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LC 1300/01

INTRODUCED BY Ramine American 1 2 З

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE 4 LAWS RELATING TO AUCTION SALES: RENUMBERING AND AMENDING 5 SECTIONS 66-201 THROUGH 66-203. 66-203.1. 66-204 THROUGH 6 66-207. 66-211. 66-213. 66-216. 66-219. AND 66-230. R.C.M. 7 1947; AMENDING SECTION 87A-2-328, R.C.M. 1947; AND REPEALING 8 9 SECTIONS 66-208, 66-209, 66-210, 66-212, 66-214, 66-215, 66-217, 66-218, AND 66-220 THROUGH 66-229, R.C.M. 1947." 10

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12

Section 1. Section 66-213, R.C.H. 1947, is renumbered 13 74-701 and is amended to read as follows: 14

15 "66-21374-701. Sale by auction defined. A sale by auction is a sale by public outcry to the highest bidder on 16 17 the spot."

Section 2. Section 87A-2-328, R.C.M. 1947. is 18 renumbered 74-702 and is amended to read as follows: 19

"874-2-32874-702. Sale by auction. (1) In a sale by 20 21 auction if of goods by lot are-put-up-in-lots, each lot is the subject of a separate sale. 22

(2) A sale by auction is complete when the auctioneer 23 so announces by the fall of the hammer or in other customary 24 manner. Where a bid is made while the hammer is falling in 25

INTRODUCED BILL

acceptance of a prior bid the auctioneer may in his 1 z discretion reopen the bidding or declare the goods sold under the bid on which the hammer was falling. з

(3) Such a sale is with reserve unless the goods are 4 5 in explicit terms put up without reserve. In an auction with reserve the auctioneer may withdraw the goods at any time 6 until he announces completion of the sale. In an auction 7 8 without reserve, after the auctioneer calls for bids on an 9 article or lot, that article or lot cannot be withdrawn 10 unless no bid is made within a reasonable time. In either 11 case a bidder may retract his bid until the auctioneer's 12 announcement of completion of the sale, but a bidder's 13 retraction does not revive any previous bid. (4) If the auctioneer knowingly receives a bid on the 14 15 seller's behalf or the seller makes or procures such a bid,

16 and notice has not been given that liberty for such bidding 17 is reserved, the buyer may at his option avoid the sale or

take the goods at the price of the last good faith bid prior 18

19 to the completion of the sale. This subsection shall does

20 not apply to any bid at a forced sale."

21 Section 3. Section 66-216, "R.C.M. 1947, is renumbered

74-703 and is amended to read as follows: 22

23 "66-21674-703. Sale under written conditions. When a sale by auction is made upon written or printed conditions, 24 such those conditions cannot be modified by any oral 25

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declaration of the auctioneer <del>,</del> except <del>so-fer-os-they-are</del>	1	follows:
those for his own protection."	z	<ol> <li>Fo to sell by public auction to the highest bidder;</li> </ol>
Section 4. Section 66-219, R.C.M. 1947, is renumbered	3	2. <del>To</del> <u>to</u> sell for cash only, except <del>such</del> <u>for</u> articles
74-704 and is amended to read as follows:	4	es-ere usually sold on credit at auction;
<b>#66-219<u>74-704</u>. Auctioneer's memorandum of sale. When</b>	5	3. To to warrant in-like-monner-with-otheragentsto
property is sold by auction, an entry made by the	6	sell-according <u>as an agent pursuant</u> to section 2-130;
auctioneery in his sale booky at the time of the saley	7	4. To to prescribe reasonable rules and terms of sale;
specifying the name of the person for whom he sells, the	8	5. For to deliver the thing sold, upon payment of the
thing sold, the price, the terms of sale, and the name of	9	price;
the buyer, binds both the parties in the same manner as if	10	6. To to collect the price; and
made by themselves."	11	7. To to do whatever else is necessary, or propart and
Section 5. Section 66-211, R.C.M. 1947, is renumbered	12	usual, in the ordinary course of business, for effecting
74-705 and is amended to read as follows:	13	these purposes."
"66-222774-705. Book of sales. (1) Each auctioneer must	14	Section 7. Section 66-202; R.C.M. 1947; is renumbered
keep a book <del>y-in-which he must <u>and</u> enter</del> all salesy showing	15	74-707 and is amended to read as follows:
the name of the owner of the goods sold, to whom sold, <del>and</del>	16	* <del>66-202<u>74-707</u>. Auctioneer's authority from the bidder.</del>
the amount paid, and the date of each sale <del>, which</del>	17	An auctioneer has authority from a bidder at the auction, as
<u>12) The</u> book must <del>stmll-times</del> be open for <del>the</del>	18	well as from the seller, to bind both by a memorandum of the
inspection <del>of-any-person by</del> interested <u>persons during normal</u>	19	contracty sale as prescribed in section-66-219 74-704."
business hours therein."	20	Section 8. Section 66-203, R.C.M. 1947, is renumbered
Section 6. Section 66-201, R.C.M. 1947, is renumbered	21	74-708 and is amended to read as follows:
74-706 and is amended to read as follows:	22	" <del>66-203<u>74-708</u>. Auctioneer auth<b>öri</b>ty and bond. Any</del>
* <del>66-201<u>74-706</u>. Auctioneer's authority from the seller.</del>	23	citizen of this state may become an auctioneery and be
An auctioneer, in the absence of special authority or usage	24	authorized to sell real or personal property at public
to-the-contrary, has authority from the seller only as	25	auction in any county in this state <del>y on</del> after giving a bond
	<ul> <li>Section 4. Section 66-219, R.C.M. 1947, is renumbered 74-704 and is amended to read as follows:</li> <li>Se6-21974-705. Auctioneer's memorandum of sale. When property is sold by auction, an entry made by the auctioneer, in his sale book, at the time of the sale, specifying the name of the person for whom he sells, the thing sold, the price, the terms of sale, and the name of the buyer, binds both the parties in the same manner as if made by themselves.</li> <li>Section 5. Section 66-211, R.C.M. 1947, is renumbered 74-705 and is amended to read as follows:</li> <li>Section 5. Section 66-211, R.C.M. 1947, is renumbered 74-705 and is amended to read as follows:</li> <li>Section 4. And the date of each sale, which and the name of the booky-in-which he must and enter all sales, showing the name of the owner of the goods sold, to whom sold, and the date of each sale, which.</li> <li>I.1 The book must at-all-times be open for the inspection of-any-person by interested persons during normal business hours therein.</li> <li>Section 6. Section 66-201, R.C.M. 1947, is renumbered 74-705 and is amended to read as follows:</li> <li>Section 6. Section 66-201, R.C.M. 1947, is renumbered 74-706 and is amended to read as follows:</li> </ul>	Section 4. Section 66-219, R.C.M. 1947, is renumbered374-704 and is amended to read as follows:4"66-21974-705. Auctioneer's memorandum of sale. When5property is sold by auction, an entry made by the6auctioneer, in his sale book, at the time of the sale,7specifying the name of the person for whom he sells, the8thing sold, the price, the terms of sale, and the name of9the buyer, binds both the parties in the same manner as if10made by themselves."11Section 5. Section 66-211, R.C.M. 1947, is renumbered1274-705 and is amended to read as follows:13"66-21374-105. Book of sales. [1] Each auctioneer must14keep a booky-in-which he must and enter all salesy showing15the name of the owner of the goods sold, to whom sold, and16the amount paid, and the date of each saley-whicha17121 The book must at-all-times be open for the18inspection of-any-person by interested persons during normal19pusiness hours therein."20Section 6. Section 66-201, R.C.M. 1947, is renumbered2174-706 and is amended to read as follows:22"66-20114-106. Auctioneer's authority from the seller.23An auctioneer, in the absence of special authority or usage24

