

2015 DRAFTING REQUEST

Bill

Received: **9/25/2014** Received By: **jkreye**
Wanted: **As time permits** Same as LRB:
For: **Administration-Budget** By/Representing: **Quinn**
May Contact: Drafter: **mshovers**
Subject: **Tax, Other - miscellaneous** Addl. Drafters: **mshovers**

Extra Copies:

Submit via email: **YES**
Requester's email:
Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**
marc.shovers@legis.wisconsin.gov
sbostatlanguage@webapps.wi.gov

Pre Topic:

DOA:.....Quinn, BB0049 -

Topic:

Auction restrictions for property of delinquent taxpayers

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	mshovers 10/10/2014			_____			
/1		wjackson 10/12/2014	jfrantze 10/13/2014	_____	lparisi 10/13/2014		State S&L

FE Sent For:

<END>

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1/2	jkreye	1 wj 10/12		Jo			
1/1	MES	10/10/14		10/13			

FE Sent For:

<END>

Kreye, Joseph

0280

From: Hanaman, Cathlene
Sent: Thursday, September 25, 2014 12:06 PM
To: Shovers, Marc; Kreye, Joseph
Subject: FW: Statutory Language Drafting Request - BB0049
Attachments: Tax Admin - Online Auctions of property.pdf

From: brian.quinn@wisconsin.gov [mailto:brian.quinn@wisconsin.gov]
Sent: Thursday, September 25, 2014 12:01 PM
To: Hanaman, Cathlene
Cc: Ziegler, Paul - DOA; Quinn, Brian D - DOA; Connor, Christopher B - DOA
Subject: Statutory Language Drafting Request - BB0049

Biennial Budget: 2015-17

Topic: Auction Restrictions for Property of Delinquent Taxpayers

Tracking Code: BB0049

SBO Team: TLGED

SBO Analyst: Quinn, Brian D - DOA
Phone: (608) 266-1923
E-mail: brian.quinn@wisconsin.gov

Agency Acronym: DOR

Agency Number: 566

Priority: Low

Intent:

Allow DOR to conduct online auctions and auctions in any county in Wisconsin instead of just in the county of the taxpayer.

Attachments: True

Please send completed drafts to SBOSatlanguage@webapps.wi.gov

TITLE: Allowance of Online Auctions and Auctions in Any County in Wisconsin

DESCRIPTION OF CURRENT LAW AND PROBLEM

Section 71.91(5)(c), Wis. Stats., provides that Department of Revenue (DOR) agents may execute against property of the delinquent taxpayer in the county where a tax warrant is filed, in the same manner as provided with respect to sheriffs of such counties.

Sheriffs must follow Chapter 815 when conducting executions and sales/auctions. Section 815.29(1), Wis. Stats., provides that every such sale shall be made at auction between the hours of 9 a.m. and 5 p.m. and no property shall be sold unless it is in view of those attending the sale. As such, it is unclear whether DOR can conduct an online auction or a sale in any other county than the one the property was executed in.

DOR agents have found that many sales/auctions proceed with no bids because they are forced to conduct sales/auctions in specific counties where there is no market for the property.

In addition, at times it would be beneficial to use a third party auctioneer skilled at conducting personal property sales in order to obtain the highest bid possible for the property.

RECOMMENDATION FOR ACTION

Provide that DOR may conduct online auctions and auctions in any county located in the State of Wisconsin; may use a third party to conduct the sale; and may pass the costs of the sale on to the debtor.

IMPACT ON JOB CREATION

Not applicable

FISCAL EFFECT

Minimal

DRAFTING INSTRUCTIONS

Amend sec. 71.91(5)(c), Wis. Stats., to read:

When a warrant is issued to such agent he or she may proceed upon the same in any county of the state designated in the warrant, in the same manner as provided in this subchapter with respect to sheriffs of such counties, except the department may conduct, or may engage a third party entity to conduct, an execution sale of personal property in any county located in the State of Wisconsin and may sell, or may engage a third party entity to sell, the personal property in any manner the department believes will bring the highest net bid or price, including internet-based auctions and sales, with the costs of each sale being paid from the proceeds of the sale.

Amend sec. 815.29(1), Wis. Stats., to read:

No execution sale of personal property shall be made unless 20 days previous notice of such sale has been given by posting a notice thereof in one public place of the town or municipality where such sale is to be had and, if the county where such sale is to be had maintains a Web site, by posting a notice on the Web site. If the town or municipality where such sale is to be had

maintains a Web site, the town or municipality may also post a notice on its Web site. The notice shall specify the time and place of sale but when any property seized is likely to perish or depreciate in value before the expiration of the 20 days the court or a judge may order the same to be sold in such manner and upon such terms as the best interests of the parties demand. Every such sale shall be made at auction between the hour of 9 a.m. and 5 p.m. and no property shall be sold unless it is in view of those attending the sale, except as provided in section 71.91(5) and in the case of the sale of the interest of the judgment debtor in property in the possession of a secured party. It shall be offered for sale in such lots and parcels as is calculated to bring the highest price.

