

ASSEMBLY, No. 1834

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblymen Caputo, Giblin, Assemblywomen Sumter, McKnight,

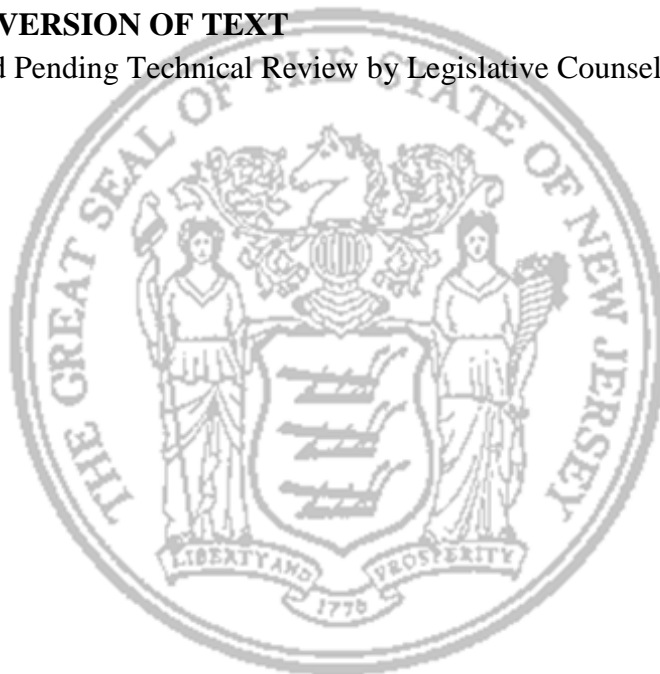
Assemblyman Wimberly and Assemblywoman Carter

SYNOPSIS

Creates “Community Wealth Preservation Program”; expands access for certain buyers to purchase property from sheriff’s sales.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the procedures for sheriff's sales, designated as
2 the "Community Wealth Preservation Program," and amending
3 and supplementing P.L.1995, c.244, and amending N.J.S.22A:4-
4 8.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*
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9 1. Section 12 of P.L.1995, c.244 (C.2A:50-64) is amended to read
10 as follows:

11 12. a. With respect to the sale of a mortgaged premises under
12 foreclosure action, each sheriff in this State shall provide for, but not
13 be limited to, the following uniform procedures:

14 (1) Bidding in the name of the assignee of the foreclosing
15 plaintiff.

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

18 (3) (a) The sheriff shall **【schedule】** conduct a sale **【date】** within
19 **【120】** 150 days of the sheriff's receipt of any writ of execution issued
20 by the court in any foreclosure proceeding.

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

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

30 (4) **【That】** Except as otherwise provided in this paragraph with
31 respect to the purchase of residential property for which there is a 72
32 month occupancy requirement, that the successful bidder at the
33 sheriff's sale shall pay a 20 percent deposit in either cash or by a
34 certified or cashier's check, made payable to the sheriff of the county
35 in which the sale is conducted, immediately upon the conclusion of the
36 foreclosure sale. In the case of residential property in which the bidder
37 shall occupy the property as the bidder's primary residence for a
38 period of at least 72 months, the successful bidder who has fulfilled
39 the requirements set forth in subsection g. of this section shall pay a
40 3.5 percent deposit in either cash or by certified or cashier's check,
41 made payable to the sheriff of the county in which the sale is
42 conducted, immediately upon the conclusion of the foreclosure sale. If
43 the successful bidder cannot satisfy this requirement, the bidder shall
44 be in default and the sheriff shall immediately void the sale and
45 proceed further with the resale of the premises without the necessity of

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.

1 adjourning the sale, without renotification of any party to the
2 foreclosure and without the republication of any sales notice. Upon
3 such resale, the defaulting bidder shall be liable to the foreclosing
4 plaintiff for any additional costs incurred by such default including,
5 but not limited to, any difference between the amount bid by the
6 defaulting bidder and the amount generated for the foreclosing
7 plaintiff at the resale. In the event the plaintiff is the successful bidder
8 at the resale, the plaintiff shall provide a credit for the fair market
9 value of the property foreclosed.