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in accordance with the provisions of this chapter for the 1 faithful performance of his duties." 2 Section 9. Section 66-203.1. R.C.H. 1947. is 3 renumbered 74-709 and is amended to read as follows: 4 \*66-203-174-709. Reciprocal privileges to nonresident 5 auctioneers. The citizenship residency requirements required 6 by the this state of-Hontana for an auctioneer are hereby 7 waived for the citizens of any other state or-states to the я same extent that the home state of the applicant waives such 9 citizenship residency requirements for the citizens of the 10 11 this state of-Montene." Section 10. Section 66-204. R.C.M. 1947• is 12 renumbered 74-710 and is amended to read as follows: 13 "66-20474-710. The bond -- sureties, approval and 14 filing. (1) The--bond Bond must be conditioned-to-be-paid 15 payable to the state of Hontana, with one or more sureties, 16 in the sum of five-thousand-dollars \$5.000, and approved by 17 the county clerk of the county in which the auctioneer 18 resides, and filed in his officets or-if 19

<u>121. If</u> the auctioneer is not a resident of-Montenew
 said the bond shall be filed with the county clerk of the
 county of this state in which he carries on his principal
 auction business.<sup>#</sup>

24 Section 11. Section 66-205, R.C.M. 1947, is 25 renumbered 74-711 and is amended to read as follows:

\*66-29574-711. Auctioneers ex efficio. [1] In any Ł z county where-there-is-no without an auctioneer, the sheriff or a constable thereof is exofficio auctioneer, and is 3 permitted to sell any property-real-or-personaly at public 4 auctions, and for any delinquency as such ex-officio 5 auctioneer-he 6 7 (2) He is liable on his official bond for and 8 delinduency as the ex officio auctioneer." 9 Section 12. Section 66-206, R.C.M. 1947, is renumbered 74-712 and is amended to read as follows: 10 11 "66-20674-712. Assistant -- who may act and when. 12 Every (11 An auctioneer, in case the event of inability to 13 attend an auction by reason of sickness, or the performance of any a duty imposed upon him by law, or during a temporary 14 15 absence from the city or county within which he is auctioneer, may employ a-copartner-or-telerk an agent or 16 17 employee to hold such the auction in his name and behalfy 18 such. 19 121 The employee to--take-and shall file with the county clerk of the county an affidavit swearing to 20 21 faithfully to perform the duties of auctioneer. 22 (3) An But-any auctioneer may employ a crier at any Z3 sale, for whose acts he shall be responsible." 24 Section 13. Section 66-207, R.C.M. 1947, is

25 renumbered 74-713 and is amended to read as follows:

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1 \*66-20774-713. Auctioneers to designate places one 2 place of business -- partners. No-auctioneer-in-any-city-of 3 this-state-must-have-st-one-time-more--than--one--place--for 4 holding-suctionf-and-every-such-suctioneery-before-scting-as 5 suchy--must--file-with-the-clerk-of-the-county-in-which-said city-is-situated-a-writing-signed-by-himy--designating--such 6 7 placey-and-naming-therein-the-partnersy-if-anyy-engaged-with А him--in--business- (1) An auctioneer shall designate in 9 writing with the county clerk one place at which he will 10 conduct auctions within any city. 11 12) He shall desidnate. in the same document. his 12 partners, if any, in the business. 13 131 He may not offer doods for sale at a place other 14 than that designated unless the goods are in their original 15 packages, are bulky and usually sold in warehouses, or are 16 usually sold on public streets." 17 Section 14. There is a new R.C.M. section numbered 74-714 that reads as follows: 18 19 74-714. Penalty. A person convicted of violating a provision of this act shall be fined no more than \$500 or Z0

21 imprisoned in the county jail for a term not to exceed 6
22 months, or both. In addition he shall be liable for damages
23 incurred by any aggrieved party by reason of such violation.
24 Section 15. There is a new R.C.M. section numbered
25 74-715 that reads as follows:

1 74-715. Enforcement. The provisions of this act shall 2 be enforced by the department of business regulation and the 3 county attorney of the county in which the violation 4 occurred.

