

[Second Reprint]

## ASSEMBLY, No. 5664

# STATE OF NEW JERSEY

## 220th LEGISLATURE

INTRODUCED JUNE 26, 2023

**Sponsored by:**

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**District 34 (Essex and Passaic)**

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### SYNOPSIS

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

### CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on December 18, 2023, with amendments.

(Sponsorship Updated As Of: 12/21/2023)

1 AN ACT concerning sheriff's sales and amending and  
2 supplementing P.L.1995, c.244, and amending N.J.S.22A:4-8.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 12 of P.L.1995, c.244 (C.2A:50-64) is amended to read  
8 as follows:

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

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

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

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

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

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

27 (4) That notice for the sale of a foreclosed upon residential  
28 property be mailed to the primary address of the foreclosed upon  
29 defendant and to the address of the foreclosed upon residential  
30 property. Notice of the sale shall be mailed in an envelope that plainly  
31 states on its exterior that the envelope is a notice for the sale of the  
32 foreclosed upon residential property<sup>1</sup>. The language used on the  
33 exterior of the envelope shall comply with the federal <sup>2</sup>"Fair Debt  
34 Collection Practices Act," 15 U.S.C. s.1692 et seq<sup>1</sup>.

35 (5) (a) That notice of the <sup>1</sup>**[final]**<sup>1</sup> upset price for the sale of a  
36 foreclosed upon residential property be provided at least four weeks  
37 prior to the sheriff's sale and posted on the Internet website of the  
38 sheriff's office and on any other medium used to provide notice of the  
39 sheriff's sale. The <sup>1</sup>**[final]**<sup>1</sup> upset price provided <sup>1</sup>in the notice shall  
40 be a good faith estimate of the upset price<sup>1</sup> on the day of the sheriff's  
41 sale <sup>1</sup>**[shall not differ from the final upset price provided in the**  
42 **notice]**; however, the upset price on the day of the sheriff's sale shall  
43 not increase by more than three percent from the upset price originally

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

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ACE committee amendments adopted December 11, 2023.

<sup>2</sup>Assembly AAP committee amendments adopted December 18, 2023.

1 provided in the notice. If the sheriff's sale is delayed or postponed, the  
2 upset price may be adjusted to reflect the latest price<sup>1</sup>; and

3 (b) Prior to providing the <sup>1</sup>["final"]<sup>1</sup> upset price to the sheriff's  
4 office pursuant to subparagraph (a) of this paragraph, the foreclosing  
5 plaintiff or agent of the foreclosing plaintiff shall be prohibited from  
6 contacting the foreclosed upon defendant, next of kin of the foreclosed  
7 upon defendant, or a nonprofit community development corporation to  
8 inquire whether the foreclosed upon defendant, next of kin, or  
9 nonprofit community development corporation intends to participate in  
10 the sheriff's sale for the foreclosed upon property or exercise the  
11 provisions of P.L. , c. (C. ) (pending before the Legislature as  
12 this bill)<sup>1</sup>. If, after providing notice of the upset price pursuant to  
13 subsection a. of this section, the foreclosing plaintiff is informed that  
14 the foreclosed upon defendant, next of kin, or nonprofit community  
15 development corporation intends to participate in the sheriff's sale or  
16 exercise the provisions of P.L. , c. (C. ) (pending before the  
17 Legislature as this bill), the foreclosing plaintiff shall not attempt to  
18 delay or postpone the sheriff's sale by reason of the foreclosed upon  
19 defendant, next of kin, or nonprofit community development  
20 corporation's intention to participate in the sheriff's sale or exercise  
21 the provisions of P.L. , c. (C. ) (pending before the Legislature  
22 as this bill)<sup>1</sup>.

23 (6) Prior to the sale of residential property, the foreclosing plaintiff  
24 shall disclose, if known, whether the property is vacant, tenant-  
25 occupied, or owner-occupied. If the property is vacant, the foreclosing  
26 plaintiff shall provide the successful bidder access to the property if  
27 the foreclosing plaintiff has such access and may condition access by  
28 the successful bidder on being accompanied by a representative of the  
29 foreclosing plaintiff.

30 (7) (a) Except as otherwise provided in subparagraphs (b) and (c)  
31 of this paragraph, the successful bidder at the sheriff's sale shall pay a  
32 20 percent deposit in either cash or by a certified or cashier's check,  
33 made payable to the sheriff of the county in which the sale is  
34 conducted, immediately upon the conclusion of the foreclosure sale.

35 (b) In the case of residential property in which the successful  
36 bidder is the foreclosed upon defendant, next of kin, tenant, nonprofit  
37 community development corporation, or a bidder who shall occupy the  
38 property as the bidder's primary residence for a period of at least 84  
39 months, the successful bidder who has fulfilled the requirements set  
40 forth in subsection e. of this section shall pay a 3.5 percent deposit <sup>1</sup>of  
41 the original upset price listed in the notice provided by the foreclosing  
42 plaintiff pursuant to subparagraph (a) of paragraph (5) of this  
43 subsection,<sup>1</sup> with the rest of the balance due within 90 business days  
44 by cash, certified or cashier's check, or by wire transfer, made payable  
45 to the sheriff of the county in which the sale is conducted or to the  
46 Special Master, if the sheriff cannot comply with the provisions of

1 subparagraph (a) of paragraph (3) of this subsection, immediately upon  
2 the conclusion of the foreclosure sale.

