

[First Reprint]  
SENATE, No. 1433

STATE OF NEW JERSEY

INTRODUCED JULY 25, 1996

By Senators O'CONNOR, GORMLEY, Sacco and Kenny

1 AN ACT supplementing Title 2A of the New Jersey Statutes, enacting  
2 an additional chapter 17A, Notice of Pending Action, chapter 17B,  
3 Collection of Judgments, chapter 17C, Foreclosure, chapter 17D,  
4 Public Sales, and repealing various sections of the statutory law.

5

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

8

9 1. An additional chapter, chapter 17A, is added to Title 2A as  
10 follows:

11

TITLE 2A

12

CHAPTER 17A

13

NOTICE OF PENDING ACTION

14

2A:17A-1. Written Notice of Pending Action Concerning Real  
15 Estate.

16

2A:17A-2. Contents of Notice of Pending Action.

17

2A:17A-3. Records and Index of Notices.

18

2A:17A-4. Effect of Notice of Pending Action.

19

2A:17A-5. Expiration and Extension of Notice of Pending Action.

20

2A:17A-6. Service of Notice of Pending Action.

21

2A:17A-7. Hearing.

22

2A:17A-8. Discharge of Notice of Pending Action by Court.

23

2A:17A-9. Filing of Order of Judgment Discharging Notice of  
24 Pending Action.

25

2A:17A-10. Effect of Discharge.

26

2A:17A-11. Fee for Recording Notice of Taxable Cost.

27

2A:17A-1. Written notice of pending action concerning real estate.

28

29

30

a. A notice of pending action may be filed by a party in any action  
instituted in a court of this State or in the United States District Court  
for the District of New Jersey in which the party filing the notice:

**EXPLANATION** - Matter enclosed in bold-faced brackets [thus] in the above bill is not  
enacted and 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> Senate SJU committee amendments adopted June 5, 1997.

1 (1) seeks to <sup>1</sup>create or<sup>1</sup> enforce a lien <sup>1</sup>, interest in,<sup>1</sup> on real estate;  
2 or

3 (2) seeks to affect the title to real estate; or

4 (3) seeks to affect the ownership of a lien or an encumbrance on  
5 real estate.

6 b. A notice of pending action shall not be filed under this chapter  
7 in an action to enforce <sup>1</sup>[a construction lien,]<sup>1</sup> a mechanic's lien or in  
8 an action to recover a judgment for money or damages only.

9 c. The notice of pending action shall be filed after the filing of the  
10 party's pleading in the action, in the office of the county clerk or  
11 register of deeds and mortgages of the county in which the affected  
12 real estate is located.

13 (Source: 2A:15-6)

14 2A:17A-2. Contents of notice of pending action.

15 a. A notice of pending action shall include the complete caption of  
16 the pending action, a brief description of the claim of the party filing  
17 the notice, and a description of the subject real estate which is  
18 sufficient to identify it.

19 b. In an action in which a claim is made for the foreclosure of a  
20 recorded or registered mortgage or the foreclosure of a recorded  
21 certificate of tax sale, the notice of pending action shall also specify  
22 the book and page of the record or registration of the mortgage or of  
23 the record of the certificate of tax sale.

24 (Source: 2A:15-6; 2A:15-9)

25 2A:17A-3. Record and index of notices.

26 a. The county clerk or register of deeds and mortgages shall record  
27 and index notices of pending action separately from other filings, and  
28 shall record the date of filing of each notice.

29 b. If a notice of pending action is filed in an action for the  
30 foreclosure of a recorded or registered mortgage or the foreclosure of  
31 a recorded certificate of tax sale, the date of the filing of the notice  
32 shall be noted on the record of the mortgage, the abstract of the record  
33 of the mortgage, or the record of the certificate of tax sale.

34 (Source: 2A:15-9; 2A:15-12)

35 2A:17A-4. Effect of notice of pending action.

36 a. Any person who acquires an interest in, or lien on, the property  
37 <sup>1</sup>or any person claiming through such a person<sup>1</sup> between the time the  
38 notice of pending action is filed and the time it is discharged or expires  
39 shall be considered to have had notice of the pendency of the action  
40 and shall be bound by any judgment entered in the action.

41 b. If a notice is not filed as provided in this chapter with respect  
42 to a pending action, the filing of the action shall not constitute  
43 constructive notice to a bona fide purchaser or to a person who <sup>1</sup>,  
44 without knowledge of the action,<sup>1</sup> acquires <sup>1</sup>[a mortgage] an interest  
45 in<sup>1</sup> or a lien on real estate which is the subject matter of the action.

46 (Source: 2A:15-7; 2A:15-8)

1 2A:17A-5. Expiration and extension of notice of pending action.

2 a. A notice of pending action shall expire after <sup>1</sup>[three] five<sup>1</sup> years  
3 from the date it is filed, unless an extension notice is filed pursuant to  
4 this section.

5 b. A notice of pending action may be extended for periods of one  
6 year if an extension is filed prior to the expiration of the original notice  
7 or any previous one year extension of the original notice. The  
8 extension notice shall contain all of the information required by this  
9 chapter for an original notice, and shall also include a certification by  
10 the party filing the notice that the subject action is still pending or that  
11 an appeal has been filed and is still pending.

12 (Source: 2A:15-11)

13 2A:17A-6. Service of notice pending action.

14 <sup>1</sup>[Within three] Except when the pending action is mortgage or tax  
15 foreclosure, within thirty<sup>1</sup> days after filing of a notice of pending  
16 action, the party who filed it shall send a copy of the notice by  
17 registered or certified mail, return receipt requested to any person who  
18 held an interest in or lien on the property on the date of the filing of  
19 the <sup>1</sup>[notice. Except when the pending action is a mortgage or tax  
20 foreclosure, the party who filed the notice of pending action shall also  
21 serve a copy of the]<sup>1</sup> notice <sup>1</sup>and<sup>1</sup> to all other parties in the action  
22 against whom a claim is being made. <sup>1</sup>Notice need not be sent to a  
23 person who holds an interest or lien that cannot be affected by the  
24 pending action.<sup>1</sup> The notice shall be mailed to the current address of  
25 the person, if it is known or reasonably ascertainable, or to the party's  
26 last known address of record.

27 (Source: 2A:15-7)

28 2A:17A-7. Hearing.

29 a. Any party who is served with a notice of pending action  
30 pursuant to this chapter, and who claims an interest in the subject real  
31 estate may file a motion for discharge of the notice with the court that  
32 has jurisdiction of the action. After hearing and within 10 days, the  
33 court shall enter a determination on the motion.

34 b. The party who filed the notice of pending action shall bear the  
35 burden of establishing that there is a probability that final judgment  
36 will be entered in that party's favor, and that the probability of success  
37 on the merits is sufficient to justify the continuation of the notice.

38 c. If the court fails to find that there is a probability that final  
39 judgment will be entered in favor of the party filing the notice of  
40 pending action, and that the probability of success on the merits is  
41 sufficient to justify the continuation of the notice, the court shall  
42 immediately order the notice of pending action discharged.

43 (Source: 2A:15-7)

44 2A:17A-8. Discharge of notice of pending action by court.

45 A notice of pending action shall be ordered discharged by the court  
46 that has jurisdiction of the action as to which the notice of pending

1 action has been filed:

2 a. If the party who filed a notice of pending action abandons the  
3 underlying action <sup>1</sup>[or fails to prosecute it diligently]<sup>1</sup>; or

4 b. In an action for the enforcement against real estate of a claim  
5 for the payment of money, except for the foreclosure of a mortgage or  
6 tax sale certificate, if the party against whom a claim is being made  
7 gives sufficient security to pay the claim; or

8 c. Upon dismissal of the pending action; or

9 d. Upon the entry <sup>1</sup>in the judgement docket<sup>1</sup> of final judgment <sup>1</sup>[in  
10 the pending action in the judgment docket] in the pending action  
11 against the person who filed the notice<sup>1</sup>.

12 (Source: 2A:15-10; 2A:15-14; 2A:15-15; 2A:15-16; 2A:15-17)

13 2A:17A-9. Filing of order or judgment discharge notice of pending  
14 action.

15 A copy of the order discharging a notice of pending action shall be  
16 filed with the county clerk or register or deeds and mortgages. A  
17 statement of the substance of the order shall be entered on the record  
18 of the notice of pending action.

19 (Source: 2A:15-14; 2A:15-16; 2A:15-17)

20 2A:17A-10. Effect of discharge.

21 Upon the filing of an order discharging a notice of pending action  
22 with the county clerk or register or deeds, the binding effect of the  
23 notice shall end, unless:

24 a. The order or judgment provides otherwise; or

25 b. The party who filed the notice of pending action obtains a stay  
26 pursuant to the Rules of Court in connection with the filing of a notice  
27 of appeal or a motion for relief from the judgment or order discharging  
28 the notice.

29 (Source: 2A: 15-10; 2A:15-14; 2A: 15-15; 2A:15-16; 2A:15-17)

30 2A:17A-11. Fee for recording notice a taxable cost.

31 The fee for recording a notice of pending action shall be taxable as  
32 a part of the costs in the action.

33 (Source: 2A:15-13)

34

35 2. An additional chapter, chapter 17B, is added to Title 2A as  
36 follows:

37

TITLE 2A

38

CHAPTER 17B

39

COLLECTION OF JUDGMENTS

40 2A:17B-1. Definitions.

41 2A:17B-2. Issuance of Collection Orders.

42 2A:17B-3. By Whom Issued.

43 2A:17B-4. To Whom Issued.

44 2A:17B-5. Form and Contents of Collection Orders.

45 2A:17B-6. Exemptions.

46 2A:17B-7. Selection of Exempt Personal Property.

- 1 2A:17B-8. Receipt of Collection Orders.  
2 2A:17B-9. Judgment Creditor's Collection Instructions.  
3 2A:17B-10. Levy Against Personal Property in Possession of  
4 Judgment Debtor.  
5 2A:17B-11. Levy Against Personal Property in a Dwelling.  
6 2A:17B-12. Levy Against Property in an Inaccessible Place.  
7 2A:17B-13. Levy Against Personal Property in the Custody of a  
8 Third Party.  
9 2A:17B-14. Service and Mailing of Notice of Levy.  
10 2A:17B-15. Collection Orders Against Earnings; Earnings Subject to  
11 Collection Orders.  
12 2A:17B-16. Priorities Among Collection Orders Against Earnings.  
13 2A:17B-17. Payments Under Collections Orders Against Earnings.  
14 2A:17B-18. Collection Order; Lien on Personal Property.  
15 2A:17B-19. Sale or Other Disposition of Property.  
16 2A:17B-20. Property Sold, Manner.  
17 2A:17B-21. Objections to Sale or Disposition of Property.  
18 2A:17B-22. Priorities in Distribution of Proceeds.  
19 2A:17B-23. Disputes Over Distribution of Proceeds.  
20 2A:17B-24. Return of Collection Order.  
21 2A:17B-1. Definitions  
22 As used in this chapter:  
23 "Earnings" means payment for personal services performed,  
24 whether described as wages, salary, commission, fees, bonus, tips,  
25 pension and retirement benefits or otherwise.  
26 "Collection officer" includes a sheriff's officer, Special Civil Part  
27 officer or any other person performing similar functions.  
28 "Collection order" means a court order, formerly called a writ of  
29 execution, directing the collection officer to satisfy a money judgment  
30 from the property of a judgment debtor.  
31 "Property of the judgment debtor" means all interests in real  
32 property, all forms of personal property, including rights and credits,  
33 and all earnings.  
34 (Source: New)  
35 2A:17B-2. Issuance of collection orders.  
36 a. At the request of a judgment creditor and upon receipt of any  
37 required fee, the clerk of the court shall issue a collection order  
38 directing the satisfaction of a money judgment from the property of the  
39 judgment debtor.  
40 b. A collection order may be issued only within 20 years after entry  
41 of the judgment to be collected, or if the judgment has been revived,  
42 a collection order may be issued only within 20 years after the date of  
43 the revival of the judgment.  
44 (Source: 2A:17-3)  
45 2A:17B-3. By whom issued.  
46 a. A collection order against any property of the judgment debtor

1 may be issued by the Clerk of the Superior Court if the judgment is  
2 recorded in the judgment docket of the Superior Court.

3 b. A collection order against personal property or earnings may be  
4 issued by the Clerk of the Special Civil Part if the judgment is  
5 recorded in the case records of the Superior Court, Law Division,  
6 Special Civil Part but not in the judgment docket of the Superior  
7 Court.

8 (Source: 2A:17-4; 2A:17-17)

9 2A:17B-4. To whom issued.

10 a. Collection orders for judgments recorded in the judgment docket  
11 of the Superior Court may be directed to the sheriff of any county.

12 b. Collection orders for judgments recorded in the case records of  
13 the Superior Court, Law Division, Special Civil Part but not in the  
14 judgment docket of the Superior Court shall be directed to the officer  
15 responsible for enforcing judgments of the Law Division, Special Civil  
16 Part in any county.

17 (Source: 2A:17-4)

18 2A:17B-5. Form and contents of collection orders.

19 a. A collection order shall specify in its title whether it is directed  
20 at the property, or the earnings, of the judgment debtor.

21 b. A collection order shall include such information concerning the  
22 judgment, the judgment creditor and the judgment debtor as the Rules  
23 of Court require.

24 (Source: New)

25 2A:17B-6. Exemptions.

26 a. The following property of a judgment debtor, who is either a  
27 natural person resident in the State of New Jersey or the estate of a  
28 decedent who was resident in the State of New Jersey, shall be exempt  
29 from a collection order pursuant to this chapter:

30 (1) property that federal or other State statute forbids taking to  
31 satisfy a State judgment;

32 (2) wearing apparel of the judgment debtor other than furs and  
33 jewelry; and

34 (3) <sup>1</sup>[goods whose value does not exceed either \$2,000.00 or the  
35 amount determined pursuant to subsection b. of this section; and

36 (4) cash, bank deposits and similar financial property collectible as  
37 cash whose aggregate value does not exceed \$1,000.00 or the amount  
38 determined pursuant to subsection b. of this section.]goods, cash, bank  
39 deposits and similar financial property collectible as cash selected as  
40 provided in N.J.S. 2A:17B-7 whose aggregate value does not exceed  
41 \$1,000.00.<sup>1</sup> Banks and financial institutions may assess a fee of <sup>1</sup>[no  
42 more than \$25.00] \$60.00<sup>1</sup> per levy against the judgment debtor <sup>1</sup>if the  
43 contract with the debtor provides for the fee<sup>1</sup>.

44 b. <sup>1</sup>[The Governor, in consultation with the Department of the  
45 Treasury, not later than March 1 of each odd-numbered year, shall  
46 adjust the exemption amounts set forth in subsection a. of this section,

1 or subsequent to 1997 the exemption amount resulting from any  
2 adjustment under this subsection, in direct proportion to the rise or fall  
3 of the Consumer Price Index for all urban consumers in the New York  
4 City and Philadelphia areas as reported by the United States  
5 Department of Labor. The Governor, no later than June 1 of each  
6 odd- numbered year, shall notify the Clerk of the Superior Court of the  
7 adjustment. The adjustment shall become effective on July 1 of each  
8 odd-numbered year.

9 c.]<sup>1</sup> The exemptions provided in this section shall not apply if the  
10 judgment being enforced:

11 (1) arises from the purchase of the same property against which  
12 collection is sought; or

13 (2) is for child support; or

14 (3) is for the collection of taxes or assessments.

