
DIGEST

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Jay Morris

HB No. 306

Abstract: Provides for the submission of written bids by the seizing creditor at public auction.

Present law provides for the requirements and procedures for conducting public sales by auction, including the requirement of advertising the time and location of the sale.

Proposed law requires the sheriff to establish procedures for the acceptance of bids in writing from the seizing creditor holding a security interest in the property to be sold.

Proposed law authorizes the written bids to be submitted by U.S. Postal Service, e-mail, facsimile, or by other electronic submission, but requires the bid to be received at least one hour prior to the time scheduled for the sale.

Proposed law provides that written bids shall be deemed sealed until after the time designated by the sheriff as the time for opening such bids, and that no written bid submitted pursuant to proposed law shall be accepted by the sheriff unless it is received by the sheriff at least one hour prior to the time designated for the sale.

Proposed law provides that written bids may contain an offer to exceed each bid by third parties and the debtor at public auction by any incremental, whole-dollar amount up to a maximum bid, which maximum bid shall remain confidential.

Proposed law provides that if the maximum authorized bid exceeds the balance of the debt due to that creditor, the creditor shall submit with the written bid certified funds sufficient to satisfy the amount exceeding the balance of the debt due to that creditor.

Proposed law provides that if the sheriff fails to offer or consider a validly submitted bid at public auction, the creditor may demand that the sheriff reset the public sale at no additional cost to any of the creditors but that the sheriff shall not be liable for any other damages.

(Amends C.C.P. Art. 2339; Adds R.S. 13:4342)