3 (c) If the successful bidder cannot satisfy **[this]** the requirement  
4 of this paragraph that is applicable to the bidder, or the applicable  
5 requirement of this paragraph respectively, the bidder shall be in  
6 default and the sheriff shall immediately void the sale and proceed  
7 further with the resale of the premises without the necessity of  
8 adjourning the sale, without renotification of any party to the  
9 foreclosure and without the republication of any sales notice. Upon  
10 such resale, the defaulting bidder shall be liable to the foreclosing  
11 plaintiff for any additional costs incurred by such default including,  
12 but not limited to, any difference between the amount bid by the  
13 defaulting bidder and the amount generated for the foreclosing  
14 plaintiff at the resale. In the event the plaintiff is the successful bidder  
15 at the resale, the plaintiff shall provide a credit for the fair market  
16 value of the property foreclosed.

17 **[(5)] (8)** It is permissible, upon consent of the sheriff conducting  
18 the sheriff's sale, that it shall not be necessary for an attorney or  
19 representative of the person who initiated the foreclosure to be present  
20 physically at the sheriff's sale to make a bid. A letter containing  
21 bidding instructions may be sent to the sheriff in lieu of an appearance.

22 **[(6)] (9)** That each sheriff's office shall use, and the plaintiff's  
23 attorney shall prepare and submit to the sheriff's office, a deed which  
24 shall be in substantially the following form:

25 THIS INDENTURE,

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

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

37 THE STATE OF NEW JERSEY to the Sheriff of the County of  
38 ..... (name),

39 Greeting:

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

44 .....

45 .....

46 .....

1       and the following named parties are the DEFENDANTS:  
2       .....  
3       .....  
4       .....  
5       IT WAS ORDERED AND ADJUDGED that certain mortgaged  
6       premises, with the appurtenances in the Complaint, and Amendment to  
7       Complaint, if any, in the said cause particularly set forth and  
8       described, that is to say: The mortgaged premises are described as set  
9       forth upon the RIDER ANNEXED HERETO AND MADE A PART  
10      HEREOF.  
11      BEING KNOWN AS Tax Lot ..... (number) in Block ..... (number)  
12      COMMONLY KNOWN AS (street address) .....  
13      TOGETHER, with all and singular the rights, liberties, privileges,  
14      hereditaments and appurtenances thereunto belonging or in anywise  
15      appertaining, and the reversion and remainders, rents, issues and  
16      profits thereof, and also all the estate, right, title, interest, use,  
17      property, claim and demand of the said defendants of, in, to and out of  
18      the same, to be sold, to pay and satisfy in the first place unto the  
19      plaintiff,  
20      .....  
21      .....  
22      the sum of \$ ..... (amount) being the principal, interest and advances  
23      secured by a certain mortgage dated ..... (date, month, year) and  
24      given by ..... (name) together with lawful interest from  
25      .....  
26      .....  
27      .....  
28      until the same be paid and satisfied and also the costs of the aforesaid  
29      plaintiff with interest thereon.  
30      AND for that purpose a Writ of Execution should issue, directed to the  
31      Sheriff of the County of ..... (name) commanding him to make  
32      sale as aforesaid; and that the surplus money arising from such sale, if  
33      any there be, should be brought into our said Court, as by the judgment  
34      remaining as of record in our said Superior Court of New Jersey, at  
35      Trenton, doth and more fully appear; and whereas, the costs and  
36      Attorney's fees of the said plaintiff have been duly taxed at the  
37      following sum: \$ ..... (amount)  
38      THEREFORE, you are hereby commanded that you cause to be made  
39      of the premises aforesaid, by selling so much of the same as may be  
40      needful and necessary for the purpose, the said sum of \$.....  
41      (amount) and the same you do pay to the said plaintiff together with  
42      contract and lawful interest thereon as aforesaid, and the sum aforesaid  
43      of costs with interest thereon.  
44      And that you have the surplus money, if any there be, before our said  
45      Superior Court of New Jersey, aforesaid at Trenton, within 30 days  
46      after pursuant to R.4:59-1(a), to abide the further Order of the said

1 Court, according to judgment aforesaid, and you are to make return at  
2 the time and place aforesaid, by certificate under your hand, of the  
3 manner in which you have executed this our Writ, together with this  
4 Writ, and if no sale, this Writ shall be returnable within **[12]** 24  
5 months.

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

9 /s/ ..... (Clerk)

10 Superior Court of New Jersey

11 /s/.....

12 Attorney for Plaintiff

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

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

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

40 WHEREUPON the said party of the second part bidding therefore  
41 for the same, the sum of \$..... (amount) and no other person  
42 bidding as much I did then and there openly and publicly in due form  
43 of law between the hours of ..... (time) and ..... (time) in  
44 the ..... (a.m. or p.m.), strike off and sell tracts or parcels of land and  
45 premises for the sum of \$ ..... (amount) to the said party of the  
46 second part being then and there the highest bidder for same. And on

1 the ..... (date) of ..... (month) in the year last aforesaid I did  
 2 truly report the said sale to the Superior Court of New Jersey,  
 3 Chancery Division and no objection to the said sale having been made,  
 4 and by Assignment of Bid filed with the Sheriff of ..... (name)  
 5 County said bidder assigned its bid to:

6 .....  
 7 .....  
 8 .....

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

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

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

31 Signed, sealed and delivered

32 in the presence of

33 .....

