

SENATE, No. 3945

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JUNE 12, 2023

Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Co-Sponsored by:

Senator Cruz-Perez

SYNOPSIS

The "New Jersey Online Foreclosure Sale Act;" permits online foreclosure sales for real property.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/27/2023)

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1 AN ACT concerning the electronic sale of real property at
2 foreclosure, supplementing chapter 61 of Title 2A of the New
3 Jersey Statutes, and amending N.J.S.2A:61-1 and N.J.S.2A:61-4.
4

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

7
8 1. (New section) P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be known and may be cited as the
10 "New Jersey Online Foreclosure Sale Act."
11

12 2. (New section) Any sheriff or other officer or person
13 authorized or required by statute, court directive, or other law to
14 conduct an electronic, online foreclosure sale of real estate, may
15 conduct the sale in accordance with the following requirements:

16 a. The sheriff or other officer or person may enter into a contract
17 with a vendor to conduct an electronic, online foreclosure sale of
18 real estate, provided that New Jersey law govern the contract and
19 the relationship between vendor and the officer. Any such contract
20 shall detail the sheriff's reasonable requirements with respect to:
21 services; fee amounts; method of charging a fee in the auction,
22 including a seller's or buyer's fee; commission or premium charged
23 to a seller or buyer; recovery maximization; marketing; track record
24 in creating competitive auctions that maximize recovery for the
25 benefit of debtors and lenders; record-keeping requirements; and
26 security requirements.

27 b. The sheriff or other officer or person may enter into a contract
28 with an electronic real property foreclosure service provider
29 through competitive contracting pursuant to P.L.1999, c.440
30 (C.40A:11-4.1 et seq.), without the need for a resolution by the
31 governing body.

32 c. An officer, employee, or independent contractor of the vendor
33 shall not participate in the auction.

34 d. All bids entered during the auction shall be visible to the
35 public online and displayed at the time they are placed. Any
36 maximum bid amounts provided by bidders ahead of the sale shall
37 not be visible to the public or to the sheriff while the auction is in
38 process until the bid is placed.

39 e. A seller's commission or fee charged to a sheriff or other
40 officer or person by a vendor for conducting an electronic real
41 property foreclosure service shall be deemed a reasonable and
42 necessary taxable expense pursuant to N.J.S.22A:2-8. The vendor
43 shall not charge a fee for the public to view properties for sale.

44 f. A vendor conducting electronic, online foreclosures may
45 provide services related to transaction settlement and funds

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.

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1 handling. A vendor may charge customary and reasonable fees for
2 funds handling and transfer.

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4 3. N.J.S.2A:61-1 is amended to read as follows:

5 2A:61-1. a. When any sheriff, coroner, master, executor,
6 administrator, guardian, commissioner, auditor or other officer or
7 person is authorized or required by any public statute or the
8 direction of any court of competent jurisdiction in this State to
9 make sales of real estate, **[he]** that person shall, unless otherwise
10 specially directed or authorized by law, before making the sale, give
11 notice of the time and place of the sale by public advertisement,
12 signed by **[himself]** that person, and set up in the office of the
13 sheriff of the county or counties where the real estate is located and
14 at the premises to be sold, at least **[3]** three weeks before the time
15 appointed for the sale. The notice need not be set up at any other
16 place. The notice of sale shall include either a diagram of the
17 premises or a concise statement indicating the municipality, the tax
18 lot and block and where appropriate, the street and street number,
19 and the dimensions of the premises, as well as the number of feet to
20 the nearest cross street. The notice of sale shall state that the
21 diagram or concise description does not constitute a full legal
22 description of the premises, and shall state where the full legal
23 description can be found.

24 b. (1) Such officer or person shall also cause the notice to be
25 published **[4]** four times, at least once a week, during **[4]** four
26 consecutive weeks, in two newspapers, to be by **[him]** the officer
27 or person designated**[,]** as follows:

28 (a) both printed and published in the county where the real
29 estate to be sold is located, one of which shall be either a newspaper
30 published at the county seat of the county or a newspaper published
31 in the municipality in the county having the largest population
32 according to the latest census**[, or]** ;

33 (b) one printed and published in the county and one circulating
34 in the county, if only one daily newspaper is printed and published
35 in the county**[, or]** ;

36 (c) one published at the county seat and one circulating in the
37 county, if no daily newspaper is published in the county**[,]** ; or

38 (d) both circulating in the county, if no newspapers are printed
39 and published in the county.

