

VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

CHAPTER 333

An Act to amend and reenact § 58.1-3969 of the Code of Virginia, relating to order of reference for tax sales.

[H 194]

Approved March 30, 2006

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-3969 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-3969. Order of reference; appointment of special commissioner to make sale; costs; attorney's fee.

The court shall have the option, for good cause shown, to refer the case to a commissioner in chancery for hearing and report, in which case, the order of reference shall be to a commissioner in chancery or special master other than the attorney (or any attorney practicing in the same firm as the attorney) employed to subject the real estate to the lien of any taxes. Upon (i) receipt of proper service of process on all parties defendant, a written real estate title certificate and the ~~deposition~~ *written report* of a licensed real estate appraiser where there is no dispute as to title or value or (ii) the receipt of the report of the commissioner in chancery, the court may appoint a special commissioner to sell the properties and execute the necessary deeds when a sale is found necessary or advisable and in doing so the appointee may be the attorney employed by the governing body of the county, city or town to bring the suit. However, if the property is deemed abandoned in accordance with § 58.1-3965, the court shall not be required to refer the case to the commissioner in chancery.

The sale price achieved at a public auction shall be prima facie, but rebuttable, evidence of the value of the property for purposes of the approval of the sale. If the attorney employed by the governing body of the county, city, district or town be appointed a special commissioner to sell the land and execute the deed and he has already given the bond hereinabove mentioned, no additional bond shall be required of him as special commissioner unless the court regards the bond already given as insufficient in amount. No fee or commission shall be allowed or paid to any attorney for acting under the order of reference or as special commissioner, except as hereinafter provided, and the compensation contracted to be paid any such attorney by the governing body, whether the employment was on a salary, commission or other basis, shall be in full for all services rendered by him. The court shall allow as part of the costs, to be paid into the treasury of the county, city or town, a reasonable sum to defray the cost of its attorneys and the expenses of publication and appraisal necessary for the purpose of instituting such suit and such fees and commissions, including fees for preparing and executing deeds, as would be allowed if the suit were an ordinary lien creditor's suit. When the special commissioner is other than the attorney employed by the county, city or town the court may allow him reasonable fees for selling the land and executing the deed, payable out of the proceeds of sale.

In any case in which the attorney representing the county, city or town and the governing body thereof have failed to reach an agreement as to a salary or commission or other basis as compensation for the services of such attorney, the court in which any proceedings are brought under this article may allow from the proceeds of the sale of any such real estate such fee as the court shall deem reasonable and proper to the attorney representing any such county, city or town in such proceeding.