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

35 STATE OF NEW JERSEY) SS.

36 .....(county )

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

39 .....  
 40 .....  
 41 .....

42 was by me sold by virtue of a good and subsisting execution (or as the  
 43 case may be) as is therein recited, that the money ordered to be made  
 44 has not been to my knowledge or belief paid or satisfied, that the time  
 45 and place of the same of said real estate were by me duly advertised as  
 46 required by law, and that the same was cried off and sold to a bona

1 fide purchaser for the best price that could be obtained and the true  
2 consideration for this conveyance as set forth in the deed is \$  
3 ..... (amount).  
4 .....  
5 ..... (name), Sheriff  
6 Sworn before me, ..... (name), on this ..... (date) day of  
7 ..... (month), ..... (year), and I having examined the deed  
8 above mentioned do approve the same and order it to be recorded as a  
9 good and sufficient conveyance of the real estate therein described.  
10 STATE OF NEW JERSEY) ss. ....  
11 ..... (Name) County) Attorney or Notary Public  
12 On this ..... (date) day of ..... (month), ..... (year),  
13 before me, the subscriber, ..... (name) personally appeared  
14 ..... (name), Sheriff of the County of ..... (name)  
15 aforesaid, who is, I am satisfied, the grantor in the within Indenture  
16 named, and I having first made known to him the contents thereof, he  
17 did thereupon acknowledge that he signed, sealed and delivered the  
18 same on his voluntary act and deed, for the uses and purposes therein  
19 expressed.  
20 .....  
21 Attorney or Notary Public  
22 b. At the conclusion of the sheriff's sale, the attorney for the  
23 plaintiff shall prepare and deliver to the sheriff a deed which shall be  
24 in the form provided pursuant to paragraph **[(6)]** (9) of subsection a.  
25 of this section for the sheriff's execution and the deed shall be  
26 delivered to the sheriff within 10 days of the date of the sale. The  
27 sheriff shall be entitled to the authorized fee, as a review fee, even if  
28 the plaintiff's attorney prepares the deed.  
29 c. (1) The sheriff's office shall, within two weeks of the date of  
30 the sale, deliver a fully executed deed to the successful bidder at the  
31 sale provided that the bidder pays the balance of the monies due to the  
32 Sheriff by either cash or certified or cashier's check. In the event a bid  
33 is satisfied after the expiration and additional interest is collected from  
34 the successful bidder, the sheriff shall remit to the plaintiff the total  
35 amount, less any fees, costs and commissions due the sheriff, along  
36 with the additional interest.  
37 (2) Notwithstanding the provisions of paragraph (1) of this  
38 subsection, in the case of residential property in which the successful  
39 bidder is permitted to pay a 3.5 percent deposit upon the conclusion of  
40 the foreclosure sale pursuant to <sup>1</sup>**the provisions of this section**  
41 subparagraph (b) of paragraph (7) of subsection a. of this section<sup>1</sup>, no  
42 interest shall accrue on the balance of the sale of the property until 60  
43 business days have passed following the date of the sale, and  
44 thereafter, the successful bidder shall have 30 business days to fulfill  
45 the balance. If the successful bidder fails to fulfill the balance within  
46 this 90 business day period, the bidder shall forfeit the deposit on the



1 property and shall be responsible for the payment of accrued interest  
2 incurred as a result of the sale being void, unless the failure to fulfill  
3 the balance is due to the bidder's inability to close a mortgage through  
4 no fault of their own, which includes, but is not limited to, the  
5 appraised value of the property being less than the purchase value of  
6 the property or the financial institution denying financing, in which  
7 case the bidder shall be refunded the deposit on the property and shall  
8 be responsible only for the payment of accrued interest. In addition, if  
9 a successful bidder fails to fulfill the balance within this 90 business  
10 day period, any subsequent foreclosure sale involving the same  
11 residential property and the same foreclosing plaintiff and foreclosed  
12 upon defendant shall be subject to the procedures set forth in  
13 subparagraph (a) of paragraph (5) of subsection a. of this section and  
14 there shall be no right of first or second refusal pursuant to subsections  
15 d. and g. of this section.

16 d. In the case of a foreclosed residential property where the  
17 foreclosed upon defendant is an individual and not a corporate entity,  
18 if the foreclosed upon defendant, next of kin of the foreclosed upon  
19 defendant, or tenant of the foreclosed upon property has secured  
20 financing or assets sufficient to meet terms offered by the foreclosing  
21 plaintiff or an alternative financial institution to purchase the property,  
22 the foreclosed upon defendant, next of kin of the foreclosed upon  
23 defendant, or tenant shall have the right of first refusal to purchase the  
24 property<sup>1</sup> [in the amount approved for the opening bid of the sheriff's  
25 sale at the time of the sale] for the original upset price listed in the  
26 notice provided pursuant to subparagraph a. of paragraph (5) of  
27 subsection a. of this section<sup>1</sup>. The right of first refusal shall only be  
28 made available to the foreclosed upon defendant, next of kin of the  
29 foreclosed upon defendant, or tenant for the initial sale of the  
30 foreclosed upon property, unless the sale is delayed<sup>1</sup> [.] or<sup>1</sup> postponed  
31  [or concludes with the foreclosing plaintiff purchasing the  
32 property]<sup>1</sup>, upon which the foreclosed upon defendant, next of kin of  
33 the foreclosed upon defendant, or tenant shall<sup>1</sup> [receive a] retain the<sup>1</sup>  
34 right of first refusal<sup>1</sup> [for the subsequent sale of the foreclosed upon  
35 property] for the rescheduled date of sale<sup>1</sup>. Such right shall be  
36 deemed exercised if, prior to the opening of the bidding on the  
37 foreclosed property, the foreclosed upon defendant, next of kin of the  
38 foreclosed upon defendant, or tenant pays a 3.5 percent deposit<sup>1</sup>  
39 pursuant to the provisions of this section<sup>1</sup> with the rest of the balance  
40 due within 90 business days by cash, certified or cashier's check, or by  
41 wire transfer, made payable to the sheriff of the county in which the  
42 sale is conducted or to the Special Master, if the sheriff cannot comply  
43 with the provisions of subparagraph (a) of paragraph (3) of subsection  
44 a. of this section.