5 Section 16. Section 66-230, R.C.M. 1947, is 6 renumbered 74-716 and is amended to read as follows:

7 \*66-23074-716. Powers of cities and towns not 8 affected. The towns Towns and cities of the state of Montana 9 are--hereby--aiven--full--bower--and--authority--to may tax, 10 license, and regulate persons, firms, associations or, 11 corporations, or other legal entitles engaging in or desiring to engage in public auctionsy and may require a 12 13 license and charge a fee therefor.t-but-such-license-fee 14 shall-not-exceed-the-amount--provided--in--this--act--for--a 15 county--license--but--shall--be-in-addition-thereto-and-such 16 towns Towns and cities may provide for penalties for 17 violations of said the ordinance requirements. A-city-or 18 town-license-shall-not-be-in-lieu-of-a-county-licenser" 19 Section 17. Repealer. Sections 66-208. 66-209. 66-210. 20 66-212, 66-214, 66-215, 66-217, 66-218, and 66-220 through

21 66-229, R.C.M. 1947, are repealed.

-End-

LC 1300/01

## Approved by Committee on Business and Industry

INTRODUCED BY Ramines Churcher t 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE 4 LAWS RELATING TO AUCTION SALES; RENUMBERING AND AMENDING 5 SECTIONS 66-201 THROUGH 66-203, 66-203-1, 66-204 THROUGH 6 66-207. 66-211. 66-213. 66-216. 66-219. AND 66-230. R.C.H. 7 1947: AMENDING SECTION 87A-2-328, R.C.M. 1947; AND REPEALING 8 SECTIONS 66-208, 66-209, 66-210, 66-212, 66-214, 66-215, 9 66-217. 66-218. AND 66-220 THROUGH 66-229. R.C.M. 1947." 10

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 Section 1. Section 66-213, R.C.M. 1947, is renumbered 14 74-701 and is amended to read as follows:

15 "66-21374-701. Sale by auction defined. A sale by 16 auction is a sale by public outcry to the highest bidder on 17 the spot."

Section 2. Section 87A-2-328, R.C.M. 1947, is
 renumbered 74-702 and is amended to read as follows:

20 \*87A-2-32874-702. Sale by auction. (1) In a sale by
 21 auction if of goods by lot are-put-up-in-lots, each lot is
 22 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

SECOND READING

acceptance of a prior bid the auctioneer may in his
 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 4 5 in explicit terms put up without reserve. In an auction with reserve the auctioneer may withdraw the goods at any time 6 until he announces completion of the sale. In an auction 7 8 without reserve, after the auctioneer calls for bids on an 9 article or lot, that article or lot cannot be withdrawn 10 unless no bid is made within a reasonable time. In either 11 case a bidder may retract his bid until the auctioneer's 12 announcement of completion of the sale, but a bidder's 13 retraction does not revive any previous bid.

14 (4) If the auctioneer knowingly receives a bid on the 15 seller's behalf or the seller makes or procures such a bid, 16 and notice has not been given that liberty for such bidding 17 is reserved, the buyer may at his option avoid the sale or 18 take the goods at the price of the last good faith bid prior 19 to the completion of the sale. This subsection shall goes 20 not apply to any bid at a forced sale."

21 Section 3. Section 66-216, R.C.M. 1947, is renumbered

22 74-703 and is amended to read as follows:

23 \*\*66-21674-703. Sale under "written conditions. When a
 24 sale by auction is made upon written or printed conditions.
 25 such those conditions cannot be modified by any oral