15 (Source: 2A:17-19)

16 2A:17B-7. Selection of exempt personal property.

17 a. In consultation with the collection officer, the judgment debtor  
18 may select any item or items of personal property whose aggregate  
19 value is not greater than the values allowed under section paragraph  
20 (3) of subsection a. of N.J.S.2A:17B-6. The selected item or items  
21 shall be exempt from levy. <sup>1</sup>If the debtor fails to respond to notice  
22 within 10 days, and if the value of the property may exceed the  
23 statutory exemption, on application of the creditor, the court shall  
24 decide which property if any shall be exempt. The court ordinarily  
25 shall apply the exemption to personal goods before applying it to cash,  
26 bank deposits and similar financial property, and shall determine the  
27 order in which tangible property shall be sold.<sup>1</sup>

28 b. The collection officer shall prepare an inventory of the items of  
29 personal property selected for exemption by the judgment debtor and  
30 shall include an impartial and honest evaluation of each item  
31 inventoried. The value of an item shall be the price judged to be that  
32 for which the item would be sold at public sale. Copies of the  
33 inventory shall be given to the debtor and to creditor and to their  
34 counsel.

35 c. Within 10 days after receipt of the inventory, either the debtor  
36 or the creditor may dispute the value of any item in the inventory by  
37 notice to the other party by submitting a written statement under oath  
38 concerning the value and applying to the court to make a  
39 determination of the value of the items in dispute. The court may  
40 receive or require testimony or evidence, including expert appraisals  
41 as necessary to make its determination.

42 d. If neither party disputes the values in the inventory, the  
43 judgment debtor, on the basis of the inventory values, shall select  
44 items whose aggregate value is not greater than the values allowed  
45 under paragraph (3) of subsection a. of N.J.S.2A:17B-6. These items  
46 shall be exempt from levy. If either party disputes the values in the

1 inventory, the judgment debtor, on the basis of the values determined  
2 by the court, shall select items whose aggregate value is not greater  
3 than the values allowed under paragraph (3) of subsection a. of  
4 N.J.S.2A:17B-6. These items shall be exempt from levy.

5 (Source: 2A:17-20 through 2A:17-28)

6 2A:17B-8. Receipt of collection orders.

7 The collection officer shall record on a collection order the date and  
8 time it was received.

9 (Source: 2A:17-11)

10 2A:17B-9. Judgment creditor's collection instructions.

11 a. A judgment creditor who obtains a collection order shall submit  
12 written instructions to the collection officer with the order.

13 b. The collection instructions shall contain a description of  
14 personal property to be levied against, by item, type or location  
15 sufficient to identify it for levy. If all property at particular premises  
16 occupied by the debtor is to be levied against, an instruction stating  
17 that shall be sufficient. The collection instructions shall contain a  
18 description of real property to be levied against sufficient to identify  
19 it. The instruction shall state whether the property is located in a  
20 dwelling.

21 c. The collection officer shall record on the collection instructions  
22 the date they were received.

23 d. The collection officer shall comply with the lawful written  
24 collection instructions of the judgment creditor <sup>1</sup>[, except that the  
25 officer shall not levy against more items of property than necessary, in  
26 the judgment of the officer, to satisfy the judgment and pay costs]<sup>1</sup>.

27 e. The collection officer may levy against property of the judgment  
28 debtor subject to the collection order but not identified in the  
29 collection instructions of the judgment creditor, unless the instructions  
30 of the judgment creditor state otherwise.

31 (Source: New)

32 2A:17B-10. Levy against personal property in possession of  
33 judgment debtor.

34 a. A collection officer may levy against personal property in the  
35 possession of the judgment debtor in any of the following ways:

36 (1) by removing the property to a place of safekeeping;

37 (2) by installing a custodian in the place where the property is  
38 located to maintain custody over the property; or

39 (3) by any other reasonable means of obtaining possession or  
40 control of the property.

41 b. If the creditor agrees, the collection officer, in place of making  
42 a levy, may leave the property in the custody of the debtor until the  
43 sale. The collection officer shall list each item of property left in the  
44 custody of the debtor and give a copy of the list to the debtor and to  
45 the creditor. The debtor shall not intentionally damage or dispose of  
46 property left by the collection officer. This action by the collection

1 officer shall be considered equivalent to a levy for the purpose of  
2 establishing the rights of the creditor as against other judgment  
3 creditors, but it shall not affect the rights of a person who, not  
4 knowing that the property is held pending public sale, purchases the  
5 property or acquires a lien for fair value.

6 (Source: 2A17-14)

7 2A:17B-11. Levy against personal property in a dwelling.

8 a. If the judgment creditor instructs the officer to levy against  
9 personal property located in the judgment debtor's dwelling place, the  
10 officer shall demand access to the property at the dwelling place where  
11 the property is located. At the time the demand is made the officer  
12 shall inform the judgment debtor that the judgment debtor may be  
13 liable for costs incurred in any further proceedings to obtain access to  
14 the property. If the judgment debtor does not allow access to the  
15 property upon demand of the collection officer, the officer shall  
16 promptly notify the judgment creditor of the failure to obtain custody  
17 of the property.

18 b. Whether or not a demand has been made pursuant to subsection  
19 a. of this section, the judgment creditor may apply to the court which  
20 issued the collection order for an order directing the collection officer  
21 to levy against a judgment debtor's property located in a dwelling  
22 place. An application for an order to seize property shall describe  
23 with particularity sufficient to identify them, both the property sought  
24 to be levied against, and the place where it is to be found, according  
25 to the best knowledge and belief of the judgment creditor. The court  
26 may not issue the order unless the judgment creditor establishes that  
27 there is probable cause to believe that the property to be levied against  
28 is located in the place described. At the time delivery of the property  
29 is demanded, the officer shall make known his or her purpose and  
30 authority, and shall announce that persons interfering with officers  
31 enforcing the order are subject to arrest for obstructing an officer.

32 (Source: New)

33 2A:17B-12. Levy against property in an inaccessible place.

34 a. If the judgment creditor instructs the officer to levy against  
35 personal property located in a place inaccessible to the collection  
36 officer, which is other than a dwelling place, the collection officer shall  
37 demand access to the property at the place where the property is  
38 located. At the time access to the property is demanded, the collection  
39 officer shall make known his or her identity, purpose, and authority,  
40 and shall announce that persons interfering with officers enforcing the  
41 order shall be subject to arrest for obstructing an officer.

42 b. If access to the property is not given, the collection officer may  
43 use force to obtain access to the property and may cause the place  
44 where the property is believed to be located to be opened in the

1 manner that the collection officer reasonably believes will cause the  
2 least damage.

3 (Source: New)

4 2A:17B-13. Levy against personal property in the custody of a  
5 third party.

6 a. If the judgment creditor instructs the collection officer to levy  
7 against personal property in the possession of a person other than the  
8 judgment debtor, the officer shall serve a copy of the collection order  
9 personally on the person who has possession of the property.

10 b. The service of the collection order shall be effective against:

11 (1) any personal property of the judgment debtor in the custody of  
12 the third party at the time of service; and

13 (2) any additional personal property which the judgment debtor  
14 becomes entitled to receive from the time of the levy to the time of the  
15 order directing that the property be turned over to the collection  
16 officer.

17 c. Service of the collection order on any office of a business shall  
18 be effective against any personal property of the judgment debtor of  
19 the business.

20 d. During the time the levy is in effect, the third party holding  
21 custody of personal property subject to the collection order shall hold  
22 the property pending order of the court and shall not honor any other  
23 demand for the property.

24 e. Any time within 30 days after levy, the creditor may make a  
25 motion pursuant to the Rules of Court for an order directing that the  
26 property be turned over to the collection officer.

27 (Source: 2A:17-58; 2A:17-63)

28 2A:17B-14. Service and mailing of notice of levy.

