

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

May 28, 2024

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB1903

By: Hall of the Senate and Moore of the House

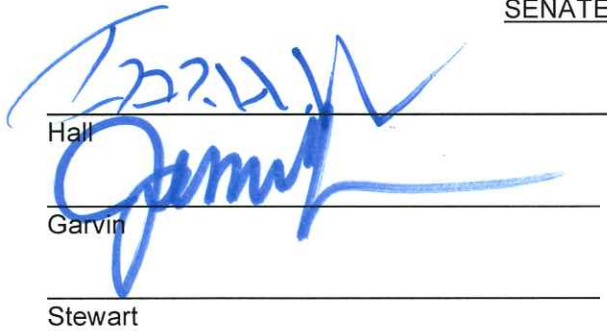
Title: Online auctions; prohibiting certain buyer's premium fee. Effective date.

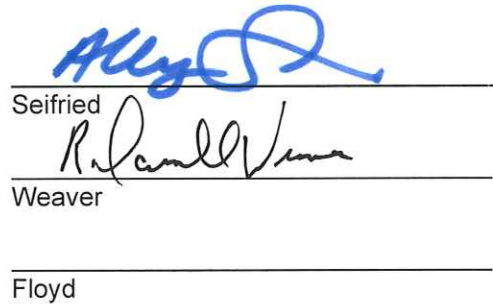
together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute (Request #3791) be adopted.

Respectfully submitted,

SENATE CONFEREES:


Hall
Garvin
Stewart


Seifried
Weaver
Floyd

HOUSE CONFEREES:

Conference Committee on *Business and Commerce*

Senate Action _____ Date _____ House Action _____ Date _____

SB1903 CCR (A)
HOUSE CONFEREES

Banning, Chris



Blancett, Meloyde

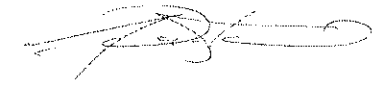
Cornwell, Rusty



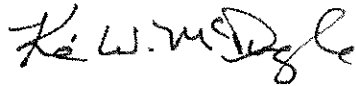
Dobrinski, Mike

Goodwin, Regina

Kendrix, Gerrid



McDugle, Kevin



Stinson, Preston



Tedford, Mark

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED

SENATE BILL NO. 1903

By: Hall of the Senate

and

Moore of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to online auctions; amending 12 O.S. 2021, Sections 757, as amended by Section 1, Chapter 326, O.S.L. 2022, 764, and 765, as amended by Section 2, Chapter 326, O.S.L. 2022 (12 O.S. Supp. 2023, Sections 757 and 765), which relate to levy and proceedings; adding certain notice requirements; updating statutory language; updating statutory references; making language gender neutral; allowing for certain determination; adding certain reference; modifying certain language relating to online auctions for goods and chattels; prohibiting charging of buyer's premium; authorizing certain use of online auction marketplace; prohibiting purchases by certain individuals; allowing for certain collection of payments; allowing for certain fees for online auction marketplaces; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 12 O.S. 2021, Section 757, as amended by Section 1, Chapter 326, O.S.L. 2022 (12 O.S. Supp. 2023, 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 and, if the sale is to utilize an
8 online auction marketplace, stating the sale will be
9 conducted through online auction, the Internet address
10 where bids may be entered, and the date of the sale
11 and the time when bidding is scheduled to be open, to
12 be mailed, by ~~first-class~~ first-class mail, postage
13 prepaid, to the judgment debtor, any holder of record
14 of an interest in the property, and all other persons
15 of whom the party causing the execution to be issued
16 has notice who claim a lien or any interest in the
17 goods or chattels, at least ten (10) days prior to the
18 date of the sale, if the names and actual addresses of
19 such persons are known, ~~and~~

20 b. causes public notice to be given of the date, time and
21 place of sale, for at least ten (10) days before the
22 day of sale. The notice shall be executed by the
23 sheriff and shall state the name of any person having
24 an interest in the property whose actual address is

1 unknown, and shall designate the person or persons
2 whose unknown successors are being notified. The
3 notice shall be given by advertisement, published in
4 some newspaper published in the county, or, in case no
5 newspaper ~~be~~ is published therein, by setting up
6 advertisements in five public places in the county.
7 Two advertisements shall be put up in the township
8 where the sale is to be held, and

9 c. files in the case an affidavit of proof of mailing and
10 of publication or posting.

