

§ 27.25

(f) The defaulting mortgagor, or any principal, successor, affiliate, or assignee thereof, on the multifamily mortgage being foreclosed, shall not be eligible to bid on, or otherwise acquire, the property being foreclosed by the Department under this subpart or any other provision of law. A "principal" and an "affiliate" are defined as provided at 24 CFR 24.105.

[61 FR 48548, Sept. 13, 1996, as amended at 66 FR 35847, July 9, 2001]

§ 27.25 Termination or adjournment of foreclosure sale.

(a) Before withdrawing the security property from foreclosure under section 369A(a) of the Act (12 U.S.C. 3709(a)), the commissioner shall notify the Secretary of the proposed withdrawal by telephone or telegram and shall provide the Secretary with a written statement of the reasons for the proposed withdrawal along with all documents submitted by the mortgagor in support of the proposed withdrawal. Upon receipt of this statement, the Secretary shall have 10 days within which to demonstrate orally or in writing why the security property should not be withdrawn from foreclosure. The Secretary shall provide the mortgagor with a copy of any statement prepared by the Secretary in opposition to the proposed withdrawal at the same time the statement is submitted to the commissioner. If the Secretary receives the commissioner's written statement less than 10 days before the scheduled foreclosure sale, the sale shall automatically be postponed for 14 days. Under these circumstances, notice of the rescheduled sale shall be served as described in section 369B(c) of the Act (12 U.S.C. 3710(c)).

(b) The commissioner may not withdraw the security property from foreclosure under section 369A(a) of the Act (12 U.S.C. 3709(a)) more than once unless the Secretary consents in writing to such withdrawal.

(c) The commissioner shall, in the case of a sale adjourned to a later date, mail a copy of the revised Notice of Default and Foreclosure Sale to the Secretary at least seven days before the date to which the sale has been adjourned.

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(d) If upon application by the mortgagor, the commissioner refuses to withdraw the property from foreclosure under section 369A(a) of the Act (12 U.S.C. 3709(a)), the commissioner shall provide the mortgagor and the Secretary with a written statement of the reasons for the refusal.

§ 27.30 Conduct of the sale.

(a) The commissioner shall accept written one-price sealed bids from any party including the Secretary so long as those bids conform to the requirements described in the Notice of Default and Foreclosure Sale. The commissioner shall announce the name of each such bidder and the amount of the bid. The commissioner shall accept oral bids from any party, including parties who submitted one-price sealed bids, if those oral bids conform to the requirements described in the Notice of Default and Foreclosure Sale. The commissioner will announce the amount of the high bid and the name of the successful bidder before the close of the sale.

(b) Relatives of the commissioner who may not bid at the foreclosure sale include parents, siblings, spouses and children. Related business entities which may not bid include entities or concerns whose relationship with the commissioner at the time the commissioner is designated is such that, directly or indirectly, one concern or individual formulates, directs, or controls the other concern; or has the power to formulate, direct, or control the other concern; or has the responsibility and authority either to prevent in the first instance, or promptly to correct, the offensive conduct of the other concern. Business concerns are also affiliates of each other when a third party is similarly situated with respect to both concerns.

(c) If the commissioner employs an auctioneer to conduct the foreclosure sale, the auctioneer must be a licensed auctioneer, an officer of State or local government, or any other person who commonly conducts foreclosure sales in the area in which the security property is located.