

810-12-1-.05 Sale of Seized Property.

(1) The Commissioner or his delegate shall, as soon as practical after the seizure of any property, give notice of sale in writing to the owner, or in the case of personal property, the possessor thereof, by personal service, or such notice shall be left at his usual place of abode or business. If the owner cannot be readily located or has no dwelling or place of business within the State of Alabama, the notice may be mailed to his last known address. Such notice shall contain, in the case of real property, a description with reasonable certainty of the property seized. The Commissioner or his delegate shall also cause a notification to be published in some newspaper published or generally circulated within the county wherein such seizure is made, or if there be no newspaper published or generally circulated in such county, he shall post notice at the Post Office nearest the place where the seizure is made, and in not less than two other public places. Such notice shall specify the property to be sold, and shall include both a legal description and a readily understandable layman's description, and the time, place, manner, and other conditions of sale thereof.

(2) Each public notice shall clearly describe the following:

(a) Time and place of sale. - All sales shall be held within the county in which the property is seized, except that where property is owned in two or more counties, sales of all the property may be held in either county.

(b) Minimum price. - Before the sale, the Commissioner or his delegate may determine a minimum price for which the property shall be sold, and if such minimum price is determined, and if no person offers the amount of the minimum price, the property shall be declared to be purchased at such price for the State of Alabama; otherwise the property shall be declared to be sold to the highest bidder.

(c) Type of sale. - The notice of sale shall state whether the property is being sold by public auction or by public sale under sealed bids.

(3) In the case of the seizure of several items of property, the Commissioner or his delegate may determine whether such items shall be offered separately, in groups, or in the aggregate; and whether such property shall be offered both separately (or in groups) and in the aggregate, and sold under whichever method produces the highest aggregate amount.

(4) The Commissioner or his delegate shall determine, and the notice of sale shall state, whether payment in full shall be required at the time of acceptance of a bid, or whether a part of such payment may be deferred for such period (not to exceed one month) as may be determined to be appropriate.

(5) The Commissioner or his delegate may adjourn the sale from time to time, but in no case shall such adjournment be for a period to exceed one month. The Commissioner or his delegate must announce at the time and place of the scheduled sale

his decision to adjourn the sale, and the time and place at which the sale will be held. In case of an adjournment it will not be necessary to advertise the sale.

(6) Payment of amount bid. - If payment in full is required at the time of acceptance of a bid, and if not then and there paid, the Commissioner or his delegate shall forthwith proceed to again sell the property, unless the conditions of the sale, as published, permit part of the payment to be deferred. If such deferred payment is not paid within the prescribed period, suit may be instituted against the purchaser for the purchase price or such part thereof if it has not been paid, together with interest at the rate applicable to liabilities due the Department of Revenue from the date of the sale; or in the discretion of the Commissioner or his delegate, the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold. In the event of such re-advertisement and sale, any new purchaser shall receive such property or rights to property free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.

(7) Sale of perishable goods. - If the Commissioner or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense, he shall estimate the market value of such property and;

(a) Return to owner. - If the owner of the property can be readily found, the Commissioner or his delegate shall give him notice of such determination of the appraised value of the property. The property shall be returned to the owner if, within such time as may be specified in the notice, the owner:

1. Pays to the Commissioner or his delegate an amount equal to the estimated value; or

2. Gives bond in such form, with such sureties, and in such amount as the Commissioner or his delegate shall prescribe, to pay the appraised amount at such time as the Commissioner or his delegate determines to be appropriate in the circumstances.

(b) Immediate sale. - If the owner has not paid such amount or furnished such bond, the Commissioner or his delegate may immediately announce and offer for sale to the general public at auction the property seized.

(8) Upon the expiration of any redemption period, real property acquired by the Department of Revenue as a result of such sale(s) may be advertised and sold by either public auction or public sale under sealed bids.

(9) Consent to sale of property seized in satisfaction of a jeopardy assessment. - If the owner of any property seized by the Department of Revenue to satisfy a jeopardy assessment files an appeal of the jeopardy assessment, the Commissioner or his delegate shall hold the property during the pendency of the appeal unless the owner of

the seized property consents to the sale of such property. In the absence of written consent to the sale of such seized property, the Department of Revenue will continue to hold the property and storage charges will continue to accrue. All costs related to the storing and securing of such seized property are the responsibility of the owner of the property seized. If the owner of the property seized consents to the sale of such property, the amount realized from the sale, less costs incurred, will be held in escrow by the Department of Revenue pending a final court decision on the appeal. The owner of any property seized by the Department of Revenue to satisfy a jeopardy assessment may obtain said property by depositing the full amount of the jeopardy assessment together with interest with the Department, to be held in escrow pending a final court decision on the appeal of the assessment.

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