	64

	Article 22		Article 27	
66	An auctioneer and other personnel shall not, in the capacity of bidders, participate in the auction activity organized by them, and shall not trust others to bid for them.	65	An trustee shall state the source and drawbacks of his or her auction targets to the auctioneer.	76
67	Article 23		Article 28	78
68	An auctioneer shall not auction his or her own articles or property rights in the auction activity organized by him or her.		An trustee has the right to set the retentive price of an auction target to the auctioneer.	79
69	Article 24		Should the auction of state-owned assets require the evaluation according to law or in accordance with State Council provisions, such assets shall be evaluated by an evaluation agency established according to law and the retentive price of an auction target shall be set in line with the evaluation result.	80
70	After an auction is completed, the auctioneer shall, as agreed upon, pay the sum of money of the auction targets to the trustee, and shall, as agreed upon, transfer the auction targets to the buyer.		Article 29	81
71	Section Two - Trustees		Before an auction begins, an trustee may withdraw his or her auction targets. Should a trustee withdraw his or her auction targets, he or she shall pay costs as agreed upon to the auctioneer. In the absence of an agreement, he or she shall pay the auctioneer reasonable costs paid for an auction.	82
72	Article 25		Article 30	83
73	An trustee means a citizen, a legal person or an organization trusting the auctioneer to auction his or her articles or property rights.		Trustees shall not participate in bidding or trust others to providing bidding for them.	84
74	Article 26		Article 31	85
75	Trustees may independently handle trust auction procedures, and may also ask their agents to handle trust auction procedures for them.		Should an auction target be transferred as agreed upon, after the	86

87 auction is completed, the trustee shall transfer the auction target to
88 the buyer.

87 Section Three - Bidders

88 Article 32

89 A bidder means a citizen, a legal person or an organization partic-
90 ipating in bidding for auction targets.

90 Article 33

91 should laws and administrative decrees spell out stipulations on
92 buying and selling requirements for auction targets, any bidder
93 shall meet the prescribed requirements.

92 Article 34

93 Bidders may participate in bidding on their own, or may trust their
94 agents to participate in bidding for them.

94 Article 35

95 A bidder has the right to know the drawbacks of an auction tar-
96 get, to check the said auction target and consult relevant auction
97 data.

96 Article 36

97 Once the bidding price is announced, a bidder shall not withdraw
it. When other bidders providing higher bidding prices, his bidding
price shall no longer be valid.

Article 37

Bidders shall not viciously collaborate with other bidders and auc-
tioneers shall not do so with auctioneers to damage the interests
of others.

Section Four - Buyers

Article 38

A buyer means a bidder who purchases an auction target with the
highest bidding price.

Article 39

A buyer shall pay the sum of money for an auction target as agreed
upon. Whoever fails to pay such a sum as agreed upon shall bear
the liabilities of breaking a contract, or with the approval of the
trustee, the auctioneer may re-auction the auction target.

In the case of re-auctioning an auction target, the original buyer
shall pay the commission himself or herself and the trustee shall
pay for the auction for the first time. Should the price of a re-auction
be lower than the price of the original auction price, the original
buyer shall pay for the balance.

Article 40

Should a buyer fail to obtain an auction target as agreed upon, he
or she has the right to demand that the auctioneer or the trustee
bear the liabilities of breaking a contract.

Should a buyer fail to take back an auction target as agreed upon,
he or she shall pay the storage costs arising thereafter.