1 e. A bidder<sup>2</sup>[.]<sup>2</sup> who is permitted to pay a 3.5 percent deposit  
2 upon the conclusion of the foreclosure sale pursuant to the provisions  
3 of this section<sup>2</sup>[.]<sup>2</sup> may purchase residential property at a sheriff's  
4 sale by way of financing if the bidder provides documentation that the  
5 bidder has been pre-approved by a financial institution regulated by  
6 the Department of Banking and Insurance or by a federal banking  
7 agency, as defined by section 3 of the "New Jersey Residential  
8 Mortgage Lending Act," P.L.2009, c.53 (C.17:11C-53), for financing a  
9 residential property.

10 (1) A bidder who is permitted to pay a 3.5 percent deposit upon the  
11 conclusion of the foreclosure sale pursuant to the provisions of this  
12 section and intends to finance the purchase of residential property at a  
13 sale shall be:

14 (a) limited to submitting bids no higher than the amount for which  
15 the bidder has been pre-approved for financing; and

16 (b) if the bidder is an individual, required to present current and  
17 valid photo identification that substantially conforms to the name and  
18 information contained on the financing pre-approval forms obtained by  
19 the bidder.

20 (2) To be a successful bidder who is not the plaintiff, and who  
21 intends to occupy the property and finance the purchase of the  
22 property, the bidder shall have received eight hours of homebuyer  
23 education and counseling through a United States Department of  
24 Housing and Urban Development (HUD) certified housing counseling  
25 agency, and shall present a certificate of completion or proof of  
26 enrollment in that program to the sheriff.

27 (3) To ensure that the provisions of this section only apply to a  
28 foreclosed upon defendant or next of kin of the foreclosed upon  
29 defendant who has entered foreclosure proceedings due to  
30 circumstances outside of the foreclosed upon defendant's control,  
31 subsections d. through f. of this section shall only apply to a foreclosed  
32 upon defendant or next of kin of the foreclosed upon defendant that  
33 demonstrates to the foreclosing plaintiff that the foreclosed upon  
34 defendant experienced:

35 (a) financial hardship;

36 (b) a physical or mental illness preventing the foreclosed upon  
37 defendant from earning an income;

38 (c) divorce or legal separation;

39 (d) proof of death of the foreclosed upon defendant, or the  
40 foreclosed upon defendant's spouse, or child; or

41 (e) predatory loan practices.

42 Any information provided under this paragraph shall be provided  
43 at the request of the foreclosing plaintiff prior to the date of sale for the  
44 foreclosing property and shall not conflict with subparagraph (b) of  
45 paragraph (5) of subsection a. of this section.

1       (4) If a bidder intending to finance the purchase of the residential  
2 property is a current tenant, the tenant shall provide documentation  
3 confirming:

4       (a) that the tenant has resided at the property for at least a year;  
5 and

6       (b) that the tenant is not in arrears with rent payments as of the  
7 date the foreclosed upon defendant received a notice of foreclosure  
8 from the foreclosing plaintiff.

9       (5) To prove the residency requirement pursuant to subparagraph  
10 (a) of paragraph (4) of this subsection, the tenant shall also be required  
11 to present at least two current and valid forms of identification that  
12 substantially conform to the name and property address contained in  
13 the tenant's lease agreement, which shall include but not be limited to:

14       (a) a driver's license issued by the New Jersey Motor Vehicle  
15 Commission;

16       (b) a utility bill;

17       (c) a checking or savings account statement from a bank or credit  
18 union issued at least 60 days prior to submitting documentation  
19 required pursuant to this subparagraph;

20       (d) a statement, receipt, or letter of correspondence from a federal,  
21 State, or local government office delivered at least one year prior to  
22 submitting documentation required pursuant to this subparagraph; or

23       (e) any other form of identification that the sheriff deems valid  
24 pursuant to this paragraph.

25       (6) A tenant shall be allowed to purchase residential property  
26 pursuant to this subsection if a foreclosed upon defendant or next of  
27 kin of the foreclosed upon defendant decides not to participate in the  
28 sheriff's sale, enter into an agreement with a nonprofit community  
29 development corporation pursuant to subsection f. of this section, or  
30 fail to secure financing or assets sufficient to meet the terms offered by  
31 the foreclosing plaintiff or an alternative financial institution to  
32 purchase the property. A tenant shall have up to <sup>2</sup>[45] 90 business<sup>2</sup>  
33 days to purchase the residential property after successfully bidding for  
34 the property.

