

**Editorial Notes**

## CODIFICATION

Section is based on section 812 of title VIII of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

**§ 3762. Disposition of sale proceeds****(a) Priority payments**

Money realized from a foreclosure sale shall be made available for obligation and expenditure in the following order:

**(1) Costs of foreclosure**

To cover the costs of the foreclosure proceeding described in section 3761 of this title.

**(2) Tax liens**

To pay valid tax liens or assessments if required by the notice of default and foreclosure sale.

**(3) Prior liens**

To pay any liens recorded before the recording of the mortgage which are required to be paid in conformity with the terms of sale in the notice of default and foreclosure sale.

**(4) Service charges and advances**

To pay service charges and advances for taxes, assessments, and property insurance premiums.

**(5) Interest**

To pay any outstanding interest.

**(6) Principal**

To pay the principal outstanding 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).

**(7) Late charges or fees**

To pay any late charges or fees.

**(b) Other payments****(1) Other lienholders and the mortgagor**

Any surplus of proceeds from a foreclosure sale, after payment of the items described in subsection (a) shall be paid in the following order:

(A) First, to holders of liens recorded after the mortgage in the order of priority under Federal law or the law of the State in which the security property is located.

(B) Second, to the appropriate mortgagor.

**(2) Disputed claims**

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 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 incurred in taking or defending such action shall be deductible from the disputed funds.

(Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316.)

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## CODIFICATION

Section is based on section 813 of title VIII of S. 2281, One Hundred Third Congress, as reported July 13, 1994, which was enacted into law by Pub. L. 103-327.

**§ 3763. Transfer of title and possession****(a) Delivery of deeds**

The foreclosure commissioner shall, upon delivery of a deed or deeds to the purchaser or purchasers (which shall be without warranty or covenants to the purchaser or purchasers) obtain the balance of the purchase price in accordance with the terms of sale provided in the notice of default and foreclosure sale. Notwithstanding any State law to the contrary, delivery of a deed by the foreclosure commissioner shall be a conveyance of the property, and constitute passage of title to the mortgaged property, and no judicial proceedings 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.

**(b) Right of possession**

A purchaser at a foreclosure sale held pursuant to this chapter shall be entitled to possession upon passage of title under subsection (a) to the mortgaged property, subject to any interest or interests not barred under section 3765 of this title. Any person remaining in possession of the mortgaged property after the passage of title shall be deemed a tenant at sufferance subject to eviction under local law.

**(c) Death of purchaser**

If a purchaser dies before execution and delivery of the deed conveying the property to the purchaser, the foreclosure commissioner shall execute and deliver the deed to a representative of the decedent purchaser's estate upon payment of the purchase price in accordance with the terms of sale. Such delivery to the representative of the purchaser's estate shall have the same effect as if accomplished during the lifetime of the purchaser.

**(d) Bona fide purchaser**

The purchaser of property under this chapter shall be presumed to be a bona fide purchaser.

**(e) No right of redemption****(1) In general**

There shall be no right of redemption, or right of possession based upon a right of redemption, in the mortgagor or others subsequent to a foreclosure completed pursuant to this chapter.