

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR CITRUS COUNTY, FLORIDA**

FOURTH AMENDED ADMINISTRATIVE ORDER NO. C-2012-10-D

IN RE:

**STANDARD PROCEDURES AND LANGUAGE
IN FORECLOSURE PROCEEDINGS; ELECTRONIC
FORECLOSURE SALES IN LIEU OF ON-SITE
AUCTIONS; WRITS OF POSSESSION**

WHEREAS, in an effort to promote uniformity and ease of review in examining proposed Final Judgments of Foreclosures and to follow the provisions of Fla.R.Civ.P Form 1.996; and

WHEREAS, pursuant to Section 45.031(10), Florida Statutes, the Clerk of the Circuit Court is statutorily authorized to conduct the sale of real or personal property under an order or judgment by electronic means, and

WHEREAS, the Clerk of the Circuit Court of Citrus County, Florida, has made electronic judicial sales available through online access, and has established criteria and procedures to sell property for cash at a public sale to the highest and best bidder, and

WHEREAS, electronic judicial sales will eliminate the need for security personnel at on-site sales, eliminate impropriety and collusion among bidders and increase accessibility to interested parties to view, research, bid and manage cases, and

WHEREAS, the electronic foreclosure sales process will be available commencing Thursday, June 21, 2012, at the Clerk's foreclosure auction website at www.citrus.realforeclose.com, and

WHEREAS, the final judgments of foreclosure entered and scheduled for a live auction before June 21, 2012, will continue to be held as live auctions at the Citrus County Courthouse until the last day which is June 14, 2012, and

NOW THEREFORE, pursuant to the authority vested in me as Administrative Judge of Citrus County, in the Fifth Judicial Circuit of Florida, under Rule 2.215, Florida Rules of Judicial Administration, the Court adopts the following procedures and standard language for foreclosure sale proceedings in the Circuit Court in and for Citrus County, Florida. It is hereby

ORDERED AND ADJUDGED as follows:

1. Procedures for all Foreclosure Actions

A. The Clerk, all parties, bidders and the public at large shall become familiar with and follow the laws regarding foreclosures, all current statutes, in particular Chapter 45, Florida Statutes, rules, forms, administrative orders and any other laws pertaining to foreclosure issues.

B. For all hearings on motions for entry of a summary or default final judgment, counsel for Plaintiff shall forward the final judgment, notice of sale, final disposition form and original loan documents in a manner that ensures receipt of the documents by the court **AT LEAST 10 BUSINESS DAYS PRIOR TO THE DATE OF THE HEARING.** If the documents do not arrive timely, the hearing may be cancelled. The original loan documents should be sent directly to the Clerk of Court with a copy of the notice of hearing sent to the Judicial Assistant.

C. Plaintiffs are required to provide sufficient stamped envelopes and copies of all proposed orders and judgments for use by the clerk.

2. Final Judgments

A. Plaintiffs shall use Final Judgment of Foreclosure Form 1.996(a), Fla.R.Civ.P.

B. All proposed Final Judgments of Foreclosure and all Notices of Sale and Notices of Rescheduled Sale shall include the language "bidding begins at 10:00 a.m. Eastern Standard Time on www.citrus.realforeclose.com."

C. All proposed Final Judgments and all Notices of Sale and Notices of Rescheduled Sale shall contain the following language required pursuant to Administrative Order C-2010-06-A:

"If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator at the Office of the Trial Court Administrator, Citrus County Courthouse, 110 N. Apopka Avenue, Inverness, FL 34450, (352) 641-6700, at least seven (7) days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than seven days; if you are hearing or voice impaired, call 711."

3. Sale Date

The Final Judgment shall direct that the foreclosure sale take place not less than twenty (20) days or more than thirty-five (35) days after entry of the Final Judgment, unless the Plaintiff or the Plaintiff's attorney consents to some other time. See §45.031, Florida Statutes.

4. Proof of Publication/Notice of Sale/Notice of Rescheduled Sale

Pursuant to §702.035, Florida Statutes, it is the responsibility of the Plaintiff or the Plaintiff's attorney to complete and submit Notices of Sale and Notices of Rescheduled Sale directly to the newspaper. Proof of Publication of Sale or Rescheduled Sale shall be filed with the Clerk of Court no later than three (3) business days prior to any and all sales. Failure to comply will result in cancellation of the sale by the Clerk.

