

journal or cancel the foreclosure sale if the commissioner determines, in the commissioner's sole discretion, that circumstances are not conducive to a sale which is fair to the mortgagor and the Secretary or that additional time is necessary to determine whether the security property should be withdrawn from foreclosure as provided in section 3709 of this title. The foreclosure commissioner may adjourn a sale to a later hour the same day without the giving of further notice, or may adjourn the foreclosure sale for not less than nine nor more than twenty-four days, in which case the commissioner shall serve a notice of default and foreclosure sale revised to recite that the foreclosure sale has been adjourned to a specified date and to include any corrections the foreclosure commissioner deems appropriate. Such notice shall be served by publication, mailing and posting in accordance with section 3708 of this title, except that publication may be made on any of three separate days prior to the revised date of foreclosure sale, and mailing may be made at any time at least seven days prior to the date to which the foreclosure sale has been adjourned.

(Pub. L. 97-35, title III, §369B, Aug. 13, 1981, 95 Stat. 428.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3707, 3709, 3711, 3714 of this title.

§ 3711. Foreclosure costs

The following foreclosure costs shall be paid from the sale proceeds prior to satisfaction of any other claim to such sale proceeds:

- (1) necessary advertising costs and postage incurred in giving notice pursuant to sections 3708 and 3710 of this title;
- (2) mileage for posting notices and for the foreclosure commissioner's attendance at the sale at the rate provided in section 1921 of title 28 for mileage by the most reasonable road distance;
- (3) reasonable and necessary costs actually incurred in connection with any necessary search of title and lien records;
- (4) necessary out-of-pocket costs incurred by the foreclosure commissioner to record documents; and
- (5) a commission for the foreclosure commissioner for the conduct of the foreclosure to the extent authorized by regulations issued by the Secretary.

(Pub. L. 97-35, title III, §369C, Aug. 13, 1981, 95 Stat. 429.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3709, 3710, 3712, 3714 of this title.

§ 3712. Disposition of sale proceeds

Money realized from a foreclosure sale shall be made available for obligation and expenditure—

- (1) first to cover the costs of foreclosure provided for in section 3711 of this title;
- (2) then to pay valid tax liens or assessments prior to the mortgage;
- (3) then to pay any liens recorded prior to the recording of the mortgage which are re-

quired to be paid in conformity with the terms of sale in the notice of default and foreclosure sale;

(4) then to service charges and advancements for taxes, assessments, and property insurance premiums;

(5) then to the interest;

(6) then to the principal balance secured by the mortgage (including expenditures for the necessary protection, preservation, and repair of the security property as authorized under the mortgage agreement and interest thereon if provided for in the mortgage agreement); and

(7) then to late charges.

Any surplus after payment of the foregoing shall be paid to holders of liens recorded after the mortgage and then to the appropriate mortgagor. If the person to whom such surplus is to be paid cannot be located, or if the surplus available is insufficient to pay all claimants and the claimants cannot agree on the allocation of the surplus, or if any person claiming an interest in the mortgage proceeds does not agree that some or all of the sale proceeds should be paid to a claimant as provided in this section, that part of the sale proceeds in question may be deposited by the foreclosure commissioner with an appropriate official or court authorized under law to receive disputed funds in such circumstances. If such a procedure for the deposit of disputed funds is not available, and the foreclosure commissioner files a bill of interpleader or is sued as a stakeholder to determine entitlement to such funds, the foreclosure commissioner's necessary costs in taking or defending such action shall be deductible from the disputed funds.

(Pub. L. 97-35, title III, §369D, Aug. 13, 1981, 95 Stat. 429.)

§ 3713. Transfer of title and possession

(a) Payment and delivery of deeds

The foreclosure commissioner shall deliver a deed or deeds to the purchaser or purchasers and obtain the balance of the purchase price in accordance with the terms of sale provided in the notice of default and foreclosure sale.

(b) Quit claim deed

Subject to subsection (c) of this section, the foreclosure deed or deeds shall convey all of the right, title, and interest in the security property covered by the deed which the Secretary as holder, the foreclosure commissioner, the mortgagor, and any other persons claiming by, through, or under them, had on the date of execution of the mortgage, together with all of the right, title, and interest thereafter acquired by any of them in such property up to the hour of sale, and no judicial proceeding shall be required ancillary or supplementary to the procedures provided in this chapter to assure the validity of the conveyance or confirmation of such conveyance.

(c) Possession by purchaser; continuing interests

A purchaser at a foreclosure sale held pursuant to this chapter shall be entitled to possession upon passage of title to the mortgaged property, subject to an interest or interests sen-