

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 58th Legislature (2022)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 976

By: Murdock of the Senate

and

Hardin (David) of the House

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to sheriff sales; amending 12 O.S.  
12                   2021, Section 757, which relates to written notice of  
13                   sale; providing for sale of goods and chattels  
14                   through Internet or other electronic means; limiting  
15                   purchase by sheriff or officer; providing for  
16                   collection of deposits and payments by certain means;  
17                   amending 12 O.S. 2021, Section 765, which relates to  
18                   confirmation of sale of realty; providing for  
19                   procedure if sale conducted through online auction  
20                   marketplace; amending 12 O.S. 2021, Section 766,  
21                   which relates to sale by sheriff of lands and  
22                   tenements; allowing for use of Internet or other  
23                   electronic means; amending 12 O.S. 2021, Section 769,  
24                   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.

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

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

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

6 a. causes a written notice of sale executed by the  
7 sheriff describing the goods or chattels subject to  
8 sale and stating the date, time and place where the  
9 sale shall occur to be mailed, by first class mail,  
10 postage prepaid, to the judgment debtor, any holder of  
11 record of an interest in the property, and all other  
12 persons of whom the party causing the execution to be  
13 issued has notice who claim a lien or any interest in  
14 the goods or chattels, at least ten (10) days prior to  
15 the date of the sale, if the names and actual  
16 addresses of such persons are known, and

17 b. causes public notice to be given of the date, time and  
18 place of sale, for at least ten (10) days before the  
19 day of sale. The notice shall be executed by the  
20 sheriff and shall state the name of any person having  
21 an interest in the property whose actual address is  
22 unknown, and shall designate the person or persons  
23 whose unknown successors are being notified. The  
24 notice shall be given by advertisement, published in

1 some newspaper published in the county, or, in case no  
2 newspaper be published therein, by setting up  
3 advertisements in five public places in the county.  
4 Two advertisements shall be put up in the township  
5 where the sale is to be held, and

6 c. files in the case an affidavit of proof of mailing and  
7 of publication or posting;

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

12 B. 1. If a purchaser other than the party causing the  
13 execution to be issued, when required by the sheriff, fails to post  
14 cash or certified funds equal to ten percent (10%) of the amount bid  
15 for the property within twenty-four (24) hours of the sale,  
16 excluding Sundays and legal holidays, or otherwise fails to complete  
17 the sale, the sheriff may proceed with the sale and may accept the  
18 next highest bid.

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

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

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

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

21       SECTION 2.       AMENDATORY       12 O.S. 2021, Section 765, is  
22 amended to read as follows:  
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1 Section 765. A. Upon the return of any writ of execution for  
2 the satisfaction of which any lands or tenements have been sold, the  
3 party causing the execution to be issued shall:

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

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

22 B. Any person filing a written objection to the confirmation of  
23 the sale shall cause a copy of such written objection to be mailed,  
24 prior to the hearing on the confirmation of the sale, by first class

1 mail, postage prepaid, to all persons to whom mailing of the notice  
2 of the hearing on the confirmation of the sale was required to be  
3 made pursuant to this section. The court may continue the hearing  
4 or make such other orders as are necessary to allow the interested  
5 persons to adequately support or oppose any such objections to the  
6 confirmation of the sale. If the court, after having carefully  
7 examined the proceedings of the officer, is satisfied that the sale  
8 has, in all respects, been made in conformity with the provisions of  
9 this article, the court shall direct the clerk to make an entry on  
10 the journal that the court is satisfied of the legality of such sale  
11 and shall order that the officer make to the purchaser a deed for  
12 such lands and tenements; and the officer, on making such sale,  
13 shall deposit the purchase money with the clerk of the court from  
14 which said writ of execution issued, where same shall remain until  
15 the court shall have examined his proceedings as aforesaid, when  
16 said clerk of the court shall pay the same to the person entitled  
17 thereto, agreeable to the order of the court. In the case of a sale  
18 by a sheriff conducted through an online auction marketplace, the  
19 online auction marketplace may collect and hold deposits and  
20 additional purchase money payments up to the full amount of the  
21 winning bid, settle the transaction, and then remit payment of the  
22 purchase money to the court clerk as directed by the sheriff or the  
23 court. Any buyer's premium charged to a buyer for online auction  
24 marketplace services rendered to the buyer shall not be considered

1 purchase price provided that the buyer's premium is disclosed in  
2 advance in the listing.

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

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

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

3 Section 769. All sales of lands or tenements under execution  
4 shall be held at the ~~court house~~ courthouse in the county in which  
5 ~~such the~~ lands or tenements are situated, unless some other place  
6 within ~~said the~~ county is designated by the judge having  
7 jurisdiction in the case; or by public auction through the Internet  
8 or other electronic means, if notice of the date, time, and place of  
9 the intended sale is provided as required pursuant to Section 764 of  
10 this title. For a public auction held through the Internet or other  
11 electronic means, place may include the Internet website of an  
12 online auction marketplace selected by the sheriff to host and  
13 conduct the sheriff's sale of such lands or tenements. No sheriff  
14 or other officer making the sale of property, either personal or  
15 real, nor any appraiser ~~of such property~~ or online auction  
16 marketplace, shall either directly or indirectly, purchase the same;  
17 and every purchase so made shall be considered fraudulent and void.  
18 If the online auction marketplace is a corporation, limited  
19 liability company, limited liability partnership, or partnership,  
20 the foregoing restriction shall apply to any director, officer,  
21 employee, managing member, or partner of such appraiser or online  
22 auction marketplace.

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

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6 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,  
7 dated 04/12/2022 - DO PASS, As Amended.  
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