

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 202*
Committee Substitute Favorable 2/26/97

Short Title: Increase Minimum Upset Amount.

(Public)

Sponsors:

Referred to:

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE MINIMUM AMOUNT BY WHICH AN UPSET BID ON REAL PROPERTY IN JUDICIAL SALES AND EXECUTION SALES MUST EXCEED THE REPORTED SALE PRICE, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1-339.25(a) reads as rewritten:

"(a) An upset bid is an advanced, increased or raised bid whereby a person offers to purchase real property theretofore ~~sold, sold~~ for an amount exceeding the reported sale price by ~~ten percent (10%) of the first \$1000 thereof plus a minimum of five percent (5%) thereof, of any excess above \$1000,~~ but in any event with a minimum increase of \$25, seven hundred fifty dollars (\$750.00). ~~such increase being deposited in cash, or by certified check or cashier's check satisfactory to the said clerk, with the clerk of the superior court, with whom the report of the sale was filed, within ten days after the filing of such report; such deposit to be made with the clerk of superior court before the expiration of the tenth day, and if the tenth day shall fall upon a Sunday or holiday, or upon a day in which the office of the clerk is not open for the regular dispatch of its business, the deposit may be made on the day following when said office is open for the regular dispatch of its business.~~ An upset bid shall be made by delivering to the clerk of superior court, with whom the report of sale was filed, a deposit

1 in cash or by certified check or cashier's check satisfactory to the clerk in an amount
2 greater than or equal to five percent (5%) of the amount of the upset bid but in no event
3 less than seven hundred fifty dollars (\$750.00). The deposit required by this section shall
4 be filed with the clerk of the superior court, with whom the report of sale was filed, by
5 the close of normal business hours on the tenth day after the filing of the report of sale,
6 and if the tenth day shall fall upon a Sunday or legal holiday, or upon a day in which the
7 office of the clerk is not open for the regular dispatch of its business, the deposit may be
8 made on the day following when said office is open for the regular dispatch of its
9 business. An upset bid need not be in writing, and the timely deposit with the clerk of the
10 required amount, together with an indication to the clerk as to the sale to which it is
11 applicable, is sufficient to constitute the upset bid, subject to the provisions of subsection
12 (b)."

13 Section 2. G.S. 1-339.64(a) reads as rewritten:

14 "(a) An upset bid is an advanced, increased or raised bid whereby a person offers to
15 purchase real property theretofore ~~sold,~~ sold for an amount exceeding the reported sale
16 price by ~~ten percent (10%) of the first \$1000 thereof plus a minimum of five percent (5%)~~
17 ~~thereof, of any excess above \$1000,~~ but in any event with a minimum increase of \$25,
18 seven hundred fifty dollars (\$750.00). ~~such increase being deposited in cash, or by certified~~
19 ~~check or cashier's check satisfactory to the said clerk, with the clerk of the superior court, with~~
20 ~~whom the report of the sale was filed, within ten days after the filing of such report; such deposit~~
21 ~~to be made with the clerk of superior court before the expiration of the tenth day, and if the tenth~~
22 ~~day shall fall upon a Sunday or holiday, or upon a day in which the office of the clerk is not open~~
23 ~~for the regular dispatch of its business, the deposit may be made on the day following when said~~
24 ~~office is open for the regular dispatch of its business. An upset bid shall be made by~~
25 ~~delivering to the clerk of superior court, with whom the report of sale was filed, a deposit~~
26 in cash or by certified check or cashier's check satisfactory to the clerk in an amount
27 greater than or equal to five percent (5%) of the amount of the upset bid but in no event
28 less than seven hundred fifty dollars (\$750.00). The deposit required by this section shall
29 be filed with the clerk of the superior court, with whom the report of sale was filed, by
30 the close of normal business hours on the tenth day after the filing of the report of sale,
31 and if the tenth day shall fall upon a Sunday or legal holiday, or upon a day in which the
32 office of the clerk is not open for the regular dispatch of its business, the deposit may be
33 made and the upset bid filed on the day following when said office is open for the regular
34 dispatch of its business. An upset bid need not be in writing, and the timely deposit with
35 the clerk of the required amount, together with an indication to the clerk as to the sale to
36 which it is applicable, is sufficient to constitute the upset bid, subject to the provisions of
37 subsection (b)."

38 Section 3. This act becomes effective January 1, 1998, and applies to judicial
39 sales and execution sales occurring on or after that date.