

P.L. 2019, CHAPTER 71, *approved April 29, 2019*
Senate, No. 3464 (*First Reprint*)

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

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
8 read 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
11 not be limited to, the following uniform procedures:

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

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

16 (3) (a) The sheriff shall **[schedule]** conduct a sale **[date]**
17 within ¹**[120]** 150¹ days of the sheriff's receipt of any writ of
18 execution issued by the court in any foreclosure proceeding.

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

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

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

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:

¹Assembly floor amendments adopted March 25, 2019.

1 the successful bidder at the resale, the plaintiff shall provide a credit
2 for the fair market value of the property foreclosed.

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

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

12
13 THIS INDENTURE,

14
15 made this (date) day of (month),
16 (year). Between (name), Sheriff of the County
17 of (name) in the State of New Jersey, party of the first
18 part and (name(s)) party of the
19 second part, witnesseth.

20
21 WHEREAS, on the (date) day of
22 (month), (year), a certain Writ of Execution was issued out of
23 the Superior Court of New Jersey, Chancery Division-
24 (name) County, Docket No. directed and delivered to the
25 Sheriff of the said County of (name) and which said
26 Writ is in the words or to the effect following that is to say:

27
28 THE STATE OF NEW JERSEY to the Sheriff of the County of
29 (name),
30 Greeting:

31
32 WHEREAS, on the (date) day of (month),
33 (year), by a certain judgment made in our Superior Court
34 of New Jersey, in a certain cause therein pending, wherein the
35 PLAINTIFF is:

36
37
38

39 and the following named parties are the DEFENDANTS:

40
41
42

43
44 IT WAS ORDERED AND ADJUDGED that certain mortgaged
45 premises, with the appurtenances in the Complaint, and Amendment
46 to Complaint, if any, in the said cause particularly set forth and
47 described, that is to say: The mortgaged premises are described as
48 set forth upon the RIDER ANNEXED HERETO AND MADE A
49 PART HEREOF.

1 BEING KNOWN AS Tax Lot (number) in Block
2 (number) COMMONLY KNOWN AS (street address)
3

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

11
12

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

18
19
20

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

25 AND for that purpose a Writ of Execution should issue, directed to
26 the Sheriff of the County of (name) commanding him to
27 make sale as aforesaid; and that the surplus money arising from
28 such sale, if any there be, should be brought into our said Court, as
29 by the judgment remaining as of record in our said Superior Court
30 of New Jersey, at Trenton, doth and more fully appear; and
31 whereas, the costs and Attorney's fees of the said plaintiff have
32 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.

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

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

4
5

6 /s/ (Clerk)
7 Superior Court of New Jersey

8
9 /s/.....

10 Attorney for Plaintiff

11

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

16

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

25

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

42

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

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

7
8
9

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

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

32
33 IN WITNESS WHEREOF, I the said (name) as such
34 Sheriff as aforesaid, have hereunto set my hand and seal the day and
35 year aforesaid.

36
37 Signed, sealed and delivered
38 in the presence of
39
40
41
42 Attorney at Law of New Jersey(name) Sheriff

43
44
45 STATE OF NEW JERSEY) SS.
46(county)

1 I, (name), Sheriff, of the County of (name),
 2 do solemnly swear that the real estate described in this deed made
 3 to
 4
 5
 6
 7 was by me sold by virtue of a good and subsisting execution (or as
 8 the case may be) as is therein recited, that the money ordered to be
 9 made has not been to my knowledge or belief paid or satisfied, that
 10 the time and place of the same of said real estate were by me duly
 11 advertised as required by law, and that the same was cried off and
 12 sold to a bona fide purchaser for the best price that could be
 13 obtained and the true consideration for this conveyance as set forth
 14 in the deed is \$ (amount).

15
 16
 17 (name), Sheriff

18
 19 Sworn before me, (name), on this (date) day of
 20 (month), (year), and I having examined the deed
 21 above mentioned do approve the same and order it to be recorded as
 22 a good and sufficient conveyance of the real estate therein
 23 described.

24
 25 STATE OF NEW JERSEY) ss.
 26 (Name) County) Attorney or Notary Public

27
 28 On this (date) day of (month), (year),
 29 before me, the subscriber, (name) personally
 30 appeared (name), Sheriff of the County of
 31 (name) aforesaid, who is, I am satisfied, the grantor in the within
 32 Indenture named, and I having first made known to him the contents
 33 thereof, he did thereupon acknowledge that he signed, sealed and
 34 delivered the same on his voluntary act and deed, for the uses and
 35 purposes therein expressed.

36
 37
 38 Attorney or Notary Public

39
 40 b. At the conclusion of the sheriff's sale, the attorney for the
 41 plaintiff **may** shall prepare and deliver to the sheriff a deed which
 42 shall be in the form provided pursuant to paragraph **[(5)] (6)** of
 43 subsection a. of this section for the sheriff's execution and the deed
 44 shall be delivered to the sheriff within 10 days of the date of the
 45 sale. The sheriff shall be entitled to the authorized fee, as a review
 46 fee, even if the plaintiff's attorney prepares the deed.

47 c. The sheriff's office shall, within two weeks of the date of the
 48 sale, deliver a fully executed deed to the successful bidder at the
 49 sale provided that the bidder pays the balance of the monies due to

1 the Sheriff by either cash or certified or cashier's check. In the
2 event a bid is satisfied after the expiration and additional interest is
3 collected from the successful bidder, the sheriff shall remit to the
4 plaintiff the total amount, less any fees, costs and commissions due
5 the sheriff, along with the additional interest.

6 (cf: P.L.1995, c.244, s.12)

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

9 2A:17-36. Adjournments of sale of real estate. **[A]**
10 Notwithstanding any other law or court rule to the contrary, a
11 sheriff or other officer selling real estate by virtue of an execution
12 may make ~~two~~ ^{four} ~~five~~ adjournments of the sale, two at the
13 request of the lender ~~and~~ ^{and} two at the request of the debtor, ^{and}
14 one if both the lender and debtor agree to an adjournment, ^{and} and no
15 more, to any time, not exceeding ~~14~~ ³⁰ calendar days for each
16 adjournment. However, a court of competent jurisdiction may, for
17 cause, order further adjournments.

18 (cf: P.L.1995, c.244, s.14)

19

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

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26 Revises certain procedures for real estate foreclosure sales; alters
27 adjournment of sale process.