

Cuyahoga County Common Pleas Court Local Rules

27.0 JUDICIAL SALES

- (A) **Day of Sheriff's Sale.** Except for sales of real property relating to tax delinquencies, the sheriff must conduct all sales of real property on Mondays. If the court is not open for business on a Monday, such sales must be conducted on the next business day. The sheriff may conduct sales of real property relating to tax delinquencies on any day when the court is open for business.

- (B) **Sheriff's Fee in Private Selling Officer Sales.** The sheriff may charge the party requesting the judicial sale of property by a private selling officer a fee of \$25.00 upon the receipt of an Order to Appraise from the Clerk of Courts. The sheriff may refrain from conducting the appraisal of the property until this fee is paid.

- (C) **Return of Order of Sale.** The sheriff or a private selling officer appointed under R.C. 2329.152 must make his or her return of the order of sale to the court within 14 days of the date of sale for sales relating to tax delinquencies and within seven days for all other sales.

- (D) **Notice of Sale.** The party requesting the sale must send notice of the date, time, and place of the sheriff's sale by ordinary mail to the last known address or attorney of record of all parties who have appeared in the case.

- (E) **Notice to Forgo the Payment of Certain Taxes.** If the plaintiff is the sheriff's sale purchaser or the party electing to purchase the property at the appraised value in a partition action, and the plaintiff desires to exercise the right to forgo the payment from the sale proceeds of certain taxes as provided in R.C. 323.47(A) & (B), the plaintiff must conspicuously provide notice that he or she is exercising this right in the successful bidder's form. Failure to do so will result in waiver of this right.

- (F) **Sheriff's Sale Purchaser's Deposit.** In sheriff's sales of residential real property, if the party awarded a decree of foreclosure is the purchaser at the sale, the purchaser will not be required to make a sale deposit. In all other sheriff's sales of real property, the purchaser must deposit the following amount at the time of sale:

If the appraised value of the property (or minimum bid in cases that do not require an appraisal) is:
 - (1) Less than or equal to \$10,000.00, the deposit will be \$2,000.00;
 - (2) Greater than \$10,000.00 but less than or equal to \$200,000.00, the deposit will be \$5,000.00;
 - (3) Greater than \$200,000, the deposit will be \$10,000.

- (G) **Failure to Make Deposit.** For sheriff's sales conducted in person and not online, if a successful bidder cannot make the appropriate deposit immediately following the sheriff's sale, the sheriff will disregard the bid and must immediately re-offer the property for sale.

- (H) **Failure of Purchaser to Provide Information Required by R.C. 2329.271.** If the purchaser fails to provide the information required by R.C. 2329.271, including proof of its active status with the Secretary of State (if the purchaser is not an individual), the sale will be vacated upon the motion of any interested party, as provided in R.C. 2329.27(B)(1).

- (I) **Time to Pay Balance of Purchase Price and Interest on Unpaid Balance.**

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- (1) The purchaser must pay the balance of the purchase price to the sheriff within 30 days of the confirmation of the sale.
 - (2) Unless the purchase price is paid in full within 15 days of date of sale relating to tax delinquencies or within eight days of other sales, the balance due will bear interest at the rate of 10% per annum from the date of sale to the date of payment. The sheriff must apply the interest to the costs of the case and, if interest remains, distribute the balance to the parties in the proper order of priority.
 - (3) The sheriff must include notice of these payment provisions in each advertisement of sale.
- (J) **Extension of Time to Pay.** The purchaser for good cause may move for an extension of time to pay the balance of the purchase price. The court has discretion to grant or deny the extension.
- (K) **Sheriff's Deed.** On the day following confirmation, the clerk must notify the sheriff of the confirmation. The party who orders the sale must prepare a proposed deed and deliver the deed to the sheriff within seven days of the confirmation of the sheriff's sale. If a deed is not timely delivered to the sheriff, the sheriff may prepare a deed and bill the party who ordered the sale or the party's attorney an appropriate fee for preparing the deed.
- (L) **Failure to Pay.**
- (1) **Motion for Contempt Filed by the Sheriff.** If a purchaser fails to timely pay the full purchase price as provided in Part I of this rule, upon motion filed by the sheriff, the case will proceed according to R.C. 2329.30, R.C. 2327.04, and R.C. 2705.05.
 - (2) **Motion for Contempt Filed by a Party to the Case.** Unless otherwise ordered by the court, if a purchaser fails to timely pay the full purchase price as provided in Part I of this rule, upon motion filed by any interested party to the case, or the court's own motion, the sheriff's sale and confirmation will be vacated, the order of sale will be returned without execution and the purchaser's deposit will be forfeited. These consequences of failure to pay are in addition to any sanctions the court may impose on the defaulting purchaser for contempt pursuant to R.C. 2329.30, R.C. 2327.04, and R.C. 2705.05.
 - (3) **Distribution of Deposit.** In any case where the purchaser's deposit has been forfeited, the sheriff must reimburse the costs related to the failed sale, including sheriff's costs, to the party who ordered the sale out of this deposit. Unless otherwise ordered by the court, the sheriff must refund the remainder of the deposit to the sheriff's sale purchaser.
- (M) **Land Bank Provisions.** An electing subdivision, as defined in R.C. 5722.01, that purchases the property at sheriff's sale is exempt from the deposit requirements in Part F of this rule. All costs of the proceeding must be paid before a deed may be issued to an electing subdivision that purchases property at sheriff's sale.
- (N) **Sheriff's Appraisers' Fees.**
- (1) **Standard Appraisals.** Appraisal fees are based on the fiscal officer's last tax appraisal of the property as shown by the tax duplicates and are scaled as follows:
 - (a) For property with a tax value of \$0 to \$100,000: each appraiser will receive \$50;

