

Ministry of Justice of Georgia
Decree # 21
January 31, 2011
Tbilisi, Georgia

On Approving Forms, Rules and Procedures of Conducting Compulsory Auction

In accordance with Article 71 of Georgian Law On Enforcement Proceedings and Article 61 of General Administrative Code of Georgia, I order:

Following documents shall be approved:

Forms and Rules of Conducting Compulsory Auction (Annex #1);
Procedures of Conducting the Compulsory Auction (Annex #2)

Decree # 141, dated as of July 30, 2010 of the Minister of Justice of Georgia on “Approving Forms and Rules for Conducting Compulsory Auction” shall be declared null and void

The auctions announced before the enactment of this Decree shall be completed according to the rules established before the enactment of this decree.

This Decree shall become effective upon promulgation.

Z. Adeishvili

Amendments introduced:

Decree # 44 of the Ministry of Justice of Georgia, dates as of March 25, 2011 – website, 25.03.2011

Decree # 84 of the Ministry of Justice of Georgia, dates as of July 1, 2011 – website, 01.07.2011

Decree # 148 of the Ministry of Justice of Georgia, dates as of November 21, 2011 (par 2D)

Decree # 12 of the Ministry of Justice of Georgia, dates as of January 17, 2012-website, 17.01.2012

Decree # 41 of the Ministry of Justice of Georgia, dates as of April 2, 2012 – website, 02.04.2012

Decree # 104 of the Ministry of Justice of Georgia, dates as of June 19, 2012(par 5) 19.06.2012

Decree # 114 of the Ministry of Justice of Georgia, dates as of July 10, 2012 –website, 11.07.2012

Annex №1

Forms and Rules for Conducting Compulsory Auction

Article 1

1. The compulsory auction prescribed by Georgian law on Enforcement Proceedings is conducted by electronic means (E-Auction). National Bureau of Enforcement, legal entity of

public law under the governance of the Ministry of Justice of Georgia (Later – National Bureau of Enforcement), is in charge of conducting the compulsory auction and determining the property to be auctioned, in case of necessity it divides the property in lots. In case of dividing the property in lots, the auction is conducted and the winner is revealed per each lot.

2. National Bureau of Enforcement published an internet announcement on conducting the auction, which shall include:

a. Time of beginning and completing the auction. The duration of the auction should not be less than 7 days and more than 15 days. In particular cases, the timeline for conducting the auction may be prolonged reasonably according to the decision of the Chairman of the National Bureau of Enforcement.

b. Initial price of the property, which constitutes 50% of the market value indicated in the appraisal form of this property;

c. The name of the property to be sold; brief description of the property (in case of division it is in lots, according to lots), its location, the cost of assignable right, if it exists;

d. The amount of the security fee, which constitutes one tenth of the initial price of the property announced on the first auction;

e. Number of bids for increasing the price;

f. Procedures for conducting the auction.

g) In case of existence of an authorized person, on conditions of selling movable property via him/her;

3. National Bureau of Enforcement is obliged to upload the special public announcement on the auction on the official website: www.eauction.ge and/or www.dbe.gov.ge

4. Parties personally shall not be informed about the conducting of the auction (except the relevant tax authority). They are informed according to the rule prescribed by paragraph 2 and 3 of this Article.

5. The people owning transferable rights and after the request of the creditor of the enforcement decision, people owning the right to item registered in the public registry shall be informed about the auction. In case of repeated auction, these people are informed according to the rule prescribed by paragraph 2 and 3 of this Article.”

Decree # 44 of the Ministry of Justice of Georgia, dates as of March 25, 2011 – website, 25.03.2011

Decree # 84 of the Ministry of Justice of Georgia, dates as of July 1, 2011 – website, 01.07.2011

Decree # 148 of the Ministry of Justice of Georgia, dates as of November 21, 2011 (par 2D)

Decree # 41 of the Ministry of Justice of Georgia, dates as of April 2, 2012 – website,

Decree # 104 of the Ministry of Justice of Georgia, dates as of June 19, 2012 (par 5)

Article 2

1. For participating in the internet auction, it is obligatory:

a) Registration on the relevant website, except of the participation in the E-auction via authorized person;

b) Acknowledging and agreeing on terms and conditions during the registration.

2. Since the announcement (commencement) of the auction until its completion, participants pay a security fee. The payment of the security fee may be done through the use of plastic bank cards or by accessing the unified electronic payment system on the website - www.eauction.ge. An electronic bank guarantee form may be used/ activated as a tool for

ensuring the security fee.

