

12D-13.063 Sale at Public Auction.

(1) THE PROVISIONS OF THIS RULE ARE EXPRESSLY INTENDED TO PROTECT THE RIGHTS OF PROPERTY OWNERS, TO OBTAIN THE HIGHEST PRICE POSSIBLE FOR ANY LAND THAT MAY BE SOLD AND TO PROVIDE THE FULL PROTECTION AND BENEFIT OF THE LAW TO PROPERTY OWNERS, PUBLIC OFFICIALS AND PERSONS BIDDING ON LANDS ADVERTISED FOR SALE.

(2) The clerk shall hold a public auction at the time and place stated in the notice. The time shall be within the regular office hours of the clerk. The place shall be at one of the courthouse doors or as specified in the advertisement pursuant to Section 197.512, F.S. The clerk must post notice at the sale location that the highest bidder will be required to post a \$200 non-refundable cash deposit at the time of sale.

(3) The statutory (opening) bid required by the clerk of the court at said sale shall be the sum of all outstanding tax certificates redeemed, tax certificate or certificates in the possession of the applicant canceled in connection with the tax deed application, delinquent taxes paid, if any, the amount of the tax certificate on which the application for tax deed is based, the tax collector's fees and costs as specified, the sheriff's fees for delivering and posting notices, the clerk's fees and costs as set forth in Section 28.24, F.S., and interest on the total, computed at one and one-half percent per month beginning the month after the date of application and continuing through the month of sale. This shall be deemed to be the minimum bid of the tax deed applicant.

(4) If the tax certificate to which the application relates was sold on or after January 1, 1982, and the property is assessed on the latest tax roll as homestead, the opening bid shall be increased to include an amount equal to one-half of the assessed value of the property as listed on the current year's tax roll.

(5) If there are no bids higher than the statutory opening bid, the following procedures shall apply:

(a) If the tax deed applicant is an individual certificate holder:

1. The land shall be sold to the certificate holder. The certificate holder is required to immediately pay to the clerk of the circuit court applicable documentary stamp tax and recording fees.

2. If the property is homestead property, and the certificate holder fails to pay the monies to cover the one-half value of the homestead, the sale shall be considered canceled and the property shall be re-advertised for sale within 30 days as provided in Section 197.542(2), F.S. If at the subsequent sale there are no bidders at the tax deed sale and the certificate holder refuses to pay the monies to cover the one-half value of the homestead, the clerk shall not advertise the sale again and shall place the property on list of lands available for taxes.

(b) If the tax deed application was made by the county, clerk shall place the property on the list of lands available for taxes.

(c) If the property is placed on the list of lands available for taxes under this rule subsection, the procedures specified in Section 197.502(7), F.S., and Rule 12D-13.064, F.A.C., shall apply.

(6)(a) If there are bids higher than the statutory opening bid, the land shall be sold to the highest bidder. The clerk of the circuit court shall require the successful bidder to post a non-refundable \$200 cash deposit at the time of sale. The deposit shall be applied to the sale price at the time of full payment. The clerk of the circuit court shall require the successful bidder to make full payment in the amount of the highest bid at the sale within twenty-four (24) hours. If the successful bidder fails to make full payment of the final bid and documentary stamp tax and recording fees, less the cash deposit, within 24 hours, the clerk of the circuit court shall cancel the bids, re-advertise the property and re-sell the property. All costs of the sale shall be paid from the cash deposit with any remaining funds applied toward the opening bid.

(b) If the sale is canceled for any reason, the clerk of the circuit court shall immediately re-advertise the sale to be

held no later than 30 days after the date the sale was canceled. Only one advertisement shall be necessary. No further notice shall be required. The cost to re-advertise shall be added to the statutory (opening) bid.

(7) It is recommended that the clerk of the circuit court accept payment by certified check, cash, bank draft, or cashiers check. The clerk of the circuit court shall issue the tax deed immediately upon receipt of full payment. Full payment shall be the highest bid accepted by the clerk of the circuit court plus documentary stamps and recording costs. The deed shall be signed by the clerk of the circuit court, witnessed by two witnesses and the official seal shall be affixed. The tax deed shall be in the form prescribed by the Department of Revenue, Form DR-506 Tax Deed (incorporated by reference in Rule 12D-16.002, F.A.C.).

(8) The clerk of the circuit court may require bidders at a public sale to demonstrate their willingness and ability to pay the \$200 cash deposit described in subsection (6) of this rule. The clerk of the circuit court shall have the right to refuse to recognize the bid of any person who has previously bid and refused for whatever reason to honor such bid or who cannot demonstrate, to the satisfaction of the clerk of the circuit court, willingness and ability to pay the \$200 cash deposit.

(9) A sale or conveyance of real property for taxes shall not be held invalid except upon proof that:

(a) The property was not subject to taxation.

(b) The tax certificate on real property has been redeemed before the execution and delivery of the tax deed.

Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 28.24, 197.122, 197.3632, 197.443, 197.502, 197.512, 197.522, 197.542, 197.552, 197.562, 197.582, 213.05 FS. History-New 6-18-85, Formerly 12D-13.63, Amended 5-23-91, 12-13-92, 1-2-01, 12-3-01.