

# PART 8.00 REAL ESTATE SALES PURSUANT TO JUDGMENT OR ORDER

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## 8.01 APPLICATION

- (a) This order is applicable to real estate sales conducted by the sheriff, judges or other officers and entities pursuant to judgments or orders of court.
- (b) Except where otherwise required by law or ordered by the Court, all sales shall be conducted by the sheriff (hereinafter referred to as "designated officer").
- (c) All judicial sales shall be assigned to the designated officer by the Court at the time the decree for sale is entered. The attorney for the plaintiff shall prepare all necessary documents in connection therewith.

## 8.02 COUNSEL TO PREPARE NECESSARY DOCUMENT

(a) In all foreclosure sales, the attorney for the plaintiff shall use, in substance, the forms set forth below:

1. Certificate of Redemption
2. Notice of Judicial Sale
3. Foreclosure Estimate
4. Report of Sale
5. Report of Distribution
6. Receipt
7. Certificate of Sale
8. Order Approving Sale and Distribution

(b) The attorney for the plaintiff shall:

1. Prepare the notice for the sale in accordance with the form available in the Clerk's office. Such notice shall be published in the real estate section and in the legal notices section of a newspaper of general circulation in the county once each week for three (3) successive weeks. The first publication shall be at least twenty one (21) days prior to the sale. The date of sale shall be confirmed with the designated officer.
2. Prepare the foreclosure estimate.

3. Prepare the reports of sale and distribution.
4. Prepare the certificate of sale in recordable form and one duplicate.
5. Prepare an order approving reports of sale and distribution and for a Deficiency Judgment where applicable.
6. Give a copy of all sale documents to the designated officer for the sale file.

### **8.03 PRELIMINARY**

(a) At the time of setting a sale date with the designated officer, the attorney for plaintiff shall deliver to the designated officer a certified copy of the judgment or order, which order shall include an adjudication of the date of expiration of the period of redemption.

(b) On the date of sale, but prior to the commencement thereof, the plaintiff's attorney shall supply the designated officer with the following:

1. A certificate of mailing copies of notice of sale to parties to the action, where required.
2. Foreclosure estimates.

### **8.04 TIME OF SALE AND BID**

(a) At the time of sale, the attorney shall supply the designated officer with:

1. A check payable to the County Recorder sufficient to pay the then applicable rate for recording the certificate of sale.
2. A notice of sale with proof of service upon those entitled to notice.
3. Sale estimate.

(b) Bids at the sale shall:

1. Be made by persons present and not by mail.
2. Be for cash with an immediate payment by the successful bidder of at least ten percent (10%) of the purchase price and the balance within two (2) business days or the following Tuesday, as the following Tuesday shall be the date at which the monies should be presented, unless otherwise agreed to by those present entitled to the proceeds of the sale.
3. Be paid in cash, cashier's check or the equivalent.

### **8.05 DOCUMENTS TO BE PRESENTED BY COUNSEL TO DESIGNATED OFFICER FOLLOWING SALE**

(a) Following the sale, said attorney shall present to the designated officer for signature the following:

1. Reports of sale and distribution and necessary receipts and copy.
2. Certificate of Sale, one original in recordable form and one duplicate.
3. Proposed order and copy approving reports of sale and distribution and deficiency judgment where applicable (for designated officer approval only).

4. A conformed or certified copy of the order approving the report.

(b) The officer, upon receipt of the conformed or certified copy of the order approving the report of sale and distribution, shall:

1. Issue the certificate of sale to the successful bidder.
2. Issue the duplicate certificate of sale and deliver same to the County Recorder for recording. The duplicate certificate of sale shall be issued on the day of sale and recorded on that day or the following day to preserve the buyer's interest.
3. When the period for redemption has expired, said attorney shall prepare the deed and send it with a copy, together with the original Certificate of Sale, to the designated officer holding the sale for execution.

(c) Upon completion of the sale, with respect to redemptions, the attorney shall:

1. Tender redemption amount to the designated officer or purchaser.
2. If payment is made to purchaser, obtain from him the Certificate of Sale.
3. If payment is made to purchaser, tender Certificate of Redemption, in duplicate, and Certificate of Sale to designated officer.
4. If payment is made to the designated officer, submit funds in cash, certified or cashier's check, and tender Certificate of Redemption, in duplicate.

#### **8.06 DEED AFTER PERIOD OF REDEMPTION EXPIRES**

(a) If a deed is sought, the purchaser shall tender a Judicial Deed or Sheriff's Deed, whichever is applicable and in duplicate, and Certificate of Sale to the designated officer on or about date the deed is called for in Certificate of Sale.

(b) If deed is sought by person other than purchaser at sale, the purchaser shall tender the Certificate of Sale, including endorsements on reverse to show chain of title, to the person making tender or person to whom the deed will issue, together with the Judicial Deed or Sheriff's Deed, whichever is applicable and in duplicate.

(c) Upon expiration of the period of redemption, the successful bidder shall surrender to the sales officer the Certificate of Sale and a proposed deed and copy thereof. If said documents are found to be in order, the officer shall issue the deed.

(d) The purchaser shall prepare the necessary revenue documents to file in conjunction with the deed.

#### **8.07 MISCELLANEOUS**

(a) All communications should be properly addressed to the designated officer to whom the sale is assigned. Attorneys will at all times enclose a self-addressed stamped envelope when documents are to be returned to them by the designated officer.

(b) All required documents, including publication notices, will be substantially in accordance with the forms provided by the Clerk of the Circuit Court.

(c) All monies paid to the designated officer conducting judicial sales under the orders and decrees of this Court shall be deposited in a special account subject to further order of the Court.

(d) It is the attorneys' responsibility to record all documents, except the duplicate Certificate of Sale.