
WEST VIRGINIA CODE CHAPTER 55
ARTICLE 12

WV Legislature

§55-12-1. Order for sale of property; terms; sale by special commissioner or receiver; bond; deposit of proceeds; penalties.

A court, in a suit properly pending therein, may make a decree or order for the sale of property in any part of the state, and may direct the sale to be for cash, or on such credit and terms as it may deem best; and it may appoint a special commissioner or special receiver to make such sale. Every special commissioner or special receiver appointed under this section shall be a resident of the State of West Virginia, and he shall make no sale and shall receive no money under a decree or order until he give a bond with approved security before the said court or its clerk, conditioned as the law requires for the faithful accounting therefor and with the further condition that he will deposit in his name as such special commissioner or special receiver all moneys received by him as such special commissioner or special receiver in one or more banks in the county in which the suit or cause is properly instituted, and will not remove the same therefrom without the order or decree of distribution of the presiding judge; and any special commissioner or special receiver violating the conditions of his bond or the provisions of this section by making a sale or receiving money before executing bond as aforesaid, or failing to deposit the money in one or more banks in the county in which the suit or cause is properly instituted as aforesaid, or failing to keep the same therein subject to a decree of distribution, shall be guilty of a misdemeanor and, shall be punished by a fine of not less than \$25 nor more than \$100 and may be imprisoned in the county jail for a term not to exceed ten days.

§55-12-2. Notice of sale; contents; publication.

Whenever a court shall decree the sale of real estate, if it appear to the court that such real estate is of the value of \$500 or more, it shall prescribe in the decree that such sale shall be advertised in a newspaper by the commissioner or person appointed to make the sale. It shall always be advertised as a Class III legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the county where the real estate to be sold is situate. In the advertisement the commissioner shall state the time, terms and place of sale, together with a description of the property to be sold: Provided, That nothing herein shall be construed to limit the power of the court to direct sales of lands to be advertised in newspapers where the value may be less than \$500.

§55-12-3. Certificate as to bond to be appended to notice of sale; effect thereof.

Every notice of such sale shall have appended to it the certificate of such clerk that bond and security has been given by the commissioner or special receiver as required by law. When such certificate shall have been published (or posted, when the notice is posted in lieu of publication) with an advertisement of the sale of property, or when such bond shall have been given prior to a sale not publicly advertised, any person purchasing such property in pursuance of such advertisement, or in pursuance of the decree or order of sale, shall be relieved of all liability for the purchase money, or any part thereof, which he may pay to any commissioner or special receiver as to whom a proper certificate shall have been appended to such advertisement, or who shall have given the bond aforesaid.

§55-12-4. Report of sale.

The said special commissioner or special receiver shall, after the last payment required by said decree of sale or decree confirming said sale is made, make report to the court in writing, at the next term of the court thereafter, showing how the proceeds of said sale have been applied by him which report shall be approved and entered of record in the chancery order book and filed with the papers in the cause. If from any cause said report showing a final settlement cannot be made within the time aforesaid, the court may enter an order extending the time for a final report to be made. If said commissioner or special receiver fail to make such report, as aforesaid, he shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500.

§55-12-5. When sheriff to execute decree or order of sale.

Where no special commissioner or special receiver is appointed for the purpose, a decree or order of court for the sale of property shall be executed by the sheriff who attends such court, unless the place of sale be out of his county, in which case the sale shall be by the sheriff of the county wherein the place of sale is. Any sheriff or other officer receiving money under any order or decree shall pay the same and account therefor as the court may order; and if he fail so to do, he and the sureties in his official bond shall be liable therefor.

§55-12-6. Rate of commission for services of special commissioner.

For the services of commissioners or officers under any decree or order for a sale, including the collection and paying over of the proceeds, there shall not be allowed any greater commission than five percent of the amount received by them, unless the court otherwise order. And if a sale be made by one commissioner or officer and the proceeds be collected by another, the court under whose decree or order they acted shall apportion the commission between them as may be just.

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§55-12-7. Appointment of commissioner to execute deed; effect of execution.

A court of law or equity, in a suit in which it is proper to decree or order the execution of any deed or writing, may appoint a commissioner to execute the same; and the execution thereof shall be as valid to pass, release, or extinguish the right, title and interest of the party on whose behalf it is executed, as if such party had been at the time capable in law of executing the same and had executed it.

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§55-12-8. Title of purchaser not affected by reversal of decree of sale; restitution of proceeds.

If a sale of property be made under a decree or order of a court, and such sale be confirmed, though such decree or order be afterwards reversed or set aside, the title of the purchaser at such sale shall not be affected thereby; but there may be restitution of the proceeds of sale to those entitled.

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