

An Act

ENROLLED SENATE
BILL NO. 976

By: Murdock of the Senate

and

Hardin (David) of the House

An Act relating to sheriff sales; amending 12 O.S. 2021, Section 757, which relates to written notice of sale; providing for sale of goods and chattels through Internet or other electronic means; limiting purchase by sheriff or officer; providing for collection of deposits and payments by certain means; amending 12 O.S. 2021, Section 765, which relates to confirmation of sale of realty; providing for procedure if sale conducted through online auction marketplace; amending 12 O.S. 2021, Section 766, which relates to sale by sheriff of lands and tenements; allowing for use of Internet or other electronic means; amending 12 O.S. 2021, Section 769, which relates to place of sale; authorizing public auction to be held through specified methods; requiring certain notice; applying certain restrictions; updating statutory language; and declaring an emergency.

SUBJECT: Sheriff sales

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 12 O.S. 2021, Section 757, is amended to read as follows:

Section 757. A. 1. No goods or chattels levied upon by an officer pursuant to an execution issued by a court of record shall be sold unless the party causing the execution to be issued:

- a. causes a written notice of sale executed by the sheriff describing the goods or chattels subject to sale and stating the date, time and place where the sale shall occur to be mailed, by first class mail, postage prepaid, to the judgment debtor, any holder of record of an interest in the property, and all other persons of whom the party causing the execution to be issued has notice who claim a lien or any interest in the goods or chattels, at least ten (10) days prior to the date of the sale, if the names and actual addresses of such persons are known, and
- b. causes public notice to be given of the date, time and place of sale, for at least ten (10) days before the day of sale. The notice shall be executed by the sheriff and shall state the name of any person having an interest in the property whose actual address is unknown, and shall designate the person or persons whose unknown successors are being notified. The notice shall be given by advertisement, published in some newspaper published in the county, or, in case no newspaper be published therein, by setting up advertisements in five public places in the county. Two advertisements shall be put up in the township where the sale is to be held, and
- c. files in the case an affidavit of proof of mailing and of publication or posting~~†~~.

2. A written notice of sale executed prior to the effective date of this act by the party causing the execution to be issued but otherwise conforming to the provisions of this section shall, for all purposes, be deemed valid.

B. 1. If a purchaser other than the party causing the execution to be issued, when required by the sheriff, fails to post cash or certified funds equal to ten percent (10%) of the amount bid for the property within twenty-four (24) hours of the sale,

excluding Sundays and legal holidays, or otherwise fails to complete the sale, the sheriff may proceed with the sale and may accept the next highest bid.

2. When goods and chattels levied upon cannot be sold for want of bidders, the officer making such return shall affix a true and correct inventory of such goods and chattels to the execution, and the party causing such execution to be issued may thereupon sue out another writ of execution, directing the sale of the property levied upon as provided for in this section.

C. All sales of goods and chattels may be conducted by public auction through the Internet or other electronic means pursuant to this section. For a public auction held by Internet or other electronic means, place may include the Internet website of an online auction marketplace selected by the sheriff to host and conduct the sheriff's sale of goods and chattels.

D. No sheriff nor other officer conducting the sale of such property, nor any appraiser or online auction marketplace, shall either directly or indirectly purchase the same; and every purchase so made shall be considered fraudulent and void. If the online auction marketplace is a corporation, limited liability company, limited liability partnership, or partnership, the foregoing restriction shall apply to any director, officer, employee, managing member, or partner of such appraiser or online auction marketplace.

E. In the case of a sale by a sheriff conducted through an online auction marketplace, the online auction marketplace may collect deposits and payments by wire transfer, electronic funds transfer, or cashier's check from a registered bidder, settle the transaction, and then remit payment of the purchase price to the court clerk as directed by the sheriff.

