

# ASSEMBLY HOUSING COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3791**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 13, 2024

The Assembly Housing Committee reports favorably and with committee amendments Assembly Bill No. 3791.

As amended and reported, this bill, known as the "New Jersey Online Foreclosure Sale Act," permits the sale of foreclosed-upon property in an electronic, online forum that is open to the public. The conducting of real estate sales online could attract more bidders and result in higher purchase prices, which would benefit both creditors and debtors in New Jersey. The bill is not to alter the timeline of foreclosure sales but, except as to requiring the sheriff or other officer or authorized person conducting the real estate sale to publish notice of the time and place of the sale online on the Internet website at which the sale will be conducted, substantially changes the notice requirements pertaining to the foreclosure process.

The bill authorizes a county to contract with a vendor for online foreclosure sale services on behalf of a sheriff, or other officer or person authorized or required to sell real estate, to conduct an online foreclosure sale of real estate. As the needs and requirements of counties may vary, this bill provides authority to contract for the services and requirements suited to a particular county, which may include, but are not limited to: types of services; fee amounts; method of charging a fee in the auction, commissions or premiums; recovery maximization; record-keeping requirements; and security requirements. Further, the bill enables a county or municipality to procure electronic, online real property foreclosure services through competitive contracting without the need for a resolution by the governing body. The bill requires the track record of vendors in creating competitive auctions for the benefit of debtors and lenders be considered in the evaluation and ranking of submitted proposals of service providers.

The bill requires that the total of all fees charged by a vendor to the sheriff or other officer or person authorized or required to sell real estate are not to exceed \$1,000 per auction, which would include but not be limited to, a commission or fee and all administrative fees

charged by a vendor, including a \$50 processing fee that a vendor is to be permitted to collect at the commencement of the sale. The bill also requires that any fees charged by a vendor are to be taken directly from the purchaser's deposit with the vendor, and are not to reduce or impact the collection of sheriff's fees.

The bill requires the sheriff or other officer or person conducting the electronic, online foreclosure sale, and the contracted vendor, to:

(1) require each prospective bidder to verify their identity through an identification verification process prior to placing a bid;

(2) require a person seeking to bid online to complete a registration process, which is to include the provision of information necessary to properly identify the bidder, contact the bidder, and complete the sale of the property; and

(3) obtain from the successful bidder certain contact information, identification, business registration information, and information necessary to be checked against the federal Office of Foreign Assets Control Sanctions List prior to finalizing the purchase of the property.

The bill allows payment of the 20 percent deposit by the successful bidder to occur either immediately upon the conclusion of the foreclosure sale, or within a timeframe established by the sheriff regarding online sales. For both payment of the 20 percent deposit and payment of the balance of monies due when the sheriff's office delivers the fully executed deed to the bidder, the bill removes the requirement that payment be made in either cash or certified check. The bill also allows the sale to resume without the reposting of the online sales notice if the successful bidder is in default or fails to provide the funds as required.

Finally, the bill provides that if an online foreclosure auction format is used, a vendor is required to provide a non-electronic option for bidders, which may include a paper bid packet.

This bill is to take effect on the first day of the second month following enactment.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

- permit a county to contract with a vendor to conduct an electronic, online foreclosure sale on behalf of a sheriff or authorized person;
- require the consideration of the track record of each responsive vendor in creating competitive auctions that maximize recovery for the benefit of debtors and lenders in the evaluation and ranking of submitted proposals;
- specify that competitive contracting is permitted for county procurement of specialized goods and services the price of which exceeds the bid threshold for certain purposes;

- remove, where applicable, references to a “seller,” and change those references to “vendor;”
- specify that the sheriff or other officer or person conducting the electronic, online foreclosure sale, and the contracted vendor, are to:
  - require all bidders who intend to participate in online bidding to have their identity verified through an identification verification process prior to placing a bid;
  - require a prospective bidder to complete a registration process, which is to include the provision of information necessary to properly identify the bidder, contact the bidder, and complete the sale of the property; and
  - obtain from the successful bidder certain contact information, identification, business registration information, and information necessary to be checked against the federal Office of Foreign Assets Control Sanctions List prior to finalizing the purchase of the property;
- allow payment of the 20 percent deposit by the successful bidder to occur either immediately upon the conclusion of the foreclosure sale, or within a timeframe established by the sheriff regarding online sales;
- remove the requirement that payment of the 20 percent deposit and payment of the balance of monies due when the sheriff’s office delivers the fully executed deed to the bidder be made in either cash or certified check; and
- allow the sale to resume without the reposting of the online sales notice if the successful bidder is in default or fails to provide the funds as required.