

THE HOUSE OF REPRESENTATIVES
Wednesday, February 25, 2009

House Bill No. 1615

HOUSE BILL NO. 1615 - By: SULLIVAN of the House and CRAIN of the Senate.

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

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

1 SECTION 1. AMENDATORY 12 O.S. 2001, Section 764, is amended to read as
2 follows:
3 Section 764. A. Lands and tenements taken on execution shall not be sold unless
4 the party causing the execution to be issued:
5 1. Causes a written notice of sale executed by the sheriff containing the legal
6 description of the property to be sold and stating the date, time and place where the
7 property will be sold to be mailed, by first class mail, postage prepaid, to the judgment
8 debtor, any holder of interest of record in the property to be sold whose interest is sought
9 to be extinguished, and all other persons of whom the party causing the execution to be
10 issued has notice who claim a lien or any interest in the property whose interest is
11 sought to be extinguished, at least ten (10) days prior to the date of the sale, if the names
12 and addresses of such persons are known; and

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

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

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

19 C. ~~Such~~ 1. The sale shall not be held less than thirty (30) days after the date of
20 first publication of the notice required in paragraph 2 of subsection A of this section. If a
21 purchaser other than the party causing the execution to be issued, when required by the
22 sheriff, fails to immediately post ~~cash or certified funds equal to~~ ten percent (10%) of the

1 amount bid for the property ~~within twenty-four (24) hours of the sale, excluding Sundays~~
2 ~~and legal holidays,~~ upon being named the successful bidder, or otherwise fails to
3 complete the sale, the sheriff may accept the next highest bid or offer the land and
4 tenements taken on execution for sale again. Except as otherwise provided for in
5 subsection B of this section, sales for which the provisions of subsection A of this section
6 have not been complied with shall be set aside on motion by the court to which the
7 execution is returnable.

8 2. The ten-percent down payment required in paragraph 1 of this subsection shall
9 be made by cash or cashier's check. However, business or personal checks shall be
10 accepted only if the office of the county treasurer has an official bank letter on file
11 guaranteeing payment of the check. Registrars shall be allowed to compare the account
12 number listed on the official bank letter guaranteeing funds with the account number
13 listed on the business or personal check. Failure to comply with this subsection shall
14 result in the lands and tenements taken on execution to be offered for sale again.

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

16 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-24-09 - DO PASS,
17 As Coauthored.