

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 1153*

Short Title: Judicial and Execution Sales Clarification.

(Public)

Sponsors: Senator Hartsell.

Referred to: Judiciary I.

June 4, 2002

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT THE RECENT ESTABLISHMENT OF A ROLLING
UPSET BID PROCEDURE FOR JUDICIAL AND EXECUTION SALES DID
NOT AFFECT THE REQUIREMENT THAT SALES BE CONFIRMED BY THE
APPROPRIATE JUDICIAL OFFICIAL, 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 in a public sale by auction whereby a person offers to purchase real property theretofore sold for an amount exceeding the reported sale price or the last upset bid by a minimum of five percent (5%) thereof, but in any event with a minimum increase of seven hundred fifty dollars (\$750.00). Subject to the provisions of subsection (b) of this section, an upset bid shall be made by delivering to the clerk of superior court, with whom the report of the sale or the last notice of upset bid was filed, a deposit in cash or by certified check or cashier's check satisfactory to the clerk in an amount greater than or equal to five percent (5%) of the amount of the upset bid but in no event less than seven hundred fifty dollars (\$750.00). The deposit required by this section shall be filed with the clerk of the superior court with whom the report of sale or the last notice of upset bid was filed, by the close of normal business hours on the tenth day after the filing of the report of sale or the last notice of upset bid, and if the tenth day falls upon a Sunday or legal 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 and the notice of upset bid may be filed on the day following when the office is open for the regular dispatch of its business. Except as provided in G.S. 1-339.27A and G.S. 1-339.30, there shall be no resales; however, there may be successive upset bids, each of which shall be followed by a period of 10 days for a further upset bid. If a timely motion for resale is filed under G.S. 1-339.27A, no upset bids may be filed while the motion is pending. ~~If an upset bid or a motion for~~

1 ~~resale under G.S. 1-339.27A is not filed within 10 days following a sale, resale, or prior~~
2 ~~upset bid, the rights of the parties to the sale or resale become fixed."~~

3 **SECTION 2.** G.S. 1-339.64(a) reads as rewritten:

4 "(a) An upset bid is an advanced, increased, or raised bid whereby a person offers
5 to purchase real property theretofore sold for an amount exceeding the reported sale
6 price or last upset bid by a minimum of five percent (5%) thereof, but in any event with
7 a minimum increase of seven hundred fifty dollars (\$750.00). Subject to the provisions
8 of subsection (b) of this section, an upset bid shall be made by delivering to the clerk of
9 superior court, with whom the report of sale or the last notice of upset bid was filed, a
10 deposit in cash or by certified check or cashier's check satisfactory to the clerk in an
11 amount greater than or equal to five percent (5%) of the amount of the upset bid but in
12 no event less than seven hundred fifty dollars (\$750.00). The deposit required by this
13 section shall be filed with the clerk of the superior court, with whom the report of sale
14 or the last notice of upset bid was filed, by the close of normal business hours on the
15 tenth day after the filing of the report of sale or the last notice of upset bid and if the
16 tenth day falls upon a Sunday or legal holiday or upon a day in which the office of the
17 clerk is not open for the regular dispatch of its business, the deposit may be made and
18 the notice of upset bid may be filed on the day following when the office is open for the
19 regular dispatch of its business. Except as provided in G.S. 1-339.66A and G.S.
20 1-339.69, there shall be no resales; however, there may be successive upset bids, each of
21 which shall be followed by a period of 10 days for a further upset bid. If a timely
22 motion for resale is filed under G.S. 1-339.66A, no upset bids may be filed while the
23 motion is pending. ~~If an upset bid or a motion for resale under G.S. 1-339.66A is not~~
24 ~~filed within 10 days following a sale, resale, or prior upset bid, the rights of the parties~~
25 ~~to the sale or resale become fixed."~~

26 **SECTION 3.** This act is effective when it becomes law.