35       (7) With exception to the foreclosed upon defendant, the  
36 foreclosed upon defendant's next of kin, or a nonprofit community  
37 development corporation, an individual bidder purchasing residential  
38 property in a sheriff's sale pursuant to this subsection shall be required  
39 <sup>1</sup>[by the financial institution]<sup>1</sup> to occupy the property as the bidder's  
40 primary residence for a fixed term of at least 84 months after taking  
41 possession. The deed for the property shall clearly state that the  
42 property may not be sold for 84 months from the date of the sheriff's  
43 sale, except pursuant to the exceptions permitting a successful bidder  
44 to vacate the property prior to residing in the property for 84 months in  
45 paragraph (8) of this subsection.

1       (8) With exception to the foreclosed upon defendant, the  
2 foreclosed upon defendant's next of kin, or a nonprofit community  
3 development corporation, a successful individual bidder who finances  
4 the purchase pursuant to this subsection and does not occupy the  
5 residence for a period of at least 84 months shall be assessed a fine by  
6 a court of competent jurisdiction up to \$100,000 for the first violation,  
7 and \$500,000 thereafter for each subsequent violation. These penalties  
8 shall not be assessed against a bidder who finances the purchase with  
9 good faith and intent and is thereafter required to vacate the property  
10 prior to residing in the property for 84 months due to:

- 11       (a) death of the bidder or the bidder's spouse or child;  
12       (b) disability of the bidder or a member of the bidder's household;  
13       (c) divorce;  
14       (d) legal separation;  
15       (e) military deployment;  
16       (f) a change in employment of the bidder or a member of the  
17 bidder's household that results in a reduction in income or a need to  
18 move out-of-state;  
19       (g) a change in the number of permanent residents of the  
20 household due to: the birth or adoption of a child; or the permanent  
21 relocation of an elder into the household, as proved by a note from the  
22 doctor or social worker of the elder;  
23       (h) a need to move to care for a family member for a period of at  
24 least six months, as evidenced by: an address change; and a note from  
25 the family member in need of care, the doctor of the family member,  
26 or the social worker for the family member; or  
27       (i) foreclosure.

28       In the event of the death of a successful bidder, the property may  
29 be transferred to another owner in accordance with applicable laws  
30 governing estate, inheritance, and probate matters and the occupancy  
31 requirement shall be extinguished.

32       f. If the foreclosed upon defendant, next of kin of the foreclosed  
33 upon defendant, or tenant of the foreclosed upon property fails to  
34 secure financing or assets sufficient to meet the terms offered by the  
35 foreclosing plaintiff or an alternative financial institution to purchase  
36 the residential property, the foreclosed upon defendant, next of kin of  
37 the foreclosed upon defendant, or tenant may request that a nonprofit  
38 community development corporation purchase the property. If the  
39 nonprofit community development corporation agrees in writing to  
40 purchase the property <sup>2</sup>[from] for<sup>2</sup> the foreclosed upon defendant,  
41 next of kin of the foreclosed upon defendant, or tenant, the corporation  
42 shall:

- 43       (1) allow the foreclosed upon defendant, next of kin of the  
44 foreclosed upon defendant, or tenant to reside at the property for a  
45 period of time as agreed upon in paragraph (2) of this subsection; and

1       (2) negotiate with the foreclosed upon defendant, next of kin of the  
2 foreclosed upon defendant, or tenant on an affordable lease schedule  
3 that shall include an option to purchase the property from the  
4 corporation.

5       g. In the case of a foreclosed residential property, a nonprofit  
6 community development corporation, that has a written agreement  
7 with a foreclosed upon defendant, next of kin of the foreclosed upon  
8 defendant, or tenant of the foreclosed upon property pursuant to  
9 subsection f. of this section, shall have a right of second refusal to  
10 purchase the property which is subordinate to the first right of refusal  
11 provided to a foreclosed upon defendant, next of kin of the foreclosed  
12 upon defendant, or tenant pursuant to subsection d. of this section. If  
13 the foreclosed upon defendant, next of kin of the foreclosed upon  
14 defendant, or tenant decides not to participate in the sheriff's sale,  
15 enter into an agreement with the corporation pursuant to subsection f.  
16 of this section, or <sup>2</sup>~~fail~~ fails<sup>2</sup> to secure financing or assets sufficient  
17 to meet the terms offered by the foreclosing plaintiff or an alternative  
18 financial institution to purchase the property, a nonprofit community  
19 development corporation shall have the right of second refusal to  
20 purchase the property in the amount approved for the opening bid of  
21 the sheriff's sale at the time of the sale. Such right shall be deemed  
22 exercised if, prior to the opening of the bidding on the foreclosed  
23 property, the corporation pays a 3.5 percent deposit with the rest of the  
24 balance due within 90 business days by cash, certified or cashier's  
25 check, or by wire transfer, made payable to the sheriff of the county in  
26 which the sale is conducted or to the Special Master, if the sheriff  
27 cannot comply with the provisions of subparagraph (a) of paragraph  
28 (3) of subsection a. of this section. A nonprofit community  
29 development corporation shall only have a right of second refusal to  
30 purchase the property if it satisfies the requirements set forth in  
31 subsection h. of this section and fulfills the conditions set forth in  
32 subsection j. of this section.

