

ASSEMBLY, No. 793

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblymen Caputo, Giblin, Assemblywomen Sumter, McKnight,

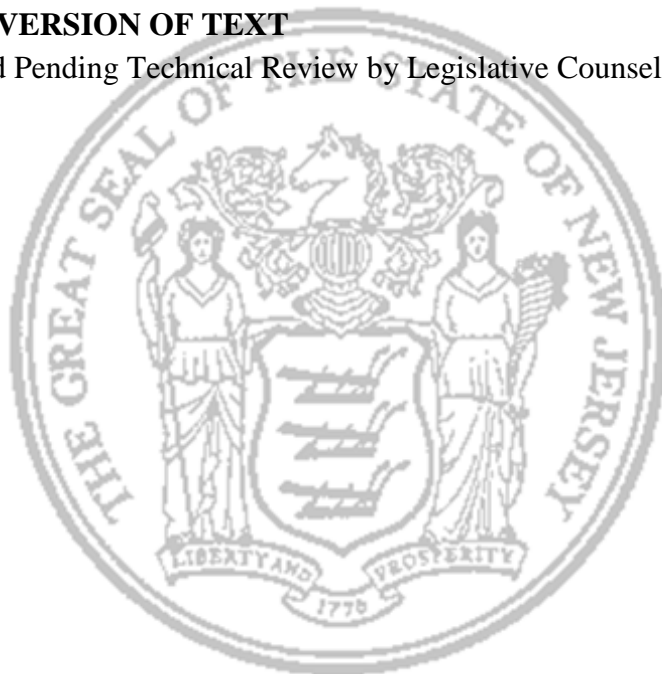
Assemblyman Wimberly, Assemblywomen Carter and Chaparro

SYNOPSIS

Creates “Community Wealth Preservation Program”; expands access for certain buyers to purchase property from sheriff’s sales.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



A793 TIMBERLAKE, TUCKER

2

1 AN ACT concerning the procedures for sheriff's sales, designated as
2 the "Community Wealth Preservation Program," and amending
3 and supplementing P.L.1995, c.244, and amending N.J.S.22A:4-
4 8.

5

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

8

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

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

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

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

18 (3) (a) The sheriff shall **[schedule]** conduct a sale **[date]**
19 within **[120]** 150 days of the sheriff's receipt of any writ of
20 execution issued by the court in any foreclosure proceeding.

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

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

30 (4) **[That]** Except as otherwise provided in this paragraph with
31 respect to the purchase of residential property for which there is a
32 84 month occupancy requirement, the successful bidder at the
33 sheriff's sale shall pay a 20 percent deposit in either cash or by a
34 certified or cashier's check, made payable to the sheriff of the
35 county in which the sale is conducted, immediately upon the
36 conclusion of the foreclosure sale. In the case of residential
37 property in which the bidder shall occupy the property as the
38 bidder's primary residence for a period of at least 84 months, the
39 successful bidder who has fulfilled the requirements set forth in
40 subsection g. of this section shall pay a 3.5 percent deposit in either
41 cash or by certified or cashier's check, made payable to the sheriff
42 of the county in which the sale is conducted, immediately upon the
43 conclusion of the foreclosure sale. If the successful bidder cannot
44 satisfy this requirement, the bidder shall be in default and the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 sheriff shall immediately void the sale and proceed further with the
2 resale of the premises without the necessity of adjourning the sale,
3 without renotification of any party to the foreclosure and without
4 the republication of any sales notice. Upon such resale, the
5 defaulting bidder shall be liable to the foreclosing plaintiff for any
6 additional costs incurred by such default including, but not limited
7 to, any difference between the amount bid by the defaulting bidder
8 and the amount generated for the foreclosing plaintiff at the resale.
9 In the event the plaintiff is the successful bidder at the resale, the
10 plaintiff shall provide a credit for the fair market value of the
11 property foreclosed.

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

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

21 THIS INDENTURE,
22 made this (date) day of (month),
23 (year). Between (name), Sheriff of the County
24 of (name) in the State of New Jersey, party of the first
25 part and (name(s)) party of the
26 second part, witnesseth.

