

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 202\*  
Committee Substitute Favorable 2/26/97  
Senate Judiciary Committee Substitute Adopted 3/19/97

Short Title: Increase Minimum Upset Amount.

(Public)

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Sponsors:

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Referred to:

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February 17, 1997

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE THE MINIMUM AMOUNT BY WHICH AN UPSET BID  
2 ON REAL PROPERTY IN JUDICIAL SALES AND EXECUTION SALES MUST  
3 EXCEED THE REPORTED SALE PRICE, AS RECOMMENDED BY THE  
4 GENERAL STATUTES COMMISSION.  
5

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 1-339.25(a) reads as rewritten:

8 "(a) An upset bid is an advanced, increased or raised bid whereby a person offers to  
9 purchase real property theretofore ~~sold,~~ sold for an amount exceeding the reported sale  
10 price by ~~ten percent (10%) of the first \$1000 thereof plus a minimum of five percent (5%)~~  
11 thereof, of any excess above \$1000, but in any event with a minimum increase of \$25,  
12 seven hundred fifty dollars (\$750.00). ~~such increase being deposited in cash, or by certified~~  
13 ~~check or cashier's check satisfactory to the said clerk, with the clerk of the superior court, with~~  
14 ~~whom the report of the sale was filed, within ten days after the filing of such report; such deposit~~  
15 ~~to be made with the clerk of superior court before the expiration of the tenth day, and if the tenth~~  
16 ~~day shall fall upon a Sunday or holiday, or upon a day in which the office of the clerk is not open~~  
17 ~~for the regular dispatch of its business, the deposit may be made on the day following when said~~  
18 ~~office is open for the regular dispatch of its business.~~ An upset bid shall be made by

1 delivering to the clerk of superior court, with whom the report of sale was filed, a deposit  
2 in cash or by certified check or cashier's check satisfactory to the clerk in an amount  
3 greater than or equal to five percent (5%) of the amount of the upset bid but in no event  
4 less than seven hundred fifty dollars (\$750.00). The deposit required by this section shall  
5 be filed with the clerk of the superior court, with whom the report of sale was filed, by  
6 the close of normal business hours on the tenth day after the filing of the report of sale,  
7 and if the tenth day shall fall upon a Sunday or legal holiday or upon a day in which the  
8 office of the clerk is not open for the regular dispatch of its business, the deposit may be  
9 made on the day following when said office is open for the regular dispatch of its  
10 business. An upset bid need not be in writing, and the timely deposit with the clerk of the  
11 required amount, together with an indication to the clerk as to the sale to which it is  
12 applicable, is sufficient to constitute the upset bid, subject to the provisions of subsection  
13 (b)."

14 Section 2. G.S. 1-339.64(a) reads as rewritten:

15 "(a) An upset bid is an advanced, increased or raised bid whereby a person offers to  
16 purchase real property theretofore ~~sold,~~ sold for an amount exceeding the reported sale  
17 price by ~~ten percent (10%) of the first \$1000 thereof plus a minimum of five percent (5%)~~  
18 ~~thereof, of any excess above \$1000,~~ but in any event with a minimum increase of \$25,  
19 seven hundred fifty dollars (\$750.00). ~~such increase being deposited in cash, or by certified~~  
20 ~~check or cashier's check satisfactory to the said clerk, with the clerk of the superior court, with~~  
21 ~~whom the report of the sale was filed, within ten days after the filing of such report; such deposit~~  
22 ~~to be made with the clerk of superior court before the expiration of the tenth day, and if the tenth~~  
23 ~~day shall fall upon a Sunday or holiday, or upon a day in which the office of the clerk is not open~~  
24 ~~for the regular dispatch of its business, the deposit may be made on the day following when said~~  
25 ~~office is open for the regular dispatch of its business. An upset bid shall be made by~~  
26 ~~delivering to the clerk of superior court, with whom the report of sale was filed, a deposit~~  
27 ~~in cash or by certified check or cashier's check satisfactory to the clerk in an amount~~  
28 ~~greater than or equal to five percent (5%) of the amount of the upset bid but in no event~~  
29 ~~less than seven hundred fifty dollars (\$750.00). The deposit required by this section shall~~  
30 ~~be filed with the clerk of the superior court, with whom the report of sale was filed, by~~  
31 ~~the close of normal business hours on the tenth day after the filing of the report of sale,~~  
32 ~~and if the tenth day shall fall upon a Sunday or legal holiday or upon a day in which the~~  
33 ~~office of the clerk is not open for the regular dispatch of its business, the deposit may be~~  
34 ~~made and the upset bid filed on the day following when said office is open for the regular~~  
35 ~~dispatch of its business. An upset bid need not be in writing, and the timely deposit with~~  
36 ~~the clerk of the required amount, together with an indication to the clerk as to the sale to~~  
37 ~~which it is applicable, is sufficient to constitute the upset bid, subject to the provisions of~~  
38 ~~subsection (b)."~~

39 Section 3. This act becomes effective January 1, 1998, and applies to judicial  
40 sales when the original order of sale was issued on or after that date and to execution  
41 sales when the execution was originally issued on or after that date. This act shall not  
42 apply to any judicial sale when the original order of sale has been issued prior to the

- 1 effective date of this act or to any execution sale held pursuant to any execution
- 2 originally issued prior to the effective date of this act.