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HB76H

1	declaration of the auctioneer <del>y</del> except <del>so-far-as-they-are</del>	ì	follows:
2	those for his own protection."	2	<ol> <li>Fo to sell by public auction to the highest bidder;</li> </ol>
3	Section 4. Section 66-219, R.C.M. 1947, is renumbered	3	2. Fo to sell for cash only, except such for articles
4	74-704 and is amended to read as follows:	4	es-are usually sold on credit at auction;
5	<sup>#</sup> 66-219 <u>74-704</u> . Auctioneer's memorandum of sale. When	5	3. <del>To <u>to</u> warrant <del>in like monner-with other-agenta-to</del></del>
6	property is sold by auction, an entry made by the	6	sell-according as an agent pursuant to section 2-130;
۲	auctioneer, in his sale book, at the time of the sale.	7	4. To to prescribe reasonable rules and terms of sale;
8	specifying the name of the person for whom he sells, the	8	5. Fo to deliver the thing sold, upon payment of the
9	thing sold, the price, the terms of sale, and the name of	9	price;
10	the buyer, binds both the parties in the same manner as if	10	6. To collect the price; and
11	made by themselves."	11	7. <del>∓o <u>to</u> do whatev</del> er else is necessary, <del>or</del> proper <sub>±</sub> and
12	Section 5. Section 66-211, R.C.M. 1947, is renumbered	12	usual, in the ordinary course of business, for effecting
13	74-705 and is amended to read as follows:	13	these purposes."
14	* <del>66-211<u>74-705</u>. Book of sales. <u>(1)</u> Each auctioneer must</del>	14	Section 7. Section 56-202, R.C.M. 1947, is renumbered
15	keep a book <del>y-in-which-he-must <u>and</u> enter all salesy showing</del>	15	74-707 and is amended to read as follows:
16	the name of the owner of the goods sold, to whom sold, <del>and</del>	16	* <del>66-202<u>74-707</u>. Auctioneer's authority from the bidder.</del>
17	the amount paid, and the date of each sale <del>, which,</del>	17	An auctioneer has authority from a bidder at the auction, as
18	<u>(2) The</u> book must <del>atalltimes</del> be open for <del>the</del>	18	well as from the seller, to bind both by a memorandum of the
19	inspection of any person by interested persons during normal	19	contracty sale as prescribed in section-66-219 74-704."
20	business hours therein."	20	Section 8. Section 66-203, R.C.M. 1947, is renumbered
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22	74-706 and is amended to read as follows:	22	* <del>66-203<u>74-708</u>. Auctioneer authörity and bond. Any</del>
23	■ <del>66-201<u>74-706</u>。 Auctioneer's authority from the seller.</del>	23	citizen of this state may become an auctioneery and be
24	An auctioneer, in the absence of special authority or usage	24	authorized to sell real or personal property at public
25	to-the-contrary, has authority from the seller only as	25	auction in any county in this state <del>y on <u>after</u> giving</del> a bond

in accordance with the provisions of this chapter for the
 faithful performance of his duties."

3 Section 9. Section 66-203-1, R.C.M. 1947, is 4 renumbered 74-709 and is amended to read as follows:

5 "66-203+174-709. Reciprocal privileges to nonresident 6 auctioneers. The citizenship residency requirements required 7 by the this state of-Montana for an auctioneer are hereby 8 waived for the citizens of any other state or states to the 9 same extent that the home state of the applicant waives such 10 citizenship residency requirements for the citizens of the 11 this state of-Montana."

Section 10. Section 66-204, R.C.M. 1947, is renumbered 74-710 and is amended to read as follows: <u>\*66-20474-710</u>. The bond -- sureties, approval and filing. <u>(11)</u> The--bond Bond must be conditioned-to-be-paid <u>payable</u> to the state of-Montane, with one or more sureties, in the sum of five-thousand-dollars <u>\$5,000</u>, and approved by

18 the county clerk of the county in which the auctioneer
19 resides, and filed in his officet, or-if

<u>121\_If</u> the auctioneer is not a resident of-Montana,
 soid the bond shall be filed with the county clerk of the
 county of this state in which he carries on his principal
 auction business."

Section 11. Section 66-205, R.C.M. 1947, is
renumbered 74-711 and is amended to read as follows:

1 #66-20574-711. Auctioneers ex efficio. [1] In any county where-there-is-no without an auctioneer, the sheriff 2 or a constable thereof is ex officio auctioneer, and is 3 4 permitted to sell any property-real-or-personaly at public auctiont. and--for--any--delinduency--as--auch--ex--officio 5 6 auctioneer-he 7 (2) He is liable on his official bond for any 8 delinduency as the ex officio auctioneer." 9 Section 12. Section 66-206. R.C.M. 1947, is 10 renumbered 74-712 and is amended to read as follows: 11 "66-20674-712. Assistant -- who may act and when. 12 Every (1) An auctioneer, in case the event of inability to 13 attend an auction by reason of sickness, or the performance 14 of env a duty imposed upon him by law, or during a temporary 15 absence from the city or county within which he is 16 auctioneer, may employ a copartner-or-clerk an agent or 17 employee to hold such the auction in his name and behalfy 18 such. 19 (2) The employee to--take--and shall file with the 20 county clerk of the county an affidavit swearing to 21 faithfully to perform the duties of auctioneer. 22 (3) An But-any auctioneer may employ a crier at any 23 sale, for whose acts he shall be responsible."

24 Section 13. Section 66-207, R.C.M. 1947, is 25 renumbered 74-713 and is amended to read as follows:

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1 "66-20774-713. Auctioneers to designate places one 2 place of business -- partners. No-suctioneer-in-any-city-of 3 this-state-must-have-at-one-time-more--than--one--place--for 4 holding-auctiont-and-every-such-auctioneery-before-acting-as suchy--must--file-with-the-clerk-of-the-county-in-which-said 5 city-is-situated-a-writing-signed-by-himy--designating--such 6 7 placey-and-neming-therein-the-partnersy-if-anyy-engaged-with 8 him--in--businessy (1) An auctioneer shall designate in 9 writing with the county clerk one place at which he will 10 conduct auctions within any city. 11 (2) He shall designate. In the same document. his 12 partners, if any, in the business. 13 131 He may not offer doods for sale at a place other 14 than that designated unless the goods are in their original 15 packages, are bulky and usually sold in warehouses, or are 16 usually sold on public streets." 17 Section 14. There is a new R.C.M. section numbered 18 74-714 that reads as follows: 74-714. Penalty. A person convicted of violating a 19 20 provision of this act shall be fined no more than \$500 or 21 imprisoned in the county jail for a term not to exceed 6 22 months, or both. In addition he shall be liable for damages 23 incurred by any aggrieved party by reason of such violation. 24 Section 15. There is a new R.C.M. section numbered 25 74-715 that reads as follows:

