

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
3 perishable or likely to decline speedily in value. The court may order the officer to sell
4 the property before judgment if the court finds that the interest of the parties will be
5 served by sale. The officer ~~must~~shall keep safe the sale proceeds~~-of the sale~~ subject to
6 further order of the court.

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

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

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

25 ~~(b)~~(3) If the property is real property, the officer ~~must~~shall post written notice of the
26 date, time, and place of sale and a particular description of the property to be sold
27 (A) on the property, (B) at the place of sale, (C) at the district courthouse of the

28 county in which the real property is located, and (D) in at least three other public
29 places in the county or city in which the real property is located. The officer
30 ~~must~~shall post the notice for at least 21 days and publish the notice at least once a
31 week for three successive weeks immediately preceding the sale in a newspaper of
32 general circulation, if there is one, in the county in which the real property is located.

33 (c) **Postponement.** If the officer finds sufficient cause, the officer may postpone the sale.
34 The officer ~~must~~shall declare the postponement at the time and place set for the sale. If
35 the postponement is longer than 72 hours, the officer must give notice of the
36 rescheduled sale ~~shall be given~~ in the same manner as the original notice of sale.

37 (d) Conduct of sale. All sales ~~must~~shall be at auction to the highest bidder, Monday
38 through Saturday, legal holidays excluded, between the hours of 9:00 ~~o'clock~~ a.m. and
39 8:00 ~~o'clock~~ p.m. at a place reasonably convenient to the public. Real property ~~must~~shall
40 be sold at the district courthouse of the county in which the property is located. The
41 officer ~~must~~shall sell only so much property as is necessary to satisfy the amount due.
42 The officer ~~must~~shall not purchase property or be interested in any purchase. Property
43 capable of delivery ~~must~~shall be within view of those who attend the sale. The property
44 ~~must~~shall be sold in such parcels as are likely to bring the highest price. Severable lots
45 of real property ~~must~~shall be sold separately. Real property claimed by a third party
46 ~~must~~shall be sold separately if requested by the third party. The defendant may direct
47 the order in which the property is sold.

48 (e) **Accounting.** Upon request of the defendant, the plaintiff ~~must~~shall deliver an
49 accounting of the sale. The officer is entitled to recover the reasonable and necessary
50 costs of seizing, transporting, storing, and selling the property. The officer ~~must~~shall
51 apply the property in the following order up to the amount due or the value of the
52 property, whichever is less:

53 ~~(e)~~(1) pay the reasonable and necessary costs of seizing, transporting, storing, and
54 selling the property;

55 | ~~(e)~~(2) deliver to the plaintiff the remaining proceeds of the sale;

56 | ~~(e)~~(3) deliver to the defendant the remaining property and proceeds of the sale.

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

60 | ~~(f)~~(1) offer the property to the next highest bidder;

61 | ~~(f)~~(2) renew bidding on the property; and

62 | ~~(f)~~(3) reject any other bid of such person.

63 | (g) **Property capable of delivery.** Upon payment of the amount bid, the officer
64 | ~~must~~~~shall~~ deliver to the purchaser of property capable of delivery the property and a
65 | certificate of sale stating that all right, title, and interest ~~which~~ the defendant had in the
66 | property is transferred to the purchaser.

67 | (h) **Property not capable of delivery.** Upon payment of the amount bid, the officer
68 | ~~must~~~~shall~~ deliver to the purchaser of property not capable of delivery a certificate of
69 | sale describing the property and stating that all right, title, and interest ~~which~~ the
70 | defendant had in the property is transferred to the purchaser. The officer ~~must~~~~shall~~
71 | serve a duplicate of the certificate on the person controlling the property.

72 | (i) **Real property.** Upon payment of the amount bid, the officer ~~must~~~~shall~~ deliver to the
73 | purchaser of real property a certificate of sale for each parcel containing:

74 | ~~(i)~~(1) a description of the real property;

75 | ~~(i)~~(2) the price paid;

76 | ~~(i)~~(3) a statement that all right, title, ~~and~~ interest of the defendant in the property is
77 | conveyed to the purchaser; and

78 | ~~(i)~~(4) a statement whether the sale is subject to redemption.

79 | The officer ~~must~~~~shall~~ ~~file~~ record a duplicate of the certificate in the office of the county
80 | recorder.

81 | (j) The officer ~~must~~~~shall~~ deliver the property as directed by the writ.

82 |

83 | Effective date: