

that part of the sale proceeds in question may be deposited by the foreclosure commissioner with an appropriate official or court authorized under law to receive disputed funds in such circumstances. If a procedure for the deposit of disputed funds is not available, and the foreclosure commissioner files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure commissioner's necessary costs incurred in taking or defending such action shall be deductible from the disputed funds.

(Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316.)

CODIFICATION

Section is based on section 813 of title VIII of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

§ 3763. Transfer of title and possession

(a) Delivery of deeds

The foreclosure commissioner shall, upon delivery of a deed or deeds to the purchaser or purchasers (which shall be without warranty or covenants to the purchaser or purchasers) obtain the balance of the purchase price in accordance with the terms of sale provided in the notice of default and foreclosure sale. Notwithstanding any State law to the contrary, delivery of a deed by the foreclosure commissioner shall be a conveyance of the property, and constitute passage of title to the mortgaged property, and no judicial proceedings shall be required ancillary or supplementary to the procedures provided in this chapter to assure the validity of the conveyance or confirmation of such conveyance.

(b) Right of possession

A purchaser at a foreclosure sale held pursuant to this chapter shall be entitled to possession upon passage of title under subsection (a) of this section to the mortgaged property, subject to any interest or interests not barred under section 3765 of this title. Any person remaining in possession of the mortgaged property after the passage of title shall be deemed a tenant at sufferance subject to eviction under local law.

(c) Death of purchaser

If a purchaser dies before execution and delivery of the deed conveying the property to the purchaser, the foreclosure commissioner shall execute and deliver the deed to a representative of the decedent purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

(d) Bona fide purchaser

The purchaser of property under this chapter shall be presumed to be a bona fide purchaser.

(e) No right of redemption

(1) In general

There shall be no right of redemption, or right of possession based upon a right of redemption, in the mortgagor or others subsequent to a foreclosure completed pursuant to this chapter.

(2) Certain provisions

Section 1710(*l*) of this title and section 1452c of title 42 shall not apply to mortgages foreclosed under this chapter.

(f) Taxes

When a mortgage foreclosed pursuant to this chapter is conveyed to the Secretary, no tax shall be imposed or collected with respect to the foreclosure commissioner's deed (including any tax customarily imposed upon the deed instrument or upon the conveyance or transfer of title to the property). Failure to collect or pay a tax of the type and under the circumstances stated in the preceding sentence shall not be grounds for refusing to record such a deed, for failing to recognize such recordation as imparting notice, or for denying the enforcement of such a deed and its provisions in any State or Federal court.

(Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316.)

CODIFICATION

Section is based on section 814 of title VIII of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

§ 3764. Record of foreclosure and sale

(a) Statements included

To establish a sufficient record of foreclosure and sale, the foreclosure commissioner shall include in the recitals of the deed to the purchaser, or prepare as an affidavit or addendum to the deed, a statement setting forth—

- (1) the date, time, and place of the foreclosure sale;
- (2) that the mortgage was held by the Secretary, the date of the mortgage, the office in which the mortgage was recorded, and the liber number and folio or other appropriate description of the recordation of the mortgage;
- (3) the particulars of the foreclosure commissioner's service of the notice of default and foreclosure sale in accordance with sections 3758 and 3760 of this title;
- (4) the date and place of filing the notice of default and foreclosure sale;
- (5) that the foreclosure was conducted in accordance with the provisions of this chapter and with the terms of the notice of default and foreclosure sale; and
- (6) the sale amount.

(b) Effect of statements

The items set forth in subsection (a) of this section shall—

- (1) be prima facie evidence of the truth of such facts in any Federal or State court; and
- (2) evidence a conclusive presumption in favor of bona fide purchasers and encumbrancers for value without notice.

Encumbrancers for value include liens placed by lenders who provide the purchaser with purchase money in exchange for a security interest in the newly-conveyed property.

(c) Recordation of instruments

The deed executed by the foreclosure commissioner, the foreclosure commissioner's affidavit (if prepared) and any other instruments submit-