Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
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2009

CHAPTER 71

SENATE BILL 1294

AN ACT

AMENDING SECTIONS 37-241, 37-247 AND 37-288, ARIZONA REVISED STATUTES; RELATING TO STATE TRUST LAND DEFAULTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 37-241, Arizona Revised Statutes, is amended to read:

37-241. Terms of sale of state land; payment; interest rate

A. The terms of sale of state land are as follows:

1. At least ten per cent, but not more than twenty-five per cent, of the appraised value, as stated in the auction notice, which shall be applied to principal, together with the required fees prescribed by section 37-108, shall be paid by cashier's check upon announcement of the successful bidder.

2. If the amount bid for the land exceeds the appraised value, further payment shall be made within thirty days so that the total amount paid including the amount paid on the date of sale shall equal the percentage of the bid, as stated in the auction notice, which shall be allocated to principal, together with the required fees prescribed under section 37-108.

B. Upon payment of the amounts provided in subsection A of this section, and upon compliance by the purchaser with the requirements of this article, and the payment of the fees under section 37-108, a certificate of purchase shall issue as provided in section 37-244. On full payment for the entire tract of land sold within thirty days after the auction, the department shall issue a patent as provided in section 37-251.

C. If the purchaser fails to complete the payment of the percentage of the bid stated in the auction notice, together with the fees required by section 37-108, or to enter into a contract of sale within the time provided in the certificate of purchase offered by the department:

1. The purchaser forfeits all amounts paid, including:

(a) All payments made on the purchase price, which shall be deemed to be rental for the land.

(b) All amounts paid under section 37-108.

2. The commissioner may declare that the bid placed before the final bid accepted is the highest bid, and that bidder has five business days after notification by the department to pay by cashier's check all amounts due under this section and section 37-108.

D. The balance of the purchase price is payable as follows:

1. The commissioner shall establish prior to the notice of sale the length of the term over which the balance shall be paid, and whether a variable or fixed interest rate is appropriate, OR WHETHER THE ENTIRE BALANCE WITHOUT INTEREST IS DUE AND PAYABLE WITHIN THIRTY DAYS AFTER THE AUCTION. This determination shall be based on the nature of the land being sold and general market conditions in effect at the time.

2. After establishing the length of the term and whether a fixed or variable rate is appropriate, the commissioner shall notify the state treasurer to establish the interest rate after consideration of local prevailing prime interest rates and mortgage rates and the maximum amount of interest set by statute by this state, if any.

3. If a variable rate is established, the interest rate charged a purchaser may vary from year to year. The department shall annually notify each purchaser of the interest rate specified by the state treasurer to be paid by the purchaser for the following year and the total amount of interest payable the following year with the purchaser's annual payment.

E. The commissioner shall establish prior to the notice of sale the length of the term over which the balance shall be paid. The term shall not exceed twenty-five years.

F. The length of term~~,~~ AND interest rate and whether the rate is variable or fixed shall be considered terms of the sale to be included in the notice required by section 37-237.

G. The purchaser may discharge the entire debt at any time and be entitled to a patent for the land if the purchaser pays the entire purchase price, together with the applicable fees, and demonstrates that all terms and conditions of the certificate of purchase have been satisfied.

Sec. 2. Section 37-247, Arizona Revised Statutes, is amended to read:

37-247. Purchaser's default; forfeiture and cancellation of certificate of purchase; extension of time for payments

A. When a purchaser defaults in a payment of principal or interest, as provided in the certificate of purchase, or fails to comply with a condition, covenant or requirement thereof, the certificate shall be declared subject to forfeiture. Within sixty days after default or failure the department shall give notice of the default or failure by certified mail to the purchaser's last known address of record in the department.

B. If the payment is not made, or the condition, covenant or requirement is not complied with, within sixty days from the date of notice, the certificate of purchase and all rights of the purchaser to the land and improvements thereon may be canceled. In the event of cancellation, the commissioner shall make a formal order canceling the certificate of purchase and a copy of the order shall be mailed to the last known post-office address of the holder of the certificate of purchase. If no appeal is made within thirty days from the date a copy of the order is mailed to the holder of the certificate of purchase, the order shall become final and the certificate of purchase shall be canceled on the records of the department, and the improvements and all payments made on the purchase price shall be deemed rental for the land.

C. On the purchaser's written request, the commissioner may extend the time for payment of the amount delinquent for a period of not more than five years on terms that the commissioner considers to be appropriate as follows:

1. The commissioner may grant an extension in response to a request made within sixty days before the due date of the payment. An extension under this paragraph begins on the date the payment was due and continues for the period stated in a written notice to the purchaser.

2. The commissioner may grant an extension in response to a request made within sixty days after the date of the default or failure notice provided in subsection A. An extension under this paragraph begins on the date of the notice and continues for the period stated in a written notice to the purchaser.

3. If the department does not act on a request for extension within thirty days after receiving the request, the request is considered to be denied. If the purchaser fails during the period of the extension to complete all delinquent payments, including principal and interest, THE CERTIFICATE OF PURCHASE IS SUBJECT TO DEFAULT AND CANCELLATION PURSUANT TO SUBSECTIONS A AND B, EXCEPT THAT IF THE LAST DAY OF THE LAST PERIOD OF EXTENSION EXPIRES ON THE LAST DAY OF THE FIVE-YEAR PERIOD AND ALL DELINQUENT PAYMENTS HAVE NOT BEEN PAID BY THE LAST DAY OF THE FIVE-YEAR PERIOD, the certificate of purchase shall automatically be canceled ON THE LAST DAY OF THE FIVE-YEAR PERIOD and noted on the records of the department.

D. IF A PAYMENT OF PRINCIPAL OR INTEREST IS MADE AFTER THE DUE DATE, PAYMENTS SHALL BE MADE ACCORDING TO THE EXTENSION GRANTED BY THE COMMISSIONER UNDER SUBSECTION C. IF NO EXTENSION WAS GRANTED, DELINQUENT INTEREST SHALL BE ADDED AT A RATE SET BY THE STATE TREASURER.

Sec. 3. Section 37-288, Arizona Revised Statutes, is amended to read:

37-288. Forfeiture of leases; extension of time for payment; penalty and interest on delinquent rental; automatic termination for arrearage

A. A lessee of state lands violating any condition of the lease shall be in default and shall forfeit the lease and ~~his rights thereunder~~ THE LESSEE'S RIGHTS UNDER THE LEASE after cancellation pursuant to section 37-289.

B. If the lessee fails to pay the rent when due, the department may extend the time for payment an additional period not to exceed ninety days. The department shall not extend the period for payment of rental more than three times in one lease year and in no event for more than two hundred seventy days.

C. There shall be added to the delinquent rental a penalty ~~of five per cent and interest on the delinquent rent and penalty at the then current rate~~ AND DELINQUENT INTEREST. THE DELINQUENT INTEREST SHALL BE set by the STATE treasurer under section ~~37-241~~ 37-247, subsection D~~, paragraph 3, until paid~~. THE PENALTY SHALL BE THE GREATER OF A MINIMUM PROCESSING COST AS DETERMINED BY THE COMMISSIONER OR FIVE PER CENT. The delinquent rent, penalty and interest shall be a lien on the improvements, crops and property on the land.

D. If, on a lease of ten years or less, the annual rental at any time is one calendar year in arrears from the date the rental payment was due, the lease shall automatically terminate and the department shall proceed to cancel it on the records of the department.

~~APPROVED BY THE GOVERNOR JULY 10, 2009.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.~~