

cancel the foreclosure sale if the commissioner determines, in the commissioner's discretion, that—

(A) circumstances are not conducive to a sale which is fair to the mortgagor and the Secretary; or

(B) additional time is necessary to determine whether the security property should be withdrawn from foreclosure, as provided in section 3759 of this title.

**(2) Adjournment to same or later day**

The foreclosure commissioner may adjourn a foreclosure sale to a later hour the same day by announcing or posting the new time and place of the foreclosure sale, or may adjourn the foreclosure sale for not less than 9 and not more than 31 days, in which case the commissioner shall serve a notice of default and foreclosure sale revised to recite the fact that the foreclosure sale has been adjourned to a specified date, as well as any other information the foreclosure commissioner deems appropriate. Such notice shall be served by publication and mailing in accordance with section 3758 of this title, except that publication may be made on any of 3 separate days before the revised date of foreclosure sale, and mailing may be made at any time not less than 7 days before the date to which the foreclosure sale has been adjourned.

**(d) Cash deposits**

The foreclosure commissioner may require a bidder to make a cash deposit in an amount or percentage set by the foreclosure commissioner and stated in the notice of foreclosure sale before the bid is accepted. A successful bidder at the foreclosure sale who fails to comply with the terms of the sale may be required to forfeit the cash deposit or, at the election of the foreclosure commissioner after consultation with the Secretary, shall be liable to the Secretary for any costs incurred as a result of such failure.

**(e) Presumption of validity of sale**

Any foreclosure sale held in accordance with this chapter shall be conclusively presumed to have been conducted in a legal, fair, and reasonable manner. The sale price shall be conclusively presumed to be reasonable and equal to the fair market value of the property.

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

CODIFICATION

Section is based on section 811 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.

**§ 3761. Foreclosure costs**

The following foreclosure costs shall be paid from the sale proceeds before satisfaction of any other claim to such sale proceeds:

**(1) Advertising and postage**

Necessary advertising costs and postage incurred in giving notice pursuant to sections 3758 and 3760 of this title.

**(2) Mileage**

Mileage (determined by the most reasonable road distance) for posting notices and for the

foreclosure commissioner's or auctioneer's attendance at the sale, as provided in section 1821 of title 28.

**(3) Title and lien search**

Reasonable and necessary costs incurred in connection with any search of title and lien records.

**(4) Recordation fees**

Costs incurred to record documents.

**(5) Commission**

A commission for the foreclosure commissioner (if the foreclosure commissioner is not an employee of the United States) for the conduct of the foreclosure, to the extent such a commission is authorized by the Secretary.

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

CODIFICATION

Section is based on section 812 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.

**§ 3762. Disposition of sale proceeds**

**(a) Priority payments**

Money realized from a foreclosure sale shall be made available for obligation and expenditure in the following order:

**(1) Costs of foreclosure**

To cover the costs of the foreclosure proceeding described in section 3761 of this title.

**(2) Tax liens**

To pay valid tax liens or assessments if required by the notice of default and foreclosure sale.

**(3) Prior liens**

To pay any liens recorded before the recording of the mortgage which are required to be paid in conformity with the terms of sale in the notice of default and foreclosure sale.

**(4) Service charges and advances**

To pay service charges and advances for taxes, assessments, and property insurance premiums.

**(5) Interest**

To pay any outstanding interest.

**(6) Principal**

To pay the principal outstanding balance secured by the mortgage (including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the mortgage agreement and interest thereon if provided for in the mortgage agreement).

**(7) Late charges or fees**

To pay any late charges or fees.

**(b) Other payments**

**(1) Other lienholders and the mortgagor**

Any surplus of proceeds from a foreclosure sale, after payment of the items described in subsection (a) shall be paid in the following order:

(A) First, to holders of liens recorded after the mortgage in the order of priority under