

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB976 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: David Hardin

Adopted: _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

PROPOSED
COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 976

By: Murdock of the Senate

and

Hardin (David) of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to sheriff sales; amending 12 O.S. 2021, Section 757, which relates to written notice of sale; providing for sale of goods and chattels through Internet or other electronic means; limiting purchase by sheriff or officer; providing for collection of deposits and payments by certain means; amending 12 O.S. 2021, Section 765, which relates to confirmation of sale of realty; providing for procedure if sale conducted through online auction marketplace; amending 12 O.S. 2021, Section 766, which relates to sale by sheriff of lands and tenements; allowing for use of Internet or other electronic means; amending 12 O.S. 2021, Section 769, which relates to place of sale; authorizing public auction to be held through specified methods; requiring certain notice; applying certain restrictions; updating statutory language; and declaring an emergency.

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

SECTION 1. AMENDATORY 12 O.S. 2021, Section 757, is amended to read as follows:

1 Section 757. A. 1. No goods or chattels levied upon by an
2 officer pursuant to an execution issued by a court of record shall
3 be sold unless the party causing the execution to be issued:

4 a. causes a written notice of sale executed by the
5 sheriff describing the goods or chattels subject to
6 sale and stating the date, time and place where the
7 sale shall occur to be mailed, by first class mail,
8 postage prepaid, to the judgment debtor, any holder of
9 record of an interest in the property, and all other
10 persons of whom the party causing the execution to be
11 issued has notice who claim a lien or any interest in
12 the goods or chattels, at least ten (10) days prior to
13 the date of the sale, if the names and actual
14 addresses of such persons are known, and

15 b. causes public notice to be given of the date, time and
16 place of sale, for at least ten (10) days before the
17 day of sale. The notice shall be executed by the
18 sheriff and shall state the name of any person having
19 an interest in the property whose actual address is
20 unknown, and shall designate the person or persons
21 whose unknown successors are being notified. The
22 notice shall be given by advertisement, published in
23 some newspaper published in the county, or, in case no
24 newspaper be published therein, by setting up

1 advertisements in five public places in the county.

2 Two advertisements shall be put up in the township
3 where the sale is to be held, and

4 c. files in the case an affidavit of proof of mailing and
5 of publication or posting;

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

10 B. 1. If a purchaser other than the party causing the
11 execution to be issued, when required by the sheriff, fails to post
12 cash or certified funds equal to ten percent (10%) of the amount bid
13 for the property within twenty-four (24) hours of the sale,
14 excluding Sundays and legal holidays, or otherwise fails to complete
15 the sale, the sheriff may proceed with the sale and may accept the
16 next highest bid.

17 2. When goods and chattels levied upon cannot be sold for want
18 of bidders, the officer making such return shall affix a true and
19 correct inventory of such goods and chattels to the execution, and
20 the party causing such execution to be issued may thereupon sue out
21 another writ of execution, directing the sale of the property levied
22 upon as provided for in this section.

23 C. All sales of goods and chattels may be conducted by public
24 auction through the Internet or other electronic means pursuant to

1 this section. For a public auction held by Internet or other
2 electronic means, place may include the Internet website of an
3 online auction marketplace selected by the sheriff to host and
4 conduct the sheriff's sale of goods and chattels.

5 D. No sheriff nor other officer conducting the sale of such
6 property, nor any appraiser or online auction marketplace, shall
7 either directly or indirectly, purchase the same; and every purchase
8 so made shall be considered fraudulent and void. If the online
9 auction marketplace is a corporation, limited liability company,
10 limited liability partnership, or partnership, the foregoing
11 restriction shall apply to any director, officer, employee, managing
12 member, or partner of such appraiser or online auction marketplace.

13 E. In the case of a sale by a sheriff conducted through an
14 online auction marketplace, the online auction marketplace may
15 collect deposits and payments by wire transfer, electronic funds
16 transfer, or cashier's check from a registered bidder, settle the
17 transaction, and then remit payment of the purchase price to the
18 court clerk as directed by the sheriff.

19 SECTION 2. AMENDATORY 12 O.S. 2021, Section 765, is
20 amended to read as follows:

21 Section 765. A. Upon the return of any writ of execution for
22 the satisfaction of which any lands or tenements have been sold, the
23 party causing the execution to be issued shall:
24

1 1. Cause a written notice of hearing on the confirmation of the
2 sale to be mailed, by first class mail, postage prepaid, to all
3 persons to whom mailing of the notice of the execution sale was
4 required to be made pursuant to Section 764 of this title and to the
5 high bidder at such sale, at least ten (10) days before the hearing
6 on the confirmation of the sale, and if the name or address of any
7 such person is unknown, shall cause a notice of the hearing on the
8 confirmation of the sale to be published in a newspaper authorized
9 by law to publish legal notices in the county in which the property
10 is situated. If no newspaper authorized by law to publish legal
11 notices is published in such county, the notice shall be published
12 in some such newspaper of general circulation which is published in
13 an adjoining county. The notice shall state the name of any person
14 being so notified and shall be published once at least ten (10) days
15 prior to the date of the hearing on the confirmation of the sale;
16 and

17 2. Files in the case an affidavit of proof of mailing, and if
18 required, of publication.