29 a. At the time the collection officer levies against property of a  
30 judgment debtor, the officer shall serve a copy of the order on the  
31 person who has custody of the property levied against; and

32 b. The collection officer shall mail a copy of the collection order  
33 and notice of levy on the same day:

34 (1) to the judgment debtor, if the order and notice have not been  
35 served upon the judgment debtor;

36 (2) to any person whom the officer actually knows may have  
37 an interest in the property described in the notice; and

38 (3) to the attorneys for the judgment debtor and creditor.

39 c. A notice that specific property has been levied against shall  
40 contain a description of the specific property levied against, a  
41 statement of the debtor's right to exempt property from collection, and  
42 any other information required by the Rules of Court.

43 (Source: New)

44 2A:17B-15. Collection orders against earnings; earnings subject to  
45 collection orders.

46 a. At the request of a judgment creditor, the Superior Court shall

1 issue either a collection order directing an employer to withhold a  
2 portion of a debtor's earnings, or a collection order to the debtor to  
3 make periodic payments to the creditor from earnings.

4 b. A collection order, other than a support order, against the  
5 earnings of a judgment debtor shall provide that 10% of gross earnings  
6 shall be taken unless the court finds that the needs of the debtor  
7 require that a lesser percentage be taken or allow a greater percentage  
8 to be taken. The amount to be withheld shall not exceed the amount  
9 allowed under section 303 of the Federal Consumer Credit Protection  
10 Act (15 U.S.C. sec. 1673).

11 (Source: 2A:17-50; 2A:17-56)

12 2A:17B-16. Priorities among collection orders against earnings.

13 a. If more than one collection order against the earnings of a  
14 judgment debtor is served on an employer,

15 (1) only one collection order against earnings shall be satisfied at  
16 one time;

17 (2) support orders shall be satisfied before other collection orders;  
18 and

19 (3) orders, other than support orders, shall be satisfied in the order  
20 in which they were served on the employer.

21 b. If a judgment debtor is subject to more than one collection order  
22 against earnings other than a support order, upon application by the  
23 debtor the court shall modify the amount of the later order so that the  
24 amount to be collected at any time on both orders other than support  
25 orders is not greater than 10% of gross earnings.

26 c. For purposes of N.J.S.2A:17B-14, N.J.S.2A:17B:-15 and this  
27 section:

28 (1) a collection order against the earnings of a judgment debtor  
29 includes any court order that requires that payments be made from the  
30 earnings of the judgment debtor whether the payments are to be made  
31 by the employer or by the judgment debtor;

32 (2) a support order is any order for the support of a child, spouse  
33 or former spouse or any order based on a claim for unpaid support for  
34 a child, spouse or former spouse.

35 (Source: 2A:17-52)

36 2A:17B-17. Payments under collection orders against earnings.

37 a. Any employer to whom a collection order against earnings is  
38 presented shall deduct from earnings owed the judgment debtor the  
39 amount prescribed in the order and pay the amount prescribed to the  
40 collection officer presenting the order. The employer may deduct a fee  
41 of no more than 5% to \$5.00, whichever is less, from each payment,  
42 to compensate the employer for expenses. The judgment debtor shall  
43 bear the expense of the fee.

44 b. Any employer who fails to make payments required by a  
45 collection order against earnings shall be liable to the judgment

1 creditor for the payments.

2 (Source: 2A:17-53; 2A:17-56)

3 2A:17B-18. Collection order, lien on personal property.

4 a. A judgment creditor who files a collection order with a  
5 collection officer shall have a lien on any property of the debtor levied  
6 against by that officer from the time of levy.

7 b. A judgment creditor who has caused a levy to be made against  
8 the proceeds of the collection or sale of debtor's property levied  
9 against for another creditor shall have a lien on that property from the  
10 time of levy on the proceeds.

11 c. If more than one lien established by this section is applicable to  
12 an item of property, priority among the liens shall be governed by the  
13 same rules as those governing distribution of the proceeds of property  
14 which has been levied against to enforce a judgment.

15 d. A lien established by this section shall prevail over any  
16 subsequent transfer of an interest in the property.

17 (Source: 2A:17-10)

18 2A:17B-19. Sale or other disposition of property.

19 a. Cash shall be collected and applied to the satisfaction of the  
20 judgment as so much money collected, unless it has a value exceeding  
21 its face value, in which case it shall be sold.

22 b. The following property of a judgment debtor shall be collected  
23 and reduced to cash and applied to the satisfaction of the judgment in  
24 accordance with the instructions of the judgment creditor:

25 (1) instruments payable within the term of the collection order;

26 (2) any other rights to the payment of money.

27 c. Other property of a judgment debtor that has been levied against  
28 pursuant to a collection order shall be sold as provided in this chapter  
29 and proceeds applied to the payment of the judgment.

30 (Source: 2A:17-15; 2A:17-16; 2A:17-17; 2A:17-19; 2A:17-61)

31 2A:17B-20. Property sold, manner.

32 a. Property that has been levied against may be sold by any method  
33 specified in a court order or agreed upon by the judgment creditor, the  
34 judgment debtor and any other party having an interest in the property.

35 b. In the absence of an order or agreement, that property shall be  
36 sold as follows:

37 (1) Personal property that has a readily ascertainable current value  
38 and that is normally sold in an established public market shall be sold  
39 in that market.

40 (2) All other property shall be sold by auction, pursuant to  
41 provisions governing public sales.

42 (Source: New)

43 2A:17B-21. Objections to sale or disposition of property.

44 a. Any person who claims an interest in property which has been  
45 levied against or who objects to the sale or other disposition of  
46 property which has been levied against may file a written objection to

1 the sale or disposition with the clerk of the court which issued the  
2 collection order and deliver a copy of the objection to the collection  
3 officer.

4 b. The clerk shall notify the collection officer, the judgment  
5 creditor, and the attorney for the judgment creditor of any objections  
6 that have been received to the sale or other disposition. Upon receipt  
7 of notification of the objections, the collection officer shall not sell or  
8 dispose of the property until further order of the court.

9 (Source: 2A:17-29; 2A:17-31)

10 2A:17B-22. Priorities in distribution of proceeds.

11 The proceeds of property which has been levied against to collect  
12 a judgment shall be distributed in the following order:

13 a. to the judgment creditor for whom the property was levied  
14 against and sold;

15 b. if the sale is of personal property, to other judgment creditors  
16 who have levied against the proceeds of the sale;

17 c. to junior lienholders whose liens are extinguished by the sale;

18 d. to the debtor.

19 (Source: New)

20 2A:17B-23. Disputes over distribution of proceeds.

21 If a dispute arises concerning the application of either money  
22 collected or proceeds of a sale to the satisfaction of a judgment, the  
23 officer or any party with a right to the property to be distributed may  
24 apply to the court, on notice to the other parties whose property rights  
25 will be affected by resolution of the dispute, for an order directing the  
26 distribution of the money or proceeds.

27 (Source: 2A:17-6)

28 2A:17B-24. Return of collection order.

29 a. The collection officer shall file a return with the court which  
30 issued the collection order at the earliest of the following times:

31 (1) <sup>1</sup>[immediately after receipt of the collection order,] 30 days  
32 after notice to the judgment creditor<sup>1</sup> if no written instructions have  
33 been received from the judgment creditor.

34 (2) 30 days after notice to the judgment creditor unless directed  
35 otherwise.

36 (3) immediately after a request in writing for a return by the  
37 judgment creditor.

38 (4) 12 months after the date of the issuance of the collection order  
39 against property.

40 (5) immediately after a collection order is satisfied.

41 b. The return filed by the levying officer shall include:

42 (1) A statement of the amount collected, if any, and the time when  
43 it was collected and remitted to the judgment creditor; and

44 (2) An itemized bill of costs and fees.