2 be enforced by the department of business regulation and the 3 county attorney of the county in which the violation occurred. 4 Section 16. Section 66-230. R.C.N. 1947. is 5 renumbered 74-716 and is amended to read as follows: 6 \*66-23074-716. Powers of cities and towns -7 effected. The-towns lowns and cities of-the-state-of-Montana 8 are-hereby--given--full--power--and--authority--to may tax. 9 10 license, and regulate persons, firms, associations or, 11 corporations, or other legal entities engaging in or 12 desiring to engage in public auctionsy and may require a 13 license and charge a fee therefor\_t-but-such-ficense-fee 14 shall-not-exceed-the-amount--provided--in--this--act--for--a 15 county--license--but--shall--be-in-addition-thereto-and-such 16 towns lowns and cities may provide for penalties for 17 violations of said the ordinance requirements. A-city-or 18 town-license-shall-not-be-in-lieu-of-a-county-licensew" 19 Section 17. Repealer. Sections 66-208, 66-209, 66-210, 20 66-212, 66-214, 66-215, 66-217, 66-218, and 66-220 through

74-715. Enforcement. The provisions of this act shall

21 66-229, R.C.M. 1947, are repeated.

#### -End-

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#### 45th Legislature

LC 1300/01

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INTRODUCED BY Ramine plante 1 z 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE 4 LAWS RELATING TO AUCTION SALES: RENUMBERING AND AMENDING 5 SECTIONS 66-201 THROUGH 66-203. 66-203.1. 66-204 THROUGH 6 66-207, 66-211, 66-213, 66-216, 66-219, AND 66-230, R.C.M. 7 1947: AMENDING SECTION 874-2-328. R.C.M. 1947; AND REPEALING 8 9 SECTIONS 66-208. 66-209. 66-210. 66-212. 66-214. 66-215. 66-217, 66-218, AND 66-220 THROUGH 66-229, R.C.N. 1947." 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 13 Section 1. Section 66-213, R.C.M. 1947; is renumbered 74-701 and is amended to read as follows: 14 15 \*66-21374-701. Sale by auction defined. A sale by 16 auction is a sale by public outcry to the highest bidder on 17 the spot." Section 2. Section 87A-2-328, R.C.M. 18 1947. îs renumbered 74-702 and is amended to read as follows: 19 20 "87A-2-32874-702. Sale by auction. (1) In a sale by 21 auction if of goods by lot are-put-up in-lots, each lot is 22 the subject of a separate sale. 23 (2) A sale by auction is complete when the auctioneer 24 so announces by the fall of the hammer or in other customary 25 manner. Where a bid is made while the hammer is falling in THIRD READING

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 25 such those conditions cannot be modified by any oral

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HB 764

1	declaration of the auctioneer <del>,</del> except <del>so-far as they are</del>	1	f
z	those for his own protection."	2	
3	Section 4. Section 66-219, R.C.M. 1947; is renumbered	3	
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6	property is sold by auction, an entry made by the	6	
7	auctioneery in his sale booky at the time of the sales	7	
8	specifying the name of the person for whom he sells, the	8	
9	thing sold, the price, the terms of sale, and the name of	9	Ţ
10	the buyer, binds both the parties in the same manner as if	10	
11	made by themselves."	11	
12	Section 5. Section 66-211; R.C.M. 1947; is renumbered	12	ľ
13	74-705 and is amended to read as follows:	• 13	÷
14	<b>*66-21175-705</b> . Book of sales. <u>(1)</u> Each auctioneer must	14	•
15	keep a book <del>y-in-which-he-must</del> <u>and</u> enter all sales <del>y</del> showing	15	7
16	the name of the owner of the goods sold, to whom sold, <del>and</del>	16	
· 17	the amount paid, and the date of each sale <del>, which</del> .	17	,
18	<u>(2) The</u> book must <del>stull-times</del> be open for t <del>he</del>	18	,
19	inspection of-any-person by interested persons during normal	19	e
20	business hours therein."	20	
21	Section 6. Section 66-201, R.C.M. 1947, is renumbered	21	7
22	74-706 and is amended to read as follows:	22	
23	#66-20174-706. Auctioneer's authority from the seller.	23	¢
24	An auctioneer, in the absence of special authority or usage	24	č
25	to the contrary, has authority from the seller only as	25	đ

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1	follows:
2	<ol> <li>To to sell by public auction to the highest bidder;</li> </ol>
3	2. Fo to sell for cash only, except such for articles
4	as-are usually sold on credit at auction;
5	3. To to warrant in Tike wanner with other agents to
6	sell-according as an agent pursuant to section 2-130;
7	4. <del>To to</del> prescribe reasonable rules and terms of sale;
8	5. <del>To to</del> deliver the thing sold, upon payment of the
9	price;
10	6. To to collect the price; and
11	7. To to do whatever else is necessary, or propers and
12	usual, in the ordinary course of business, for effecting
13	these purposes.*
14	Section 7. Section 66-202: R.C.M. 1947: is renumbered
15	74-707 and is amended to read as follows:
16	* <del>66-202<u>74-707</u>. Auctioneer's</del> authority from the bidder.
17	An auctioneer has authority from a bidder at the auction, as
18	well as from the seller, to bind both by a memorandum of the
19	<del>contracty</del> <u>sale</u> as prescribed in <del>section-66-219</del> <u>74-704</u> ."
20	Section 8. Section 66-203, R.C.M. 1947, is renumbered
21	74-708 and is amended to read as follows:
22	* <del>66-203<u>74-708</u>. Auctioneer auth<b>ö</b>rity and bond. Any</del>
23	citizen of this state may become an Buctioneery Sand be
24	authorized to sell real or personal property at public
25	auction in any county in this state <del>y on</del> <u>after</u> giving a bond

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in accordance with the provisions of this chapter for the

2 faithful performance of his duties."