SECTION 2. AMENDATORY 12 O.S. 2021, Section 765, is amended to read as follows:

Section 765. A. Upon the return of any writ of execution for the satisfaction of which any lands or tenements have been sold, the party causing the execution to be issued shall:

1. Cause a written notice of hearing on the confirmation of the sale to be mailed, by first class mail, postage prepaid, to all persons to whom mailing of the notice of the execution sale was required to be made pursuant to Section 764 of this title and to the high bidder at such sale, at least ten (10) days before the hearing on the confirmation of the sale, and if the name or address of any such person is unknown, shall cause a notice of the hearing on the confirmation of the sale to be published in a newspaper authorized by law to publish legal notices in the county in which the property is situated. If no newspaper authorized by law to publish legal notices is published in such county, the notice shall be published in some such newspaper of general circulation which is published in an adjoining county. The notice shall state the name of any person being so notified and shall be published once at least ten (10) days prior to the date of the hearing on the confirmation of the sale; and

2. Files in the case an affidavit of proof of mailing, and if required, of publication.

B. Any person filing a written objection to the confirmation of the sale shall cause a copy of such written objection to be mailed, prior to the hearing on the confirmation of the sale, by first class mail, postage prepaid, to all persons to whom mailing of the notice of the hearing on the confirmation of the sale was required to be made pursuant to this section. The court may continue the hearing or make such other orders as are necessary to allow the interested persons to adequately support or oppose any such objections to the confirmation of the sale. If the court, after having carefully examined the proceedings of the officer, is satisfied that the sale has, in all respects, been made in conformity with the provisions of this article, the court shall direct the clerk to make an entry on the journal that the court is satisfied of the legality of such sale and shall order that the officer make to the purchaser a deed for such lands and tenements; and the officer, on making such sale, shall deposit the purchase money with the clerk of the court from which said writ of execution issued, where same shall remain until the court shall have examined his proceedings as aforesaid, when said clerk of the court shall pay the same to the person entitled thereto, agreeable to the order of the court. In the case of a sale by a sheriff conducted through an online auction marketplace, the online auction marketplace may collect and hold deposits and

additional purchase money payments up to the full amount of the winning bid, settle the transaction, and then remit payment of the purchase money to the court clerk as directed by the sheriff or the court. Any buyer's premium charged to a buyer for online auction marketplace services rendered to the buyer shall not be considered purchase price provided that the buyer's premium is disclosed in advance in the listing.

SECTION 3. AMENDATORY 12 O.S. 2021, Section 766, is amended to read as follows:

Section 766. The sheriff or other officer who, upon such writ or writs of execution, shall sell the said lands and tenements, or any part thereof, at a physical place or by Internet or other electronic means, including an online auction marketplace, shall make to the purchaser as good and sufficient deed of conveyance of the land sold, as the person or persons against whom such writ or writs of execution were issued could have made of the same, at or any time after they became liable to the judgment. The deed shall be sufficient evidence of the legality of such sale, and the proceedings therein, until the contrary be proved, and shall vest in the purchaser as good and as perfect an estate in the premises therein mentioned, as was vested in the party at, or after, the time when such lands and tenements became liable to the satisfaction of the judgment; and such deed of conveyance, to be made by the sheriff or other officer, shall recite the execution or executions, or the substance thereof, and the names of the parties, the amount and date of rendition of each judgment, by virtue whereof the said lands and tenements were sold as aforesaid, and shall be executed, acknowledged and recorded as is or may be provided by law, to perfect the conveyance of real estate in other cases.

SECTION 4. AMENDATORY 12 O.S. 2021, Section 769, is amended to read as follows:

Section 769. All sales of lands or tenements under execution shall be held at the ~~court house~~ courthouse in the county in which ~~such~~ the lands or tenements are situated, unless some other place within ~~said~~ the county is designated by the judge having jurisdiction in the case; or by public auction through the Internet or other electronic means, if notice of the date, time, and place of the intended sale is provided as required pursuant to Section 764 of

this title. For a public auction held through the Internet or other electronic means, place may include the Internet website of an online auction marketplace selected by the sheriff to host and conduct the sheriff's sale of such lands or tenements. No sheriff or other officer making the sale of property, either personal or real, nor any appraiser of such property or online auction marketplace, shall either directly or indirectly, purchase the same; and every purchase so made shall be considered fraudulent and void. If the online auction marketplace is a corporation, limited liability company, limited liability partnership, or partnership, the foregoing restriction shall apply to any director, officer, employee, managing member, or partner of such appraiser or online auction marketplace.

SECTION 5. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 19th day of May, 2022.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of April, 2022.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____