

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 HOUSE BILL 2766

By: McEachin

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6 AS INTRODUCED

7 An Act relating to civil procedure; amending 12 O.S.
8 2011, Sections 759, 762 and 769, which relate to
9 property subject to judgment lien; modifying
10 procedure for appraisal of property; requiring
11 written affidavit of impartiality; requiring
12 appraisals to be based on current market value;
13 authorizing the Administrative Director of the Courts
14 to approve certain forms; providing requirements for
15 certain documentation; providing procedure for sale
16 of property; providing requirements for bids;
17 authorizing sheriffs to implement certain policies
18 and procedures; providing immunity from liability for
19 technical difficulties; providing for finality of
20 auction process; and providing an effective date.

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

24 SECTION 1. AMENDATORY 12 O.S. 2011, Section 759, is
amended to read as follows:

Section 759. A. When a general execution is issued and placed
in the custody of a sheriff for levy, a certified copy of the
execution shall be filed in the office of the county clerk of the
county whose sheriff holds the execution and shall be indexed in the
same manner as judgments. At the time the execution is filed, the
court clerk shall collect from the party seeking a general execution

1 all fees necessary for the payment of the disinterested persons or a
2 legal entity for ~~their~~ services in appraising ~~of~~ the subject
3 property pursuant to the requirements of subsection B of this
4 section.

5 B. If a general or special execution is levied upon lands and
6 tenements, the sheriff shall endorse on the face of the writ the
7 legal description and shall have three disinterested persons who
8 have ~~taken an oath to impartially~~ or a legal entity which has
9 provided a written affidavit of impartiality appraise the property
10 levied on, ~~upon actual view;~~ and the disinterested persons or legal
11 entity shall return to the officer ~~their~~ a signed estimate of the
12 real value of the property. The estimates shall be obtained from
13 three disinterested persons, independent from one another, or a
14 disinterested legal entity using at least three independent,
15 disparate and credible sources, each of which has estimated the
16 current market value of the subject property independently from one
17 another. The disinterested persons or legal entity shall be paid
18 for ~~their~~ such services by the court clerk of the county where the
19 property is located within thirty (30) days of the date that they
20 return their estimate of the real value of the property. The
21 Administrative Director of the Courts is authorized to approve forms
22 for the written affidavit of impartiality and the signed estimate of
23 the real value of the property. The written affidavit and the
24 signed estimate shall be substantially in the form approved.

1 C. To extend a judgment lien beyond the initial or any
2 subsequent statutory period, prior to the expiration of such period,
3 a certified copy of one of the following must be filed and indexed
4 in the same manner as judgments in the office of the county clerk in
5 the county in which the statement of judgment was filed and the lien
6 thereof is sought to be retained:

- 7 1. A general execution upon the judgment;
- 8 2. A notice of renewal of judgment;
- 9 3. A garnishment summons issued against the judgment debtor; or
- 10 4. A notice of income assignment sent to a payor of the
11 judgment debtor.

12 SECTION 2. AMENDATORY 12 O.S. 2011, Section 762, is
13 amended to read as follows:

14 Section 762. If, upon such return, as aforesaid, it ~~appear~~
15 appears, by the inquisition, that two-thirds (2/3) of the appraised
16 current market value of ~~said~~ the lands and tenements, so levied upon
17 is sufficient to satisfy the execution, with costs, the judgment on
18 which such execution issued shall not operate as a lien on the
19 residue of the debtor's estate, to the prejudice of any other
20 judgment creditor; but no such property shall be sold for less than
21 two-thirds (2/3) of the value returned in the inquest; and nothing
22 in this section contained shall, in any wise, extend to affect the
23 sale of lands by the state, but all lands, the property of
24 individuals indebted to the state for any debt or taxes, or in any

1 other manner, shall be sold without valuation, for the discharge of
2 such debt or taxes, agreeably to the laws in such cases made and
3 provided.

4 SECTION 3. AMENDATORY 12 O.S. 2011, Section 769, is
5 amended to read as follows:

6 Section 769. A. All sales of lands or tenements under
7 execution shall be held at the courthouse in the county in which
8 such lands or tenements are situated, unless some other place within
9 ~~said~~ the county is designated by the judge having jurisdiction in
10 the case. No sheriff or other officer making the sale of property,
11 either personal or real, nor any appraiser of such property, shall
12 either directly or indirectly, purchase the same; and every purchase
13 so made shall be considered fraudulent and void.

14 B. On the date and at the time, together designated as the
15 property sale deadline, and place, designated as the property sale
16 location, designated in the notice of sale, the sheriff shall cause
17 the property to be sold at public auction to the highest bidder.
18 Bids for such sale may be submitted and accepted electronically
19 using a designated website or online auction service, by telephone
20 by calling a designated auction telephone number, in person at an
21 open public outcry auction, or by a combination of these methods,
22 all of which shall be considered in whole as the sale of the
23 property. The sheriff of each county is authorized to implement
24 policies and procedures regarding the use of any method of accepting

1 bids by a person not physically present at the public auction, who
2 shall be referred to as a remote bidder. No sheriff shall be
3 required to accept bids by a remote bidder until such time as these
4 policies and procedures have been implemented. No sheriff or county
5 shall be liable to a remote bidder due to technical difficulties
6 with any method of accepting bids set forth in this section. All
7 auctions shall be considered final and complete when declared closed
8 by the sheriff.

9 SECTION 4. This act shall become effective November 1, 2018.

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11 56-2-9099 SD 12/11/17
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