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

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

18 THIS INDENTURE,
19 made this (date) day of (month),
20 (year). Between (name), Sheriff of the County of
21 (name) in the State of New Jersey, party of the first part
22 and (name(s)) party of the second
23 part, witnesseth.

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

30 THE STATE OF NEW JERSEY to the Sheriff of the County of
31 (name),
32 Greeting:

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

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40 and the following named parties are the DEFENDANTS:

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44 IT WAS ORDERED AND ADJUDGED that certain mortgaged
45 premises, with the appurtenances in the Complaint, and Amendment to
46 Complaint, if any, in the said cause particularly set forth and
47 described, that is to say: The mortgaged premises are described as set

1 forth upon the RIDER ANNEXED HERETO AND MADE A PART
2 HEREOF.
3 BEING KNOWN AS Tax Lot (number) in Block (number)
4 COMMONLY KNOWN AS (street address)
5 TOGETHER, with all and singular the rights, liberties, privileges,
6 hereditaments and appurtenances thereunto belonging or in anywise
7 appertaining, and the reversion and remainders, rents, issues and
8 profits thereof, and also all the estate, right, title, interest, use,
9 property, claim and demand of the said defendants of, in, to and out of
10 the same, to be sold, to pay and satisfy in the first place unto the
11 plaintiff,
12
13
14 the sum of \$ (amount) being the principal, interest and advances
15 secured by a certain mortgage dated (date, month, year) and
16 given by (name) together with lawful interest from
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20 until the same be paid and satisfied and also the costs of the aforesaid
21 plaintiff with interest thereon.
22 AND for that purpose a Writ of Execution should issue, directed to the
23 Sheriff of the County of (name) commanding him to make
24 sale as aforesaid; and that the surplus money arising from such sale, if
25 any there be, should be brought into our said Court, as by the judgment
26 remaining as of record in our said Superior Court of New Jersey, at
27 Trenton, doth and more fully appear; and whereas, the costs and
28 Attorney's fees of the said plaintiff have been duly taxed at the
29 following sum: \$ (amount)
30 THEREFORE, you are hereby commanded that you cause to be made
31 of the premises aforesaid, by selling so much of the same as may be
32 needful and necessary for the purpose, the said sum of \$.....
33 (amount) and the same you do pay to the said plaintiff together with
34 contract and lawful interest thereon as aforesaid, and the sum aforesaid
35 of costs with interest thereon.
36 And that you have the surplus money, if any there be, before our said
37 Superior Court of New Jersey, aforesaid at Trenton, within 30 days
38 after pursuant to R.4:59-1(a), to abide the further Order of the said
39 Court, according to judgment aforesaid, and you are to make return at
40 the time and place aforesaid, by certificate under your hand, of the
41 manner in which you have executed this our Writ, together with this
42 Writ, and if no sale, this Writ shall be returnable within **[12]** 24
43 months.

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

4 /s/ (Clerk)
5 Superior Court of New Jersey
6 /s/.....

7 Attorney for Plaintiff

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

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

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

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

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

14 And, I, the said (name), do hereby covenant, promise and
 15 agree, to and with the said party of the second part, its successors and
 16 assigns, that I have not, as such Sheriff as aforesaid, done or caused,
 17 suffered or procured to be done any act, matter or thing whereby the
 18 said premises, or any part thereof, with the appurtenances, are or may
 19 be charged or encumbered in estate, title or otherwise.

20 IN WITNESS WHEREOF, I the said (name) as such
 21 Sheriff as aforesaid, have hereunto set my hand and seal the day and
 22 year aforesaid.