45 (Source: 2A:17-9; 2A:18-27)

1       3. An additional chapter, chapter 17C, is added to Title 2A as  
2 follows:

3                                   TITLE 2A  
4                                   CHAPTER 17C  
5                                   FORECLOSURE

- 6 2A:17C-1. Notice of Intention to Foreclose a Residential  
7 Mortgage.  
8 2A:17C-2. Notice of Right to Cure Default.  
9 2A:17C-3. Curing Default.  
10 2A:17C-4. Action Necessary for Foreclosure; Sale Pending  
11 Foreclosure.  
12 2A:17C-5. When Foreclosure is required Before Action on  
13 Debt.  
14 2A:17C-6. Deficiency Action.  
15 2A:17C-7. Sale.  
16 2A:17C-8. Proceeds.  
17 2A:17C-9. Strict Foreclosure.  
18 2A:17C-1. Notice of intention to foreclose residential mortgage.  
19 a. As used in this chapter, a "residential mortgage" means a  
20 mortgage of a one-, two-, three-, or four-family dwelling in which the  
21 owner or the owner's immediate family resides when the notice of  
22 intention to foreclose is sent.  
23 b. Before a plaintiff may commence foreclosure of a residential  
24 mortgage, the plaintiff shall give the debtor written notice of intention  
25 to foreclose at least 30 days in advance.  
26 c. Notice of intention shall be sent by registered or certified mail,  
27 return receipt requested, to the debtor's last known address, and, if  
28 different, to the address of the mortgaged property. If the return  
29 receipt is not returned to the sender within 15 days, notice shall be  
30 made by ordinary first class mail.  
31 d. The notice of intention shall state:  
32 (1) the mortgage obligation;  
33 (2) the nature of the default claimed, and the name and address of  
34 the mortgage holder and telephone number of the mortgage holder's  
35 representative whom the debtor may contact to dispute the claimed  
36 default or the amount required to cure the default;  
37 (3) the debtor's right to cure the default;  
38 (4) what action the debtor must make to cure the default;  
39 (5) the date, at least 30 days after notice is given, by which the  
40 debtor shall cure the default to avoid commencement of foreclosure,  
41 and the name, address and telephone number of the person to receive  
42 payment;  
43 (6) that upon the debtor's failure to cure default by the specified  
44 date, the mortgage holder may commence foreclosure; and  
45 (7) that the debtor may also have the right to cure a default prior  
46 to entry of final judgment.

1 e. Compliance with this section shall be stated in a foreclosure  
2 action complaint.

3 (Source: New)

4 2A:17C-2. Notice of right to cure default.

5 a. If an action to foreclose a mortgage is uncontested, a mortgage  
6 holder shall apply for entry of final judgment and provide the debtor  
7 with a notice mailed at least 16 days before submission of proofs for  
8 entry of a foreclosure judgment advising that:

9 (1) absent a response from the debtor, the mortgage holder will  
10 submit proof for entry of final judgment; and

11 (2) upon entry of final judgment, the debtor will lose the right to  
12 cure the default.

13 b. Within 8 days of receiving notice, the debtor may send the  
14 mortgage holder by registered or certified mail, return receipt  
15 requested, and file with the court, a statement certifying that there is  
16 a reasonable likelihood of the debtor's curing the default within 45  
17 days of the date the notice was received, or if the notice was sent by  
18 ordinary mail, the date the notice was mailed.

19 c. A mortgage holder who receives a statement from the debtor  
20 shall not submit proofs for entry of final judgment in foreclosure with  
21 a return date earlier than 46 days after the notice was received, or if  
22 the notice was sent by ordinary mail, the date the notice was mailed.

23 (Source: New)

24 2A:17C-3. Curing default.

25 a. At any time before entry of final judgment, <sup>1</sup>[not later than 30  
26 days after mailing of the notice of default,]<sup>1</sup> the debtor shall have the  
27 right to cure a default by:

28 (1) paying all sums which would have been due in the absence of  
29 default at the time of payment, any court costs and attorney's fees, and  
30 contractual late charges, and

31 (2) performing any obligation which the debtor would have been  
32 bound to perform in the absence of default.

33 b. If default is cured prior to the filing of a foreclosure action, the  
34 mortgage holder shall not bring a foreclosure action. If default is  
35 cured after the filing of a foreclosure action, the mortgage holder shall  
36 give written notice of the cure to the court which shall dismiss the  
37 action without prejudice.

38 c. A debtor does not have the right to cure a default after an action  
39 for foreclosure has been filed:

40 (1) on a residential mortgage if the default occurs within 18 months  
41 of the previous cure unless the cure occurs within 30 days after service  
42 of the notice of intention; and

43 (2) on a commercial mortgage if the default occurs within 24  
44 months of the previous cure unless the cure occurs within 30 days

1 after the mortgage holder has notified the debtor in writing that default  
2 has occurred.

3 (Source: New)

4 2A:17C-4. Action necessary for foreclosure; sale pending  
5 foreclosure.

6 a. <sup>1</sup>[A] Except as specifically authorized by other statutes, a<sup>1</sup>  
7 mortgage may be foreclosed only by a civil action.

8 b. If the court determines that the mortgage is valid and that the  
9 plaintiff has the right under the mortgage to foreclose, it shall enter  
10 judgment ordering the property sold in whole or in sufficient part and  
11 stating the amount due on the debt secured by the mortgage.

12 c. The court shall enter summary judgment of foreclosure, if:

13 (1) the mortgage is not a residential mortgage as defined in this  
14 chapter,

15 (2) the debtor has not made a payment of principal or interest when  
16 due under the term of the mortgage as recorded, and

17 (3) the debtor has not cured the default as allowed by this chapter.  
18 The debtor's defenses or counterclaims shall not affect the creditor's  
19 right to summary judgment of foreclosure.

20 d. A foreclosure judgment shall be a binding determination of the  
21 amount due on the debt secured by the mortgage but it may be  
22 enforced only by sale of the mortgaged property and not as a money  
23 judgment.

24 e. When mortgaged property is likely to deteriorate in value  
25 pending determination of the action, the court, before judgment, upon  
26 application of any party, may order the sale of the property, and the  
27 deposit in court of the proceeds to be distributed after judgment.

28 f. The owner of the property that is the subject of a foreclosure  
29 judgment may redeem the property by paying the amount due on the  
30 debt secured by the mortgage plus applicable fees and costs:

31 (1) at any time up to ten days after the sale; or

32 (2) if objections to the sale are filed, until an order confirming the  
33 sale.

34 (Source: New; 2A:50-1; 2A:50-31; 2A:50-36)

35 2A:17C-5. When foreclosure is required before action on debt.

36 a. A holder of a residential mortgage may bring an action to collect  
37 the debt secured by the mortgage only by foreclosure. After  
38 foreclosure, the mortgage holder may bring an action for deficiency.  
39 However, a residential mortgage holder is not bound by this subsection  
40 if:

41 (1) the residential mortgage is subject to a prior mortgage held by  
42 a different person; or

43 (2) the mortgage is not the primary security for the debt.

44 b. A mortgage holder may enforce a contract of a surety or  
45 guarantor to pay the debt and mortgage other than one that is subject  
46 to a prior mortgage held by a different person only by bringing an

1 action for foreclosure that joins the surety or guarantor. After  
2 foreclosure, a mortgage holder may bring an action against the surety  
3 or guarantor for the deficiency.

4 c. A mortgage holder who is not required by this section to  
5 foreclose the mortgage before bringing an action to collect the debt  
6 may:

7 (1) use the procedure of this section, or

8 (2) bring an action to collect the debt before, or joined with, a  
9 foreclosure action.

10 (Source: 2A:50-2; 2A:50-2.3; 2A:50-22)

11 2A:17C-6. Deficiency action.

