

§ 3760. Conduct of sale; adjournment**(a) In general****(1) Manner and time**

A foreclosure sale pursuant to this chapter shall be held at public auction and shall be scheduled to begin between the hours of 9 o'clock ante meridian and 4 o'clock post meridian local time.

(2) Location

The foreclosure sale shall be held at a location specified in the notice of default and foreclosure sale and such location shall be at a place where foreclosure real estate auctions are customarily held in the county or counties in which the property to be sold is located, or at a courthouse therein, or at or on the property to be sold. Sale of security property situated in two or more counties may be held in any 1 of the counties in which any part of the security property is situated.

(3) Sale of multiple properties

The foreclosure commissioner may designate the order in which multiple security properties are sold.

(b) Duties of foreclosure commissioner**(1) Conduct of sale****(A) In general**

The foreclosure commissioner shall conduct the foreclosure sale in accordance with the provisions of this chapter and in a manner fair to both the mortgagor and the Secretary.

(B) Written bids

Written one-price sealed bids shall be accepted by the foreclosure commissioner from the Secretary and other persons for entry by announcement by the foreclosure commissioner at the sale.

(C) Auctioneer

The foreclosure commissioner may serve as auctioneer, or, in accordance with regulations of the Secretary, may employ an auctioneer to be paid from the commission provided for in section 3761(5) of this title.

(2) Eligible participants**(A) In general**

The Secretary, and any other person who has submitted a written one-price bid, may bid at the foreclosure sale.

(B) Prohibited participants

The foreclosure commissioner or any relative, related business entity, or employee of the foreclosure commissioner or a related business entity shall not be permitted to bid in any manner on the security property subject to foreclosure sale, except that the foreclosure commissioner or an auctioneer may be directed by the Secretary to enter a bid on the Secretary's behalf.

(c) Adjournment or cancellation of sale**(1) General authority**

The foreclosure commissioner may, before or at the time of the foreclosure sale, adjourn or

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