1

3 Section 9. Section 66-203.1, R.C.M. 1947. is 4 renumbered 74-709 and is amended to read as follows:

5 **\*66-203**.174-709. Reciprocal privileges to nonresident 6 auctioneers. The eitigenship residency requirements required 7 by the this state of Montane for an auctioneer are hereby 8 waived for the citizens of any <u>other</u> state <del>or states</del> to the 9 same extent that the home state of the applicant waives such 10 eitigenship residency requirements for the citizens of the 11 this state of Montane."

66-204. R.C.M. 1947• is 12 Section 10. Section renumbered 74-710 and is amended to read as follows: 13 \*66-29475-710. The bond -- sureties, approval and 14 filing. (1) The--bond Bond must be conditioned to-be-paid 15 pavable to the state of Hontana, with one or more sureties. 16 in the sum of five-thousand-dollars \$5.000, and approved by 17 18 the county clerk of the county in which the auctioneer 19 resides, and filed in his officet, or-if

<u>121\_If</u> the auctioneer is not a resident of-Montana,
 said the bond shall be filed with the county clerk of the
 county of this state in which he carries on his principal
 auction business."

24 Section 11. Section 66-205, R.C.M. 1947, is 25 renumbered 74-711 and is amended to read as follows:

#66-20574-711. Auctioneers ex efficio. [1] In any 1 county where there is no without an auctioneer, the sheriff 2 or a constable thereof is ex officio auctioneer, and is 3 permitted to sell any property-real-or-personaly at public 4 auctiont. and for any delinguancy as such ex officio 5 auctioneer-he 6 7 121 He is liable on his official bond for any 8 delinduency as the ex officio auctioneer." 9 Section 12. Section 66-206. R.C.M. 1947. is 10 renumbered 74-712 and is amended to read as follows: 11 "66-20674-712. Assistant -- who may act and when. Every (1) An auctioneer, in case the event of inability to 12 13 attend an auction by reason of sickness, or the performance 14 of any a duty imposed upon him by law, or during a temporary 15 absence from the city or county within which he is 16 auctioneer, may employ a-coportner-or-clerk an agent or 17 employee to hold such the auction in his name and behalfy 18 such. 19 (2) The employee to--take--and shall file with the 20 county clerk of the county an affidavit swearing to 21 faithfully to perform the duties of auctioneer. 22 (3) An But-any auctioneer may employ a crier at any 23 sale, for whose acts he shall be responsible." 24 Section 13. Section 66-207. R.C.M. 1947. is

25 renumbered 74-713 and is amended to read as follows:

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1 "66-20774-713. Auctioneers to designate places one 2 place of business --- partners. No-succioneer-in-sny-city-of з this-state-must-have-at-one-time-more--than--one--place--for holding-auctions-and-avery-such-auctionaery-before-acting-as 4 5 suchy--must--file-with-the-clerk-of-the-county-in-which-said 6 city-is-situated-a-writing-signed-by-himy--designeting--such 7 placey-and-naming-therein-the-partnersy-if-anyy-engaged-with him in business. (1) An auctioneer shall designate in 8 9 writing with the county clerk one place at which he will 10 conduct\_auctions\_within\_adv\_city. 11 12) He shall designate. In the same document, his 12 partners, if any, in the business. 13 131 He way not offer doods for sale at a place other 14 than that designated unless the goods are in their original 15 packades. are bulky and usually sold in varehouses. or are 16 usually sold on public streets." 17 Section 14. There is a new R.C.M. section numbered

18 74-714 that reads as follows:

19 74-714. Penalty. A person convicted of violating a 20 provision of this act shall be fined no more than \$500 or 21 imprisoned in the county jail for a term not to exceed 6 22 months. or both. In addition he shall be liable for damages 23 incurred by any aggrieved party by reason of such violation. 24 Section 15. There is a new R.C.M. section numbered 25 74-715 that reads as follows:

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74-715. Enforcement. The provisions of this act shall
 be enforced by the department of business regulation and the
 county attorney of the county in which the violation
 occurred.

5 Section 16. Section 66-230, R.C.M. 1947, is
6 renumbered 74-716 and is amended to read as follows:

7 "66-23874-716. Powers of cities and towns not я affected. The-towns Towns and cities of-the-state-of-Montana are--hereby---given--full--power--and--sutherity--to may tax; 9 10 license, and regulate persons, firms, associations or, 11 corporations, or other legal entitles engaging in or 12 desiring to engage in public auctions, and may require a 13 license and charge a fee thereforat-but-such-license-fee 14 shall-not-exceed-the-amount--provided--in--this--act--for--a 15 county--license--but--shall--be-in-addition-thereto-and-such 16 towns Towns and cities may provide for penalties for 17 violations of soid the ordinance reduirements. A city or 18 town-license-shall-not-be-in-lieu-of-a-county-license\*\* 19 Section 17. Repealer. Sections 66-208, 66-209, 66-210,

20 66-212, 66-214, 66-215, 66-217, 66-218, and 66-220 through

21 66-229, R.C.M. 1947, are repealed.

