WI STATE STATUTE 846.155

846.155 Eligible bidders at foreclosure sales; affidavit required for confirmation; penalties for false representation.

(1) DEFINITIONS. In this section:

(a) "Entity" means a person other than an individual.

(b) "Taxes" means general property taxes, as defined in s. 74.01 (1), special assessments, as defined in s. 74.01 (3), special charges, as defined in s. 74.01 (4), or special taxes, as defined in s. 74.01 (5).

(c) "Third-party bidder" means a person that intends to submit a bid at a sale of mortgaged premises and that is not any of the following:

1. A party in the foreclosure action.

2. An agent of a party in the foreclosure action.

3. An assignee of the plaintiff in the foreclosure action.

(2) MINIMUM BIDDER QUALIFICATIONS. No 3rd-party bidder may submit a bid at a sale of mortgaged premises unless the 3rd-party bidder meets all of the following qualifications:

(a) The 3rd-party bidder does not own an interest in property in this state against which taxes have been levied that are more than 120 days delinquent.

(b) The 3rd-party bidder is not directly or indirectly owned, managed, or controlled, in whole or in part, by a person that owns an interest in property in this state against which taxes have been levied that are more than 120 days delinquent.

(c) The 3rd-party bidder does not directly or indirectly own, manage, or control, in whole or in part, an entity that owns an interest in property in this state against which taxes have been levied that are more than 120 days delinquent.

(d) No judgment against the 3rd-party bidder related to a violation of a state or local building code with respect to property in this state has been rendered that is unsatisfied.

(e) No judgment against a person that directly or indirectly owns, manages, or controls, in whole or in part, the 3rd-party bidder related to a violation of a state or local building code with respect to property in this state has been rendered that is unsatisfied.

(f) No judgment against an entity directly or indirectly owned, managed, or controlled, in whole or in part, by the 3rd-party bidder related to a violation of a state or local building code with respect to property in this state has been rendered that is unsatisfied.

(g) In submitting a bid at the sale, the 3rd-party bidder is not acting on behalf of or as part of an agreement with a person that does not meet the qualifications described in pars. (a) to (f).

(3) PREBIDDING ACKNOWLEDGMENTS. Before allowing a 3rd-party bidder to submit a bid at a sale of mortgaged premises, the sheriff or referee may require the 3rd-party bidder to confirm any of the following:

(a) The 3rd-party bidder meets all of the qualifications described in sub. (2).

(b) If the 3rd-party bidder submits a bid at the sale, the 3rd-party bidder will not assign the bid to a person that, if the person had submitted a bid directly at the sale, would not have met the qualifications described in sub. (2).

(c) If the 3rd-party bidder is the purchaser of the mortgaged premises, the 3rd-party bidder will file the affidavit described in sub. (5).

(d) The 3rd-party bidder is aware that, if a false representation is made in the affidavit described in sub. (5), the 3rd-party bidder, and the individual acting on behalf of the 3rd-party bidder, may be subject to the penalties described in sub. (6) (c) and (d).

(4) ASSIGNMENT OF BID TO UNQUALIFIED BIDDER PROHIBITED. No person that submits a bid at a sale of mortgaged premises, nor any assignee of that person, may assign that bid to a person that, if the person had submitted a bid directly at the sale, would not have met the qualifications described in sub. (2). This subsection does not apply to an assignment of a bid to the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation.

(5) FILING AFFIDAVIT OF MINIMUM BIDDER QUALIFICATIONS.

(a) If the grantee of a deed executed under s. 846.16 (1) (a) is not a party in the foreclosure action or the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, the grantee shall, no later than the time scheduled for confirmation of sale, file with the clerk of court an affidavit affirming that, as of the date on which the affidavit is filed, the grantee meets all of the qualifications described in sub. (2). The affidavit also shall identify the name and street address of a person in this state that is authorized to accept service of process for the grantee. If the grantee is not an individual, an individual who is authorized to act on behalf of the grantee shall sign the affidavit.

(b) The director of state courts shall provide to the clerk of court in each county a form for use in filing affidavits required under this subsection. The form shall require a person that files the affidavit to acknowledge that the person is aware that, if a false representation is made in the affidavit, the person, and the individual who signs the affidavit on behalf of the person, may be subject to the penalties described in sub. (6).

(6) AFFIDAVIT REQUIRED FOR CONFIRMATION OF SALE; PENALTIES FOR FALSE REPRESENTATIONS.

(a) If a grantee of a deed executed under s. 846.16 (1) (a) is not a party in the foreclosure action or the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, the court may not confirm the sale until the grantee files the affidavit required under sub. (5).

(b) At any time before the court confirms a sale of mortgaged premises, a party in the foreclosure action or the city, village, town, or county where the mortgaged premises are located may provide to the court testimony or evidence that the affidavit filed by a grantee under sub. (5) contains a false representation.

(c) If the court determines that the affidavit filed by a grantee under sub. (5) contains a false representation, the court may refuse to confirm the sale and may order all of the following:

1. That the grantee shall forfeit the amount of the deposit or down payment delivered to the clerk of court under s. 846.16 (1r) (b).

2. That the clerk of court shall pay the amount forfeited under subd. 1. to the parties that would be entitled to the proceeds of the sale as ordered by the court.

3. That the mortgaged premises shall be resold.

4. That the clerk of court shall destroy the deed executed to the purchaser, and that deed is of no effect.

(d) If the court determines that the affidavit filed by a grantee under sub. (5) contains a false representation that was made knowingly, in addition to any of the penalties imposed under par. (c), the court may order the grantee, the individual who signed the affidavit on behalf of the grantee, or both to forfeit up to $1,000 and may bar the grantee, the individual who signed the affidavit on behalf of the grantee, or both from submitting a bid at any sale of mortgaged premises conducted in the county for a period of time not to exceed one year from the date on which the order is entered.

History: 2017 a. 339; s. 35.17 correction in (6) (c) 1.