

Transmittal Sheet For Notice Of Intended Action

Control: 810

Department or Agency: Revenue

Rule Nos: 810-12-1-.07

Rule Title: Sale of Real Property Acquired through a Sheriff's Sale by means of Public Auction or Public Sale Under Sealed Bids

New; Amended; Repealed; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that result from the absence of the proposed rule? N/A

Are all the facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes


Does the proposed rule relate to or effect any matter of litigation which the agency is a party to concerning the subject matter of the proposed rule? No

Does the proposed rule have any economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.



Signature of certifying officer

Date 09/18/2018

**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

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X New _____ Amend _____ Repeal _____ Adopt by Reference

NO

This rule has no economic impact.

YES

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:
2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:
3. EFFECT OF THIS RULE ON COMPETITION:
4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:
5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:
6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:
7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:
8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE BENEFITS AND BURDEN COMPARISON:
9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
11. OTHER COMMENTS:

**ALABAMA DEPARTMENT OF REVENUE
Collection Services**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-12-1-.07

Sale of Real Property Acquired through a Sheriff's Sale by means of Public Auction or Public Sale Under Sealed Bids

INTENDED ACTION

New

SUBSTANCE OF

The department proposes to set forth departmental guidelines and procedures

PROPOSED ACTION:

for the sale of real property acquired through a Sheriff's Sale.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **02:00 PM on Tuesday, November 13, 2018, Room 1203, First Floor**, Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at <http://www.revenue.alabama.gov/tax-policy/>.

All interested parties may present their views in writing to the **Secretary of the Alabama Department of Revenue, Room 4131, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time following publication of the notice up until the conclusion of the hearing. Interested parties may also appear at the hearing to present their views.

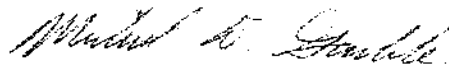
FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Tuesday, November 13, 2018

CONTACT PERSON AT AGENCY:

Meagan Barrett

Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380



Michael D. Gamble, Secretary
Alabama Department of Revenue

810-12-1-.07 Sale of Real Property Acquired through a Sheriff's Sale by means of Public Auction or Public Sale Under Sealed Bids

(1) PURPOSE. To set forth departmental guidelines and procedures for the sale of real property acquired through a Sheriff's Sale that are consistent with the provisions of §40-29-23(b), Code of Ala. 1975.

(2) SEALED BID GUIDELINES AND PROCEDURES. The department shall use the procedures below for the sale of real property under sealed bids after the right of redemption has expired as provided in §40-29-28(b), Code of Ala. 1975.

(a) At any time prior to the sealed bid opening date, the taxpayer may redeem his property by paying to the department the amount of the final assessment, along with accrued interest, and all costs of the sale. Such costs may include advertising fees, online fees, and other reasonable costs that the department incurs in connection with preparing the property for sale.

(b) The department will offer for sale only the right, title, and interest of the department in and to the property. The property will be sold subject to all prior encumbrances of record. It is the duty of the bidders to determine the liens, if any, that may be a prior encumbrance on the property.

(c) Preparing the Invitation for Bids - An Invitation for Bid notice shall be prepared by the department providing the following:

1. Description of the property being offered for sale
2. County property is held
3. Sealed bid closing date and time
4. Method of submitting bid
5. Minimum bid amount
6. Bid deposit amount

(d) Terms and Conditions of Sealed Bids - Before submitting a bid, bidders must accept the following terms of the Invitation to Bid:

1. The department reserves the right to withdraw the property from sale and the right to reject bids at any time.

2. The day, time, and location of when the property is to be sold will be set by the department.

3. The department will use an online bid process for the sale of real property, unless it is determined not to be in the state's best interest. Special circumstances where a bid cannot be submitted using the prescribed method above can be granted with written preapproval from the Director of Collection Services.

4. All parcels are being offered "as is" and "where is" without recourse against the department. It is the responsibility of the bidder to inspect the property conditions before submitting a bid and without trespassing on the property in any manner.

5. The department makes no guarantee or warranty, express or implied, as to the validity of the title, quality, weight, size, or condition of the property or its fitness for any use or purpose.

6. No claim will be considered for allowance, adjustment, or rescission of the sale based upon failure to conform to any representation, express or implied.

7. The minimum bid amount will be determined by the department after evaluation of the equity in the property and the amount due on the final assessment(s).

8. A bid deposit of 10 percent of the total amount of the bid must be submitted in certified funds or online as a direct debit payment.

9. Within 30 days of notification of acceptance of the bid, the remaining bid price must be paid in full.

10. The deposit of the bidder to whom the award is made will be held in escrow until sale of the property is complete; if that bidder refuses at any time to complete the sale, the deposit will be forfeited to the department and the property offered to the next highest bidder.

11. The department shall convey the property by issuing a deed to the highest bidder after receipt of full payment of the bid amount.

12. All bidders must be at least 18 years of age at time of submitting the bid.

13. All contact information on the bid form must be filled out completely.

(e) Advertising the Invitation for Bids - The department will advertise the property in a newspaper of general circulation or a similar type publication in the county where the property is located, once a week for three successive weeks prior to the sale as prescribed in § 40-29-23(b), Code of Ala.1975.

(f) Submission of Bids - Bidders must submit sealed bids before the closing date and time stated in the Invitation for Bids Notice. Bids will not be accepted after the advertised deadline for any reason.

(g) Payment of Deposit Bid - The bid deposit of 10 percent of the total amount of the bid must be submitted before the closing date and time in order for the bid to be considered complete.

(h) Opening of Bids - The bids will be publicly opened by the department at a predetermined time and place specified in the Invitation for Bids Notice.

(i) Evaluation and Comparison of Bids - After all sealed bids have been opened in the department and viewed by the Director of the Collection Services Division, all bids will be sorted from the highest bid to the lowest bid for evaluation and comparison.

(j) Selection of the Highest Bid - After all bids have been evaluated from the highest to the lowest bid, the highest bidder will be selected and awarded the property. In the event two or more highest bids are equal in amount, the highest bidder will be determined by the department by either comparing the earliest submission time and date of the online bid or by drawing lots. The process of drawing lots will be left to the discretion of the Director of the Collection Services Division.

(k) Award of Contract to Highest Bidder - An award notice will be sent to the selected highest bidder giving the highest bidder 30 days to pay the remaining bid amount. The remaining bid amount must be submitted in certified funds to complete the sale.

(l) Notification to Unsuccessful Bidders - The department will notify each unsuccessful bidder after award of bid, and the deposit bid amount shall be returned to each unsuccessful bidder within a reasonable period determined by the department.

(m) Application of Proceeds from Sale - Any proceeds from the sale of the property and the amount paid by the successful bidder will be credited or applied as provided in §40-29-33, Code of Ala. 1975.

(n) Preparation of Deed - Upon payment in full of the total bid amount, the department shall prepare a deed for the successful bidder transferring the right, title, and interest of the department as provided in §40-29-29, Code of Ala. 1975. The department will also record the deed in the probate office of the county in which the property is located.

Author: Stacy Hunter
Authority: §§ 40-2A-7(a)(5), 40-2-11(16), 40-29-23, 40-29-26, 40-29-28, 40-29-29, 40-29-33, 40-29-34, Code of Ala. 1975.
History: New rule: Filed September 20, 2018; effective .