

CHAPTER 71

AN ACT concerning sales of foreclosed properties and amending P.L.1995, c.244 and N.J.S.2A:17-36.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 12 of P.L.1995, c.244 (C.2A:50-64) is amended to read as follows:

C.2A:50-64 Procedures for sale.

12. a. With respect to the sale of a mortgaged premises under foreclosure action, each sheriff in this State shall provide for, but not be limited to, the following uniform procedures:

(1) Bidding in the name of the assignee of the foreclosing plaintiff.

(2) That adjournment of the sale of the foreclosed property shall be in accordance with N.J.S.2A:17-36.

(3) (a) The sheriff shall conduct a sale within 150 days of the sheriff's receipt of any writ of execution issued by the court in any foreclosure proceeding.

(b) If it becomes apparent that the sheriff cannot comply with the provisions of subparagraph (a) of this paragraph (3), the foreclosing plaintiff may apply to the office for an order appointing a Special Master to hold the foreclosure sale.

(c) Upon the foreclosing plaintiff making such application to the office, the office shall issue the appropriate order appointing a Special Master to hold the foreclosure sale. The office may issue the order to appoint a Special Master to hold foreclosure sales for one or more properties within a vicinage.

(4) That the successful bidder at the sheriff's sale shall pay a 20 percent deposit in either cash or by a certified or cashier's check, made payable to the sheriff of the county in which the sale is conducted, immediately upon the conclusion of the foreclosure sale. If the successful bidder cannot satisfy this requirement, the bidder shall be in default and the sheriff shall immediately void the sale and proceed further with the resale of the premises without the necessity of adjourning the sale, without renotification of any party to the foreclosure and without the republication of any sales notice. Upon such resale, the defaulting bidder shall be liable to the foreclosing plaintiff for any additional costs incurred by such default including, but not limited to, any difference between the amount bid by the defaulting bidder and the amount generated for the foreclosing plaintiff at the resale. In the event the plaintiff is the successful bidder at the resale, the plaintiff shall provide a credit for the fair market value of the property foreclosed.

(5) It is permissible, upon consent of the sheriff conducting the sheriff's sale, that it shall not be necessary for an attorney or representative of the person who initiated the foreclosure to be present physically at the sheriff's sale to make a bid. A letter containing bidding instructions may be sent to the sheriff in lieu of an appearance.

(6) That each sheriff's office shall use, and the plaintiff's attorney shall prepare and submit to the sheriff's office, a deed which shall be in substantially the following form:

THIS INDENTURE,

made this (date) day of (month), (year). Between (name), Sheriff of the County of (name) in the State of New Jersey, party of the first part and (name(s)) party of the second part, witnesseth.

WHEREAS, on the (date) day of (month), (year), a certain Writ of Execution was issued out of the Superior Court of New Jersey, Chancery Division- (name) County, Docket No. directed and delivered to the Sheriff of the said County of (name) and which said Writ is in the words or to the effect following that is to say:

THE STATE OF NEW JERSEY to the Sheriff of the County of (name),
Greeting:

WHEREAS, on the (date) day of (month), (year), by a certain judgment made in our Superior Court of New Jersey, in a certain cause therein pending, wherein the PLAINTIFF is:

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and the following named parties are the DEFENDANTS:

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IT WAS ORDERED AND ADJUDGED that certain mortgaged premises, with the appurtenances in the Complaint, and Amendment to Complaint, if any, in the said cause particularly set forth and described, that is to say: The mortgaged premises are described as set forth upon the RIDER ANNEXED HERETO AND MADE A PART HEREOF.

BEING KNOWN AS Tax Lot (number) in Block (number) COMMONLY KNOWN AS (street address)

TOGETHER, with all and singular the rights, liberties, privileges, hereditaments and appurtenances thereunto belonging or in anywise appertaining, and the reversion and remainders, rents, issues and profits thereof, and also all the estate, right, title, interest, use, property, claim and demand of the said defendants of, in, to and out of the same, to be sold, to pay and satisfy in the first place unto the plaintiff,

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.....

the sum of \$ (amount) being the principal, interest and advances secured by a certain mortgage dated (date, month, year) and given by (name) together with lawful interest from

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until the same be paid and satisfied and also the costs of the aforesaid plaintiff with interest thereon.

AND for that purpose a Writ of Execution should issue, directed to the Sheriff of the County of (name) commanding him to make sale as aforesaid; and that the surplus money arising from such sale, if any there be, should be brought into our said Court, as by the judgment remaining as of record in our said Superior Court of New Jersey, at Trenton, doth

and more fully appear; and whereas, the costs and Attorney's fees of the said plaintiff have been duly taxed at the following sum: \$ (amount)

THEREFORE, you are hereby commanded that you cause to be made of the premises aforesaid, by selling so much of the same as may be needful and necessary for the purpose, the said sum of \$..... (amount) and the same you do pay to the said plaintiff together with contract and lawful interest thereon as aforesaid, and the sum aforesaid of costs with interest thereon.

And that you have the surplus money, if any there be, before our said Superior Court of New Jersey, aforesaid at Trenton, within 30 days after pursuant to R.4:59-1(a), to abide the further Order of the said Court, according to judgment aforesaid, and you are to make return at the time and place aforesaid, by certificate under your hand, of the manner in which you have executed this our Writ, together with this Writ, and if no sale, this Writ shall be returnable within 12 months.

WITNESS, the Honorable (name), Judge of the Superior Court at Trenton, aforesaid, the (date) day of (month), (year).