40 The first publication shall be at least 21 days prior and the last
41 publication not more than **[8]** eight days prior to the time appointed
42 for the sale of the real estate.

43 Whenever, in the opinion of any such officer or person, the ends
44 of justice shall require it, or the sale being conducted by **[him]** the
45 officer or person will be benefited thereby, the notice of sale may
46 be published in three newspapers instead of two, as required by **[the**
47 **second paragraph]** subsection b. of this section, if there be that

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1 number printed and published in the county where the real estate to
2 be sold is located.

3 The officer or person so advertising in the newspapers shall be
4 entitled therefor, in addition to his other fees, to the sum of \$1.50,
5 except where it is otherwise specifically provided.

6 (2) Notwithstanding the provisions of this section, if the sale of
7 property is to be conducted in an online, electronic format, the
8 officer or person shall also publish notice of the time and place of
9 the sale online on the Internet website at which the sale will be
10 conducted electronically.

11 c. If the sale of real estate is conducted electronically online
12 pursuant to section 2 of P.L. , c. (C.) (pending before the
13 Legislature as this bill), then, in addition to the requirements set
14 forth in subsection a. of this section, the notice shall state that the
15 sale is being held by means of an electronic, online auction, and the
16 notice shall include the auction's Internet website address.

17 (cf: P.L.1979, c.364, s.1)

18

19 4. N.J.S.2A:61-4 is amended to read as follows:

20 2A:61-4. a. Any officer or person [mentioned] who is
21 authorized or required in [section] N.J.S.2A:61-1 of this title,
22 making a sale of real estate governed by this chapter, shall, at the
23 time and place appointed therefor, between the hours of [12 and 5
24 in the afternoon] 12:00 p.m. and 5:00 p.m., if requested by any
25 person interested in the sale of the real estate to be sold, read the
26 description of the real estate to be sold by metes and bounds, or, in
27 the absence of such a request, the officer or person making the sale
28 shall announce the street and number, or streets and numbers, of the
29 real estate to be sold, or the block and lot number or numbers by
30 which such real estate is designated on the taxing maps of the
31 municipality or municipalities in which the same is situate, if the
32 same is not identified by a street and number or streets and numbers
33 on such taxing maps, and where there is no street number or lot and
34 block number, the officer or person making the sale may announce
35 such description or designation as to him may be deemed sufficient,
36 and sell such real estate at public [vendue] venue to the highest
37 bidder.

38 b. As an alternative to the procedures in subsection a. of this
39 section, any officer or person who is authorized or required in
40 N.J.S.2A:61-1 of this title, making a sale of real estate governed by
41 this chapter, may conduct the sale by means of electronic auction
42 conducted online.

43 (cf: P.L.1951, c.344)

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45 5. This act shall take effect on the first day of the second month
46 next following enactment.

STATEMENT

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3 This bill, known as the "New Jersey Online Foreclosure Sale
4 Act," would permit the sale of foreclosed-upon property in an
5 electronic, online forum that is open to the public. The conducting
6 of real estate sales online could attract more bidders and result in
7 higher purchase prices, which would benefit both creditors and
8 debtors in New Jersey. The bill does not change the timeline of
9 foreclosure sales and, except as to requiring the sheriff or other
10 officer or person conducting the real estate sale to publish notice of
11 the time and place of the sale online on the Internet website at
12 which the sale will be conducted, does not change the notice
13 requirements pertaining to the foreclosure process.

14 The bill authorizes a sheriff, or other officer or person who is
15 authorized or required to sell real estate, to conduct an online
16 foreclosure sale of real estate, and to contract with a vendor for
17 online foreclosure sale services. As the needs and requirements of
18 counties may vary, this bill provides authority to contract for the
19 services and requirements suited to a particular county, which may
20 include, but are not limited to: types of services; fee amounts;
21 method of charging a fee in the auction, including a seller's or
22 buyer's fee, commission or premium charged to a seller or buyer;
23 recovery maximization; record-keeping requirements; and security
24 requirements. Further, the bill would enable a county or
25 municipality to procure electronic, online real property foreclosure
26 services through competitive contracting without the need for a
27 resolution by the governing body.

28 This bill would take effect on the first day of the second month
29 following enactment.