33       h. (1) If a foreclosed upon defendant, next of kin of the  
34 foreclosed upon defendant, or tenant of the foreclosed upon property  
35 does not participate in the sheriff's sale, secure financing or assets  
36 sufficient to meet the terms offered by the foreclosing plaintiff or an  
37 alternative financial institution, or enter into agreement with a  
38 nonprofit community development corporation pursuant to subsection  
39 f. of this section, the nonprofit community development corporation  
40 may enter a bid for the foreclosed upon residential property.

41       (2) A nonprofit community development corporation intending to  
42 bid in a sheriff's sale for residential property and pay a 3.5 percent  
43 deposit as permitted by this section shall, on the date of the sheriff's  
44 sale, register its participation with the sheriff or Special Master if the  
45 sheriff cannot comply with the provisions of paragraph (3) of  
46 subsection a. of this section. In registering its participation in the sale,

1 a corporation shall provide the most recent form 1023 filing provided  
2 to the United States Internal Revenue Service, stating the corporation's  
3 mission includes community revitalization and the creation or  
4 preservation of affordable housing through the restoration of vacant  
5 and abandoned property.

6 i. (1) If more than one nonprofit community development  
7 corporation seeks to exercise the right of second refusal, the right shall  
8 belong in the first instance to a nonprofit community development  
9 corporation that fulfills the conditions set forth in subsection f. of this  
10 section. If no such nonprofit community development corporation  
11 exists, priority shall belong to the nonprofit community development  
12 corporation that first registers its participation in the foreclosure sale  
13 pursuant to paragraph (2) of subsection h. of this section.

14 (2) If an individual or nonprofit community development  
15 corporation exercises a right of first or second refusal pursuant to  
16 subsection d. or f. of this section, the foreclosure sale shall be deemed  
17 concluded and the person or corporation shall be deemed to be the  
18 successful bidder and shall be subject to the applicable provisions and  
19 procedures of this section.

20 j. (1) A nonprofit community development corporation that  
21 successfully bids on the purchase of a residential property in a sheriff's  
22 sale and satisfies the conditions set forth in subsection h. of this  
23 section shall be subject to the fines assessed pursuant to paragraph (3)  
24 of this subsection if the nonprofit corporation does not:

25 (a) restore as need be and sell the property to a household earning  
26 no more than 120 percent below area median income or rent the  
27 property as an affordable housing unit to a household who earns no  
28 more than 100 percent below area median income, if the property is  
29 vacant or abandoned at the time of the sheriff's sale; or

30 (b) if the property is occupied at the time of sale by either a tenant  
31 or the foreclosed upon defendant with whom the nonprofit community  
32 development corporation does not already have an agreement pursuant  
33 to subsection f. of this section, the nonprofit community development  
34 corporation shall negotiate in good faith with the foreclosed upon  
35 defendant or tenant on an affordable lease schedule that will allow the  
36 foreclosed upon defendant or tenant to continue to occupy the property  
37 should the foreclosed upon defendant or tenant desire to do so. If after  
38 120 business days the foreclosed upon defendant or tenant does not  
39 respond to the requests of the nonprofit community development  
40 corporation to negotiate, the corporation may bring an action in a court  
41 of competent jurisdiction to remove the foreclosed upon defendant or  
42 tenant. If removal has successfully occurred, the nonprofit community  
43 development corporation shall comply with the requirements of  
44 subparagraph (a) of paragraph (1) of this subsection.

45 (2) A nonprofit community development corporation that  
46 successfully bids on the purchase of a residential property and satisfies

1 the conditions set forth in subsection f. of this section shall ensure that,  
2 in any future sale of the property pursuant to subparagraph (a) of  
3 paragraph (1) of this subsection, the property be subject to a renewable  
4 deed restriction, with the minimum number of affordability years  
5 being 30 years and with the option to renew, requiring any future  
6 property owner to sell the property to a household earning no more  
7 than 120 percent below area median income or rent the property as an  
8 affordable housing unit to a household who earns no more than 100  
9 percent below area median income.

10 (3) A nonprofit community development corporation that  
11 successfully bids on and completes the purchase of a residential  
12 property in a sheriff's sale and satisfies the conditions set forth in  
13 subsection f. of this section and fails to meet the requirements of this  
14 subsection shall be assessed a fine by a court of competent jurisdiction  
15 of up to \$100,000 for the first violation, and \$500,000 thereafter for  
16 each subsequent violation. If the 'appropriate' sheriff's office '1,  
17 county administrative agent, or affordable housing administrative  
18 agent that is hired by the county' determines based upon its oversight  
19 that there has been a violation of this subsection, the sheriff's office '1,  
20 county administrative agent, or affordable housing administrative  
21 agent' shall bring an action in a court of competent jurisdiction so that  
22 the sheriff's office '1, county administrative agent, or affordable  
23 housing administrative agent' can pursue enforcement of penalties for  
24 the violation. If the nonprofit community development corporation  
25 dissolves, the deed of the residential property shall be transferred to  
26 another nonprofit community development corporation who shall be  
27 bound by the requirements of this subsection.