/s/ (Clerk)
Superior Court of New Jersey

/s/.....
Attorney for Plaintiff

As by the record of said Writ of Execution in the Office of the Superior Court of New Jersey, at Trenton, in Book (number) of Executions, Page (number) etc., may more fully appear.

AND WHEREAS I, the said (name), as such Sheriff as aforesaid did in due form of law, before making such sale give notice of the time and place of such sale by public advertisement signed by myself, and set up in my office in the (name) Building in (name) County, being the County in which said real estate is situate and also set up at the premises to be sold at least three weeks next before the time appointed for such sale.

I also caused such notice to be published four times in two newspapers designated by me and printed and published in the said County, the County wherein the real estate sold is situate, the same being designated for the publication by the Laws of this State, and circulating in the neighborhood of said real estate, at least once a week during four consecutive calendar weeks. One of such newspapers, (name of newspaper) is a newspaper with circulation in (name of town), the County seat of said (name) County. The first publication was at least twenty-one days prior and the last publication not more than eight days prior to the time appointed for the sale of such real estate, and by virtue of the said Writ of Execution, I did offer for sale said land and premises at public vendue at the County (name) Building in (name of town) on the (date) day of, (month) (year) at the hour of (time) in the (a.m. or p.m.).

WHEREUPON the said party of the second part bidding therefore for the same, the sum of \$..... (amount) and no other person bidding as much I did then and there openly and publicly in due form of law between the hours of (time) and (time) in the (a.m. or p.m.), strike off and sell tracts or parcels of land and premises for the sum of \$ (amount) to the said party of the second part being then and there the highest bidder for same. And on the (date) of (month) in the year last aforesaid I did truly report the said sale to the Superior Court of New Jersey, Chancery Division and no objection to the said sale having been made, and by Assignment of Bid filed with the Sheriff of (name) County said bidder assigned its bid to:

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NOW, THEREFORE, This Indenture witnesseth, that I, the said (name), as such Sheriff as aforesaid under and by the virtue of the said Writ of Execution and in execution of the power and trust in me reposed and also for and in consideration of the said sum of \$ (amount) therefrom acquit, exonerate and forever discharge to the said party of the second part, its successors and assigns, all and singular the said tract or parcel of lands and premises, with the appurtenances, privileges, and hereditaments thereunto belonging or in any way appertaining; to have and hold the same, unto the said party of the second part, its successors and assigns to its and their only proper use, benefit, and behoof forever, in as full, ample and beneficial manner as by virtue of said Writ of Execution I may, can or ought to convey the same.

And, I, the said (name), do hereby covenant, promise and agree, to and with the said party of the second part, its successors and assigns, that I have not, as such Sheriff as aforesaid, done or caused, suffered or procured to be done any act, matter or thing whereby the said premises, or any part thereof, with the appurtenances, are or may be charged or encumbered in estate, title or otherwise.

IN WITNESS WHEREOF, I the said (name) as such Sheriff as aforesaid, have hereunto set my hand and seal the day and year aforesaid.

Signed, sealed and delivered
in the presence of

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.....
Attorney at Law of New Jersey(name) Sheriff

STATE OF NEW JERSEY) SS.
.....(county)

I, (name), Sheriff, of the County of (name), do solemnly swear that the real estate described in this deed made to

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was by me sold by virtue of a good and subsisting execution (or as the case may be) as is therein recited, that the money ordered to be made has not been to my knowledge or belief paid or satisfied, that the time and place of the same of said real estate were by me duly advertised as required by law, and that the same was cried off and sold to a bona fide purchaser for the best price that could be obtained and the true consideration for this conveyance as set forth in the deed is \$ (amount).

.....
..... (name), Sheriff

Sworn before me, (name), on this (date) day of (month), (year), and I having examined the deed above mentioned do approve the same and order it to be recorded as a good and sufficient conveyance of the real estate therein described.

STATE OF NEW JERSEY) ss.
..... (Name) County) Attorney or Notary Public

On this (date) day of (month), (year), before me, the subscriber, (name) personally appeared (name), Sheriff of the County of (name) aforesaid, who is, I am satisfied, the grantor in the within Indenture named, and I having first made known to him the contents thereof, he did thereupon acknowledge that he signed, sealed and delivered the same on his voluntary act and deed, for the uses and purposes therein expressed.

.....
Attorney or Notary Public

b. At the conclusion of the sheriff's sale, the attorney for the plaintiff shall prepare and deliver to the sheriff a deed which shall be in the form provided pursuant to paragraph (6) of subsection a. of this section for the sheriff's execution and the deed shall be delivered to the sheriff within 10 days of the date of the sale. The sheriff shall be entitled to the authorized fee, as a review fee, even if the plaintiff's attorney prepares the deed.

c. The sheriff's office shall, within two weeks of the date of the sale, deliver a fully executed deed to the successful bidder at the sale provided that the bidder pays the balance of the monies due to the Sheriff by either cash or certified or cashier's check. In the event a bid is satisfied after the expiration and additional interest is collected from the successful bidder, the sheriff shall remit to the plaintiff the total amount, less any fees, costs and commissions due the sheriff, along with the additional interest.

2. N.J.S.2A:17-36 is amended to read as follows:

Adjournments of sale of real estate.

2A:17-36. Adjournments of sale of real estate. Notwithstanding any other law or court rule to the contrary, a sheriff or other officer selling real estate by virtue of an execution may make five adjournments of the sale, two at the request of the lender, two at the request of the debtor, and one if both the lender and debtor agree to an adjournment, and no more, to any time, not exceeding 30 calendar days for each adjournment. However, a court of competent jurisdiction may, for cause, order further adjournments.

3. This act shall take effect on the 90th day following enactment.

Approved April 29, 2019.