EFFECTIVE DATE AND/OR INITIAL APPLICATION

Day after publication

INTERESTED/AFFECTED PARTIES

Persons owing delinquent taxes

DOR CONTACT PERSON

Diane Hardt 608-266-6798

PREPARED BY

Adam Y. Ben-Zikri 608-266-6236



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0280/1

MESQ:.....

TWJ

DOA:.....Quinn, BB0049 – Auction restrictions for property of delinquent taxpayers

FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION

PF

do not pass

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION ✓

OTHER TAXATION ✓

Under current law, an agent of DOR may execute a tax warrant against the property of a delinquent taxpayer. The property may be sold, in the county in which the warrant is filed, at a sale or auction under the same procedures that would apply to a sheriff's sale or auction of such property. Some of the applicable procedures require that the auction be held between 9:00 a.m. and 5:00 p.m. and that the property must be within view of those attending the sale. ✓

Under this bill, a sale or auction of such property under a tax warrant issued to a DOR agent may be conducted by DOR or by a third party entity. In addition, the bill authorizes DOR or the third party entity to hold the sale in any county in the state and in any manner that DOR believes will bring the highest net bid or price, including an internet-based auction or sale.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.91 (5) (c) of the statutes is renumbered 71.91 (5) (c) 1. and
2 amended to read:

3 71.91 (5) (c) 1. A like warrant may be issued to any agent of the department
4 authorized to collect income or franchise taxes, and in the execution thereof of the
5 warrant and collection of said the taxes such the agent shall have the powers of a
6 sheriff, but shall not be entitled to collect from the taxpayer any fee or charge for the
7 execution of such the warrant in excess of actual expenses paid in the performance
8 of his or her duty. When a warrant is issued to such the agent he or she may proceed
9 upon the same act as provided in subd. 2. or may execute the warrant in any county
10 of the state designated in the warrant, in the same manner as provided in this
11 subchapter with respect to sheriffs of such counties.

History: 1987 a. 312, 411; 1989 a. 31 ss. 2102b, 2102f; 1991 a. 39, 315; 1993 a. 205; 1995 a. 27, 224, 233, 428; 1997 a. 27, 237; 2001 a. 102, 103; 2003 a. 33, 288; 2009 a. 28; 2013 a. 20.

12 **SECTION 2.** 71.91 (5) (c) 2. of the statutes is created to read:

13 71.91 (5) (c) 2. In executing a warrant as described in subd. 1., the agent may
14 conduct, or may engage a third party entity to conduct, an execution sale of personal
15 property in any county of the state and may sell, or may engage a third party entity
16 to sell, the personal property in any manner the department believes will bring the
17 highest net bid or price, including internet-based auctions or sales. The cost of
18 conducting each auction or sale shall be reimbursed to the department out of the
19 proceeds of the auction or sale.

20 **SECTION 3.** 815.29 (1) of the statutes is amended to read:

21 815.29 (1) No execution sale of personal property shall be made unless 20 days
22 previous notice of such sale has been given by posting a notice thereof in one public
23 place of the town or municipality where such sale is to be had and, if the county where
24 such sale is to be had maintains a Web site, by posting a notice on the Web site. If

1 the town or municipality where such sale is to be had maintains a Web site, the town
2 or municipality may also post a notice on its Web site. The notice shall specify the
3 time and place of sale but when any property seized is likely to perish or depreciate
4 in value before the expiration of the 20 days the court or a judge may order the same
5 to be sold in such manner and upon such terms as the best interests of the parties
6 demand. Every such sale shall be made at auction between the ~~hour~~^{hours} of 9 a.m. and
7 5 p.m. and no property shall be sold unless it is in view of those attending the sale,
8 except as provided in s. 71.91 (5) (c) 2. and in the case of the sale of the interest of the
9 judgment debtor in property in the possession of a secured party. It shall be offered
10 for sale in such lots and parcels as is calculated to bring the highest price.

11 History: Sup. Ct. Order, 67 Wis. 2d 585, 761, 781 (1975); Stats. 1975 s. 815.29; 2009 a. 325.

11 **SECTION 9337. Initial applicability; Revenue.**

12 (1) AUCTION, SALE RESTRICTIONS FOR PROPERTY OF DELINQUENT TAXPAYERS. The
13 treatment of section 71.91 (5) (c) of the statutes first applies to a warrant that is
14 issued on the effective date of this subsection.

15 (END)



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0280/1
MES:wlj:jf

DOA:.....Quinn, BB0049 – Auction restrictions for property of delinquent taxpayers

FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

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