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ı	HOUSE BILL NO. 764	1	acceptance of a prior bid the auctioneer may in his
2	INTRODUCED BY RAMIREZ, SIVERTSEN	2	discretion reopen the bidding or declare the goods sold
ذ		3	under the bid on which the hammer was falling.
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE	4	(3) Such a sale is with reserve unless the goods are
5	LAWS RELATING TO AUCTION SALES; RENUMBERING AND AMENDING	5	in explicit terms put up without reserve. In an auction with
ъ	SECTIONS 66-201 THROUGH 66-203+ 66-203+1+ 66-204 THROUGH	ь	reserve the auctioneer may withdraw the goods at any time
i	66-207, 65-211, 66-213, 66-216, 66-219, AND 66-230, R.C.M.	1	until ne announces completion of the sale. In an auction
ы	1947; AMENDING SECTION 87A-2-328, R.C.M. 1947; AND REPEALING	8	without reserve, after the auctioneer calls for bids on an
9	SECTIONS 66-208, 66-209, 66-210, 66-212, 66-214, 66-215,	9	article or lot, that article or lot cannot be withdrawn
10	66-217, 66-218, AND 66-220 THROUGH 66-229, R.C.M. 1947."	10	unless no bid is made within a reasonable time. In either
11		11	case a bidder may retract his bid until the auctioneer's
12	BE IT ENACTED BY THE LEGISLATURE DF THE STATE OF MONTANA:	12	announcement of completion of the sale, but a bidder's
13	Section 1. Section 66-213, R.C.M. 1947, is renumbered	13	retraction does not revive any previous bid.
14	74-701 and is amended to read as follows:	14	(4) If the auctioneer knowingly receives a bid on the
15	<del>*66-213<u>74-70</u>1.</del> Sale by auction defined. A sale by	15	seller's behalf or the seller makes or procures such a bide
16	auction is a sale by public outcry to the highest bidder on	10	and notice has not been given that liberty for such bidding
17	the soot."	17	is reserved, the buyer may at his option avoid the sale or
18	Section 2. Section 87A-2-328, R.C.M. 1947, is	18	take the goods at the price of the last good faith bid prior
19	renumpered 74-702 and is amended to read as follows:	19	to the completion of the sale. This subsection shall does
20	# <del>87★-2-328<u>74-702</u>。 Sale by auction。(1) In a sale by</del>	20	not apply to any bid at a forced sale."
21	auction <del>if <u>of</u> goods <u>by lot ore-put-up-in-lots</u> each lot is</del>	21	section 3. Section 66-216, R.C.M. 1947, is renumbered
22	the subject of a separate sale.	22	74-703 and is amended to read as follows:
23	(2) A sale by auction is complete when the auctioneer	23	"60-21674-703. Sale under written conditions. When a
24	so announces by the fall of the hammer or <del>in</del> other customary	24	sale by auction is made upon written or printed conditions.
25	manner. Where a bid is made while the hammer is falling in	25	such those conditions cannot be modified by any oral
			-2- H8 764

# REFERENCE BILL

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1	declaration of the auctioneery except <del>so-for-as-they-are</del>	1
2	those for his own protection."	2
3	section 4. Section 66-219, R.C.M. 1947, is renumbered	ذ
4	74-704 and is amended to read as follows:	4
ۈ	" <del>65-219<u>74-704</u>. Auctioneer's memorandum</del> of sale. When	>
6	property is sold by auction, an entry made by the	ь
1	auctioneery in his sale book, at the time of the sale,	7
8	specifying the name of the person for whom he sells, the	в
A	thing sold, the price, the terms of sale, and the name of	Y
10	the suyer, binds both the parties in the same manner as if	10
11	made by themselves."	11
12	Section 5. Section 66-211; R.C.M. 1947; is renumbered	12
13	74-705 and is amended to read as follows:	13
14	*66-21174-705。 Book of sales. <u>[1]</u> Each auctioneer must	14
15	keep a book <del>y-in-which-he-must <u>and</u> enter all salesy showing</del>	15
16	the name of the owner of the goods sold, to whom sold, <del>and</del>	16
17	the amount paid, and the date of each sale <del>y-which</del> e	17
18	<u>(2) The</u> book must <del>atalltimes</del> be open for <del>the</del>	18
19	inspection of-any-person by interested persons during normal	19
20	business hours therein."	20
21	Section 6. Section 56-201; R.C.M. 1947; is renumbered	21
22	74-705 and is amended to read as follows:	22
23	<pre>#66-20174-706. Auctioneer's authority from the seller.</pre>	23
24	An auctioneer, in the absence of special authority or usage	24
25	to-the-contrery, has authority from the seller only as	25

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1	tollows:
2	<ol> <li>Fo to sell by public auction to the highest bidder;</li> </ol>
د	2. To to sell for cash only, except such for articles
4	as-are usually sold on credit at auction;
>	3. To to warrant in-like-manner-with-otheragentsto
5	self-seconding as an agent pursuant to section 2-130;
7	4. To prescribe reasonable rules and terms of sale;
в	5. To to deliver the thing sold, upon payment of the
ч	price;
10	5. Fo to collect the price; and
11	<ol> <li>To to do whatever else is necessary, or propers and</li> </ol>
12	sual, in the ordinary course of business, for effecting
13	these purposes."
14	Section 7. Section 66-202, R.C.M. 1947, is renumbered
15	74-707 and is amended to read as follows:
16	*66-20274-707. Auctioneer's authority from the bidder.
17	An auctioneer has authority from a bidder at the auction, as
18	well as from the sellar, to bind both by a memorandum of the
19	contracty sale as prescribed in action-66-219 <u>74-704</u> .*
20	Section 8. Section 66-203, R.C.M. 1947, is renumbered
21	74-708 and is amended to read as follows:
22	"65-20374-708. Auctioneer authority and bond. Any
23	citizen of this state may become an auctioneer $oldsymbol{v}$ and be
24	authorized to sell real or personal property at public
25	auction in any county in this state <del>y on <u>after</u> giving a bond</del>

