

1 ENGROSSED SENATE
2 BILL NO. 1903

By: Hall of the Senate

3 and

4 Moore of the House

5
6 An Act relating to online auctions; amending 12 O.S.
7 2021, Section 757, as amended by Section 1, Chapter
8 326, O.S.L. 2022 (12 O.S. Supp. 2023, Section 757),
9 which relates to acceptance of bids; updating
10 statutory language; updating statutory reference;
11 prohibiting charging of buyer's premium; limiting
12 certain fees for online auction marketplaces;
13 clarifying certain applicability; amending 12 O.S.
14 2021, Section 765, as amended by Section 2, Chapter
15 326, O.S.L. 2022 (12 O.S. Supp. 2023, Section 765),
16 which relates to the confirmation of sale;
17 prohibiting charging of buyer's premium; limiting
18 certain fees for online auction marketplaces; and
19 providing an effective date.

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

21 SECTION 1. AMENDATORY 12 O.S. 2021, Section 757, as
22 amended by Section 1, Chapter 326, O.S.L. 2022 (12 O.S. Supp. 2023,
23 Section 757), is amended to read as follows:

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

a. causes a written notice of sale executed by the
sheriff describing the goods or chattels subject to
sale and stating the date, time and place where the

1 sale shall occur to be mailed, by first class mail,
2 postage prepaid, to the judgment debtor, any holder of
3 record of an interest in the property, and all other
4 persons of whom the party causing the execution to be
5 issued has notice who claim a lien or any interest in
6 the goods or chattels, at least ten (10) days prior to
7 the date of the sale, if the names and actual
8 addresses of such persons are known, and

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

22 c. files in the case an affidavit of proof of mailing and
23 of publication or posting.
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1 2. A written notice of sale executed prior to ~~the effective~~
2 ~~date of this act~~ November 1, 1987, by the party causing the
3 execution to be issued but otherwise conforming to the provisions of
4 this section shall, for all purposes, be deemed valid.

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

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

18 C. All sales of goods and chattels may be conducted by public
19 auction through the Internet or other electronic means pursuant to
20 this section. For a public auction held by Internet or other
21 electronic means, the place may include the Internet website of an
22 online auction marketplace selected by the sheriff to host and
23 conduct the sheriff's sale of goods and chattels.
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1 D. No sheriff nor other officer conducting the sale of such
2 property, nor any appraiser or online auction marketplace, shall
3 either directly or indirectly purchase the same; and every purchase
4 so made shall be considered fraudulent and void. If the online
5 auction marketplace is a corporation, limited liability company,
6 limited liability partnership, or partnership, the foregoing
7 restriction shall apply to any director, officer, employee, managing
8 member, or partner of such appraiser or online auction marketplace.

9 E. In the case of a sale by a sheriff conducted through an
10 online auction marketplace, the online auction marketplace may
11 collect deposits and hold payments ~~by wire transfer, electronic~~
12 ~~funds transfer, or cashier's check from a registered bidder, and~~
13 additional purchase money payments up to the full amount of the
14 winning bid, settle the transaction, and then remit payment of the
15 purchase ~~price~~ money to the court clerk as directed by the sheriff
16 or the court. Except as provided in Section 765 of this title, no
17 buyer's premium shall be charged to a buyer on any sale including a
18 sale conducted through an online auction platform. Any fee charged
19 by an online marketplace and all costs incurred by the online
20 auction marketplace shall be assessed as costs at one and six-tenths
21 percent (1.6%) of selling price not to exceed Three Hundred Twenty-
22 five Dollars (\$325.00).
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1 F. The provisions of this section shall apply only to sales
2 conducted by sheriffs and shall not apply to any other public
3 auction.

4 SECTION 2. AMENDATORY 12 O.S. 2021, Section 765, as
5 amended by Section 2, Chapter 326, O.S.L. 2022 (12 O.S. Supp. 2023,
6 Section 765), is amended to read as follows:

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

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

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

5 B. Any person filing a written objection to the confirmation of
6 the sale shall cause a copy of such written objection to be mailed,
7 prior to the hearing on the confirmation of the sale, by first class
8 mail, postage prepaid, to all persons to whom mailing of the notice
9 of the hearing on the confirmation of the sale was required to be
10 made pursuant to this section. The court may continue the hearing
11 or make such other orders as are necessary to allow the interested
12 persons to adequately support or oppose any such objections to the
13 confirmation of the sale. If the court, after having carefully
14 examined the proceedings of the officer, is satisfied that the sale
15 has, in all respects, been made in conformity with the provisions of
16 this article, the court shall direct the clerk to make an entry on
17 the journal that the court is satisfied of the legality of such sale
18 and shall order that the officer make to the purchaser a deed for
19 such lands and tenements; and the officer, on making such sale,
20 shall deposit the purchase money with the clerk of the court from
21 which said writ of execution issued, where same shall remain until
22 the court shall have examined his proceedings as aforesaid, when
23 said clerk of the court shall pay the same to the person entitled
24 thereto, agreeable to the order of the court. In the case of a sale

1 by a sheriff conducted through an online auction marketplace, the
2 online auction marketplace may collect and hold deposits and
3 additional purchase money payments up to the full amount of the
4 winning bid, settle the transaction, and then remit payment of the
5 purchase money to the court clerk as directed by the sheriff or the
6 court. ~~Any~~ No buyer's premium shall be charged to a buyer ~~for~~ on
7 any sale including when a sale is conducted through an online
8 auction marketplace ~~services rendered to the buyer shall not be~~
9 ~~considered purchase price provided that the buyer's premium is~~
10 ~~disclosed in advance in the listing platform.~~ The fee charged by
11 the online auction marketplace and all costs incurred by the online
12 marketplace shall be assessed as costs at one and six-tenths percent
13 (1.6%) of selling price not to exceed Three Hundred Twenty-five
14 Dollars (\$325.00).

15 SECTION 3. This act shall become effective November 1, 2024.
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1 Passed the Senate the 7th day of March, 2024.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2024.

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8 _____
9 Presiding Officer of the House
10 of Representatives