2¹. Participation in the E-auction is possible through authorized person. Authorized person is the one, who is registered on the relevant website pursuant to the rule prescribed by this decree and ensures the participation of other physical and legal entities according the agreement concluded with them, which stipulates the marking of the participating entity's offered price by the authorized person on the relevant website during the process of the auction. Authorized person shall be entitled to request the fulfillment of the conditions stipulated by this decree from the participants of the E-auction with whom he/she has concluded the relevant agreement.

2². For fulfilling the function prescribed by subparagraph 2¹ of this Article, the National Bureau of Enforcement shall be entitled to conclude the agreement with the authorized person, and receive payment from other physical and legal entities for ensuring fulfillment of the functions prescribed by the agreement.

3. During the E-auction, raising the price is done through sale bids, which is traceable online. The bid for raising the price constitutes 2% of the market value of the property. During the repeated auction pursuant to the rule prescribed in paragraph 10 of the article 3 or during the third auction pursuant to the rule prescribed in the paragraph 11¹ of the article 38 of the Law on Insolvency of Georgia, the raising price constitutes 5 % of the market value of the property.

4. The person, offering the highest price by the end of the auction shall be considered as the winner of the E-auction.

5. (Extracted 21.11.11 #148)

6. The winner of the auction (purchaser of the property) must deposit the full price of the property on the deposit account of the National Bureau of Enforcement, within 10 days after the completion of the auction.

6¹ If the security amount paid by the auction winner is equal or higher than purchase price NBE directs the security amount to fully cover the purchase amount. Whereas in a case of excess amount it shall be returned to the winner.

7. If the amount recovered after the sale of the property on the auction is less than creditors'claims, the proceeds shall be distributed among the creditors according to the rules prescribed by Chapter XIV¹ of Georgia Law on Enforcement Proceedings.

Decree # 84 of the Ministry of Justice of Georgia, dates as of July 1, 2011 – website, 01.07.2011

Decree # 148 of the Ministry of Justice of Georgia, dates as of November 21, 2011 (par 2D and 5)

Decree # 41 of the Ministry of Justice of Georgia, dates as of April 2, 2012 – website, (par 1A and 2)

Decree # 104 of the Ministry of Justice of Georgia, dates as of June 19, 2012(par 3)

Decree # 114 of the Ministry of Justice of Georgia, dates as of July 10, 2012 –website, 11.07.2012

Article 3

1. If the property is not sold on the first auction, National Bureau of Enforcement announces the first repeated auction upon the end of the first auction (except the cases prescribed by paragraph 8 of this Article. The first repeated auction shall be announced in the same form

as the first auction. The initial bidding price of the property on the first repeated auction shall constitute half of the initial bidding price of the property announced on the first auction;

2. (Extracted – 01.07.11 #84).
3. (Extracted – 01.07.11 #84).
4. (Extracted – 01.07.11 #84).
5. (Extracted – 01.07.11 #84).
6. (Extracted – 17.01.12 #12)

7. If the property is not sold on second repeated auction, the property is free from attachment conducted in favor of the creditor exercising the compulsory sale. Enforcement proceeding shall not commence on the same claim of the mentioned property in favor of the same creditor. The property shall be transferred back to the debtor, except the cases prescribed by paragraph 4 of Article 69 of the Georgian Law on Enforcement Proceedings, whereas the enforcement proceeding on the property shall be continued by the enforcement officer, whose seizure is registered second in rank.

8. If the enforcement proceedings are commenced in favor of state/autonomous republic/local self-government bodies budgets, including for the purpose of enforcing the decisions prescribed by paragraph "l" of Article 2 of the Law on Enforcement Proceedings and if the winner is not revealed on the first auction or if the winner does not cover the price of a property within the terms stipulated by Georgian Law on Enforcement Proceedings, National Bureau of Enforcement shall be entitled to issue the instruction within 15 days after completion of the auction regarding transferring the property in-kind under the ownership of state/autonomous republic/local self-government, which:

a. In case of the movable property, shall be transferred to the body authorized to govern the property. If the regulation is not issued within the specified term, National Bureau of Enforcement ensures conducting the first repeated auction (if the winner is not revealed on the

first auction) or the new auction (if the winner does not pay the price of the property within specified term);

b. In case of immovable property, shall be sent to the registration body with the claim to register the right of a property of state/autonomous republic/local self-government. If the regulation is not issued within the specified term, National Bureau of Enforcement ensures conducting the first repeated auction (if the winner is not revealed on the first auction) or the new auction (if the winner does not pay the price of the property within specified term);

