

Council Substitute for House Bill No. 773

An act relating to judicial sales; amending s. 45.031, F.S.; permitting certain sales to be conducted by electronic means; requiring electronic sales to comply with specified procedures; providing exceptions; requiring clerks to provide public access terminals for electronic sales; permitting clerks to receive electronic payments and deposits related to electronic sales; amending s. 45.035, F.S.; providing a service charge to be received by clerks for sales conducted by electronic means under a specified provision; providing an exception to the fee for moneys in the registry of the court; amending s. 197.542, F.S.; providing for electronic tax deed sales; requiring clerks to provide public access terminals for electronic sales; permitting clerks to receive electronic payments and deposits related to electronic sales; providing provisions relating to electronic tax deed sales in charter counties; for providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (10) is added to section 45.031, Florida Statutes, to read:

45.031 Judicial sales procedure.—In any sale of real or personal property under an order or judgment, the procedures provided in this section and ss. 45.0315-45.035 may be followed as an alternative to any other sale procedure if so ordered by the court.

(10) ELECTRONIC SALES.—The clerk may conduct the sale of real or personal property under an order or judgment pursuant to this section by electronic means. Such electronic sales shall comply with the procedures provided in this chapter, except that electronic proxy bidding shall be allowed and the clerk may require bidders to advance sufficient funds to pay the deposit required by subsection (3). The clerk shall provide access to the electronic sale by computer terminals open to the public at a designated location and shall accept an advance credit proxy bid from the plaintiff of any amount up to the maximum allowable credit bid of the plaintiff. A clerk who conducts such electronic sales may receive electronic deposits and payments related to the sale.

Section 2. Subsection (3) is added to section 45.035, Florida Statutes, to read:

45.035 Clerk's fees.—In addition to other fees or service charges authorized by law, the clerk shall receive service charges related to the judicial sales procedure set forth in ss. 45.031-45.034 and this section:

(3) If the sale is conducted by electronic means, as provided in s. 45.031(10), the clerk shall receive a service charge of \$60 as provided in subsection (1) for services in conducting or contracting for the electronic sale, which service charge shall be assessed as costs and shall be advanced

by the plaintiff before the sale. If the clerk requires advance electronic deposits to secure the right to bid, such deposits shall not be subject to the fee under s. 28.24(10). The portion of an advance deposit from a winning bidder required by s. 45.031(3) shall, upon acceptance of the winning bid, be subject to the fee under s. 28.24(10).

Section 3. Subsection (4) is added to section 197.542, Florida Statutes, to read:

197.542 Sale at public auction.—

(4)(a) A clerk may conduct electronic tax deed sales in lieu of public outcry. The clerk must comply with the procedures provided in this chapter, except that electronic proxy bidding shall be allowed and the clerk may require bidders to advance sufficient funds to pay the deposit required by subsection (2). The clerk shall provide access to the electronic sale by computer terminals open to the public at a designated location. A clerk who conducts such electronic sales may receive electronic deposits and payments related to the sale. The portion of an advance deposit from a winning bidder required by subsection (2) shall, upon acceptance of the winning bid, be subject to the fee under s. 28.24(10).

(b) Nothing in this subsection shall be construed to restrict or limit the authority of a charter county from conducting electronic tax deed sales. In a charter county where the clerk of the circuit court does not conduct all electronic sales, the charter county shall be permitted to receive electronic deposits and payments related to sales it conducts, as well as to subject the winning bidder to a fee, consistent with the schedule in s. 28.24(10).

Section 4. This act shall take effect July 1, 2008.

Approved by the Governor June 17, 2008.

Filed in Office Secretary of State June 17, 2008.