109	Chapter IV - Auction Procedures	121	(2) The name, specification, number and quality of an auction target;	
110	Section One - Auction Trust		(3) The retentive price set by the trustee;	122
111	Article 41		(4) The time and site of the auction;	123
112	Should a trustee trust an auctioneer to auction articles or property rights, he or she shall provide his or her identity certificate, or the certificate of the ownership of the auction target as required by the auctioneer, or the certificate or other data which can demonstrate that he or she can dispose of the auction target.		(5) The delivery of the auction target or the time and form of transferring such an target;	124
			(6) The form and the time limit for paying commissions;	125
			(7) The liabilities of breaking the contract;	126
			(8) Other matters as agreed upon by both parties.	127
113	Article 42			
114	An auctioneer shall verify the relevant documents and data provided by his trustee. Should the auctioneer accept a trust, he or she shall sign a written contract on trust auction with the trustee.		Section Two - The Auction Notice and Display	128
115	Article 43		Article 45	129
116	Should an auctioneer deem it necessary to verify an auction target, he or she may do so.		An auctioneer shall release an auction notice seven days before the auction day.	130
117	Should the verification conclusion contradict the conditions of an auction target stated in an auction contract, the auctioneer has the right to demand a change or rescind the contract.		Article 46	131
118	Article 44		An auction notice shall define the following matters:	132
119	A contract on a trust auction shall contain the following:		(1) The time and place of the auction;	133
120	(1) The names of the trustee and the auctioneer and their residences;		(2) Auction targets;	134
			(3) The display time and place of auction targets;	135
			(4) The procedures that those participating in the bidding shall handle;	136
			(5) Other matters that need to be announced.	137

	Article 47	138	of the auction after being confirmed by the auctioneer dropping the hammer or by other open forms indicating the completion of a deal.	
139	An auction notice shall be issued via newspapers or other mass media.			
	Article 48			
140				
141	An auctioneer shall display auction targets before an auction, and provide conditions necessary for inspecting auction targets, as well as relevant data.			
142	The display time of auction targets shall not be fewer than two days.			
	Section Three - The Implementation of Auctions			
143				
	Article 49			
144				
145	An auctioneer shall announce auction rules and matters needing attention before an auction.			
	Article 50			
146				
147	Should an auction target have no retentive price, an auctioneer shall make this clear before an auction.			
148	Should an auction target have the retentive price, while the highest bidding price for the auction target fails to reach the retentive price, the price shall not become valid and the auctioneer shall stop auctioning the auction target.			
	Article 51			
149				
150	The highest bidding price of a bidder shall indicate the conclusion			
	Article 52			151
			After an auction is completed, the buyer and auctioneer shall sign a deal conclusion letter.	152
	Article 53			153
			While proceeding with an auction, an auctioneer shall make a written auction record. The written auction record shall be signed by the auctioneer and the recorder; in the case of the conclusion of an auction, the record shall also be signed by the buyer.	154
	Article 54			155
			A buyer shall properly keep complete account books related to his or her business and operational activities, the written auction record and other relevant data.	156
			The duration prescribed in the above paragraph for keeping account books, the written auction record and other relevant data shall begin to be computed from the date when the trust auction contract is terminated and shall not be fewer than five years.	157
	Article 55			158
			Should an auction target need to handle, according to law, the procedures of change in the certificate and the transfer of property rights, the trustee and buyer shall handle necessary procedures with the relevant administrative department, on the strength of the	159

160 auction completion certificate and relevant materials produced by
161 the auctioneer.

160 Section Four - Commission

161 Article 56

162 A trustee and a buyer may jointly set the commission ratio together
163 with an auctioneer.

163 If the trustee, the buyer and the auctioneer have not set the com-
mission ratio, while the auction is completed, the auctioneer may
collect commissions not in excess of five percent of the auction
completion price from the trustee and buyer, respectively. The ra-
tio of commissions to be collected shall be set in accordance with
the principle of making an inverse ratio to the auction completion
price.

164 In the absence of the completion of an auction, an auctioneer
may collect charges as agreed upon from the trustee; and in the
absence of any agreement, the auctioneer may collect from the
trustee rational charges as auction expenses.

165 Article 57

166 If the auction of articles as stipulated in Article 9 of this Law is com-
pleted, the auctioneer may collect from the buyer commissions not
exceeding five percent of the auction completion price. The ra-
tio of commissions to be collected shall be set in accordance with
the principle of making an inverse ratio to the auction completion
price.

167 In the absence of the completion of an auction, the stipulation of
Section 3 of Article 56 of this Law shall apply.

Chapter V - Legal Liabilities

Article 58

170 Should a trustee violate the stipulation of Article 6 of this law by
171 trusting the auction of articles or property rights of which he or she
does not have the ownership or of which he or she may not dispose
according to law, he or she shall bear liabilities arising thereafter
according to law. Should an auctioneer clearly know that a trustee
has no ownership of the articles or property rights for auction or
that the trustee may not dispose such articles or property rights
according to law, he or she shall bear implicative* liabilities.