9. If the winner is not revealed on the first repeated auction or if the winner does not pay the price of the property within the terms stipulated by Georgian Law on Enforcement Proceedings, National Bureau of Enforcement shall be entitled to issue the regulation within 15 days after completion of the auction regarding transferring the property in-kind under the ownership of state/autonomous republic/local self-government, which

a. In case of the movable property, shall be transferred to the body authorized to govern the property. If the regulation is not issued within the specified term, National Bureau of Enforcement ensures conducting the second repeated auction (if the winner is not revealed on the first repeated auction) or the new auction (if the winner does not pay the price of the property within specified term);

b. In case of immovable property, shall be sent to the registration body with the claim to register the right of a property of state/autonomous republic/local self-government. If the regulation is not issued within the specified term, National Bureau of Enforcement ensures conducting the second repeated auction (if the winner is not revealed on the first repeated auction) or the new auction (if the winner does not pay the price of the property within specified term)

10. If the market value of property is less than 5000 GEL, according to the law, only one auction is conducted and the starting price of property is equal to zero GEL. In cases where such procedure has not revealed the winner of the auction, the procedure prescribed paragraph 7 of this article.

11. if enforcement proceedings are commenced in favor of state/autonomous republic/local self-government bodies budgets, including for the purpose of enforcing the decisions prescribed by paragraph "l" of Article 2 of the Law on Enforcement Proceedings and the auction is held under paragraph 10 of this article and the winner of auction is not revealed or if the winner does not cover the price of a property within the terms stipulated by Georgian Law on Enforcement Proceedings, National Bureau of Enforcement shall be entitled to issue the instruction within 15 days after completion of the auction regarding transferring the property in-kind under the ownership of state/autonomous republic/local self-government, which:

a) In case of the movable property, shall be transferred to the body authorized to govern the property. If the regulation is not issued within the specified term, the property is free from attachment conducted in favor of the creditor and the property return to the debtor.

b) In case of immovable property, shall be sent to the registration body with the claim to register the right of a property of state/autonomous republic/local self-government. If the regulation is not issued within the specified term, the property is free from attachment conducted in favour of the creditor and the property return to the debtor.

Decree # 84 of the Ministry of Justice of Georgia, dates as of July 1, 2011 – website, 01.07.2011

Decree # 148 of the Ministry of Justice of Georgia, dates as of November 21, 2011 (par 1, 6, 8, 9)

Decree # 12 of the Ministry of Justice of Georgia, dates as of January 17, 2012-website, 17.01.2012

Annex #2

Procedures of Conducting Compulsory Auction

Article 1. General Provisions

1. By pressing the registration button, it is confirmed that client got acquainted and agreed with the forms, rules, procedures and conditions of conducting the auction, subsequently, the rights and responsibilities prescribed by Georgian Law on Enforcement Proceedings and this Decree has been created.
2. The client purchases the property under the ownership of the debtor through websites www.nbe.gov.ge and/or www.eauction.ge

Article 2. Conditions of Registration

1. Any physical and legal person can register on the websites.
2. On the final stage of the registration, the system sends activation code on the cell phonenumbe indicated in the registration form and link of the website to E-mail address. Theregistration process shall be completed by opening the indicated link in the browser andinserting activation code.
3. Registration on the website is free of charge for the client.

Article 3. Authorization

The client registered on the website gets the authorization by inserting "client's name"("names") and "password" in the relevant form.

Article 4. Participating in E-Auction

1. After authorization, the client can purchase the property uploaded on the website throughE-auction, according to lot.
2. Payment of the security fee is obligatory.
3. In case of purchasing the property, security fee paid by the client shall be imputed to thefinal calculation.
4. Authorized client chooses specific lot and puts it in the"basket", from where he/she canopen auction site on the lot and participate in the internet auction. Number of participantsin the process of internet auction is not limited. The identity of other participants is notrevealed to the participant (System automatically generates numbers to the participants)
5. On the site of the specific lot, client has the opportunity to get acquainted with theinformation on the course of the internet auction and indicate his/her price by consideringthe relevant bid.
6. The indication of the price is considered as confirmation of the client to purchase the lot bythis amount. Indication of the price is possible by increasing bids as desired. Eachindication increases the price of a lot.
7. The winner of the internet auction is a client, who indicates the highest price on the lot bythe completion of the auction.
8. Internet auction shall be declared completed upon expiration of the timeline. If any clientindicates the price two minutes before the completion of the auction timeline, the auctionshall be prolonged for additional two minutes.
9. After the completion of the E-Auction, the system sends relevant notification to the E-mailaddress or the cell phone of a client.

