

RULE 26. PRACTICE BEFORE THE MASTER COMMISSIONER

A. Hearings

1. An attested copy of the order referring the case to the Master Commissioner shall be delivered to the Master Commissioner's office.
2. The Commissioner shall then promptly assign a date for a pre-hearing conference and give written notice thereof. The attorney responsible for the case shall be expected to personally attend said hearing. The Commissioner may charge and collect a fee in accordance with Part IV, section 4 of the Administrative Procedures of the Court of Justice.
3. The Master Commissioner's motion hour shall be heard at a time and place designated by him or her.
4. An attorney requesting a hearing date before the Master Commissioner may be responsible for providing a Court reporter at all evidentiary hearings.
5. Any money paid into Court pursuant to CR 67 .01 shall be paid to the Master Commissioner who is authorized to charge a fee as follows:
 - a. 3% of the first \$2,000 .00;
 - b. 2 1/2% of the next \$3,000 .00 ; and
 - c. 1 1/2% for any amount in excess of \$5,000 .00,total fee not to exceed \$5,000.00 .

B. JUDICIAL SALES

1. Master Commissioner Approval

In addition to other requirements of these Rules, all judgments or orders directing the sale of property by the Master Commissioner, directing the disbursement of monies held by the Commissioner or directing the delivery of a deed must be submitted along with the record to the Commissioner for certification that it complies with all applicable statutes and rules. The Commissioner shall then deliver the judgment or order to the Court for approval and entry. Any document requiring the approval and/or signature of the Master Commissioner may not be e-filed.

The master commissioner shall sell the property in a reasonable time not to exceed 90 days after the date of the order of referral except that property found to be "vacant and abandoned" shall be sold in accordance with KRS 426.205. Upon good cause shown, the court may extend the 90 day deadline for a period not to exceed 30 days.

2. Deposit for Advertisement and Appraisal

When any order is submitted to the Commissioner requiring advertisement or appraisal, the party submitting the order shall deposit with the Commissioner an amount sufficient to pay the estimated costs of the proposed advertisement and/or appraisal. The Commissioner shall not submit the order to the Court nor cause an advertisement or appraisal to be made until such deposit is made.

When more than one sale is set for the same date, the Commissioner may advertise all such sales in one advertisement that includes the required information applicable to each action and sale. The total cost of advertising shall be apportioned among each of the various cases to which the advertisement applies.

3. Orders of Sale and/or Delivery of Deed

Every order or judgment of this Court directing the Commissioner to sell property or to execute or deliver a deed shall contain:

- a. The legal description of the property including a street address (or if it has no street address, a brief description of its location and size), and any number(s) assigned to the property/parcel by the tax assessor for purposes of identification and record keeping such as the parcel or property identification number;
- b. The name of the parties or parties whose interest is being sold or conveyed;
- c. The source of that party (or parties') title with deed book, page number and date of deed or recording date of deed;
- d. A blank space for the insertion of the sale date by the commissioner's office;
- e. A signature line for the master commissioner indicating certification and compliance;
- f. A prepared by signature line of the attorney submitting order;
- g. A certificate of service by the Circuit Court Clerk;
- h. Appropriate number of copies for all parties including submitting attorney and master Commissioner; and
- i. Self-addressed stamped envelopes for all parties including submitting attorney.
- j. All orders shall be submitted to the master commissioner prior to Court approval.

4. Terms and Conditions of Sale

Unless otherwise ordered all sales shall be conducted by the Commissioner or Deputy Commissioner at 12:00 noon (local time) in the Fayette County Courthouse at a place posted the morning of the sale, upon the following terms and conditions:

a. Before conducting a sale the Master Commissioner shall advertise in a newspaper meeting the requirements of KRS 424 .120, the time, terms and place of sale, together with a description of the property to be sold. All sales shall be advertised in accordance with KRS 424.130 as follows: The advertisement shall be published at least once not less than seven days nor more than 21 days before the date of the sale, but may be published two or more times provided that one publication occurs not less than seven days nor more than 21 days before the date of the sale.