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

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

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

40
41
42

43 and the following named parties are the DEFENDANTS:

44
45
46

47 IT WAS ORDERED AND ADJUDGED that certain mortgaged
48 premises, with the appurtenances in the Complaint, and Amendment

1 to Complaint, if any, in the said cause particularly set forth and
2 described, that is to say: The mortgaged premises are described as
3 set forth upon the RIDER ANNEXED HERETO AND MADE A
4 PART HEREOF.
5 BEING KNOWN AS Tax Lot (number) in Block
6 (number) COMMONLY KNOWN AS (street address)
7
8 TOGETHER, with all and singular the rights, liberties, privileges,
9 hereditaments and appurtenances thereunto belonging or in anywise
10 appertaining, and the reversion and remainders, rents, issues and
11 profits thereof, and also all the estate, right, title, interest, use,
12 property, claim and demand of the said defendants of, in, to and out
13 of the same, to be sold, to pay and satisfy in the first place unto the
14 plaintiff,
15
16
17 the sum of \$ (amount) being the principal, interest and
18 advances secured by a certain mortgage dated (date,
19 month, year) and given by (name) together with
20 lawful interest from
21
22
23
24 until the same be paid and satisfied and also the costs of the
25 aforesaid plaintiff with interest thereon.
26 AND for that purpose a Writ of Execution should issue, directed to
27 the Sheriff of the County of (name) commanding him to
28 make sale as aforesaid; and that the surplus money arising from
29 such sale, if any there be, should be brought into our said Court, as
30 by the judgment remaining as of record in our said Superior Court
31 of New Jersey, at Trenton, doth and more fully appear; and
32 whereas, the costs and Attorney's fees of the said plaintiff have
33 been duly taxed at the following sum: \$ (amount)
34 THEREFORE, you are hereby commanded that you cause to be
35 made of the premises aforesaid, by selling so much of the same as
36 may be needful and necessary for the purpose, the said sum of
37 \$..... (amount) and the same you do pay to the said plaintiff
38 together with contract and lawful interest thereon as aforesaid, and
39 the sum aforesaid of costs with interest thereon.
40 And that you have the surplus money, if any there be, before our
41 said Superior Court of New Jersey, aforesaid at Trenton, within 30
42 days after pursuant to R.4:59-1(a), to abide the further Order of the
43 said Court, according to judgment aforesaid, and you are to make
44 return at the time and place aforesaid, by certificate under your
45 hand, of the manner in which you have executed this our Writ,
46 together with this Writ, and if no sale, this Writ shall be returnable
47 within **[12]** 24 months.

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

4 /s/ (Clerk)
5 Superior Court of New Jersey

6 /s/.....
7 Attorney for Plaintiff

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

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

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

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

1
2
3
4 NOW, THEREFORE, This Indenture witnesseth, that I, the said
5 (name), as such Sheriff as aforesaid under and by the
6 virtue of the said Writ of Execution and in execution of the power
7 and trust in me reposed and also for and in consideration of the said
8 sum of \$ (amount) therefrom acquit, exonerate and
9 forever discharge to the said party of the second part, its successors
10 and assigns, all and singular the said tract or parcel of lands and
11 premises, with the appurtenances, privileges, and hereditaments
12 thereunto belonging or in any way appertaining; to have and hold
13 the same, unto the said party of the second part, its successors and
14 assigns to its and their only proper use, benefit, and behoof forever,
15 in as full, ample and beneficial manner as by virtue of said Writ of
16 Execution I may, can or ought to convey the same.
17 And, I, the said (name), do hereby covenant, promise and
18 agree, to and with the said party of the second part, its successors
19 and assigns, that I have not, as such Sheriff as aforesaid, done or
20 caused, suffered or procured to be done any act, matter or thing
21 whereby the said premises, or any part thereof, with the
22 appurtenances, are or may be charged or encumbered in estate, title
23 or otherwise.
24 IN WITNESS WHEREOF, I the said (name) as such
25 Sheriff as aforesaid, have hereunto set my hand and seal the day and
26 year aforesaid.
27 Signed, sealed and delivered
28 in the presence of
29
30 Attorney at Law of New Jersey(name) Sheriff
31 STATE OF NEW JERSEY) SS.
32(county)
33 I, (name), Sheriff, of the County of (name),
34 do solemnly swear that the real estate described in this deed made
35 to
36
37
38
39 was by me sold by virtue of a good and subsisting execution (or as
40 the case may be) as is therein recited, that the money ordered to be
41 made has not been to my knowledge or belief paid or satisfied, that
42 the time and place of the same of said real estate were by me duly
43 advertised as required by law, and that the same was cried off and
44 sold to a bona fide purchaser for the best price that could be
45 obtained and the true consideration for this conveyance as set forth
46 in the deed is \$ (amount).
47
48 (name), Sheriff