12 a. <sup>1</sup>[Deficiency] If law requires that collection of a debt secured  
13 by mortgage be by foreclosure followed by a deficiency action, the  
14 deficiency<sup>1</sup> action <sup>1</sup>[on a debt secured by mortgage that has been  
15 foreclosed]<sup>1</sup>:

16 (1) may be brought by the mortgage holder only within three  
17 months after the foreclosure sale or confirmation of sale;

18 (2) may be brought against a person answerable on a bond or note  
19 only if the person was a party in the foreclosure action.

20 b. A deficiency action on a debt secured by mortgage that has been  
21 extinguished by the foreclosure of a prior mortgage:

22 (1) may be brought by the mortgage holder only within one year  
23 after the foreclosure sale or confirmation of sale; and

24 (2) shall not open the foreclosure and sale of the mortgaged  
25 premises nor result in a right of redemption.

26 c. If a defendant in the deficiency action disputes the amount of the  
27 deficiency, the court shall determine the amount of deficiency by  
28 deducting the fair market value of the mortgaged property at the time  
29 of the foreclosure sale from the amount of the debt, interest and costs.  
30 The court shall determine the fair market value from evidence  
31 submitted by the parties, or, upon agreement of all parties, the court  
32 may accept the value which three appraisers fix as the fair market  
33 value.

34 (Source: 2A:50-2; 2A:50-2.1; 2A:50-3; 2A:50-8; 2A:50-9)

35 2A:17C-6. Deficiency action.

36 a. <sup>1</sup>[Deficiency] If law requires that collection of a debt secured  
37 by mortgage be by foreclosure followed by a deficiency action, the  
38 deficiency<sup>1</sup> action <sup>1</sup>[on a debt secured by mortgage that has been  
39 foreclosed]<sup>1</sup>:

40 (1) may be brought by the mortgage holder only within three  
41 months after the foreclosure sale or confirmation of sale;

42 (2) may be brought against a person answerable on a bond or note  
43 only if the person was a party in the foreclosure action.

44 b. A deficiency action on a debt secured by mortgage that has been  
45 extinguished by the foreclosure of a prior mortgage:

46 (1) may be brought by the mortgage holder only within one year

1 after the foreclosure sale or confirmation of sale; and

2 (2) shall not open the foreclosure and sale of the mortgaged  
3 premises nor result in a right of redemption.

4 c. If a defendant in the deficiency action disputes the amount of the  
5 deficiency, the court shall determine the amount of deficiency by  
6 deducting the fair market value of the mortgaged property at the time  
7 of the foreclosure sale from the amount of the debt, interest and costs.  
8 The court shall determine the fair market value from evidence  
9 submitted by the parties, or, upon agreement of all parties, the court  
10 may accept the value which three appraisers fix as the fair market  
11 value.

12 (Source: 2A:50-2; 2A:50-2.1; 2A:50-3; 2A:50-8; 2A:50-9)

13 2A:17C-7. Sale.

14 a. Without further court order, a judgment of foreclosure shall  
15 authorize sale of the property.

16 b. If the judgment does not specify otherwise, the sale shall be  
17 conducted by the sheriff of the county in which the property is located.  
18 If the sheriff cannot effect the sale within 45 days after receiving the  
19 judgment, or if there is other good cause, the court may appoint a  
20 special referee to conduct the sale. If the sheriff is restrained from  
21 conducting the sale by bankruptcy proceedings or court order, the  
22 same restraint shall not be counted in determining the 45-day period.

23 c. Whether the sale is conducted by the sheriff, or a special referee,  
24 the terms of sale and the fees and costs chargeable for the sale shall be  
25 those provided by law for public sales.

26 d. If the mortgage debtor agrees, or if the mortgage is not a  
27 residential mortgage and the mortgage provides for private sale, or if  
28 the court finds from affidavits submitted that the mortgage debtor has  
29 abandoned the mortgaged property or that the amount of the plaintiff's  
30 judgment is at least 92% of the current value of the property, the court  
31 shall order that the plaintiff may sell the property privately in any  
32 commercially reasonable manner. After sale, the plaintiff shall pay the  
33 part of the proceeds that exceeds the judgment and the cost of sale  
34 into court for distribution as provided in this chapter.

35 e. The interests in the property that shall be sold are the interests  
36 of the mortgage debtor and of the mortgage holder. The property  
37 shall be sold free of any liens that are: (1) subordinate to the lien of  
38 the mortgage holder, and (2) that were held by defendants in the  
39 foreclosure action or that attached to the property after the  
40 commencement of the foreclosure action and the filing of the notice of  
41 pending action. The property shall also be sold free of any liens or  
42 interests that could have been recorded in the office of the register of  
43 deeds or county clerk but were not recorded there.

44 (Source: New; 2A:50-19; 2A:50-30; 2A:50-37)

1 2A:17C-8. Proceeds.

2 a. After sale of the property, the proceeds shall be applied as  
3 follows:

4 (1) to pay the fees and costs of sale;

5 (2) to pay the amount specified in the judgment of foreclosure as  
6 due on the mortgage foreclosed;

7 (3) to pay the amount necessary to satisfy any other liens that  
8 were on the property at the time of the commencement of the  
9 foreclosure action and were extinguished by the foreclosure;

10 (4) to pay the amount necessary to satisfy any other liens  
11 extinguished by the foreclosure;

12 (5) to the owners of the property in proportion to their interests in  
13 the property;

14 (6) to the debtor.

15 b. If there is more than one owner of the property and there are  
16 liens that affect the interests of only certain of the owners, the payment  
17 of the amounts necessary to satisfy those liens shall not reduce the  
18 proceeds paid to the other owners.

19 (Source: 2A:50-34; 2A:50-37)

20 2A:17C-9. Strict foreclosure.

21 A good faith purchaser at a foreclosure sale may bring an action to  
22 compel a person <sup>1</sup>[holding] having an interest in the mortgaged  
23 premises<sup>1</sup> a lien subordinate to the foreclosed lien to redeem its  
24 mortgage or be foreclosed of the equity of redemption, if the  
25 subordinate <sup>1</sup>interest or<sup>1</sup> lien would not have entitled the lienholder to  
26 any proceeds even if joined in the original foreclosure action and if  
27 through inadvertence, it was not extinguished by the foreclosure.

28 (Source: New)

29

30 4. An additional chapter, chapter 17D, is added to Title 2A as  
31 follows:

32

#### TITLE 2A

33

#### CHAPTER 17D

34

#### PUBLIC SALES

35 2A:17D-1. Public Sales; Authority.

36 2A:17D-2. Statement of Prior Encumbrances.

37 2A:17D-3. Notice of Pending Sale.

38 2A:17D-4. Contents of Notice of Pending Sale.

39 2A:17D-5. Advertisement of Sales; Publication.

40 2A:17D-6. Notice of Date, Time and Place of Public Sale.

41 2A:17D-7. Adjournments.

42 2A:17D-8. Conditions of Sale of Real Property.

43 2A:17D-9. Conditions of Sale of Personal Property.

44 2A:17D-10. Objections to Sale; Confirmation of Sale.

45 2A:17D-11. Delivery by Deed.

46 2A:17D-12. Form of Sheriff's Deed.

1 2A:17D-13. Delivery by Certificate of Title.

2 2A:17D-14. Delivery of Personal Property Not Requiring Certificate  
3 of Title.

4 2A:17D-1. Public Sales; Authority.

5 Where a public sale is ordered or required by statute, the sheriff or  
6 the person to whom the order is directed shall make the sale pursuant  
7 to this chapter and court order, and shall execute, as the case requires,  
8 a deed or certificate of title for the property sold.

9 (Source: 2A:50-19; 2A:50-37)

10 2A:17D-2. Statement of prior encumbrances.