23 Signed, sealed and delivered

24 in the presence of

25

26 Attorney at Law of New Jersey(name) Sheriff

27 STATE OF NEW JERSEY) SS.

28(county)

29 I, (name), Sheriff, of the County of (name), do
 30 solemnly swear that the real estate described in this deed made to

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

42

43 (name), Sheriff

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

48 STATE OF NEW JERSEY) ss.

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

10

11 Attorney or Notary Public

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

19 c. (1) The sheriff's office shall, within two weeks of the date of
20 the sale, deliver a fully executed deed to the successful bidder at the
21 sale provided that the bidder pays the balance of the monies due to the
22 Sheriff by either cash or certified or cashier's check. In the event a bid
23 is satisfied after the expiration and additional interest is collected from
24 the successful bidder, the sheriff shall remit to the plaintiff the total
25 amount, less any fees, costs and commissions due the sheriff, along
26 with the additional interest.

27 (2) In the case of residential property in which the bidder shall
28 occupy the property as the bidder's primary residence for a period of at
29 least 72 months, no interest shall accrue on the balance of the sale of
30 the property until 60 business days have passed following the date of
31 the sale, and thereafter, the successful bidder shall have 30 business
32 days to fulfill the balance. If the successful bidder fails to fulfill the
33 balance within this 90 business day period, the bidder shall forfeit the
34 deposit on the property and shall be responsible for the payment of
35 accrued interest and any fees or penalties incurred as a result of the
36 sale being void.

37 d. Prior to completion of a sale of residential property, the
38 foreclosing plaintiff shall disclose whether the property is vacant,
39 tenant-occupied, or owner-occupied. If the property is vacant, the
40 financial institution shall provide the successful bidder access to the
41 property.

42 e. A bidder, including, but not limited to, next of kin of the
43 foreclosed upon defendant, may purchase residential property at a
44 sheriff's sale by way of financing if the bidder provides documentation
45 that the bidder has been pre-approved by a financial institution on the
46 New Jersey Housing and Mortgage Finance Agency's participating
47 lender list for financing the property. The agency shall mail its

1 participating lender list to the sheriff's office of each county on an
2 annual basis and at any time there is an update to the list.

3 (1) A bidder who intends to finance the purchase of residential
4 property at a sale shall be:

5 (a) limited to submitting bids no higher than the amount for which
6 the bidder has been pre-approved for financing; and

7 (b) required to present current and valid photo identification that
8 substantially conforms to the name and information contained on the
9 financing pre-approval forms obtained by the bidder.

10 (2) A bidder purchasing residential property in a sheriff's sale
11 pursuant to this subsection shall be required by the financial institution
12 to occupy the property as the bidder's primary residence for a fixed
13 term, of at least 72 months after taking possession. The deed for the
14 property shall clearly state that the property may not be sold for 72
15 months from the date of the sheriff's sale.

16 (3) A successful bidder who finances the purchase and does not
17 occupy the residence for a period of at least 72 months shall be
18 assessed a fine by a court of competent jurisdiction up to \$100,000 for
19 the first violation, and \$500,000 thereafter for each subsequent
20 violation. These penalties shall not be assessed against a bidder who
21 finances the purchase in good faith and is thereafter required to vacate
22 the property prior to residing in the property for 72 months due to
23 death, military deployment, or foreclosure. In the event of the death of
24 a successful bidder, the property may be transferred to another owner
25 in accordance with applicable laws governing estate, inheritance, and
26 probate matters.

27 f. In the case of a residential property that is financed pursuant to
28 subsection e. of this section, the sheriff's office shall oversee the
29 occupancy of the property, which may include the mailing of a
30 questionnaire to the successful bidder within 72 months following the
31 sale, requiring the bidder to respond to questions and submit
32 documentation evidencing the bidder's continued residence at the
33 property. If the agency determines based upon its oversight that there
34 has been an occupancy violation, the agency shall bring an action in a
35 court of competent jurisdiction so that the sheriff's office can pursue
36 enforcement of penalties for the violation.

37 g. In the case of residential property, to be a successful bidder
38 who is not the plaintiff, and who intends to occupy the property, and
39 finance the purchase of the property, the bidder shall have received
40 eight hours of homebuyer education and counseling through a program
41 provided by the United States Department of Housing and Urban
42 Development (HUD), and shall present certification of completion of
43 that program at the time of purchase.