11 2. A written notice of sale executed prior to ~~the effective~~
12 ~~date of this act~~ November 1, 1987, by the party causing the
13 execution to be issued but otherwise conforming to the provisions of
14 this section shall, for all purposes, be deemed valid.

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

22 2. When goods and chattels levied upon cannot be sold for want
23 of bidders, the officer making such return shall affix a true and
24 correct inventory of such goods and chattels to the execution, and

1 the party causing such execution to be issued may thereupon sue out
2 another writ of execution, directing the sale of the property levied
3 upon as provided for in this section.

4 C. The sheriff may determine whether the auction provided for
5 in this section shall utilize an online auction marketplace. All
6 sales of goods and chattels ~~may be conducted by public auction~~
7 ~~through the Internet or other electronic means pursuant to this~~
8 ~~section. For a public auction held by Internet or other electronic~~
9 ~~means, place may include the Internet website of an online auction~~
10 ~~marketplace selected by the sheriff to host and conduct the~~
11 ~~sheriff's sale of goods and chattels.~~

12 D. ~~No sheriff nor other officer conducting the sale of such~~
13 ~~property, nor any appraiser or online auction marketplace, shall~~
14 ~~either directly or indirectly purchase the same; and every purchase~~
15 ~~so made shall be considered fraudulent and void. If the online~~
16 ~~auction marketplace is a corporation, limited liability company,~~
17 ~~limited liability partnership, or partnership, the foregoing~~
18 ~~restriction shall apply to any director, officer, employee, managing~~
19 ~~member, or partner of such appraiser or online auction marketplace.~~

20 E. ~~In the case of a sale by a sheriff conducted through an~~
21 ~~online auction marketplace, the online auction marketplace may~~
22 ~~collect deposits and payments by wire transfer, electronic funds~~
23 ~~transfer, or cashier's check from a registered bidder, settle the~~
24 ~~transaction, and then remit payment of the purchase price to the~~

1 ~~court clerk as directed by the sheriff~~ a sheriff utilizing an online
2 auction marketplace shall be conducted in accordance with the
3 provisions of Section 4 of this act.

4 SECTION 2. AMENDATORY 12 O.S. 2021, Section 764, is
5 amended to read as follows:

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

8 1. Causes a written notice of sale executed by the sheriff
9 containing the legal description of the property to be sold and
10 stating the date, time and place where the property will be sold
11 and, if the sale is to utilize an online auction marketplace,
12 stating the sale will be conducted through online auction, the
13 Internet address where bids may be entered, and the date of the sale
14 and the time when bidding is scheduled to be open, to be mailed, by
15 ~~first-class~~ first-class mail, postage prepaid, to the judgment
16 debtor, any holder of interest of record in the property to be sold
17 whose interest is sought to be extinguished, and all other persons
18 of whom the party causing the execution to be issued has notice who
19 claim a lien or any interest in the property whose interest is
20 sought to be extinguished, at least ten (10) days prior to the date
21 of the sale, if the names and addresses of such persons are known;
22 and

23 2. Causes public notice of the date, time and place of sale to
24 be given by publication for two (2) successive weeks in a newspaper

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

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

19 B. A written notice of sale executed prior to ~~the effective~~
20 ~~date of this act~~ November 1, 1987, by the party causing the
21 execution to be issued but otherwise conforming to the provisions of
22 this section shall, for all purposes, be deemed valid.

23 C. Such sale shall not be held less than thirty (30) days after
24 the date of first publication of the notice required in paragraph 2

1 of subsection A of this section. If a purchaser other than the
2 party causing the execution to be issued, when required by the
3 sheriff, fails to post cash or certified funds equal to ten percent
4 (10%) of the amount bid for the property within twenty-four (24)
5 hours of the sale, excluding Sundays and legal holidays, or
6 otherwise fails to complete the sale, the sheriff may accept the
7 next highest bid. Except as otherwise provided for in subsection B
8 of this section, sales for which the provisions of subsection A of
9 this section have not been complied with shall be set aside on
10 motion by the court to which the execution is returnable.