28 k. In the case of a residential property for which the successful  
29 bidder is subject to the occupancy requirement pursuant to paragraphs  
30 (7) and (8) of subsection e. of this section, the appropriate sheriff's  
31 office, county administrative agent, or affordable housing  
32 administrative agent that is hired by the county shall oversee the  
33 occupancy of the property, which may include the mailing of a  
34 questionnaire to the successful bidder within 84 months following the  
35 sale or requiring the bidder to respond to questions and submit  
36 documentation evidencing the bidder's continued residence at the  
37 property using the proof of residency documents provided pursuant to  
38 paragraph (5) of subsection e. of this section. If the appropriate  
39 sheriff's office, county administrative agent, or affordable housing  
40 administrative agent that is hired by the county determines based upon  
41 its oversight that there has been an occupancy violation, the sheriff's  
42 office, county administrative agent, or affordable housing  
43 administrative agent hired by the county shall refer the matter to the  
44 county counsel's office to bring an action in a court of competent  
45 jurisdiction so that the sheriff's office can pursue enforcement of  
46 penalties for the violation.

1        l. Each sheriff's office shall maintain information, written in  
2 plain language, regarding the program to finance the purchase of  
3 residential property in a foreclosure sale in accordance with this  
4 section on its Internet website, and in any other medium used by the  
5 office to advertise a foreclosure sale, in a manner that is accessible to  
6 the public. Additionally, each sheriff's office shall display  
7 information, written in plain language, regarding the Community  
8 Wealth Preservation Program in its office in a manner that is  
9 conspicuous to the public. The information posted on a sheriff's  
10 Internet website or displayed in a sheriff's office concerning the  
11 program shall further contain language notifying the public that the  
12 program shall exclude those purchasing property for investment  
13 purposes. For any county in which the primary language of 10 percent  
14 or more of the residents is a language other than English, the sheriff's  
15 office shall provide the information required by this subsection in that  
16 other language or languages in addition to English. The alternate  
17 language shall be determined based on information from the latest  
18 federal decennial census.

19        m. Any sheriff's sales conducted virtually shall be subject to the  
20 provisions of P.L. , c. (C. ) (pending before the Legislature as  
21 this bill).

22        n. Any penalty imposed pursuant to this section may be recovered  
23 with costs in a summary proceeding commenced by the appropriate  
24 sheriff's office pursuant to the "Penalty Enforcement Law of 1999,"  
25 P.L.1999, c.274 (C.2A:58-10 et seq.). Fifty percent of any monies  
26 collected pursuant to this section shall be forwarded to the  
27 municipality in which the foreclosed upon property is located to be  
28 deposited in the affordable housing trust fund of the municipality for  
29 use on low income housing or moderate income housing needs as  
30 defined in section 4 of P.L.1985, c.222 (C.52:27D-304), to the extent  
31 the municipality maintains such a fund, and if the municipality does  
32 not maintain such a fund, to the State Treasurer, and shall annually be  
33 appropriated to the "New Jersey Affordable Housing Trust Fund,"  
34 section 20 of P.L.1985, c.222 (C.52:27D-320) for the purpose of  
35 developing and supporting housing programs that create for-sale and  
36 rental affordable housing. The remaining 50 percent of any monies  
37 collected pursuant to this section shall provide for administrative and  
38 enforcement costs, including costs incurred by the appropriate sheriff's  
39 office, county administrative agent, or county counsel's office,  
40 necessary to effectuate the purposes of this section.

41        o. The provisions of P.L. , c. (C. ) (pending before the  
42 Legislature as this bill) shall only apply to residential property as  
43 defined pursuant to subsection p. of this section.

44        p. As used in this section:



1        “Area median income” means the midpoint of a region’s  
2 household income distribution, as determined by the United States  
3 Department of Housing and Urban Development.

4        “Community Wealth Preservation Program” means the program  
5 created by P.L. , c. (C. ) (pending before the Legislature as this  
6 bill) to assist prospective owner-occupants, nonprofit community  
7 development corporations, foreclosed upon defendants, next of kin of  
8 foreclosed upon defendants, and tenants of foreclosed upon defendants  
9 in purchasing and financing foreclosed upon residential properties in  
10 sheriff’s sales with an initial 3.5 percent deposit.

11        “Nonprofit community development corporation” means a not-for-  
12 profit organization, whose mission includes community revitalization  
13 through the restoration of vacant and abandoned property to create or  
14 preserve affordable housing, as indicated in the corporation’s most  
15 recent form 1023 filing provided to the United States Internal Revenue  
16 Service.

17        “Residential property” means real property located in this State  
18 <sup>2</sup>[in which people reside or dwell as their primary residence,] which  
19 is utilized as a primary residence or dwelling,<sup>2</sup> and shall not include  
20 <sup>2</sup>any real<sup>2</sup> property which is <sup>2</sup>[used] acquired<sup>2</sup> for investment,  
21 commercial, or business purposes or <sup>2</sup>[residential] real<sup>2</sup> property  
22 containing more than four residential units.

23        “Upset price” means the minimum amount that a foreclosed upon  
24 property shall be sold for in a sheriff’s sale as determined by the  
25 foreclosing plaintiff.

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

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

29        22A:4-8. For the services hereinafter enumerated sheriffs and  
30 other officers shall receive the following fees:

31        In addition to the mileage allowed by law, for serving every  
32 summons and complaint, attachment or any mesne process issuing out  
33 of the Superior Court, the sheriff or other officer serving such process  
34 shall, for the first defendant or party on whom such process is served,  
35 be allowed \$22.00 and, for service on the second defendant named  
36 therein, \$20.00, and for serving such process on any other defendant or  
37 defendants named therein, \$16.00 each, and no more. If a man and his  
38 wife be named in such process they shall be considered as one  
39 defendant, except where they are living separate and apart.