44 h. As provided by the New Jersey Housing and Mortgage Finance
45 Agency, each sheriff's office shall maintain information, written in
46 plain language, regarding the program to finance the purchase of
47 residential property in a foreclosure sale in accordance with this
48 section on its Internet website in a manner that is accessible to the

1 public. Additionally, as provided by the New Jersey Housing and
2 Mortgage Finance Agency, each sheriff's office shall display
3 information, written in plain language, regarding the program in its
4 office in a manner that is conspicuous to the public. For any county in
5 which the primary language of 10 percent or more of the residents is a
6 language other than English, the sheriff's office shall provide the
7 information required by this subsection in that other language or
8 languages in addition to English. The alternate language shall be
9 determined based on information from the latest federal decennial
10 census.

11 i. Any penalty imposed pursuant to this section may be recovered
12 with costs in a summary proceeding commenced by the appropriate
13 sheriff's office pursuant to the "Penalty Enforcement Law of 1999,"
14 P.L.1999, c.274 (C.2A:58-10 et seq.). Fifty percent of any monies
15 collected pursuant to this section shall be forwarded to the
16 municipality in which the foreclosed upon property is located to be
17 deposited in the affordable housing trust fund of the municipality for
18 use on low income housing or moderate income housing needs as
19 defined in section 4. of P.L.1985, c.222 (C.52:27D-304), to the extent
20 the municipality maintains such a fund, and if the municipality does
21 not maintain such a fund, to the State Treasurer, and shall annually be
22 appropriated to the "New Jersey Affordable Housing Trust Fund,"
23 section 20 of P.L.1985, c.222 (C.52:27D-320) for the purpose of
24 developing and supporting housing programs that create for-sale and
25 rental affordable housing for the workforce. The remaining 50 percent
26 of any monies collected pursuant to this section shall provide for
27 administrative and enforcement costs, including costs incurred by the
28 sheriff's office, necessary to effectuate the purposes of this section.

29 j. If, prior to the close of business on the banking day before a
30 sheriff's sale is scheduled to occur, the foreclosed upon defendant or
31 the next of kin of the foreclosed upon defendant has secured financing
32 or assets sufficient to meet terms offered by the foreclosing plaintiff or
33 an alternative financial institution to purchase the property, the
34 foreclosed upon defendant or the next of kin of the foreclosed upon
35 defendant shall have the right of first refusal to purchase the property
36 in the amount approved for the opening bid of the sheriff's sale.

37 k. As used in this section:

38 "Residential property" means real property located in this State in
39 which people reside or dwell as their primary residence as
40 distinguished from property which is used for investment, commercial,
41 or business purposes.

42 (cf: P.L.2019, c.71, s.1)

43
44 2. N.J.S.22A:4-8 is amended to read as follows:

45 22A:4-8. For the services hereinafter enumerated sheriffs and
46 other officers shall receive the following fees:

47 In addition to the mileage allowed by law, for serving every
48 summons and complaint, attachment or any mesne process issuing out

1 of the Superior Court, the sheriff or other officer serving such process
2 shall, for the first defendant or party on whom such process is served,
3 be allowed \$22.00 and, for service on the second defendant named
4 therein, \$20.00, and for serving such process on any other defendant or
5 defendants named therein, \$16.00 each, and no more. If a man and his
6 wife be named in such process they shall be considered as one
7 defendant, except where they are living separate and apart.

8 Serving summons and complaint in matrimonial actions, in
9 addition to mileage, \$22.00.

10 Serving capias ad respondendum, capias ad satisfaciendum,
11 warrant of commitment, writ of ne exeat, in addition to mileage,
12 \$48.00.

13 Serving order to summon juries and return, \$8.00.

14 Serving every execution against goods or lands and making an
15 inventory and return, in addition to mileage, \$48.00.

