

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 201

BY: SMITH

AS INTRODUCED

AN ACT RELATING TO CIVIL PROCEDURE; AMENDING 12 O.S. 1981, SECTION 757, AS LAST AMENDED BY SECTION 1, CHAPTER 189, O.S.L. 1987 (12 O.S. SUPP. 1990, SECTION 757), WHICH RELATES TO NOTICE OF SALE OF CHATTELS; CLARIFYING STATUTORY CITE; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 12 O.S. 1981, Section 757, as last amended by Section 1, Chapter 189, O.S.L. 1987 (12 O.S. Supp. 1990, 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, Section 751 et seq. of this title 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.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and 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.

43-1-214

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