11 The sheriff or other person authorized shall not conduct a public  
12 sale of real property before receipt of the affidavit required by Section  
13 1 of P.L.1979, c.225 (C.46:15-6.1) listing all liens and encumbrances  
14 that will affect the property after the sale and the current balance of  
15 each. The sheriff shall make the contents of the affidavit available to  
16 any person requesting it.

17 (Source: C.46:15-6.1)

18 2A:17D-3. Notice of pending sale.

19 a. A person who has obtained an order directing a public sale of  
20 real property, in an action as to which no notice of pending action has  
21 been filed, shall file a notice of pending sale in the office of the county  
22 clerk or register of deeds and mortgages of the county in which the  
23 property is located.

24 b. A notice of pending sale filed in the office of the county clerk or  
25 register of deeds and mortgages of the county in which the property  
26 is located shall be notice of the pendency of a public sale of the  
27 property to any person who acquires an interest in, or lien on, the  
28 property after the filing of the notice.

29 c. Notices of pending sale of real property shall be filed and  
30 indexed in the office of the county clerk or register of deeds and  
31 mortgages in the same manner as notices of pending action, and the  
32 fee for filing such notices shall be the same as the fee for filing a notice  
33 of pending action.

34 d. A notice of pending sale filed or posted pursuant to this section  
35 shall expire one year from the date of the issuance of the order  
36 directing the public sale, or upon the return of the enforcement order  
37 by the officer to the court that issues the order, whichever is earlier.  
38 A notice of pending sale may be extended for periods of one year if an  
39 extension notice is filed prior to the expiration of the original notice  
40 or any previous one year extension of the original notice.

41 (Source: New)

42 2A:17D-4. Contents of notice of pending sale.

43 A copy of the order directing the public sale of real property shall  
44 be appended to the notice of pending sale. The notice shall contain:

45 a. A statement that the property is subject to sale at any time after  
46 the expiration of 30 days from the date of filing and mailing the notice;



1 sale, the purchaser must pay the balance due. Both payments must be  
2 in cash or certified or cashier's check.

3 Copies of the full legal description of the property and Conditions of  
4 Sale set by statute (N.J.S. ) are available in the Sheriff's Office.

5 The Sheriff may adjourn this sale without further notice by publication.

6 Attorney for Plaintiff: (name, address, telephone)\_\_\_\_\_

7

8 d. The notice of sale in the case of personal property shall:

9 (1) state the terms of sale;

10 (2) state the amount of the judgment or order to be satisfied by the  
11 sale;

12 (3) include a description of the property sufficient to identify it;  
13 and

14 (4) if the property to be sold required a certificate of title, give the  
15 registration number and legal description of the property along with  
16 the location of the office where the certificate is registered.

17 e. The sheriff or other person authorized to conduct a public sale  
18 may advertise the sale in any manner reasonably calculated to increase  
19 the price of the property to be sold. The cost of advertisement  
20 authorized by this subsection shall not be charged against the sale  
21 price as a cost of sale.

22 (Source: 2A:17-33; 2A:17-34; 2A: 61-1)

23 2A:17D-6. Notice of date, time and place of public sale.

24 a. At least 10 days before a public sale <sup>1</sup>[of real property]<sup>1</sup>, a  
25 creditor for whose benefit the property is to be sold shall send notice  
26 of the date, time and place of the sale by registered or certified mail,  
27 return receipt requested to <sup>1</sup>[any person who had an interest or lien in  
28 the subject property that was of record 14 days before the date first  
29 scheduled for the sale] the debtor<sup>1</sup>. If the creditor knows that a person  
30 who is sent notice is represented by an attorney, the creditor also shall  
31 send a copy of the notice to the attorney by ordinary mail. <sup>1</sup>[If the sale  
32 is adjourned more than 30 days from the date first scheduled for the  
33 sale, the creditor shall also send notice to any person who had an  
34 interest or lien in the subject property that was of record 14 days  
35 before the new date scheduled for the sale.]<sup>1</sup>

36 b. <sup>1</sup>[At least 20 days before a public sale of personal property, a  
37 creditor for whose benefit the property is to be sold shall send notice  
38 of the date, time and place of the sale by registered or certified mail,  
39 return receipt requested to any person whom the creditor knows had  
40 an interest or lien in the subject property on the date the notice of  
41 pending sale was filed. If the creditor knows that a person who is sent  
42 notice is represented by an attorney, the creditor also shall send a copy  
43 of the notice to the attorney by ordinary mail.

44 c.]<sup>1</sup> The notice shall be mailed to the current address of the person,  
45 if it is known or reasonably ascertainable, or to the party's last know  
46 address of record. The notice shall include a description of the

1 property sufficient to identify it and a statement of the approximate  
2 amount of the judgment or order to be satisfied by the sale.

3 <sup>1</sup>[d. Notice need not be sent to a public entity.]<sup>1</sup>

4 (Source: New)

5 2A:17D-7. Adjournments.

6 a. The sheriff or other person authorized to make the sale may  
7 allow two adjournments of sale of no more than 14 days each at the  
8 judgment debtor's request.

9 b. The sheriff or other person authorized to make the sale may  
10 allow adjournments of sale at the judgment creditor's request.

11 c. The sheriff or other person authorized to make the sale may  
12 charge a fee authorized by law for adjournments.

13 (Source: 2A:17-36; 2A:61-5; 2A: 61-6)

14 2A:17D-8. Conditions of sale of real property.

15 a. The following conditions shall apply in all public sales of real  
16 property:

17 (1) The property shall be sold subject to interests and restrictions  
18 of record, rights of tenants, rights of redemption of the debtor or of  
19 the federal government, unpaid taxes, assessments or condominium  
20 charges, and any facts that an accurate survey or an inspection of the  
21 property would disclose.

22 (2) The property shall be sold at auction to the highest bidder. The  
23 person conducting the sale shall accept, in addition to oral bids,  
24 written bids for a fixed amount accompanied by the required  
25 purchaser's deposit and a signed agreement to comply with all  
26 conditions of sale. If dispute arises regarding who has made the  
27 highest bid, the property will be resold immediately.

28 (3) At the close of sale, the purchaser shall

29 (a) pay 10% of the purchase price in cash or by certified, cashier's  
30 or treasurer's check, unless the purchaser is the foreclosing party in a  
31 foreclosure procedure; and

32 (b) sign an agreement to comply with all conditions of sale and  
33 deliver the agreement to the person conducting the sale.

34 (4) If the purchaser is required to pay the 10% deposit, and does  
35 not pay it, or if the purchaser does not sign the Conditions of Sale, the  
36 person conducting the sale shall immediately resell the property  
37 without further public advertisement.

38 (5) Within 30 days after sale, the purchaser shall pay the balance  
39 of the purchase price and interest at the lawful rate on the balance due,  
40 from the 11th day after sale, until the balance is paid.

41 (6) The fees and commissions of the person conducting the sale are  
42 included in the amount bid and will be deducted to determine the  
43 purchase price.

44 b. If the purchaser fails to pay the balance of the sale price within  
45 30 days and the time for payment has not been extended by the  
46 creditor, the property shall be sold a second time.

1 c. The purchaser may decline to complete the sale and may reclaim  
2 the deposit if there is a lien or encumbrance on the property that was  
3 not listed in the affidavit required to be filed before the sale by Section  
4 1 of P.L.1979, c.225 (C.46:15-6.1). Otherwise, a purchaser who fails  
5 to pay the balance of the sale price within 30 days shall be responsible  
6 for expenses of the second sale and any difference between the first  
7 and second sale price, and the sheriff or other authorized person shall  
8 retain the deposit to be disbursed by court order.

9 (Source: New)

10 2A:17D-9. Conditions of sale of personal property.

11 The following conditions shall apply in all public sales of personal  
12 property:

13 a. The property shall be sold as it is at the time of sale and subject  
14 to interests and restrictions of record.