40        Serving summons and complaint in matrimonial actions, in  
41 addition to mileage, \$22.00.

42        Serving capias ad respondendum, capias ad satisfaciendum,  
43 warrant of commitment, writ of ne exeat, in addition to mileage,  
44 \$48.00.

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

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

3 For returning every writ, \$2.00.

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

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

8 For serving each out-of-State paper, in addition to the mileage  
9 allowed by law, \$25.00 for the first defendant on whom such paper is  
10 served, \$20.00 for service on the second defendant named therein, and  
11 \$16.00 for serving such paper on any other defendant or defendants  
12 named therein. If a man and wife be named in such paper, they shall be  
13 considered as one defendant, except where they are living separate and  
14 apart.

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

18 The sheriff shall be entitled to retain out of all moneys collected or  
19 received by him on a forfeited recognizance, whether before or after  
20 execution, or from amercements, or from fines and costs on  
21 conviction, on indictment or otherwise, whether such moneys are  
22 payable to the State or to the county treasurer of the county wherein  
23 conviction was had, **[5%]** five percent.

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

## 28 29 EXECUTION SALES 30

31 **[When]** <sup>1</sup>**[Except as to sales conducted in accordance with**  
32 section 12 of P.L.1995, c.244 (C.2A:50-64), when a sale is made by  
33 virtue of an execution the sheriff shall be entitled to charge the  
34 following fees: On all sums not exceeding \$5,000.00, **[6%]** 10  
35 percent; on all sums exceeding \$5,000.00 on such excess, **[4%]** five  
36 percent; the minimum fee to be charged for a sale by virtue of an  
37 execution, **[\$50.00]** \$150.00. **When sales are]** On a sale<sup>1</sup> conducted  
38 in accordance with section 12 of P.L.1995, c.244 (C.2A:50-64), the  
39 sheriff shall be entitled to charge six percent on a sale by virtue of an  
40 execution <sup>1</sup>; however, if a sale reverts to the foreclosing plaintiff, the  
41 fee to be charged on a sale by virtue of an execution shall be \$150.00.

42 When a sale is made by virtue of an execution and is not conducted  
43 in accordance with section 12 of P.L.1995, c.244 (C.2A:50-64), the  
44 sheriff shall be entitled to charge the following fees:

45 On all sums not exceeding \$5,000.00, 10 percent; on all sums  
46 exceeding \$5,000.00 on such excess, five percent; the minimum fee to

1 be charged for a sale by virtue of an execution, \$150.00.<sup>1 2</sup>However, if  
2 a sale reverts to the foreclosing plaintiff, the fee to be charged on a  
3 sale by virtue of an execution shall be \$150.00.<sup>2</sup>

4 On an execution against wages, commissions and salaries, the  
5 sheriff shall charge the same percentage fees on all sums collected as  
6 those percentage fees applicable in cases wherein an execution sale is  
7 consummated.

8 When the execution is settled without actual sale and such  
9 settlement is made manifest to the officer, the officer shall receive  
10 **【1/2】** one-half of the amount of percentage allowed herein in case of  
11 sale.

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

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

15 Posting property for sale, \$20.00. For the crier of the vendue, when  
16 the sheriff proceeds to sell, for every day he shall be actually  
17 employed in such sale, \$5.00.

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

22 Drawing and making a deed to a purchaser of real property,  
23 \$75.00.

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

26 When more than one execution shall be issued out of the Superior  
27 Court upon any judgment, each sheriff to whom such execution shall  
28 be directed and delivered shall be entitled to collect and receive from  
29 the defendant named in such execution the fees allowed by law for  
30 making a levy and return and statement thereon, or for such other  
31 services as may be actually performed by him, and the sheriff who  
32 shall collect the amount named in said execution or any part thereof,  
33 shall be entitled to the legal percentage upon whatever amount may be  
34 so collected by him, but in case any such judgment shall be settled  
35 between the parties and the amount due thereon shall not be collected  
36 by either sheriff, then the percentage on the amount collected which  
37 would be due the sheriff thereon in case only one execution had been  
38 issued shall be equally divided among the several sheriffs in whose  
39 hands an execution in the same cause may have been placed.

40 The sheriff shall file his taxed bill of costs with the clerk of the  
41 court out of which execution issued, within such time as the court shall  
42 direct by general rule or special order, or, in default thereof, he shall  
43 not be entitled to any costs. If any sheriff shall charge in such bill of  
44 costs for services not done, or allowed by law, or shall take any greater  
45 fee or reward for any services by him done than is or shall be allowed  
46 by law, he shall be liable for the damages sustained by the party

1 aggrieved including a penalty of \$30.00, to be recovered in a summary  
2 manner, in the action or proceeding wherein the execution was issued  
3 or otherwise.

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

5

6 3. (New section) a. In situations in which a creditor has  
7 instituted a foreclosure proceeding pursuant to the “Fair Foreclosure  
8 Act,” P.L.1995, c.244 (C.2A:50-53 et seq.) and a creditor employs  
9 an agent to be responsible for the care, maintenance, security, and  
10 upkeep of the property if it becomes vacant and abandoned, the  
11 creditor and agent who peacefully enter the property and exercise  
12 reasonable care in doing so, shall be immune from liability, before  
13 and after the bid, for any damage to the property or any person  
14 entering the property.

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

17

18 4. This act shall take effect immediately.