

Rule 6004 - 1

Sale of Estate Property

(a) Notice and Hearing Required

A sale pursuant to 11 USC 363(b), including a sale free and clear of any interest of an entity other than the estate, is initiated by notice and hearing and is subject to LBR 2002-1. An action to determine the validity, priority, or extent of any interest of an entity other than the estate shall be brought separately as an adversary proceeding.

(b) Sale Free and Clear of Interests

- (1) If the property is to be sold free and clear pursuant to 11 USC 363(f) the notice of the ~~motion sale~~ shall so state *and include the following information*:
 - (A) *the date and time of the hearing on the motion, which may be obtained from the court's website;*
 - (B) *if no objection is timely filed and served, the moving party may strike the hearing and present ex parte a proposed order;*
 - (C) the estimated fair market value of the property without deductions for interest of entities other than the estate;
 - (D) the amount of each lien or encumbrance claimed against the property and ~~shall state~~ the paragraph of 11 USC 363(f) under which the sale is authorized;
 - (E) if the proceeds of the sale appear to be insufficient to pay all liens and encumbrances claimed against the property, ~~the notice shall state with specificity~~ the liens and encumbrances which may not be paid from the sale proceeds; *and*
 - (F) *a statement specifying* the necessity for the sale.
- (2) All interests in property sold free and clear shall attach to the proceeds of the sale, unless otherwise provided in the notice.

(c) Service

Service of the notice shall be pursuant to FRBP 6004(c).

(d) Order

The proposed order shall be filed in accordance with LBR 9013-1(c).

LBR 6004-1

October 1, 2008 *December 1, 2008*

Related Provisions

FRBP 2002(a)(2),(c)(1)	Notices of Sale
FRBP 6004	Use, Sale, or Lease of Property
FRBP 7004	Service
FRBP 9014	Contested Matters
11 USC 363	Use, Sale, or Lease of Property
11 USC 1107	Rights and Duties of Debtor in Possession
11 USC 1206	Sales of Property
11 USC 1303	Rights and Powers of Debtor
28 USC 1746	Unsworn Declaration Under Penalty of Perjury

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