16 For returning every writ, \$2.00.

17 Executing every writ of possession and return, in addition to
18 mileage, \$48.00.

19 Executing every writ of attachment, sequestration or replevin
20 issuing out of any of the courts, in addition to mileage, \$48.00.

21 For serving each out-of-State paper, in addition to the mileage
22 allowed by law, \$25.00 for the first defendant on whom such paper is
23 served, \$20.00 for service on the second defendant named therein, and
24 \$16.00 for serving such paper on any other defendant or defendants
25 named therein. If a man and wife be named in such paper, they shall be
26 considered as one defendant, except where they are living separate and
27 apart.

28 For serving or executing any process or papers where mileage is
29 allowed by law, the officer shall receive mileage actually traveled to
30 and from the courthouse, at the rate per mile of \$0.16.

31 The sheriff shall be entitled to retain out of all moneys collected or
32 received by him on a forfeited recognizance, whether before or after
33 execution, or from amercements, or from fines and costs on
34 conviction, on indictment or otherwise, whether such moneys are
35 payable to the State or to the county treasurer of the county wherein
36 conviction was had, **[5%]** five percent.

37 For transporting each offender to the State Prison, per mile, but not
38 less than \$3.00 for each offender, to be certified by the keeper of the
39 prison and the certificate to be delivered to the county treasurer of the
40 county where the conviction was had, \$0.23.

41 42 EXECUTION SALES 43

44 **[When]** Except as to sales conducted in accordance with section
45 12 of P.L.1995, c.244 (C.2A:50-64), when a sale is made by virtue of
46 an execution the sheriff shall be entitled to charge the following fees:
47 On all sums not exceeding \$5,000.00, **[6%]** 10 percent; on all sums
48 exceeding \$5,000.00 on such excess, **[4%]** five percent; the minimum

1 fee to be charged for a sale by virtue of an execution, **【\$50.00】**
2 \$750.00. When sales are conducted in accordance with section 12 of
3 P.L.1995, c.244 (C.2A:50-64), the sheriff shall be entitled to charge
4 the following fees: On all sums not exceeding \$5,000.00, six percent;
5 on all sums exceeding \$5,000.00 on such excess, four percent; the
6 minimum fee to be charged for a sale by virtue of an execution,
7 \$50.00.

8 On an execution against wages, commissions and salaries, the
9 sheriff shall charge the same percentage fees on all sums collected as
10 those percentage fees applicable in cases wherein an execution sale is
11 consummated.

12 When the execution is settled without actual sale and such
13 settlement is made manifest to the officer, the officer shall receive
14 **【1/2】** one-half of the amount of percentage allowed herein in case of
15 sale.

16 Making statement of execution, sales and execution fees, \$10.00.

17 Advertising the property for sale, provided the sheriff or deputy
18 sheriff attend in pursuance of the advertisement, \$20.00.

19 Posting property for sale, \$20.00.

20 For the crier of the vendue, when the sheriff proceeds to sell, for
21 every day he shall be actually employed in such sale, \$5.00.

22 Every adjournment of a sale, but no more than one adjournment
23 shall be allowed, and if the sheriff shall have several executions
24 against a defendant, he shall only be allowed for advertising, attending
25 and adjourning, as if he had but one execution, \$28.00.

26 Drawing and making a deed to a purchaser of real property,
27 \$75.00.

28 Drawing and making a bill of sale to the purchaser of personal
29 property when such bill of sale is required or demanded, \$20.00.

30 When more than one execution shall be issued out of the Superior
31 Court upon any judgment, each sheriff to whom such execution shall
32 be directed and delivered shall be entitled to collect and receive from
33 the defendant named in such execution the fees allowed by law for
34 making a levy and return and statement thereon, or for such other
35 services as may be actually performed by him, and the sheriff who
36 shall collect the amount named in said execution or any part thereof,
37 shall be entitled to the legal percentage upon whatever amount may be
38 so collected by him, but in case any such judgment shall be settled
39 between the parties and the amount due thereon shall not be collected
40 by either sheriff, then the percentage on the amount collected which
41 would be due the sheriff thereon in case only one execution had been
42 issued shall be equally divided among the several sheriffs in whose
43 hands an execution in the same cause may have been placed.