5. Cancellation of a Foreclosure Sale

Sales ordered by the Court may be cancelled by court order, satisfaction of the judgment or a Notice of Filing Bankruptcy. Parties shall use approved Form 1.996(b), Motion to Cancel and Reschedule Foreclosure Sale, Fla.R.Civ.P. Motions to cancel foreclosure sales shall not be filed on the day of the sale, except for extenuating circumstances as set forth in the motion, when such circumstances constitute good cause. Plaintiffs are required to pay the statutory sale fee on or before the date of sale or the sale may be cancelled.

6. Procedures for Electronic Foreclosure Sales

A. Effective June 21, 2012, all Judicial Mortgage Foreclosure Sales shall be conducted online via the internet at www.citrus.realforeclose.com. In the event the online sales option is unavailable, or should the Court so provide in the Final Judgment or other order, judicial sales may be, from time to time, conducted at the Citrus County Courthouse at 110 N. Apopka Avenue, Inverness, FL 34450.

(1) For sales currently scheduled to be held in the Citrus County Courthouse after June 21, 2012, the Clerk shall, at its expense, be responsible for providing written notification via U.S. mail to all parties listed in the Final Judgment of Foreclosure, of the electronic, rather than on-site, auctions to be conducted.

(2) The Clerk's notification shall state:
"Pursuant to Administrative Order No. _____ the Citrus County Clerk of the Courts is authorized to conduct on-line auctions of real property in lieu of on-site auctions. The Clerk of the Courts shall sell the property described in the Final Judgment or any court order scheduling the sale, on-line at 10:00 a.m. (Eastern

Standard Time) at www.citrus.realforeclose.com to the highest bidder for cash after giving notice as required by section 45.031, Florida Statutes.

The *date* of the sale as described in the Final Judgment or any other court order rescheduling said sale remains *unchanged*. All other provisions of the Final Judgment or any other court order rescheduling the sale shall remain in full force and effect, except where inconsistent with this Administrative Order.

B. Prospective bidders are responsible for conducting their own research regarding property being sold. Neither the Court nor the Clerk make any representation about the condition, marketability, existing or potential uses, title, encumbrances, zoning regulations or laws that may affect current or future uses of the property, or existence of any conditions regarding any property and structures or fixtures thereon offered for sale.

C. Electronic sales shall be conducted Thursdays (except legal holidays) beginning at 10:00 a.m. Eastern Standard Time on the date specified in the judicial order or final judgment.

D. Bidding begins at 10:00 a.m. Eastern Standard Time on www.citrus.realforeclose.com The Clerk shall make available a minimum of two public access computer terminals for bidders at the Citrus County Courthouse in Inverness. Bidders may obtain specific terminal location information in the Clerk's office.

E. In order to bid on property, bidders must register at www.citrus.realforeclose.com and place an advance deposit equal to 5% of their anticipated high bid for each item to be bid upon.

F. Advance deposits may be made in person at the Clerk's office in the Citrus County Courthouse by cash or cashier's check not more than six months old. Deposits made in person must be made by 5:00 p.m. Eastern Standard Time the day prior to the sale. Advance deposits may also be made on the website via wire transfer. Wire deposits may require one full business day for processing. Funds will not be available for bidding until such deposits have cleared.

G. Foreclosure Plaintiffs must submit the Clerk's sale fee and electronic sale fee established by law (currently both \$70.00) by the close of business the day prior to the sale date. See §§ 45.035(1) and 45.035(3), Florida Statutes. The Clerk shall not conduct the sale if the payments have not been received.

H. All bids must be made in increments of at least \$100.00 more than the previous bid. All bid increments must be made in multiples of \$100.00.

I. Five percent (5%) of the final bid will be deducted from the successful bidder's advance deposit and applied toward the sale price. If a bidder is unsuccessful, the deposit may be refunded by the Clerk without the necessity of a court order. Refunds will be made within two to five business days after the sale.

J. The successful bidder must pay the balance of the final bid plus the court registry fee by 4:00 PM Eastern Standard Time the day of the sale.

K. Final payment may only be made by wire transfer or in person at the Clerk of Court Office by cash or cashier's check not more than six months old. In the event a sale is set aside or vacated, some fees may be refundable. The court registry and electronic service charge is non-refundable.

L. Failure of the successful bidder, other than the Plaintiff, to pay the balance of the final bid plus all fees due by 4:00 PM Eastern Standard Time the day of the sale will result in forfeiture of the deposit and nullification of the sale. The forfeited deposit will be reduced by the registry fee and shall be applied to re-advertise and pay all costs of the sale. Any remaining funds from the deposit shall be applied toward the judgment. The Clerk will issue a Certificate of Incomplete Sale, and the Clerk shall reschedule the sale. See §45.035(1), Florida Statutes

If the Plaintiff is the successful bidder then no Certificate of Title shall be issued until all fees and costs are paid.