19 B. Any person filing a written objection to the confirmation of
20 the sale shall cause a copy of such written objection to be mailed,
21 prior to the hearing on the confirmation of the sale, by first class
22 mail, postage prepaid, to all persons to whom mailing of the notice
23 of the hearing on the confirmation of the sale was required to be
24 made pursuant to this section. The court may continue the hearing

1 or make such other orders as are necessary to allow the interested
2 persons to adequately support or oppose any such objections to the
3 confirmation of the sale. If the court, after having carefully
4 examined the proceedings of the officer, is satisfied that the sale
5 has, in all respects, been made in conformity with the provisions of
6 this article, the court shall direct the clerk to make an entry on
7 the journal that the court is satisfied of the legality of such sale
8 and shall order that the officer make to the purchaser a deed for
9 such lands and tenements; and the officer, on making such sale,
10 shall deposit the purchase money with the clerk of the court from
11 which said writ of execution issued, where same shall remain until
12 the court shall have examined his proceedings as aforesaid, when
13 said clerk of the court shall pay the same to the person entitled
14 thereto, agreeable to the order of the court. In the case of a sale
15 by a sheriff conducted through an online auction marketplace, the
16 online auction marketplace may collect and hold deposits and
17 additional purchase money payments up to the full amount of the
18 winning bid, settle the transaction, and then remit payment of the
19 purchase money to the court clerk as directed by the sheriff or the
20 court. Any buyer's premium charged to a buyer for online auction
21 marketplace services rendered to the buyer shall not be considered
22 purchase price provided that the buyer's premium is disclosed in
23 advance in the listing.
24

1 SECTION 3. AMENDATORY 12 O.S. 2021, Section 766, is
2 amended to read as follows:

3 Section 766. The sheriff or other officer who, upon such writ
4 or writs of execution, shall sell the said lands and tenements, or
5 any part thereof, at a physical place or by Internet or other
6 electronic means, including an online auction marketplace, shall
7 make to the purchaser as good and sufficient deed of conveyance of
8 the land sold, as the person or persons against whom such writ or
9 writs of execution were issued could have made of the same, at or
10 any time after they became liable to the judgment. The deed shall
11 be sufficient evidence of the legality of such sale, and the
12 proceedings therein, until the contrary be proved, and shall vest in
13 the purchaser as good and as perfect an estate in the premises
14 therein mentioned, as was vested in the party at, or after, the time
15 when such lands and tenements became liable to the satisfaction of
16 the judgment; and such deed of conveyance, to be made by the sheriff
17 or other officer, shall recite the execution or executions, or the
18 substance thereof, and the names of the parties, the amount and date
19 of rendition of each judgment, by virtue whereof the said lands and
20 tenements were sold as aforesaid, and shall be executed,
21 acknowledged and recorded as is or may be provided by law, to
22 perfect the conveyance of real estate in other cases.

23 SECTION 4. AMENDATORY 12 O.S. 2021, Section 769, is
24 amended to read as follows:

1 Section 769. All sales of lands or tenements under execution
2 shall be held at the ~~court house~~ courthouse in the county in which
3 ~~such~~ the lands or tenements are situated, unless some other place
4 within ~~said~~ the county is designated by the judge having
5 jurisdiction in the case; or by public auction through the Internet
6 or other electronic means, if notice of the date, time, and place of
7 the intended sale is provided as required pursuant to Section 764 of
8 this title. For a public auction held through the Internet or other
9 electronic means, place may include the Internet website of an
10 online auction marketplace selected by the sheriff to host and
11 conduct the sheriff's sale of such lands or tenements. No sheriff
12 or other officer making the sale of property, either personal or
13 real, nor any appraiser ~~of such property~~ or online auction
14 marketplace, shall either directly or indirectly, purchase the same;
15 and every purchase so made shall be considered fraudulent and void.
16 If the online auction marketplace is a corporation, limited
17 liability company, limited liability partnership, or partnership,
18 the foregoing restriction shall apply to any director, officer,
19 employee, managing member, or partner of such appraiser or online
20 auction marketplace.

1 SECTION 5. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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