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

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

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

16
17 Attorney or Notary Public

18 b. At the conclusion of the sheriff's sale, the attorney for the
19 plaintiff **may** shall prepare and deliver to the sheriff a deed which
20 shall be in the form provided pursuant to paragraph **[(5)] (6)** of
21 subsection a. of this section for the sheriff's execution and the deed
22 shall be delivered to the sheriff within 10 days of the date of the
23 sale. The sheriff shall be entitled to the authorized fee, as a review
24 fee, even if the plaintiff's attorney prepares the deed.

25 c. (1) The sheriff's office shall, within two weeks of the date
26 of the sale, deliver a fully executed deed to the successful bidder at
27 the sale provided that the bidder pays the balance of the monies due
28 to the Sheriff by either cash or certified or cashier's check. In the
29 event a bid is satisfied after the expiration and additional interest is
30 collected from the successful bidder, the sheriff shall remit to the
31 plaintiff the total amount, less any fees, costs and commissions due
32 the sheriff, along with the additional interest.

33 (2) In the case of residential property in which the bidder shall
34 occupy the property as the bidder's primary residence for a period
35 of at least 84 months, no interest shall accrue on the balance of the
36 sale of the property until 60 business days have passed following
37 the date of the sale, and thereafter, the successful bidder shall have
38 30 business days to fulfill the balance. If the successful bidder fails
39 to fulfill the balance within this 90 business day period, the bidder
40 shall forfeit the deposit on the property and shall be responsible for
41 the payment of accrued interest and any fees or penalties incurred as
42 a result of the sale being void, unless the failure to fulfill the
43 balance is due to the bidder's inability to close a mortgage through
44 no fault of their own, such as because the appraised value of the
45 property is less than the purchase value of the property, in which
46 case the bidder shall be refunded the deposit on the property and
47 shall be responsible only for the payment of accrued interest and
48 any fees or penalties incurred as a result of the sale being void.

- 1 d. Prior to completion of a sale of residential property, the
2 foreclosing plaintiff shall disclose whether the property is vacant,
3 tenant-occupied, or owner-occupied. If the property is vacant, the
4 financial institution shall provide the successful bidder access to the
5 property.
- 6 e. A bidder, including, but not limited to, next of kin of the
7 foreclosed upon defendant, may purchase residential property at a
8 sheriff's sale by way of financing if the bidder provides
9 documentation that the bidder has been pre-approved by a financial
10 institution regulated by the Department of Banking and Insurance or
11 by a federal banking agency, as defined by section 3 of the "New
12 Jersey Residential Mortgage Lending Act," P.L.2009, c.53
13 (C.17:11C-53), for financing the property.
- 14 (1) A bidder who intends to finance the purchase of residential
15 property at a sale shall be:
- 16 (a) limited to submitting bids no higher than the amount for
17 which the bidder has been pre-approved for financing; and
- 18 (b) required to present current and valid photo identification that
19 substantially conforms to the name and information contained on
20 the financing pre-approval forms obtained by the bidder.
- 21 (2) With exception to the foreclosed upon defendant or the
22 foreclosed upon defendant's next of kin, a bidder purchasing
23 residential property in a sheriff's sale pursuant to this subsection
24 shall be required by the financial institution to occupy the property
25 as the bidder's primary residence for a fixed term, of at least 84
26 months after taking possession. The deed for the property shall
27 clearly state that the property may not be sold for 84 months from
28 the date of the sheriff's sale.
- 29 (3) A successful bidder who finances the purchase and does not
30 occupy the residence for a period of at least 84 months shall be
31 assessed a fine by a court of competent jurisdiction up to \$100,000
32 for the first violation, and \$500,000 thereafter for each subsequent
33 violation. These penalties shall not be assessed against a bidder
34 who finances the purchase in good faith and is thereafter required to
35 vacate the property prior to residing in the property for 84 months
36 due to death of the bidder or the bidder's spouse, disability of the
37 bidder or the bidder's spouse, divorce, military deployment, or
38 foreclosure. In the event of the death of a successful bidder, the
39 property may be transferred to another owner in accordance with
40 applicable laws governing estate, inheritance, and probate matters.
- 41 f. In the case of a residential property that is financed pursuant
42 to subsection e. of this section, the sheriff's office shall oversee the
43 occupancy of the property, which may include the mailing of a
44 questionnaire to the successful bidder within 84 months following
45 the sale, requiring the bidder to respond to questions and submit
46 documentation evidencing the bidder's continued residence at the
47 property. If the agency determines based upon its oversight that
48 there has been an occupancy violation, the agency shall bring an

