

LEGISLATIVE BILL 732

Approved by the Governor April 12, 2010

Introduced by Utter, 33.

FOR AN ACT relating to real property; to amend sections 25-1326, 25-1327, 25-2144, 76-1009, and 77-1912, Reissue Revised Statutes of Nebraska; to change provisions relating to certain forced sales; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 25-1326, Reissue Revised Statutes of Nebraska, is amended to read:

25-1326 (1) Real property may be conveyed by a master commissioner ~~commissioners (1)~~ when (a) by an order or judgment in an action or a proceeding, a party is ordered to convey such property to another, and he shall neglect or refuse he or she neglects or refuses to comply with such order or judgment, ~~(2) when or (b)~~ specific real property is required to be sold under an order or judgment of the court.

(2) A master commissioner may, for any cause he or she deems expedient, postpone the sale of all or any portion of the real property from time to time until it is completed, and in every such case, notice of postponement shall be given by public declaration thereof by such master commissioner at the time and place last appointed for the sale. The public declaration of the notice of postponement shall include the new date, time, and place of sale. No other notice of the postponed sale need be given unless the sale is postponed for longer than forty-five days beyond the day designated in the notice of sale, in which event the notice thereof shall be given in the same manner as the original notice of sale is required to be given.

Sec. 2. Section 25-1327, Reissue Revised Statutes of Nebraska, is amended to read:

25-1327 A sheriff may act as a master commissioner under ~~the provisions of section 25-1326, subdivision (2).~~ subdivision (1)(b) of section 25-1326. Sales made under ~~the same such subdivision~~ shall conform in all respects to the laws regulating sales of land upon execution.

Sec. 3. Section 25-2144, Reissue Revised Statutes of Nebraska, is amended to read:

25-2144 (1) All sales of mortgaged premises under a decree shall be made by a sheriff or some other person authorized by the court in the county where the premises or some part of them are situated. In + and in all cases where the sheriff shall make makes such sale, he or she shall act in his or her official capacity, he shall be liable on his or her official bond for all his or her acts therein, and he shall receive the same compensation as is provided by law for like services upon sales under execution.

(2) The sheriff or other person conducting the sale may, for any cause he or she deems expedient, postpone the sale of all or any portion of the real property from time to time until it is completed, and in every such case, notice of postponement shall be given by public declaration thereof by the sheriff or such other person at the time and place last appointed for the sale. The public declaration of the notice of postponement shall include the new date, time, and place of sale. No other notice of the postponed sale need be given unless the sale is postponed for longer than forty-five days beyond the day designated in the notice of sale, in which event notice thereof shall be given in the same manner as the original notice of sale is required to be given.

Sec. 4. Section 76-1009, Reissue Revised Statutes of Nebraska, is amended to read:

76-1009 On the date and at the time and place designated in the notice of sale, the trustee shall sell the property at public auction to the highest bidder. The attorney for the trustee may conduct the sale. Any person, including the beneficiary, may bid at the sale. Every bid shall be deemed an irrevocable offer. If the purchaser refuses to pay the amount bid by him or her for the property struck off to him or her at the sale, the trustee may again sell the property at any time to the highest bidder, except that notice of the sale shall be given again in the same manner as the original notice of sale was required to be given. The party refusing to pay shall be liable for any loss occasioned thereby, and the trustee may also, in his or her discretion, thereafter reject any other bid of such person.

The person conducting the sale may, for any cause he or she deems expedient, postpone the sale of all or any portion of the property from time

to time until it is completed, and, in every such case, notice of postponement shall be given by public declaration thereof by such person at the time and place last appointed for the sale. The public declaration of the notice of postponement shall include the new date, time, and place of sale. No other notice of the postponed sale need be given unless the sale is postponed for longer than forty-five days beyond the day designated in the notice of sale, in which event notice thereof shall be given in the same manner as the original notice of sale is required to be given.

Sec. 5. Section 77-1912, Reissue Revised Statutes of Nebraska, is amended to read:

77-1912 (1) The sheriff shall sell the real property in the same manner provided by law for a sale on execution and shall at once pay the proceeds thereof to the clerk of the district court. Any governmental subdivision of the state, municipal corporation, or drainage or irrigation district to which any part of the taxes included in the decree of foreclosure is due may purchase any real property sold at sheriff's sale. The provisions of the law for the protection of the purchasers at tax sales shall apply to purchasers at foreclosure sales provided for in this section. The sheriff or officer conducting the sale shall not be entitled to any commission on the money received and paid out on foreclosure sales provided for herein.

(2) The sheriff or officer conducting the sale may, for any cause he or she deems expedient, postpone the sale of all or any portion of the real property from time to time until it is completed, and in every such case, notice of postponement shall be given by public declaration thereof by the sheriff or officer at the time and place last appointed for the sale. The public declaration of the notice of postponement shall include the new date, time, and place of sale. No other notice of the postponed sale need be given unless the sale is postponed for longer than forty-five days beyond the day designated in the notice of sale, in which event notice shall be given in the same manner as the original notice of sale is required to be given.

Sec. 6. Original sections 25-1326, 25-1327, 25-2144, 76-1009, and 77-1912, Reissue Revised Statutes of Nebraska, are repealed.