

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 974

6 By: Weaver of the Senate

7 and

8 Moore of the House

9 COMMITTEE SUBSTITUTE

10 An Act relating to online auctions; amending 12 O.S.
11 2021, Sections 757, as amended by Section 1, Chapter
12 326, O.S.L. 2022, 764, and 765, as amended by Section
13 2, Chapter 326, O.S.L. 2022 (12 O.S. Supp. 2024,
14 Sections 757 and 765), which relate to levy and
15 proceedings; adding certain notice requirements;
16 updating statutory language; updating statutory
17 references; making language gender neutral; allowing
18 for certain determination; adding certain reference;
19 modifying certain language relating to online
20 auctions for goods and chattels; prohibiting charging
21 of buyer's premium; authorizing certain use of online
22 auction marketplace; prohibiting purchases by certain
23 individuals; requiring certain nonelectronic option
24 for certain bidders; allowing for certain requirement
of terms of service or use; 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:

1 SECTION 1. AMENDATORY 12 O.S. 2021, Section 757, as
2 amended by Section 1, Chapter 326, O.S.L. 2022 (12 O.S. Supp. 2024,
3 Section 757), is amended to read as follows:

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

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

23 b. causes public notice to be given of the date, time and
24 place of sale, for at least ten (10) days before the

1 day of sale. The notice shall be executed by the
2 sheriff and shall state the name of any person having
3 an interest in the property whose actual address is
4 unknown, and shall designate the person or persons
5 whose unknown successors are being notified. The
6 notice shall be given by advertisement, published in
7 some newspaper published in the county, or, in case no
8 newspaper ~~be~~ is published therein, by setting up
9 advertisements in five public places in the county.
10 Two advertisements shall be put up in the township
11 where the sale is to be held, and

12 c. files in the case an affidavit of proof of mailing and
13 of publication or posting.

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

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

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

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

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

23 E. ~~In the case of a sale by a sheriff conducted through an~~
24 ~~online auction marketplace, the online auction marketplace may~~

1 ~~collect deposits and payments by wire transfer, electronic funds~~
2 ~~transfer, or cashier's check from a registered bidder, settle the~~
3 ~~transaction, and then remit payment of the purchase price to the~~
4 ~~court clerk as directed by the a sheriff utilizing an online auction~~
5 ~~marketplace shall be conducted in accordance with the provisions of~~
6 Section 4 of this act.

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

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

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

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

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

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

1 C. Such sale shall not be held less than thirty (30) days after
2 the date of first publication of the notice required in paragraph 2
3 of subsection A of this section. If a purchaser other than the
4 party causing the execution to be issued, when required by the
5 sheriff, fails to post cash or certified funds equal to ten percent
6 (10%) of the amount bid for the property within twenty-four (24)
7 hours of the sale, excluding Sundays and legal holidays, or
8 otherwise fails to complete the sale, the sheriff may accept the
9 next highest bid. Except as otherwise provided for in subsection B
10 of this section, sales for which the provisions of subsection A of
11 this section have not been complied with shall be set aside on
12 motion by the court to which the execution is returnable.

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

18 SECTION 3. AMENDATORY 12 O.S. 2021, Section 765, as
19 amended by Section 2, Chapter 326, O.S.L. 2022 (12 O.S. Supp. 2024,
20 Section 765), is 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~~ first-class mail, postage prepaid,
3 to all persons to whom mailing of the notice of the execution of
4 sale was required to be made pursuant to Section 764 of this title
5 and to the high bidder at such sale, at least ten (10) days before
6 the hearing on the confirmation of the sale, and if the name or
7 address of any such person is unknown, shall cause a notice of the
8 hearing on the confirmation of the sale to be published in a
9 newspaper authorized by law to publish legal notices in the county
10 in which the property is situated. If no newspaper authorized by
11 law to publish legal notices is published in such county, the notice
12 shall be published in some such newspaper of general circulation
13 which is published in an adjoining county. The notice shall state
14 the name of any person being so notified and shall be published once
15 at least ten (10) days prior to the date of the hearing on the
16 confirmation of the sale; 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 first-class mail, postage prepaid, to all persons to whom mailing of
23 the notice of the hearing on the confirmation of the sale was
24 required to be made pursuant to this section. The court may

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

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

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

8 B. No sheriff or other officer conducting the sale of property
9 or any appraiser or online auction marketplace, including any
10 affiliation with a corporation, limited liability company, or
11 partnership, shall either directly or indirectly purchase the
12 property; any such purchase shall be considered fraudulent and void.
13 The prohibition of this subsection shall also apply to those related
14 by affinity or consanguinity within the third degree. If the
15 appraiser or online auction marketplace is a corporation, limited
16 liability company, limited liability partnership, or partnership,
17 such prohibition shall apply to any director, officer, employee,
18 managing member, or partner of such appraiser or online auction
19 marketplace.

20 C. If an online marketplace is used pursuant to this section,
21 the vendor shall provide a nonelectronic option for bidders.

22 D. The online auction vendor may require bidders to agree to
23 reasonable terms of service or use. Any such terms of service or
24

1 use shall provide that the terms of service or use are subject to
2 the laws and jurisdiction of this state.

3 E. The online auction marketplace may collect deposits and
4 payments by wire transfer, electronic funds transfer, or cashier's
5 check from a registered bidder; settle the transaction; and remit
6 payment of the purchase price to the court clerk as directed by the
7 sheriff.

8 F. In accordance with the provisions of Section 765 of Title 12
9 of the Oklahoma Statutes, no buyer's premium shall be charged to a
10 buyer on any sale conducted by a sheriff or other officer utilizing
11 an online auction marketplace. The fee charged and all costs
12 incurred by the online auction marketplace shall be assessed as
13 costs not to exceed Four Hundred Twenty-five Dollars (\$425.00) per
14 sale.

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

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