- 1 action in a court of competent jurisdiction so that the sheriff's office
2 can pursue enforcement of penalties for the violation.
- 3 g. In the case of residential property, to be a successful bidder
4 who is not the plaintiff, and who intends to occupy the property,
5 and finance the purchase of the property, the bidder shall have
6 received eight hours of homebuyer education and counseling
7 through a program provided by the United States Department of
8 Housing and Urban Development (HUD), and shall present
9 certification of completion of that program at the time of purchase.
- 10 h. Each sheriff's office shall maintain information, written in
11 plain language, regarding the program to finance the purchase of
12 residential property in a foreclosure sale in accordance with this
13 section on its Internet website in a manner that is accessible to the
14 public. Additionally, each sheriff's office shall display information,
15 written in plain language, regarding the program in its office in a
16 manner that is conspicuous to the public. For any county in which
17 the primary language of 10 percent or more of the residents is a
18 language other than English, the sheriff's office shall provide the
19 information required by this subsection in that other language or
20 languages in addition to English. The alternate language shall be
21 determined based on information from the latest federal decennial
22 census.
- 23 i. Any penalty imposed pursuant to this section may be
24 recovered with costs in a summary proceeding commenced by the
25 appropriate sheriff's office pursuant to the "Penalty Enforcement
26 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Fifty percent
27 of any monies collected pursuant to this section shall be forwarded
28 to the municipality in which the foreclosed upon property is located
29 to be deposited in the affordable housing trust fund of the
30 municipality for use on low income housing or moderate income
31 housing needs as defined in section 4. of P.L.1985, c.222
32 (C.52:27D-304), to the extent the municipality maintains such a
33 fund, and if the municipality does not maintain such a fund, to the
34 State Treasurer, and shall annually be appropriated to the "New
35 Jersey Affordable Housing Trust Fund," section 20 of P.L.1985,
36 c.222 (C.52:27D-320) for the purpose of developing and supporting
37 housing programs that create for-sale and rental affordable housing
38 for the workforce. The remaining 50 percent of any monies
39 collected pursuant to this section shall provide for administrative
40 and enforcement costs, including costs incurred by the sheriff's
41 office, necessary to effectuate the purposes of this section.
- 42 j. If the foreclosed upon defendant or the next of kin of the
43 foreclosed upon defendant has secured financing or assets sufficient
44 to meet terms offered by the foreclosing plaintiff or an alternative
45 financial institution to purchase the property, the foreclosed upon
46 defendant or the next of kin of the foreclosed upon defendant shall
47 have the right of first refusal to purchase the property in the amount

1 approved for the opening bid of the sheriff's sale at the time of the
2 sale.

3 k. As used in this section:

4 "Residential property" means real property located in this State
5 in which people reside or dwell as their primary residence as
6 distinguished from property which is used for investment,
7 commercial, or business purposes.

8 (cf: P.L.2019, c.71, s.1)

9

10 2. N.J.S.22A:4-8 is amended to read as follows:

11 22A:4-8. For the services hereinafter enumerated sheriffs and
12 other officers shall receive the following fees:

13 In addition to the mileage allowed by law, for serving every
14 summons and complaint, attachment or any mesne process issuing out
15 of the Superior Court, the sheriff or other officer serving such process
16 shall, for the first defendant or party on whom such process is served,
17 be allowed \$22.00 and, for service on the second defendant named
18 therein, \$20.00, and for serving such process on any other defendant or
19 defendants named therein, \$16.00 each, and no more. If a man and his
20 wife be named in such process they shall be considered as one
21 defendant, except where they are living separate and apart.

22 Serving summons and complaint in matrimonial actions, in
23 addition to mileage, \$22.00.

24 Serving *capias ad respondendum*, *capias ad satisfaciendum*,
25 warrant of commitment, writ of *ne exeat*, in addition to mileage,
26 \$48.00.

