

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2448

By: Maddux

AS INTRODUCED

An Act relating to public lands; amending 64 O.S.

1991, Section 82, which relates to the disposal of lands under the jurisdiction of the Commissioners of the Land Office; modifying certain appraiser appointments; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 64 O.S. 1991, Section 82, is amended to read as follows:

Section 82. All lands acquired by foreclosure of mortgages or the acceptance of deeds and all lands heretofore sold under a certificate of purchase contract where said certificate of purchase has been canceled, and all deficiency judgments owned by the Commissioners of the Land Office, shall be disposed of in the following manner.

(a) Upon resolution adopted by the Commissioners of the Land Office, any or all lands acquired by foreclosure of mortgage or the acceptance of deeds or lands heretofore sold under certificate of purchase contract, where said certificate of purchase has been canceled, or all land acquired by original grant, except original

grant land which can be used for grazing purposes only, may be sold by the Commissioners of the Land Office for cash or on sales contracts to be denominated, "Certificates of Purchase", providing for an initial payment of not less than ten percent (10%) of the total purchase price, at the discretion of the Commissioners, the balance to be paid in not more than forty equal annual payments with deferred payments drawing interest at the rate of three percent (3%) per annum. Notice of the sale of such lands as may be offered for sale shall be published in five consecutive issues in at least one weekly newspaper of general circulation in the county in which such tract or tracts of land are situated. Such notice shall give a brief description of the lands and improvements located thereon and the appraised value of both such lands and improvements, the time, place and terms of sale. Said lands shall be sold to the highest responsible bidder at public auction. No tract shall be sold for less than ninety percent (90%) of the appraised value thereof, and the same shall be appraised prior to sale by three duly authorized appraisers ~~of~~ designated by the Commissioners of the Land Office. In all cases the Commissioners of the Land Office shall have the right to reject any and all bids. Said Commissioners are hereby authorized to pay for the cost of conducting said sales from the proceeds thereof.

(b) The state shall have first lien upon all lands sold, together with all improvements and appurtenances thereunto belonging, until all payments, being both principal and interest, are made thereon; and upon such payments being made, the Commissioners of the Land Office shall in forms of law, execute to each purchaser, as in this article provided, a patent in fee simple; provided, that a certificate of purchase reciting the conditions of such purchase shall be issued to every purchaser under this article immediately upon execution of the contract of purchase, and such certificate of purchase shall be entitled to record, as evidence of

the same, under the provisions of the law of conveyance. Provided, that it shall be the duty of the tax assessor of each county wherein said lands are situated to place on the tax rolls all lands held under said certificate of purchase; said taxes to be paid by the purchaser named in said certificate of purchase or the assignee of said purchaser.

(c) The Commissioners of the Land Office are hereby authorized to subdivide any tract or tracts of land, or to combine any tracts of land, subject to sale under the provisions of this act, when in their discretion it is deemed that such subdivision or combination would induce more purchasers for such sales.

(d) The Commissioners of the Land Office shall reserve and retain forever the title to not less than forty percent (40%) of all the oil, gas and other mineral rights in and under all lands to be sold; provided further, that the Commissioners of the Land Office are empowered to join in the execution of any oil, gas or mineral lease on school lands, which have been sold and in which they have retained mineral interest, at their own discretion and without the necessity of advertising as required on state-owned lands. Such reservation is to be set out and included in all certificates of purchase and patents issued to cover lands hereafter sold by the Commissioners of the Land Office. Provided, that the provisions of this section shall not apply to any state-owned lands which the Commissioners of the Land Office may, by resolution duly adopted, find to be suitably situated for townsite developmental purposes. Any such land may be by the Commissioners of the Land Office, platted and sold in separate town lots or in entire tracts at the discretion of the Commissioners, without reservation as to the mineral rights, and patent conveying the full fee simple title may be given the purchaser upon full payment of the purchase price. Provided that the provisions hereof, with reference to the reservation and retention of all or part of the oil, gas and mineral

rights in and under state lands, shall not apply to any state-owned lands which may be sold by the Commissioners of the Land Office, at any voluntary sale, to any public or municipal corporation, board, commission, department, agency or instrumentality for the construction, development and operation of any hydroelectric power, flood control, reclamation or irrigation project; for any needful public buildings, or for any other public use or purpose. Provided however, that in the case of any lands being sold without the reservation of any mineral rights thereto, such sale shall be held only upon resolution adopted by a unanimous vote of the Commission, following thirty (30) days' notice in writing to the Governor of the State of Oklahoma, of the meeting of said Commission at which such resolution is to be considered, and any such conveyance shall be made only with the written consent of the Governor endorsed thereon.

(e) When the lands, mortgaged to the state as security for a loan, have been acquired through foreclosure proceedings, or by deeds thereto accepted by the Commissioners of the Land Office and sold, the amount for which same is sold shall be applied as follows: Any payment received at the time of the sale and all unpaid balance shall, when and as collected, be apportioned as follows: 1st, the entire balance of the principal of the loan shall be transferred into the fund from which the loan is made; 2nd, interest; 3rd, cost; 4th, fees earned, and the remainder, if any, shall be paid into and become a part of the fund from which the loan was made.

(f) Diligent effort shall be made by the Commissioners of the Land Office to collect all deficiency judgments now held by the state or which may hereafter be rendered in favor of the state, and immediately after the passage and approval of this act, and after procuring any deficiency judgment, they shall cause execution to be issued thereon and placed in the hands of the sheriff of the proper county for service. In addition to the return of such execution now

required by law, the sheriff shall mail to the Commissioners of the Land Office a duplicate of his return of such execution.

(g) From any monies collected upon a deficiency judgment there shall be paid: 1st, any balance of the principal, included therein; 2nd, interest; 3rd, costs; 4th, fees earned, and the remainder, if any, shall be paid into and become a part of the fund from which the loan was made.

(h) Upon the death of any judgment debtor, if his estate be administered, the Commissioners shall cause proper claim to be made in the probate court for the amount due the state upon the deficiency judgment against said debtor and any sum collected shall be applied as provided for collections hereinabove. Should all the judgment debtors in any deficiency judgment die without estate, the deficiency judgment shall be charged off and no longer carried as an asset in the department. Such death shall be noted upon the record of judgments in the office and the transaction closed. The same procedure shall be followed in cases where administrations are had and judgment cannot be collected from the estate.

(i) When executions are returned, "no property found", or the property of the defendant is exhausted and the balance of the judgment unsatisfied, the judgment may, at the discretion of the Commissioners of the Land Office, be advertised in the county wherein such judgment was obtained, and sold at public outcry to the highest and best bidder for cash. In case of a sale of any such judgment, the Commissioners of the Land Office shall cause notice of such sale, such notice to contain the pertinent facts, to be published in three consecutive issues of a newspaper of general circulation in the county wherein such judgment was obtained, and will be sold, such sale to be held at a specified hour at the front door of the court house in such county. At any such judgment sale, the Commissioners of the Land Office shall reserve the right to reject any and all bids. Any judgment that may be sold hereunder

shall be assigned to the purchaser, without recourse, by the Commissioners of the Land Office, and any deficiency existing thereon shall be charged off and no longer carried as an asset of the Department.

(j) Rules and regulations governing the sale of any lands to be sold under the terms and provisions of this act, not inconsistent herewith, may be made by the Commissioners of the Land Office.

SECTION 2. This act shall become effective July 1, 1996.

SECTION 3. 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.

45-2-8993

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