

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)**

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1 **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)

2 **Chapter I - General Provisions**

3 **Article 1**

4 This Law has been formulated with a view to standardizing the
auction behavior, safeguarding the auction order, and protect-
ing the legitimate rights and interests of various parties involved
in auction activity.

5 **Article 2**

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

7 **Article 3**

8 Auction means the buying and selling form through which
designated articles or property rights are transferred, in the
form of public bidding, to those providing the highest bidding
price.

9 **Article 4**

10 Auction activity shall abide by relevant laws and administrative
decrees, and follow the principle of openness, fairness, impar-
tiality, honesty and credibility.

11 **Article 5**

The State Council is responsible for managing the department 12
in charge of the auctioning industry, which will exercise super-
vision over and management of the national auctioning indus-
try.

Article 6 13

People's governments of various provinces, autonomous re- 14
gions and municipalities directly under the central government
and people's governments of cities with districts are responsi-
ble for managing the departments in charge of the auctioning
industry, which will exercise supervision over and management
of the auctioning industry within their respective administrative
regions.

Public security departments shall exercise security control over 15
the auctioning industry as special industry.

Chapter II - Auction Targets 16

Article 6 17

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

Article 7 19

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

Article 8

22 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.

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

Article 9

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

26 The auction of articles confiscated by a people's court accord-
ing to law, articles used to pay fines and found articles that can-
not be returned are subject to the stipulation of the above para-
graph.

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

30 An auctioneer is an enterprise legal person that has been estab-
lished 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 exami-
nation 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 ap-
ply and register with the administrative department for industry
and commerce receive a business license.

Article 12

Whoever establishes an auction enterprise shall meet the fol-
lowing 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 auction-
ing 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 ad-
ministrative decrees.

	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.		Article 18	56
46	Article 15		An auctioneer has the right to ask the trustee to state the source and drawbacks of auction targets.	57
47	An auctioneer shall meet the following requirements:		The auctioneer shall state the drawbacks of auction targets to the bidders.	58
48	(1) Having a university or college education and professional expertise of auction;			
49	(2) Having worked in an auctioning enterprise for more than two years; and		Article 19	59
50	(3) Having a moral integrity.		An auctioneer has the obligation of taking care of articles submitted by the trustee for auction.	60
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.		Article 20	61
52	Article 16		Upon accepting trust, an auctioneer shall not trust other auctioneers for auction unless approved by the trustee.	62
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.		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

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.

Article 23

67 An auctioneer shall not auction his or her own articles or prop-
erty rights in the auction activity organized by him or her.

Article 24

68 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.

Section Two - Trustees

Article 25

71 An trustee means a citizen, a legal person or an organization
trusting the auctioneer to auction his or her articles or property
rights.

Article 26

72 Trustees may independently handle trust auction procedures,
and may also ask their agents to handle trust auction proce-
dures for them.

765 **Article 27**

An trustee shall state the source and drawbacks of his or her
auction targets to the auctioneer. 77

Article 28

An trustee has the right to set the retentive price of an auction
target to the auctioneer. 78

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 estab-
lished according to law and the retentive price of an auction
target shall be set in line with the evaluation result. 79

Article 29

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 auc-
tioneer. In the absence of an agreement, he or she shall pay
the auctioneer reasonable costs paid for an auction. 80

Article 30

Trustees shall not participate in bidding or trust others to pro-
viding bidding for them. 81

Article 31

Should an auction target be transferred as agreed upon, after
the auction is completed, the trustee shall transfer the auction
target to the buyer. 82

87	Section Three - Bidders	auctioneers shall not do so with auctioneers to damage the interests of others.	
88	Article 32		
89	A bidder means a citizen, a legal person or an organization participating in bidding for auction targets.		
90	Article 33		
91	should laws and administrative decrees spell out stipulations on buying and selling requirements for auction targets, any bidder shall meet the prescribed requirements.		
92	Article 34		
93	Bidders may participate in bidding on their own, or may trust their agents to participate in bidding for them.		
94	Article 35		
95	A bidder has the right to know the drawbacks of an auction target, to check the said auction target and consult relevant auction 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.		
98	Article 37		
99	Bidders shall not viciously collaborate with other bidders and		
			Section Four - Buyers 100
			Article 38 101
		A buyer means a bidder who purchases an auction target with the highest bidding price.	102
			Article 39 103
		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.	104
		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.	105
			Article 40 106
		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.	107
		Should a buyer fail to take back an auction target as agreed upon, he or she shall pay the storage costs arising thereafter.	108

	Chapter IV - Auction Procedures		
110	Section One - Auction Trust		
111	Article 41	109	
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.		
			(2) The name, specification, number and quality of an auction target; 121
			(3) The retentive price set by the trustee; 122
			(4) The time and site of the auction; 123
			(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.		
115	Article 43		
116	Should an auctioneer deem it necessary to verify an auction target, he or she may do so.		
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.		
118	Article 44		
119	A contract on a trust auction shall contain the following:		
120	(1) The names of the trustee and the auctioneer and their residences;		
			Section Two - The Auction Notice and Display 128
			Article 45 129
			An auctioneer shall release an auction notice seven days before the auction day. 130
			Article 46 131
			An auction notice shall define the following matters: 132
			(1) The time and place of the auction; 133
			(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	139	139	139
	An auction notice shall be issued via newspapers or other mass media.				
140	Article 48				
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.				
143	Section Three - The Implementation of Auctions				
144	Article 49				
145	An auctioneer shall announce auction rules and matters needing attention before an auction.				
146	Article 50				
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.				
149	Article 51				
150	The highest bidding price of a bidder shall indicate the conclusion of the auction after being confirmed by the auctioneer dropping the hammer or by other open forms indicating the completion of a deal.				
	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 pro-				159

cedures with the relevant administrative department, on the strength of the auction completion certificate and relevant materials produced by the auctioneer.

160 **Section Four - Commission**

161 **Article 56**

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

163 If the trustee, the buyer and the auctioneer have not set the commission 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 ratio 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 completed, the auctioneer may collect from the buyer commissions not exceeding five percent of the auction completion price. The ratio 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 168

Article 58 169

Should a trustee violate the stipulation of Article 6 of this law by 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. 170

Article 59 171

Should a state department violate the stipulation of Article 9 of this 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 or by the people's government of a city with districts where property lies, relevant personnel in charge who are held directly responsible and other personnel who are also held directly responsible shall be meted out administrative punishment according to law, and those who have caused losses to the state shall also bear the liability of compensation. 172

Article 60 173

Whoever violates the stipulation of Article 11 of this Law by establishing 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 indus- 174

try and commerce, 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

182
183 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

184
185 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

186
187 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 commissions, an auctioneer shall return that part in excess of the reasonable amount to the trustee and the buyer. The price control department 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 prescribed time limit; those still failing to meet the prescribed requirements after the time limit shall have their registrations revoked and their business licenses taken back by the administrative department for industry and commerce. Specific implementation measures 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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