11 D. The sheriff may determine whether the auction provided for
12 in this section shall utilize an online auction marketplace. All
13 sales of lands and tenements conducted by a sheriff utilizing an
14 online auction marketplace shall be conducted in accordance with the
15 provisions of Section 4 of this act.

16 SECTION 3. AMENDATORY 12 O.S. 2021, Section 765, as
17 amended by Section 2, Chapter 326, O.S.L. 2022 (12 O.S. Supp. 2023,
18 Section 765), is amended to read as follows:

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

22 1. Cause a written notice of hearing on the confirmation of the
23 sale to be mailed, by ~~first-class~~ first-class mail, postage prepaid,
24 to all persons to whom mailing of the notice of the execution of

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

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

16 B. Any person filing a written objection to the confirmation of
17 the sale shall cause a copy of such written objection to be mailed,
18 prior to the hearing on the confirmation of the sale, by ~~first-class~~
19 first-class mail, postage prepaid, to all persons to whom mailing of
20 the notice of the hearing on the confirmation of the sale was
21 required to be made pursuant to this section. The court may
22 continue the hearing or make such other orders as are necessary to
23 allow the interested persons to adequately support or oppose any
24 such objections to the confirmation of the sale. If the court,

1 after having carefully examined the proceedings of the officer, is
2 satisfied that the sale has, in all respects, been made in
3 conformity with the provisions of this ~~article~~ section, the court
4 shall direct the clerk to make an entry on the journal that the
5 court is satisfied of the legality of such sale and shall order that
6 the officer make to the purchaser a deed for such lands and
7 tenements; and the officer, on making such sale, shall deposit the
8 purchase money with the clerk of the court from which ~~said~~ the writ
9 of execution issued, where same shall remain until the court shall
10 have examined his or her proceedings as ~~aforsaid~~, when ~~said~~ the
11 clerk of the court shall pay the same to the person entitled
12 thereto, agreeable to the order of the court. ~~In the case of a sale~~
13 ~~by a sheriff conducted through an online auction marketplace, the~~
14 ~~online auction marketplace may collect and hold deposits and~~
15 ~~additional purchase money payments up to the full amount of the~~
16 ~~winning bid, settle the transaction, and then remit payment of the~~
17 ~~purchase money to the court clerk as directed by the sheriff or the~~
18 ~~court. Any~~ No buyer's premium shall be charged to a buyer ~~for~~
19 ~~online auction marketplace services rendered to the buyer shall not~~
20 ~~be considered purchase price provided that the buyer's premium is~~
21 ~~disclosed in advance in the listing~~ on any sale.

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 776 of Title 12, unless there is
24 created a duplication in numbering, reads as follows:

1 A. In accordance with the provisions of Section 751 et seq. of
2 Title 12 of the Oklahoma Statutes, sheriffs may conduct the sale of
3 goods or chattels or lands and tenements utilizing an online auction
4 marketplace.

5 B. No sheriff or other officer conducting the sale of property
6 or any appraiser or online auction marketplace shall either directly
7 or indirectly purchase the property; any such purchase shall be
8 fraudulent and void. If the appraiser or online auction marketplace
9 is a corporation, limited liability company, limited liability
10 partnership, or partnership, such prohibition shall apply to any
11 director, officer, employee, managing member, or partner of such
12 appraiser or online auction marketplace.

13 C. The online auction marketplace may collect deposits and
14 payments by wire transfer, electronic funds transfer, or cashier's
15 check from a registered bidder, settle the transaction, and remit
16 payment of the purchase price to the court clerk as directed by the
17 sheriff.

18 D. In accordance with the provisions of Section 765 of Title 12
19 of the Oklahoma Statutes, no buyer's premium shall be charged to a
20 buyer on any sale utilizing an online auction marketplace. The fee
21 charged and all costs incurred by the online auction marketplace
22 shall be assessed as costs at one and six-tenths percent (1.6%) of
23 selling price not to exceed Four Hundred Dollars (\$400.00).
24

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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