STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1664 By: Graves

AS INTRODUCED

An Act relating to probate procedure; amending 58 O.S. 1991, Sections 426 and 428, which relate to certain return and confirmation of certain sales; providing for certain receipt of unfair or disproportionate values; providing for certain proceedings; requiring certain conduct or orders; and providing an effective date.

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

SECTION 1. AMENDATORY 58 O.S. 1991, Section 426, is amended to read as follows:

Section 426. Except when a sale is made pursuant to Section 239 of this title, the executor or administrator, after making any sale of real property, must file a sworn return of his proceedings in the court. The court must fix the day for the hearing of such return, and give at least ten (10) days' notice thereof by one publication in a newspaper in each county in which any part of the real property sold is situated and in the county where the order was made, and by mailing a copy of said notice to all heirs, legatees and devisees of the decedent whose addresses are known, which notice must briefly describe the real property sold, the sum for which it was sold and the name of the purchaser, and must refer to the return for further

particulars. Upon the hearing, the court must examine the return and witnesses in relation to the same, and if there is a finding that the proceedings were unfair, or there is a finding that the sum bid disproportionate to the value, and if it appears that a sum exceeding such bid at least ten percent (10%), exclusive of the expenses of a new sale, may be obtained, the court may vacate the sale and direct another to be had, of which notice must be given, and the sale in all respects conducted as if no previous sale had taken place; or upon a finding that the proceedings were unfair or the sum bid disproportionate to the value, and if an offer of ten percent (10%) more in amount than that named in the return be made to the court in writing, by a responsible person, it is in the discretion of the court to accept such offer and confirm the sale to such person or to order a new sale.

SECTION 2. AMENDATORY 58 O.S. 1991, Section 428, is amended to read as follows:

Section 428. A. If it appear to the court that the sale was legally made and fairly conducted, and that the sum bid was not disproportionate to the value of the property sold, ~~and that a greater sum, as above specified, cannot be obtained, or if the increased bid mentioned in the second preceding section be made and accepted by the court,~~ the court must make an order confirming the sale, and ~~directing~~ direct the conveyances to be executed. ~~The sale from that time is confirmed and valid,~~

B. If it appear to the court that the sale was not legally made or fairly conducted, or the sum bid was disproportionate to the value of the property and it appear to the court that a sum exceeding the amount bid by at least ten percent (10%), exclusive of the expenses of a new sale, may be obtained, the court shall proceed as set forth in Section 426 of this title. However, if it appear to the court that a sum exceeding the amount bid by at least ten percent (10%), exclusive of the expenses of a new sale, cannot be

obtained, the court may proceed pursuant to Section 426 of this title or confirm the sale and direct conveyances to be executed.

C. If it appear to the court that the sale was not legally made or fairly conducted, or the sum bid was disproportionate to the value of the property and if an offer of ten percent (10%) more in amount than that named in the return be made to the court in writing, by a responsible person, then the court must either accept such offer and confirm the sale to such person and direct conveyances to be executed or order a new sale pursuant to Section 426 of this title. From the time confirmed the sale is valid, and a certified copy of the order confirming it and directing conveyances to be executed must be recorded in the office of the register of deeds of the county within which the land sold is situated. If after the confirmation the purchaser neglects or refuses to comply with the terms of sale the court may, on motion of the executor or administrator, and after notice to the purchaser, order a resale to be made of the property. If the amount realized on such resale does not cover the bid and the expenses of the previous sale, such purchaser is liable for the deficiency to the estate.

SECTION 3. This act shall become effective September 1, 1993.

44-1-5968 KSM