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- (b) For properties with a tax value in excess of \$100,000: each appraiser will receive an additional \$1.25 for each \$5,000 of value or fraction thereof in excess of \$100,000.
 - (c) In addition to the fees above, the appraiser who uses his personal vehicle to transport the appraisers to the appraised property is entitled to mileage as determined by the Sheriff.
 - (d) The appraisers are entitled to a separate appraisal fee for each legal description appraised. If a legal description is associated with multiple parcel numbers, the appraisers will be entitled to only one appraisal fee.
- (2) **Proposed Order to Pay Standard Appraisals.** Compensation for appraisals pursuant to this standard scale may be made without a motion. In cases where the standard scale applies, the sheriff may submit for the court's consideration a proposed order compensating the appraisers per the scale.
- (3) **Special Appraisals.** For good cause shown, the court may award fees in excess of this scale for commercial property or residential property that requires an appraisal more extensive than the standard appraisal. Such appraisals are known as "special appraisals."
- (4) **Motion for Special Appraisal Fees.** To be compensated for a special appraisal, the appraisers must file with the Clerk of Courts a properly supported motion for fees along with a proposed order. Support for the motion must include affidavits that detail the number of hours spent and a statement of hourly rates. The motion must provide a contact address for each appraiser.
- (5) **Appraisers to be Made Court Parties and Notification.** Upon the filing of a motion for special appraisers' fees, the clerk must make the appraisers court parties for the limited purpose of notification. The clerk must send all future notifications to the appraisers at the addresses indicated in the motion.
- (6) **Hearing.** The court, in its discretion, may set a hearing on the motion.
- (7) **Approval of the Court.** No person will receive any compensation for any appraisal without approval of the court.

(O) Deposit for Special Appraisals.

- (1) In all foreclosure cases in which a special appraisal is necessary, upon notification by the sheriff, the party ordering a sheriff's sale must make a \$4,000 deposit with the clerk against the cost of the special appraisal. This deposit must be made in addition to all other required deposits and may be used only to cover the cost of the sheriff's sale appraisal.
- (2) Prior to making the deposit, the party required to make a deposit may move with a supporting affidavit or other evidence to lower the deposit amount.
- (3) No special appraisal may be undertaken until such deposit is made.
- (4) If the actual cost of the special appraisal is greater than the amount deposited, upon notification by the sheriff of the actual cost of the special appraisal, the party ordering a sheriff's sale must make an additional deposit for the balance.

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- (5) If the actual cost of the special appraisal is less than the amount deposited or if the property is never appraised, the party ordering a sheriff's sale may move the court for a refund of the balance of the special appraisal deposit.
- (P) **Posting of this Rule.** The sheriff must keep a copy of this entire rule conspicuously posted at the place where he conducts sales and must call attention to the rule before receiving bids. For online sales, the sheriff must conspicuously provide a link to this rule on the sale website.

Amended and passed by emergency vote 08/24/2020.