

Section 1. Section 45.0311, Florida Statutes, is created to read:

45.0311 Mandatory requirements for judicial foreclosure sales of residential real property.—

(1) In a foreclosure action of residential real property, the court may not approve a request from a party to substantially deviate from the judicial sales procedures of s. 45.031, except as provided in this section.

(2) The Legislature finds that a deviation from the judicial sales procedures under s. 45.031 may be beneficial in certain foreclosure proceedings due to the nature of the real or personal property to be sold under an order or a judgment to maximize the potential sales proceeds, including the net proceeds thereof, for the benefit of all parties. Transparency is necessary for all alternative procedures to prevent overreach by any party, avoid fraud, and maximize the sales price while minimizing expenses and delays. A person who facilitates alternative sales or handles deposits or sales proceeds, including surplus proceeds, must be qualified, independent, and not related to any party or an attorney for a party and must be subject to the provisions of this section and the jurisdiction of the court.

(3) A party requesting sales procedures that deviate from the judicial sales procedures of s. 45.031 in a foreclosure action of residential real property must request the relief clearly and in a separate motion. If the movant is not the owner of record, the movant must attach to the motion a separate written consent from each owner of record, and if the movant is not the plaintiff, the movant must attach to the motion a separate written consent from the plaintiff. The consent(s) required by this subsection must be notarized or verified and contemporaneous to and reference the motion requesting a deviation from the judicial sales procedures of s. 45.031. In a foreclosure action of residential real property, the court may not hear a motion requesting a deviation from the judicial sales procedures of s. 45.031 that lacks the consent as required by this subsection, further, the court lacks jurisdiction to hear such a motion filed without the required consent. Any deviation from the judicial sales procedures of s. 45.031 authorized by the court must be set forth in writing in the final judgment of foreclosure or other order.

(4) A trial court may not alter any of the following requirements for a judicial foreclosure sale of residential real property:

(a) Only one set of bidding procedures may apply to a sale. Each bidder must follow the same procedures and receive the same information relating to the sale of the real or personal property. Preferences or advantages may not be given to any party, person, or bidder.

(b) The publication of the notice of sale must meet or exceed the requirements of s. 45.031(2).

(c) Credit bid rights must be limited to the amount owed to the plaintiff as provided in the order or final judgment that determined such amount. Any bid by the plaintiff in excess of the amount awarded to the plaintiff in the order or final judgment amount must be paid in cash.

(d) The highest bidder, inclusive of both a credit bid and cash bid, must win the bid. The deadline for payment of the winning bid may not exceed 5 business days.

(e) An in-person auction may not be conducted outside of the county where the action is pending.

(f) Costs, fees, and service charges that are payable to the clerk of the court may not be waived.

(g) The 10-day period to object to the sale as provided in s. 45.031(5), and the confirmation of the sale as provided in s. 45.031(6), may not be altered.

(h) The requirements related to a foreclosure surplus in ss. 45.031(1), 45.032, 45.033, and 45.035(2) may not be waived.

(5) If the party requests that the court authorize someone other than the clerk of the court or the sheriff to conduct the sale, the request must be clearly stated in the motion requesting a deviation and the following requirements apply:

(a) An alternative auctioneer must have insurance, in an amount in excess of the approximate value of the property to be sold, or post a bond filed with and payable to the clerk of court to protect the interests of the parties. The court must set the amount of the bond as the approximate the value of the property to be sold. An attorney in the action may not be the auctioneer. The auctioneer must recuse himself or herself if a business partner or relative within the third degree consanguinity registers or attempts to bid.

(b) Any person holding funds must have insurance or post sufficient bond to protect the interests of the parties.

(c) An in-person auction must be conducted in a place that is open to the general public at the time of the auction and that is reasonably accessible.

(6) As used in this section, the term “residential real property” means improved residential property of four or fewer residential dwelling units or unimproved residential real property on which four or fewer residential dwelling units may be built.

Section 2. This act shall take effect July 1, 2026.

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