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in accordance with the provisions of this chapter for the 1 faithful performance of his duties." 2 3 Section 9. Section 66-203.1, R.C.M. 1947. is renumpered 74-709 and is amended to read as follows: 4 \*66-203-174-709. Reciprocal privileges to nonresident 5 auctioneers. The citizenship residency requirements required ь by the this state of-Montana for an auctioneer are hereby 7 waived for the citizens of any other state or-states to the а 4 same extent that the home state of the applicant waives such citizenship residency requirements for the citizens of the 10 11 this state of-Montana." Section 10. Section 66-204. R.C.M. 1947, is 12 13 renumbered 74-710 and is amended to read as follows: \*66-20474-710. The bond -- sureties, approval and 14 filing. [1] The--bond Bond must be conditioned-to-be-paid 15 payable to the state of-Montana, with one or more sureties, 15 17 in the sum of five-thousand-dollars 55,000, and approved by

1s the county clerk of the county in which the outtioneer
19 resides, and filed in his officets or if

20 <u>[21\_\_If</u> the auctioneer is not a resident of Montana, 21 soid the bond shall be filed with the county clerk of the 22 county of this state in which he carries on his principal 23 auction business.<sup>#</sup>

Section 11. Section 66-205. R.C.M. 1947, is
renumbered 74-711 and is amended to read as follows:

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ı "66-20574-711. Auctioneers ex efficio. (1) In any 2 county where-there-ig-no without an auctioneer, the sheriff З or a constable thereof is exofficio auctioneer, and is 4 permitted to sell any property-real-or-personaly at public ÷. auctionts and--for--any--delinguency--as--such--ex--officio auctioncer-he 'n 7 (21 He is liable on his official bond for any а delinguency as the ex officio auctioneer." 9 Section 12. Section 66-206. R.C.M. 1947. is 10 renumbered 74-712 and is amended to read as follows: "66-20574-712. Assistant -- who may act and when. 11 12 Every (1) An auctioneer, in case the event of inability to 13 attend an auction by reason of sickness, or the performance 14 of eny a duty imposed upon him by law, or during a temporary 15 absence from the city or county within which he is 16 auctioneer, may employ a-copartner-or-elerk an agent or 17 employee to hold such the auction in his name and behalfy 13 such. 19 [2]\_\_Ine employee to--take--and shall file with the 20 county clerk of the county an affidavit swearing to 21 faithfully to perform the duties of auctioneer. 22 [2]\_\_An But-any auctioneer may employ a crier at any 23 sale, for whose acts he shall be responsible." 24 Section 13. Section 66-207, R.C.M. 1947. is renumbered 74-713 and is amended to read as follows: 25

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1	"65-207 <u>74-713</u> . Auctioneers to designate <del>places</del> <u>one</u>
2	<u>place</u> of business <u> partners</u> . No-suctioneer-in-any-city-of
з	this-state-must-have-at-one-time-morethanoneplacefor
4	holding-suction;-and-every-such-suctioneery-before-acting-as
>	suchymustfile-with-the-clerk-of-the-county-in-which-said
6	<del>city-is-situated-a-writi</del> ng <del>-signed-by-himydesignatingsuch</del>
7	placey-and-naming-therein-the-partnersy-if-anyy-engaged-with
8	h <del>iminbusiness* <u>(1) An auctioneer shall designate in</u></del>
9	writing with the county clerk one place at which he will
10	conduct_auctions_within_any_city_
11	(2) He_shall_designate. in the same document. his
12	partners, if any, in the business.
13	(3) He may not offer goods for sale at a place other
14	than that designated unless the goods are in their original
15	packages, are bulky and usually sold in warehouses, or _are
16	usually_sold_on_public_streets.*
17	Section 14. There is a new R.C.M. section numbered
18	74-714 that reads as follows:
19	74-714. Penalty. A person convicted of violating a
20	provision of this act shall be fined no more than \$500 or
21	imprisoned in the county jail for a term not to exceed 6
22	months, or both. In addition he shall be liable for damages
23	incurred by any agorieved party by reason of such violation.
24	Section 15. There is a new R.C.M. section numbered
25	74-715 that reads as follows:

74-715. Enforcement. The provisions of this act shall
 be enforced by the department of business regulation and the
 county attorney of the county in which the violation
 occurred.

5 Section 16. Section 66-230, R.C.M. 1947, is
6 renumbered 74-716 and is amended to read as follows:

7 "66-23074-716. Powers of cities and towns not 8 affected. The-towns lowns and cities of-the-state-of-Montana pre--nereby--given--full--power--and--authority--to may tax, 9 10 license, and regulate persons, firms, associations or, 11 corporations. or other legal entities engaging in or 12 centring to engage in public auctionsy and may require a 13 license and charge a fee therefor\_j-but-such-license-fee 14 shall-not-exceed-the-amount--provided--in--this--act--for--a 15 county--license---but--shall--be-in-addition-thereto-and-such towns <u>lowns</u> and cities may provide for penalties for 16 17 violations of said the ordinance requirements. A-city-or town-license-shall-not-be-in-lieu-of-a-county-license\*\* 18 19 Section 17. Repealer. Sections 66-208, 66-209, 66-210,

20 65-212, 66-214, 66-215, 66-217, 66-218, and 66-220 through 21 65-229, R+C+M+ 1947, are repealed.

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<sup>-</sup>End-