

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 732

FINAL READING

Introduced by Utter, 33.

Read first time January 06, 2010

Committee: Judiciary

A BILL

1 FOR AN ACT relating to real property; to amend sections 25-1326,
2 25-1327, 25-2144, 76-1009, and 77-1912, Reissue Revised
3 Statutes of Nebraska; to change provisions relating to
4 certain forced sales; to harmonize provisions; and to
5 repeal the original sections.

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

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

3 25-1326 (1) Real property may be conveyed by a master
4 commissioner commissioners (1) when (a) by an order or judgment
5 in an action or a proceeding, a party is ordered to convey such
6 property to another, and he shall neglect or refuse he or she
7 neglects or refuses to comply with such order or judgment; (2) when
8 or (b) specific real property is required to be sold under an order
9 or judgment of the court.

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

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

24 25-1327 A sheriff may act as a master commissioner under
25 the provisions of section 25-1326, subdivision (2). subdivision

1 (1) (b) of section 25-1326. Sales made under the same such
2 subdivision shall conform in all respects to the laws regulating
3 sales of land upon execution.

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

6 25-2144 (1) All sales of mortgaged premises under a
7 decree shall be made by a sheriff or some other person authorized
8 by the court in the county where the premises or some part of
9 them are situated. In + and in all cases where the sheriff shall
10 make makes such sale, he or she shall act in his or her official
11 capacity, he shall be liable on his or her official bond for all
12 his or her acts therein, and he shall receive the same compensation
13 as is provided by law for like services upon sales under execution.

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

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

3 76-1009 On the date and at the time and place designated
4 in the notice of sale, the trustee shall sell the property at
5 public auction to the highest bidder. The attorney for the trustee
6 may conduct the sale. Any person, including the beneficiary, may
7 bid at the sale. Every bid shall be deemed an irrevocable offer.
8 If the purchaser refuses to pay the amount bid by him or her for
9 the property struck off to him or her at the sale, the trustee may
10 again sell the property at any time to the highest bidder, except
11 that notice of the sale shall be given again in the same manner
12 as the original notice of sale was required to be given. The party
13 refusing to pay shall be liable for any loss occasioned thereby,
14 and the trustee may also, in his or her discretion, thereafter
15 reject any other bid of such person.

16 The person conducting the sale may, for any cause he or
17 she deems expedient, postpone the sale of all or any portion of
18 the property from time to time until it is completed, and in
19 every such case, notice of postponement shall be given by public
20 declaration thereof by such person at the time and place last
21 appointed for the sale. The public declaration of the notice of
22 postponement shall include the new date, time, and place of sale.
23 No other notice of the postponed sale need be given unless the
24 sale is postponed for longer than forty-five days beyond the day
25 designated in the notice of sale, in which event notice thereof

1 shall be given in the same manner as the original notice of sale is
2 required to be given.

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

5 77-1912 (1) The sheriff shall sell the real property
6 in the same manner provided by law for a sale on execution
7 and shall at once pay the proceeds thereof to the clerk of
8 the district court. Any governmental subdivision of the state,
9 municipal corporation, or drainage or irrigation district to which
10 any part of the taxes included in the decree of foreclosure is
11 due may purchase any real property sold at sheriff's sale. The
12 provisions of the law for the protection of the purchasers at tax
13 sales shall apply to purchasers at foreclosure sales provided for
14 in this section. The sheriff or officer conducting the sale shall
15 not be entitled to any commission on the money received and paid
16 out on foreclosure sales provided for herein.

17 (2) The sheriff or officer conducting the sale may, for
18 any cause he or she deems expedient, postpone the sale of all or
19 any portion of the real property from time to time until it is
20 completed, and in every such case, notice of postponement shall
21 be given by public declaration thereof by the sheriff or officer
22 at the time and place last appointed for the sale. The public
23 declaration of the notice of postponement shall include the new
24 date, time, and place of sale. No other notice of the postponed
25 sale need be given unless the sale is postponed for longer than

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1 forty-five days beyond the day designated in the notice of sale,
2 in which event notice shall be given in the same manner as the
3 original notice of sale is required to be given.

4 Sec. 6. Original sections 25-1326, 25-1327, 25-2144,
5 76-1009, and 77-1912, Reissue Revised Statutes of Nebraska, are
6 repealed.