

1 Rule 69B. Sale of property; delivery of property.

2 (a) Sale before judgment. The officer may sell the property before judgment if it is perishable
3 or likely to decline speedily in value. The court may order the officer to sell the property before
4 judgment if the court finds that the interest of the parties will be served by sale. The officer shall
5 keep safe the proceeds of the sale subject to further order of the court.

6 (b) Notice of sale. The officer shall set the date, time and place for sale and serve notice
7 thereof on the defendant and on any third party named by the plaintiff or garnishee. Service shall
8 be not later than the initial publication of notice of the sale. The officer shall publish notice of the
9 date time and place of sale as follows:

10 (b)(1) If the property is perishable or likely to decline speedily in value, the officer shall post
11 written notice of the date, time and place of sale and a general description of the property to be
12 sold (A) in the courthouse from which the writ was issued and (B) in at least other three public
13 places in the county or city in which the sale is to take place. The officer shall post the notice for
14 such time as the officer determines is reasonable, considering the character and condition of the
15 property.

16 (b)(2) If the property is personal property, the officer shall post written notice of the date,
17 time and place of sale and a general description of the property to be sold (A) in the courthouse
18 from which the writ was issued and (B) in at least three other public places in the county or city
19 in which the sale is to take place. The officer shall post the notice for at least seven days and
20 publish the notice at least one time not less than one day preceding the sale in a newspaper of
21 general circulation, if there is one, in the county in which the sale is to take place.

22 (b)(3) If the property is real property, the officer shall post written notice of the date, time
23 and place of sale and a particular description of the property to be sold (A) on the property, (B) at
24 the place of sale, (C) at the district courthouse of the county in which the real property is located,
25 and (D) in at least three other public places in the county or city in which the real property is
26 located. The officer shall post the notice for at least 21 days and publish the notice at least once a
27 week for three successive weeks immediately preceding the sale in a newspaper of general
28 circulation, if there is one, in the county in which the real property is located.

29 (c) Postponement. If the officer finds sufficient cause, the officer may postpone the sale. The
30 officer shall declare the postponement at the time and place set for the sale. If the postponement

31 is longer than 72 hours, notice of the rescheduled sale shall be given in the same manner as the
32 original notice of sale.

33 (d) Conduct of sale. All sales shall be at auction to the highest bidder, Monday through
34 Saturday, legal holidays excluded, between the hours of 9 o'clock a.m. and 8 o'clock p.m. at a
35 place reasonably convenient to the public. Real property shall be sold at the district courthouse of
36 the county in which the property is located. The officer shall sell only so much property as is
37 necessary to satisfy the amount due. The officer shall not purchase property or be interested in
38 any purchase. Property capable of delivery shall be within view of those who attend the sale. The
39 property shall be sold in such parcels as are likely to bring the highest price. Severable lots of
40 real property shall be sold separately. Real property claimed by a third party shall be sold
41 separately if requested by the third party. The defendant may direct the order in which the
42 property is sold.

43 (e) Accounting. Upon request of the defendant, the plaintiff shall deliver an accounting of the
44 sale. The officer is entitled to recover the reasonable and necessary costs of seizing, transporting,
45 storing and selling the property. The officer shall apply the property in the following order up to
46 the amount due or the value of the property, whichever is less:

47 (e)(1) pay the reasonable and necessary costs of seizing, transporting, storing and selling the
48 property;

49 (e)(2) deliver to the plaintiff the remaining proceeds of the sale;

50 (e)(3) deliver to the defendant the remaining property and proceeds of the sale.

51 (f) Purchaser refusing to pay. Every bid is an irrevocable offer. If a person refuses to pay the
52 amount bid, the person is liable for the difference between the amount bid and the ultimate sale
53 price. If a person refuses to pay the amount bid, the officer may:

54 (f)(1) offer the property to the next highest bidder;

55 (f)(2) renew bidding on the property; and

56 (f)(3) reject any other bid of such person.

57 (g) Property capable of delivery. Upon payment of the amount bid, the officer shall deliver to
58 the purchaser of property capable of delivery the property and a certificate of sale stating that all
59 right, title and interest which the defendant had in the property is transferred to the purchaser.

60 (h) Property not capable of delivery. Upon payment of the amount bid, the officer shall
61 deliver to the purchaser of property not capable of delivery a certificate of sale describing the

62 property and stating that all right, title and interest which the defendant had in the property is
63 transferred to the purchaser. The officer shall serve a duplicate of the certificate on the person
64 controlling the property.

65 (i) Real property. Upon payment of the amount bid, the officer shall deliver to the purchaser
66 of real property a certificate of sale for each parcel containing:

67 (i)(1) a description of the real property;

68 (i)(2) the price paid;

69 (i)(3) a statement that all right, title, interest of the defendant in the property is conveyed to
70 the purchaser; and

71 (i)(4) a statement whether the sale is subject to redemption.

72 The officer shall file a duplicate of the certificate in the office of the county recorder.

73 (j) The officer shall deliver the property as directed by the writ.

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