Article 59

172 Should a state department violate the stipulation of Article 9 of this
173 Law by disposing illicitly of articles that should be auctioned by an
auctioneer designated by the people's government of a province,
an autonomous region or a municipality directly under the central
government of by the people's government of a city with districts
where property lies, relevant personnel in charge who are held di-
rectly responsible and other personnel who are also held directly
responsible shall be meted out administrative punishment accord-
ing to law, and those who have caused losses to the state shall
also bear the liability of compensation.

Article 60

174 Whoever violates the stipulation of Article 11 of this Law by estab-
lishing an auction enterprise without approval or registration shall
have his or her enterprise banned and his or her illegal incomes
confiscated by the administrative department for industry and com-

merce, and may be given a fine that ranges from 100 percent to 500 percent of his or her illegal earnings.

175 **Article 61**

176 Should an auctioneer and a trustee violate the stipulation of the second paragraph of Article 18 and Article 27 of this Law by failing to state the drawbacks of an auction target, thus causing a loss to a buyer, the buyer has the right to demand compensation from the auctioneer; Should the responsibility rest with the trustee, the auctioneer has the right to demand compensation from the trustee.

177 Should an auctioneer and a trustee state before an auction that they cannot guarantee the genuineness or fakery or the quality of an auction target, they shall not bear the liability for guaranteeing the drawbacks.

178 If no statement is made on the fact that an auction target has drawbacks, the procedural duration for demanding compensation shall be one year and shall begin to be computed from the date when the party concerned knows or should know that his or her right is damaged.

179 The procedural duration for demanding compensation for personal and property damages caused by the drawbacks of an auction target is subject to the relevant stipulations of the "Product Quality Law of the People's Republic of China" and other laws.

180 **Article 62**

181 Should an auctioneer and other staff violate the stipulation of Article 22 of this Law by participating in bidding or trusting others to participating in bidding for them, the administrative department for

industry and commerce shall give the auctioneer a warning and may impose on him or her a fine that ranges from 100 percent to 500 percent of his or her auction commissions; where cases are serious, his or her business license shall be revoked.

Article 63

Should an auctioneer violate the stipulation of Article 23 of this Law by auctioning his or her articles and property rights in the auction activity organized by himself or herself, the administrative department for industry and commerce shall confiscate his or her earnings from the auction.

Article 64

Should a trustee violate the stipulation of Article 30 of this Law by participating in the bidding or trusting others to participating in the bidding for him or her, the administrative department for industry and commerce may impose on the trustee a fine that is up to 30 percent of his or her auction completion price.

Article 65

By violating the stipulation of Article 37 of this Law, if bidders viciously collaborate with other bidders or if bidders do so with auctioneers, thus causing losses to others, the auction shall become null and void and they shall bear the liability of compensation according to law. The administrative department for industry and commerce shall impose on the bidders participating in vicious collaboration a fine that is 10 percent to 30 percent of the highest bidding price; and impose on the auctioneers participating in vicious collaboration a fine that 10 percent to 50 percent of the highest bidding price.

188 **Article 66**

189 By accepting commissions in violation of the stipulation of Section
Four of Chapter Four of this Law concerning the ratio of commis-
sions, an auctioneer shall return that part in excess of the reason-
able amount to the trustee and the buyer. The price control depart-
ment may impose on the auctioneer a fine that is 100 percent to
500 percent of the commissions.

190 **Chapter Six - Supplementary Articles**

191 **Article 67**

192 This Law is applicable to foreigners, foreign enterprises and foreign
organizations trusting auctions or participating in bidding within the
territory of the People's Republic of China.

193 **Article 68**

194 Should auction enterprises established before the implementation
of this Law do not meet the requirements as prescribed in this Law,
shall meet the requirements as stipulated in this Law within the pre-
scribed time limit; those still failing to meet the prescribed require-
ments after the time limit shall have their registrations revoked and
their business licenses taken back by the administrative depart-
ment for industry and commerce. Specific implementation mea-
sures shall be formulated by the State Council separately.

195 **Article 69**

196 This Law shall come into force from January 1, 1997.

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