

[First Reprint]

SENATE, No. 3464

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 7, 2019

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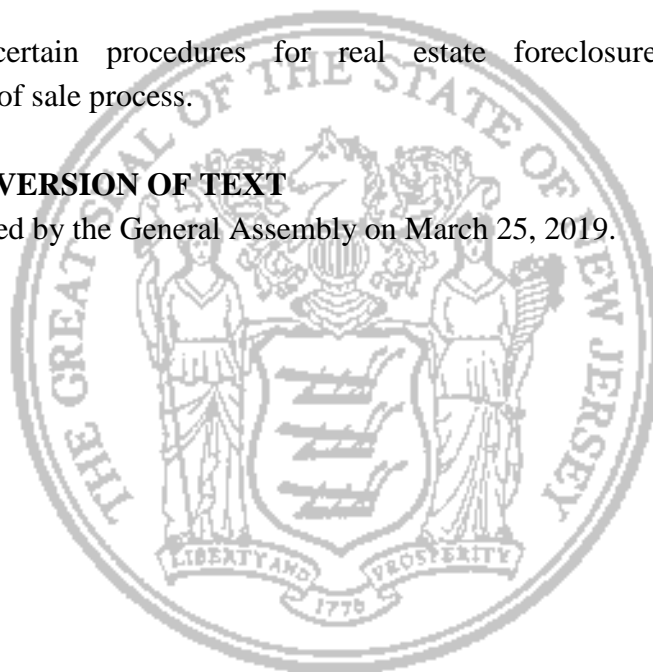
District 35 (Bergen and Passaic)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended by the General Assembly on March 25, 2019.



(Sponsorship Updated As Of: 3/26/2019)

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 **‘【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
42 the successful bidder at the resale, the plaintiff shall provide a credit
43 for the fair market value of the property foreclosed.

44 (5) It is permissible, upon consent of the sheriff conducting the
45 sheriff's sale, that it shall not be necessary for an attorney or

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 representative of the person who initiated the foreclosure to be
2 present physically at the sheriff's sale to make a bid. A letter
3 containing bidding instructions may be sent to the sheriff in lieu of
4 an appearance.

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

8

9 THIS INDENTURE,

10

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

16

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

23

24 THE STATE OF NEW JERSEY to the Sheriff of the County of
25 (name),
26 Greeting:

27

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

32

33

34

35 and the following named parties are the DEFENDANTS:

36

37

38

39

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

46 BEING KNOWN AS Tax Lot (number) in Block
47 (number) COMMONLY KNOWN AS (street address)
48

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

8

9

10

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

15

16

17

18

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

21

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

30

31 THEREFORE, you are hereby commanded that you cause to be
32 made of the premises aforesaid, by selling so much of the same as
33 may be needful and necessary for the purpose, the said sum of
34 \$..... (amount) and the same you do pay to the said plaintiff
35 together with contract and lawful interest thereon as aforesaid, and
36 the sum aforesaid of costs with interest thereon.

37

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

46 WITNESS, the Honorable (name), Judge of the Superior
47 Court at Trenton, aforesaid, the (date) day of
48 (month), (year).

1 /s/ (Clerk)
2 Superior Court of New Jersey
3

4 /s/.....
5 Attorney for Plaintiff
6

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

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

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

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

1 Assignment of Bid filed with the Sheriff of (name)
2 County said bidder assigned its bid to:
3
4
5
6

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

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

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

33 Signed, sealed and delivered
34 in the presence of
35
36

37
38 Attorney at Law of New Jersey(name) Sheriff
39
40

41 STATE OF NEW JERSEY) SS.

42(county)
43

44 I, (name), Sheriff, of the County of (name),
45 do solemnly swear that the real estate described in this deed made
46 to
47
48
49

was by me sold by virtue of a good and subsisting execution (or as the case may be) as is therein recited, that the money ordered to be made has not been to my knowledge or belief paid or satisfied, that the time and place of the same of said real estate were by me duly advertised as required by law, and that the same was cried off and sold to a bona fide purchaser for the best price that could be obtained and the true consideration for this conveyance as set forth in the deed is \$ (amount).

.....

..... (name), Sheriff

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

STATE OF NEW JERSEY) ss.

..... (Name) County) Attorney or Notary Public

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

.....

Attorney or Notary Public

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

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

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

1 2. N.J.S.2A:17-36 is amended to read as follows:
2 2A:17-36. Adjournments of sale of real estate. **[A]**
3 Notwithstanding any other law or court rule to the contrary, a
4 sheriff or other officer selling real estate by virtue of an execution
5 may make **[two]** ¹**[four]** five¹ adjournments of the sale, two at the
6 request of the lender ¹**[and]** , ¹two at the request of the debtor, ¹and
7 one if both the lender and debtor agree to an adjournment.¹ and no
8 more, to any time, not exceeding **[14]** 30 calendar days for each
9 adjournment. However, a court of competent jurisdiction may, for
10 cause, order further adjournments.
11 (cf: P.L.1995, c.244, s.14)
12
13 3. This act shall take effect on the 90th day following
14 enactment.