27 Serving order to summon juries and return, \$8.00.

28 Serving every execution against goods or lands and making an
29 inventory and return, in addition to mileage, \$48.00.

30 For returning every writ, \$2.00.

31 Executing every writ of possession and return, in addition to
32 mileage, \$48.00.

33 Executing every writ of attachment, sequestration or replevin
34 issuing out of any of the courts, in addition to mileage, \$48.00.

35 For serving each out-of-State paper, in addition to the mileage
36 allowed by law, \$25.00 for the first defendant on whom such paper is
37 served, \$20.00 for service on the second defendant named therein, and
38 \$16.00 for serving such paper on any other defendant or defendants
39 named therein. If a man and wife be named in such paper, they shall be
40 considered as one defendant, except where they are living separate and
41 apart.

42 For serving or executing any process or papers where mileage is
43 allowed by law, the officer shall receive mileage actually traveled to
44 and from the courthouse, at the rate per mile of \$0.16.

45 The sheriff shall be entitled to retain out of all moneys collected or
46 received by him on a forfeited recognizance, whether before or after
47 execution, or from amercements, or from fines and costs on
48 conviction, on indictment or otherwise, whether such moneys are

1 payable to the State or to the county treasurer of the county wherein
2 conviction was had, **[5%]** five percent.

3 For transporting each offender to the State Prison, per mile, but not
4 less than \$3.00 for each offender, to be certified by the keeper of the
5 prison and the certificate to be delivered to the county treasurer of the
6 county where the conviction was had, \$0.23.

7

8

EXECUTION SALES

9

10 **[When]** Except as to sales conducted in accordance with section
11 12 of P.L.1995, c.244 (C.2A:50-64), when a sale is made by virtue of
12 an execution the sheriff shall be entitled to charge the following fees:
13 On all sums not exceeding \$5,000.00, **[6%]** 10 percent; on all sums
14 exceeding \$5,000.00 on such excess, **[4%]** five percent; the minimum
15 fee to be charged for a sale by virtue of an execution, **[\$50.00]**
16 \$750.00. When sales are conducted in accordance with section 12 of
17 P.L.1995, c.244 (C.2A:50-64), the sheriff shall be entitled to charge
18 the following fees: On all sums not exceeding \$5,000.00, six percent;
19 on all sums exceeding \$5,000.00 on such excess, four percent; the
20 minimum fee to be charged for a sale by virtue of an execution,
21 \$50.00.

22 On an execution against wages, commissions and salaries, the
23 sheriff shall charge the same percentage fees on all sums collected as
24 those percentage fees applicable in cases wherein an execution sale is
25 consummated.

26 When the execution is settled without actual sale and such
27 settlement is made manifest to the officer, the officer shall receive
28 **[1/2]** one-half of the amount of percentage allowed herein in case of
29 sale.

30 Making statement of execution, sales and execution fees, \$10.00.

31 Advertising the property for sale, provided the sheriff or deputy
32 sheriff attend in pursuance of the advertisement, \$20.00.

33 Posting property for sale, \$20.00.

34 For the crier of the vendue, when the sheriff proceeds to sell, for
35 every day he shall be actually employed in such sale, \$5.00.

36 Every adjournment of a sale, but no more than one adjournment
37 shall be allowed, and if the sheriff shall have several executions
38 against a defendant, he shall only be allowed for advertising, attending
39 and adjourning, as if he had but one execution, \$28.00.

40 Drawing and making a deed to a purchaser of real property,
41 \$75.00.

42 Drawing and making a bill of sale to the purchaser of personal
43 property when such bill of sale is required or demanded, \$20.00.

44 When more than one execution shall be issued out of the Superior
45 Court upon any judgment, each sheriff to whom such execution shall
46 be directed and delivered shall be entitled to collect and receive from
47 the defendant named in such execution the fees allowed by law for

1 making a levy and return and statement thereon, or for such other
2 services as may be actually performed by him, and the sheriff who
3 shall collect the amount named in said execution or any part thereof,
4 shall be entitled to the legal percentage upon whatever amount may be
5 so collected by him, but in case any such judgment shall be settled
6 between the parties and the amount due thereon shall not be collected
7 by either sheriff, then the percentage on the amount collected which
8 would be due the sheriff thereon in case only one execution had been
9 issued shall be equally divided among the several sheriffs in whose
10 hands an execution in the same cause may have been placed.