15 b. The property shall be sold at auction to the highest bidder. The  
16 person conducting the sale shall accept, in addition to oral bids,  
17 written bids for a fixed amount accompanied by the required  
18 purchaser's deposit and signed agreement to comply with all conditions  
19 of sale. If dispute arises regarding who has made the highest bid, the  
20 property will be resold immediately.

21 c. At the close of sale, the purchaser shall pay the purchase price  
22 immediately in cash or by certified, cashier's or treasurer's check unless  
23 the creditor agrees to another schedule or mode of payment. If the  
24 creditor allows another schedule or mode of payment, the creditor  
25 shall be responsible for payment if the purchaser fails to pay as agreed.

26 d. If there is no agreement that allows another schedule or mode  
27 of payment and the purchaser does not pay the purchase price at the  
28 close of sale, the person conducting the sale shall immediately resell  
29 the property without further public advertisement.

30 e. The fees and commissions of the person conducting the sale are  
31 included in the amount bid and will be deducted to determine the  
32 purchase price.

33 (Source: New)

34 2A:17D-10. Objections to sale; confirmations of sale.

35 a. A person who objects to a public sale of real property shall file  
36 that objection with the Superior Court and with the person who  
37 conducted the sale within 10 days after the sale or any time thereafter  
38 before delivery of the deed.

39 b. If the sale was not conducted by the sheriff, the person who  
40 conducted the sale shall apply to the Superior Court for confirmation  
41 of the sale.

42 c. If the court approves the sale, it may confirm the sale as valid  
43 and direct the sheriff or clerk of the court to deliver a deed.

44 2A:17D-11. Delivery by deed.

45 a. In the case of a public sale of real property, the purchaser shall  
46 prepare a deed to the property sold and present it to the sheriff if the

1 property was sold by the sheriff and otherwise to the clerk of the court  
2 under which authority the property was sold. The sheriff or clerk shall  
3 execute the deed if, after examination, the sheriff or clerk determines;

4 (1) that the purchaser has paid the balance of the purchase price  
5 and interest on the balance due, from the 11th day after sale;

6 (2) that the deed complies with this section;

7 (3) that the sale has not been set aside by a court and no objection  
8 to the sale is pending;

9 (4) that, if the sale was not conducted by the sheriff, the sale was  
10 confirmed by the court; and

11 (5) if redemption of the property is permitted by law, that the time  
12 for redemption has passed and that the property has not been  
13 redeemed.

14 b. The deed shall state the person whose interest in the real estate  
15 was sold and the execution or other legal proceeding for which the real  
16 estate was sold.

17 c. The purchaser shall pay the cost of preparing and recording the  
18 deed and any realty transfer tax.

19 d. The sheriff shall attach a copy of the affidavit required by  
20 Section 1 of P.L.1979, c.225 (C.46:15-6.1) to the deed.

21 e. A deed executed pursuant to this action shall transfer all  
22 interests of the execution defendant in the same manner as a deed by  
23 that person to a purchaser for value. The deed shall extinguish any  
24 lien resulting from the judgment executed and any lien subordinate to  
25 that lien.

26 (Source: 2A:17-40; 2A:17-41; 2A:50-37.)

27 2A:17D-12. Form of sheriff's deed.

28 A sheriff's deed may be substantially in the following form:

29 DEED  
30 Prepared by:\_\_\_\_\_

31  
32 From:\_\_\_\_\_ Sheriff of \_\_\_\_\_ County, New Jersey

33 To:\_\_\_\_\_

34 Address:\_\_\_\_\_

35 Dated:\_\_\_\_\_

36 In compliance with an order of New Jersey Superior Court,  
37 \_\_\_\_\_ Division, \_\_\_\_\_ County, dated \_\_\_\_\_ in the case of

38 \_\_\_\_\_, Plaintiff

39 v. \_\_\_\_\_, Defendant.

40 Docket number:\_\_\_\_\_

41 By this deed, I, \_\_\_\_\_, Sheriff of \_\_\_\_\_

42 County, New Jersey transfer ownership of all interest of the following  
43 parties:\_\_\_\_\_

44 \_\_\_\_\_

45 in premises described as:

1 [insert legal description]

2

3 constituting block \_\_\_\_\_, lot \_\_\_\_\_

4 in the municipality of \_\_\_\_\_, county of \_\_\_\_\_

5 including any property attached to the premises of rights to related to

6 it, and subject to restrictions of record or restrictions that would be

7 disclosed by a survey of the premises and the following restriction:

8 \_\_\_\_\_

9 \_\_\_\_\_

10 for the sum of \_\_\_\_\_ which I have received.

11 This sale which occurred on \_\_\_\_\_ was

12 advertised and conducted in accordance with law.

13

14 \_\_\_\_\_, Sheriff,

15 \_\_\_\_\_, County

16 \_\_\_\_\_, date

17

18 State of New Jersey:

19 County of \_\_\_\_\_:

20

21 On \_\_\_\_\_, \_\_\_\_\_, Sheriff of \_\_\_\_\_

22 County, New Jersey personally appeared before me and acknowledged

23 that this deed was executed voluntarily as the sheriff's own act and

24 swore that the facts alleged in it are true.

25

26 \_\_\_\_\_

27 \_\_\_\_\_

28 (Source: New)

29 2A:17D-13. Delivery by certificate of title.

30 a. In the case of a public sale of personal property which is  
31 required by law to be registered under a certificate of title, the sheriff  
32 or officer authorized to conduct the sale shall, prior to the time of the  
33 sale:

34 (1) forward a copy of the order authorizing the sale to the office  
35 where the certificate of title is registered; and

36 (2) request a certificate authorizing the sheriff or officer to transfer  
37 title by public sale.

38 b. Upon payment of the full purchase price, the sheriff or officer  
39 shall endorse the certificate to assign ownership to the purchaser and  
40 deliver it to the purchaser.

41 c. A certificate executed pursuant to this section shall transfer all  
42 interests of the judgment creditor in the same manner as a certificate  
43 of ownership endorsed by that person to a purchaser for value. It shall  
44 extinguish any lien resulting from the judgment enforced by the public  
45 sale and any lien subordinate to that lien.

46 (Source: New)

1 2A:17D-14. Delivery of personal property not requiring certificate  
2 of title.

3 In the case of public sale of personal property which does not  
4 require a certificate of title, after payment of the full purchase price the  
5 sheriff or officer authorized to conduct the sale shall allow the  
6 purchaser to take possession of the property.

7 (Source: New)

8

9 5. The following are repealed:

10 New Jersey Statutes sections:

11 N.J.S.2A:15-6 to 2A:15-17, inclusive;

12 N.J.S.2A:17-1 to N.J.S.2A:17-64, inclusive;

13 N.J.S.2A:50-1 to N.J.S.2A:50-52; inclusive.

14 N.J.S.2A:61-1 to 2A:61-6; <sup>1</sup>inclusive<sup>1</sup>

15 N.J.S.2A:61-8 to 2A:61-13; <sup>1</sup>inclusive<sup>1</sup>

16 N.J.S.2A:61-16.

17 Pamphlet Laws:

18 Laws of 1981, c.203, ss.3 and 4 (C.2A:17-56.1a. and C.2A:17-  
19 56.6);

20 Laws of 1979, c.286, ss.11-14 (C.2A:50-2.1 to 2A:50-2.4,  
21 inclusive)<sup>1</sup>;

22 Laws of 1995, c.244, ss. 1 to 13 (C.2A:50-53 to 2A:50-65,  
23 inclusive);

24 Laws of 1995, c.244, s.15 (C.2A:50-66);

25 Laws of 1995, c.244, ss.17 and 18 (C.2A:50-67 and C.2A:50-  
26 68)<sup>1</sup>.

27

28 6. This act shall take effect 60 days following enactment.

29

30

31

32

33 Revises present statutes dealing with procedures in civil actions  
34 relating to notice of pending actions, collection of judgments,  
35 foreclosures and public sales.