

1 ENGROSSED HOUSE  
2 BILL NO. 1615

By: Sullivan and Tibbs of the  
House

3 and

4 Crain of the Senate  
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7 An Act relating to civil procedure; amending 12 O.S.  
8 2001, Section 764, which relates to notice of sale of  
9 realty; requiring immediate payment of certain  
10 percentage of bid for certain property; specifying  
11 form of payment; requiring official bank letter for  
12 certain forms of payment; and providing an effective  
13 date.

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

15 SECTION 1. AMENDATORY 12 O.S. 2001, Section 764, is  
16 amended to read as follows:

17 Section 764. A. Lands and tenements taken on execution shall  
18 not be sold unless the party causing the execution to be issued:

19 1. Causes a written notice of sale executed by the sheriff  
20 containing the legal description of the property to be sold and  
21 stating the date, time and place where the property will be sold to  
22 be mailed, by first class mail, postage prepaid, to the judgment  
23 debtor, any holder of interest of record in the property to be sold  
24 whose interest is sought to be extinguished, and all other persons  
of whom the party causing the execution to be issued has notice who

1 claim a lien or any interest in the property whose interest is  
2 sought to be extinguished, at least ten (10) days prior to the date  
3 of the sale, if the names and addresses of such persons are known;  
4 and

5 2. Causes public notice of the date, time and place of sale to  
6 be given by publication for two (2) successive weeks in a newspaper  
7 published in the county in which the property to be sold is  
8 situated, or in case no newspaper be published in such county, then  
9 in a newspaper of general circulation therein and by putting up an  
10 advertisement upon the courthouse door and in five other public  
11 places in such county, two of which shall be in the township where  
12 ~~such~~ the lands and tenements lie; provided, that in counties now  
13 having a population of one hundred ten thousand (110,000) or more  
14 according to the last Federal Census, the advertisement shall be  
15 published in some newspaper published in the city or township where  
16 ~~said~~ the lands and tenements lie or if there ~~be~~ is no newspaper  
17 published in ~~such~~ the city or township where the lands and tenements  
18 lie then in some newspaper published in the county. Notice shall be  
19 executed by the sheriff and state the name of any person having an  
20 interest in the property to be sold whose interest is sought to be  
21 extinguished and whose actual address is unknown, and shall  
22 designate the person or persons whose unknown successors are being  
23 notified; and

24

1 3. Files in the case an affidavit of proof of mailing and of  
2 publication or posting.

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

7 C. ~~Such~~ 1. The sale shall not be held less than thirty (30)  
8 days after the date of first publication of the notice required in  
9 paragraph 2 of subsection A of this section. If a purchaser other  
10 than the party causing the execution to be issued, when required by  
11 the sheriff, fails to immediately post ~~cash or certified funds equal~~  
12 ~~to~~ ten percent (10%) of the amount bid for the property ~~within~~  
13 ~~twenty-four (24) hours of the sale, excluding Sundays and legal~~  
14 ~~holidays,~~ upon being named the successful bidder, or otherwise fails  
15 to complete the sale, the sheriff may accept the next highest bid or  
16 offer the land and tenements taken on execution for sale again.

17 Except as otherwise provided for in subsection B of this section,  
18 sales for which the provisions of subsection A of this section have  
19 not been complied with shall be set aside on motion by the court to  
20 which the execution is returnable.

21 2. The ten-percent down payment required in paragraph 1 of this  
22 subsection shall be made by cash or business, personal or cashier's  
23 check. However in any county with a population in excess of five  
24 hundred thousand (500,000), business or personal checks shall be

1 accepted only if the office of the county treasurer has an official  
2 bank letter on file guaranteeing payment of the check. Registrars  
3 shall be allowed to compare the account number listed on the  
4 official bank letter guaranteeing funds with the account number  
5 listed on the business or personal check. Failure to comply with  
6 this subsection shall result in the lands and tenements taken on  
7 execution to be offered for sale again.

8 SECTION 2. This act shall become effective November 1, 2009.

9 Passed the House of Representatives the 2nd day of March, 2009.

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12 \_\_\_\_\_  
13 Presiding Officer of the House of  
Representatives

14 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2009.

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18 Presiding Officer of the Senate  
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