11 The sheriff shall file his taxed bill of costs with the clerk of the
12 court out of which execution issued, within such time as the court shall
13 direct by general rule or special order, or, in default thereof, he shall
14 not be entitled to any costs. If any sheriff shall charge in such bill of
15 costs for services not done, or allowed by law, or shall take any greater
16 fee or reward for any services by him done than is or shall be allowed
17 by law, he shall be liable for the damages sustained by the party
18 aggrieved including a penalty of \$30.00, to be recovered in a summary
19 manner, in the action or proceeding wherein the execution was issued
20 or otherwise.

21 (cf: P.L.2001, c.370, s.5)

22

23 3. (New section) a. In situations in which a creditor has
24 instituted a foreclosure proceeding pursuant to the "Fair Foreclosure
25 Act," P.L.1995, c.244 (C.2A:50-53 et seq.) and a creditor employs an
26 agent to be responsible for the care, maintenance, security, and upkeep
27 of the property if it becomes vacant and abandoned, the creditor and
28 agent who peacefully enters the property and exercises reasonable care
29 in doing so, shall be immune from liability, before and after the bid,
30 for any damage to the property or any person entering the property.

31 b. Persons bidding on the property shall not enter the property
32 prior to the time of sale of the property to the successful bidder.

33

34 4. This act shall take effect immediately.

35

36

37

STATEMENT

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39 This bill, designated as the "County Wealth Preservation
40 Program," revises sheriff's procedures for the sale of residential
41 foreclosure properties. The bill reduces the deposit required at the
42 time of a sheriff's sale for residential property from 20 percent to
43 3.5 percent. Current law provides that all bidders on properties for
44 sale at sheriff's sales are required to deposit 20 percent of the
45 purchase price of the property.

46 Under the bill, the successful bidder on residential property will
47 have up to 90 business days to complete the sale, with no interest

1 accruing on the balance of the sale for 60 business days following
2 the sale.

3 The bill provides that the sheriff require the foreclosing plaintiff
4 to disclose whether the property is vacant, tenant-occupied, or
5 owner-occupied.

6 Under the bill, a bidder may purchase property in a sheriff's sale
7 by way of financing if the bidder provides documentation that the
8 bidder has been pre-approved by a financial institution for financing
9 the property. A bidder may only use the financing option if the
10 property will be the bidder's primary residence. If a successful
11 bidder finances the property and does not use the property as a
12 primary residence, the bidder will be subject to a fine of up to
13 \$100,000. However, there are exceptions to the penalties if the
14 bidder must vacate the property due to death of the bidder or the
15 bidder's spouse, disability of the bidder or the bidder's spouse,
16 divorce, military deployment, or foreclosure.

17 To be a successful bidder on a residential property the bidder,
18 who is not the plaintiff, who intends to occupy the property and
19 finance the purchase of the property, shall have received eight hours
20 of training provided by the United States Department of Housing
21 and Urban Development (HUD), and shall present certification of
22 completion of that training at the time of purchase.

23 The bill requires each sheriff's office to maintain information,
24 written in plain language, regarding the program to finance the
25 purchase of residential property in a foreclosure sale in accordance
26 with this section on its internet website in a manner that is
27 accessible to the public. Additionally, each sheriff's office is to
28 display information, written in plain language, regarding the
29 program in its office in a manner that is conspicuous to the public.

30 For any county in which the primary language of 10 percent or
31 more of the residents is a language other than English, the bill
32 directs the sheriff's office to provide the information required for
33 the program in that other language or languages in addition to
34 English. The alternate language would be determined based on
35 information from the latest federal decennial census.

36 With the exception of sales conducted pursuant to the
37 Community Wealth Preservation Program, the bill increases the fee
38 to be charged by virtue of an execution sale from 4 to 5 percent, or
39 6 percent to 10 percent, depending on whether the sum involved is
40 greater than or less than \$5,000, respectively. The bill also
41 increases the minimum fee to be charged by virtue of an execution
42 sale from \$50 to \$750.

43 Finally, the bill provides creditors and creditors' agents with
44 immunity from liability for damages to certain vacant and
45 abandoned property so long as reasonable care is exercised, and
46 clarifies that bidders are not authorized to enter the property prior to
47 the time of sale.