M. If a bidder fails to pay the balance of the final bid, the Clerk may petition the Court to bar that person from bidding on their own behalf, or for some other person or entity at future sales.

N. Bidders who disrupt the Clerk's online sales, as well as any corporation, partnership, business or nonprofit organization under whose name they bid, may be permanently banned if they continue to engage in disruptive behavior.

O. Electronic sales do not require the presence of the plaintiff or its representative. The sale will be conducted whether or not the plaintiff participates.

7. Registry Fee

The Clerk's fee for depositing any funds into the Registry of the Court shall be paid at the same time bid funds are deposited in the Registry. The fee is determined by law. See §28.24, Florida Statutes.

8. Assignments

The name and address of the principal as provided by the successful bidder shall be the name and address appearing on the Certificate of Title unless (a) an original Assignment of Judgment is filed by the Plaintiff prior to the sale, or (b) an original Assignment of Bid is filed by a successful bidder subsequent to the sale. All Assignments of Judgment made prior to the sale must be filed in the court file.

9. Certificate of Sale/Certificate of Title

- A.** A Certificate of Sale shall be issued by the Clerk of the Court as soon as possible after the sale. The right of redemption shall exist for the Mortgagor or the holder of any subordinate interest only until the issuance of said Certificate of Sale, unless otherwise specified in the Final Judgment. See §45.0315, Florida Statutes.
- B.** The Certificate of Title will be issued within ten (10) days from the date of the filing of the Certificate of Sale unless redeemed by the Defendant Mortgagor or unless an objection is filed. If any objection is filed, the Certificate of Title will not be issued until such time as an order of court is entered on the objection.
- C.** The Certificate of Title will be issued exactly in the name of the bidder as it is given at the time of registration. The successful bidder or the successful bidder's assignee should supply the Clerk with the correct mailing address to be affixed to the Certificate of Title prior to issuance of the Certificate of Title.

10. Writs of Possession

- A.** In compliance with Section 83.561, Florida Statutes, effective June 2, 2015, **prior to the Clerk issuing a Writ of Possession after foreclosure on any dwelling or residential real property, the immediate successor-in-interest shall first certify to the court that either (a) there are no qualified tenants pursuant to Section 83.561(3)(a)-(c) in possession of the property or (b) that any qualified tenants in possession have been provided the thirty (30) day NOTICE TO TENANT OF TERMINATION required by the Section 83.561(1). This certification language should state as follows:**

I HEREBY CERTIFY there are no qualified tenants pursuant to Section 83.561(3)(a)-(c) in possession of the subject property or, if there are tenants in possession, such tenants have been provided the NOTICE TO TENANT OF TERMINATION as required by Section 83.561(1), and this motion does not seek an order that violates the tenant's right to continued occupancy under the Section 83.561, Florida Statutes, effective June 2, 2015.

- B.** Upon the filing of the appropriate Motion for Writ of Possession, including the required certification described in paragraph A above, and a proposed Writ of Possession, the Clerk of Court is authorized to issue the Writ of Possession.

11. Distribution of Funds

If the Plaintiff or a third party is the successful bidder, any funds that exist shall be held in the Registry of the Court. Distribution of funds will be made in accordance with the Final Judgment of Foreclosure.

12. Order Setting Aside Sale

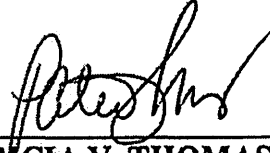
In the event an Order Setting Aside or Canceling Sale is entered by the Court subsequent to sale of the property, the Clerk's Office is hereby directed to refund to the successful bidder all sums paid by the successful bidder and deposited in the Registry of the Court. In the event the Clerk is in doubt as to the party entitled to said funds, the Clerk may apply to the Court for entry of a further Order Directing Disbursement. The registry fee is non-refundable.

13. Conflict of Authority

If any conflict arises between the terms of this Order and the terms stated in any Final Judgment of Foreclosure, this Order shall prevail unless said Final Judgment expresses a specific intent to supersede this Administrative Order.

This Order shall take effect upon entry.

DONE and ORDERED in Chambers at Inverness, Citrus County, Florida on 2 day of July, 2017, effective upon signing.



**PATRICIA V. THOMAS
ADMINISTRATIVE JUDGE
CITRUS COUNTY**