b. If required by order or statute, the Master Commissioner before making a sale of real property shall have the property appraised by two intelligent, disinterested housekeepers of Fayette County who are not related to any parties to the action both of whom are actively engaged in or have had at least one year of experience in the field of real estate. Before making appraisals, the appraisers shall be sworn by the Master Commissioner. They shall return their appraisals in writing to the Master Commissioner who shall file same as a part of the record.

c. The property shall be sold to the highest bidder provided:

1). At the time of sale the successful bidder shall either pay cash or make a deposit of 10% of the purchase price with the balance on credit for thirty (30) days. If the purchase price is not paid in full, the successful bidder shall be required to give bond with good surety for the unpaid purchase price. The bond shall bear interest at the rate the judgment bears, from the date of sale until paid, and shall have the force and effect of a judgment.

2). The purchaser shall be required to assume and pay all taxes or assessments upon the property for the current tax year and all subsequent years. All taxes or assessments upon the property for prior years shall be paid from the sale proceeds if properly claimed, in writing and filed of record, by the purchaser prior to confirmation.

3). The property shall otherwise be sold free and clear of any right, title or interest of all parties to the action and all liens and encumbrances thereon, excepting easements and restrictions of record in the Fayette County Clerk's Office and such right of redemption as may exist in favor of the United States of America or the defendant(s) .

4). The terms and conditions hereinabove set out may be adopted by reference to this rule in the order or judgment directing the sale, or shall be restated therein .

d. A party, who is the successful purchaser of the property, may take credit against any judgment in that party's favor against the defendant property owner for the required deposit and purchase price to the extent that the sale price is sufficient to pay such judgment considering the priorities and amounts previously adjudicated in the action.

5. Confirmation of Report of Sale

The Master Commissioner after making the sale shall report his actions to the Court no later than three business days after the date of sale. Ten (10) days after the filing of that report, if no objections have been filed thereto and without motion, the sale shall be deemed confirmed and an order confirming the

sale (with sufficient copies, see RFCC 19) shall be submitted to the Court. A copy of the order of confirmation shall be served upon the purchaser.

6. Fees of the Commissioner

The Commissioner shall be entitled to those fees set forth in Part IV of the Administrative Procedures of the Court of Justice.

7. Orders of Distribution

a. Orders requiring distribution of funds held by the Commissioner shall set forth all amounts collected; identify the proper recipient(s) and the specific amounts due each under the judgment or order.

b. If disbursements are to be made to taxing authorities, a copy of the pertinent tax bill(s) must be furnished the Commissioner, giving the commissioner's office sufficient time to pay the bill(s) with the amount(s) listed in the order.

8. Appraiser's Fees

In all residential sales where an appraisal is required, the fee of each appraiser shall be \$200 .00, unless otherwise ordered by the Court. Appraisal fees for commercial, farm and other sales shall be set by the Master Commissioner on a case by case basis. The fee shall be paid from the proceeds of sale.

9. Redemption of Property

(1) Within five (5) business days of the receipt of funds paid by a defendant for redemption of foreclosed property as provided by KRS 426.530, the Fayette Circuit Court Clerk shall pay said funds to the Fayette County Master Commissioner.

(2) Within five (5) business days of the receipt of funds paid pursuant to (1) above, the Fayette County Master Commissioner will file a Notice of Redemption stating the defendant and his or her representatives are redeeming the subject property and that the purchaser will have ten (10) business days from the date of filing of the notice in which to claim reimbursement for reasonable costs incurred after the sale for maintenance or repair of the subject property. "Reasonable costs" shall include, but not be limited to utility expenses, insurance, associate fees, taxes, and the costs to conform the property to the minimum standards of local nuisance code provisions and other local ordinances as authorized in KRS 65.8801 to 65.8839; the reasonableness and amount of reimbursement for same to be determined in the discretion of the Fayette County Master Commissioner. The Master Commissioner shall make a recommendation to the Fayette Circuit Court for an Order consistent with its determination of the amount of reasonable costs to be reimbursed to the purchaser.

(3) The purchaser's notice of claim for reimbursement to be filed pursuant to (2) above must include copies of all receipts and invoices for the claimed costs incurred, and shall be served upon all parties to the relevant court action, including the Fayette County Master Commissioner.