Decree #44 of the Ministry of Justice of Georgia, dated as of March 25, 2011 – website, 25.03.2011

Decree # 148 of the Ministry of Justice of Georgia, dates as of November 21, 2011 (par 2,9)

Article 5 (Extracted)

Decree # 84 of the Ministry of Justice of Georgia, dates as of July 1, 2011 – website, 01.07.2011

Article 6. Rights of the Parties

1. National Bureau of Enforcement shall be entitled:
 - a. To upload any changes regarding the procedures of conducting the auction on the website;
 - b. To terminate any service due to technical problem, error, inaccuracy, illegal action of the client and other reasons, which may cause harm to website or National Bureau of Enforcement;
 - c. To suspend or terminate registration of the client and entrance on the website in case of the doubt that client acts in violation of the requirements of this Decree.
 - d. To control all activities of the client and in case of any violation undertake relevant measures.
2. National Bureau of Enforcement hands relevant resolution to the winner of the internet auction after payment of the price.
3. Client shall be entitled:
 - a. To make a choice and purchase the property;
 - b. To update his/her personal profile any time;
4. Client shall be obliged:
 - a. To comply with the procedures of conducting the auction;
 - b. To compensate the purchase price within the timeline established by the National Bureau of Enforcement and ensure taking the purchased property.
5. Client has no right to participate in the auction for artificially raising price on the property.

Decree # 84 of the Ministry of Justice of Georgia, dates as of July 1, 2011 – website, 01.07.2011

Article 7. Payment

1. By using plastic bank cards or accessing the unified electronic payment system on the website - www.eauction.ge it is possible to pay the security fee for the desired bid by a consumer. An electronic bank guarantee form may be used/activated as a tool for ensuring the security fee. The winner of the E-Auction may pay the full amount of the relevant bid via bank or bank plastic cards.
2. Client has access to the payment forms of lot price and security fee on the auction website. The forms include information on the payer, lot (by indicating the final price of the lot) and information on the recipient, by indicating account(s) numbers. Client chooses one of the accounts, prints out the payment form of the lot price and pays relevant amount (from his personal account) in the bank on the basis of this form.
3. In case of paying the amount by a plastic card, the customer may use the electronic payment forms for paying the bid amount and the security fee. The aforementioned forms include information on the payer, the bid (indicating the final bidding price) and the recipient of the information by indicating name and account(s) number (the customer chooses one of the accounts). In case of the accuracy of data, the customer clicks on the payment button and transfers to the plastic card payment system, where he/she fills in the card information and makes payment.
4. The winner of the internet auction is obliged to pay the property price within 1 (one) week after the completion of the internet auction.

5. The title on the property shall be obtained only after the full payment of the amount.

6. (Extracted – 17.01.12 #12)

7. (Extracted – 01.07.11 #84).

8. In case if the winner of the E-auction is an authorized person, the person, based on whose offer the authorized person has marked the highest price on the website, shall be deemed as the winner.

Decree # 84 of the Ministry of Justice of Georgia, dates as of July 1, 2011 – website, 01.07.2011

Decree # 148 of the Ministry of Justice of Georgia, dates as of November 21, 2011 (par 1, 3, 6)

Decree # 12 of the Ministry of Justice of Georgia, dates as of January 17, 2012-website, 17.01.2012

Decree # 41 of the Ministry of Justice of Georgia, dates as of April 2, 2012 – website, (par 8)

Decree # 114 of the Ministry of Justice of Georgia, dates as of July 10, 2012 –website, 11.07.2012

Article 8. Obtaining title on the purchased property

1. After the payment of the full price by the winner of the internet auction, National Bureau of Enforcement issues resolution regarding the property right on the purchased property according to Article 75 of Georgian Law on Enforcement Proceedings.

2. If the winner of the auction does not cover the property price within 1 (one) week after the completion of the auction, he/she loses security payment deposited on the day of auction.

3. The winner of the internet auction is obliged to take away the movable property on his/her expense within 15 (fifteen) working days after getting resolution and relevant notification.

4. If the winner of the internet auction does not take away property within prescribed timeline, he will be imposed to cover the expenses of keeping the property.

5. The transfer of the property to the winner of the internet auction by the National Bureau of Enforcement shall be certified by the hand-over order.

6. The obligation of transferring the property by the National Bureau of Enforcement shall be deemed completed upon handing over the property to the winner of the internet auction.

Decree # 84 of the Ministry of Justice of Georgia, dates as of July 1, 2011 – website, 01.07.2011

Decree # 12 of the Ministry of Justice of Georgia, dates as of January 17, 2012-website, 17.01.2012

Article 9. Confidentiality

National Bureau of Enforcement shall be obliged to ensure the confidentiality of the information received during the registration of the client.