44 The sheriff shall file his taxed bill of costs with the clerk of the
45 court out of which execution issued, within such time as the court shall
46 direct by general rule or special order, or, in default thereof, he shall
47 not be entitled to any costs. If any sheriff shall charge in such bill of
48 costs for services not done, or allowed by law, or shall take any greater

1 fee or reward for any services by him done than is or shall be allowed
2 by law, he shall be liable for the damages sustained by the party
3 aggrieved including a penalty of \$30.00, to be recovered in a summary
4 manner, in the action or proceeding wherein the execution was issued
5 or otherwise.

6 (cf: P.L.2001, c.370, s.5)

7
8 3. (New section) a. In situations in which a creditor has
9 instituted a foreclosure proceeding pursuant to the "Fair Foreclosure
10 Act," P.L.1995, c.244 (C.2A:50-53 et seq.) and a creditor employs an
11 agent to be responsible for the care, maintenance, security, and upkeep
12 of the property if it becomes vacant and abandoned, the creditor and
13 agent who peacefully enters the property and exercises reasonable care
14 in doing so, shall be immune from liability, before and after the bid,
15 for any damage to the property or any person entering the property.

16 b. Persons bidding on the property shall not enter the property
17 prior to the time of sale of the property to the successful bidder.

18
19 4. This act shall take effect immediately.

20 21 22 STATEMENT

23
24 This bill, designated as the "County Wealth Preservation
25 Program," revises sheriff's procedures for the sale of residential
26 foreclosure properties. The bill reduces the deposit required at the
27 time of a sheriff's sale for residential property from 20 percent to 3.5
28 percent. Current law provides that all bidders on properties for sale at
29 sheriff's sales are required to deposit 20 percent of the purchase price
30 of the property.

31 Under the bill, the successful bidder on residential property will
32 have up to 90 business days to complete the sale, with no interest
33 accruing on the balance of the sale for 60 business days following the
34 sale.

35 The bill provides that the sheriff require the foreclosing plaintiff to
36 disclose whether the property is vacant, tenant-occupied, or owner-
37 occupied.

38 Under the bill, a bidder may purchase property in a sheriff's sale
39 by way of financing if the bidder provides documentation that the
40 bidder has been pre-approved by an appropriate financial institution
41 for financing the property. A bidder may only use the financing option
42 if the property will be the bidder's primary residence. If a successful
43 bidder finances the property and does not use the property as a primary
44 residence, the bidder will be subject to a fine of up to \$100,000.
45 However, there are exceptions to the penalties if the bidder must
46 vacate the property due to death, military deployment, or foreclosure.

47 To be a successful bidder on a residential property the bidder, who
48 is not the plaintiff, who intends to occupy the property, and finance the

1 purchase of the property, to be a successful bidder, shall have received
2 eight hours of training provided by the United States Department of
3 Housing and Urban Development (HUD), and shall present
4 certification of completion of that training at the time of purchase.

5 The bill requires, as provided by the New Jersey Housing and
6 Mortgage Finance Agency, that each sheriff's office is to maintain
7 information, written in plain language, regarding the program to
8 finance the purchase of residential property in a foreclosure sale in
9 accordance with this section on its Internet website in a manner that is
10 accessible to the public.

11 Additionally, as provided by the New Jersey Housing and
12 Mortgage Finance Agency, each sheriff's office is to display
13 information, written in plain language, regarding the program in its
14 office in a manner that is conspicuous to the public.

15 For any county in which the primary language of 10 percent or
16 more of the residents is a language other than English, the bill directs
17 the sheriff's office to provide the information required for the program
18 in that other language or languages in addition to English. The
19 alternate language would be determined based on information from the
20 latest federal decennial census.

21 With the exception of sales conducted pursuant to the Community
22 Wealth Preservation Program, the bill increases the fee to be charged
23 by virtue of an execution sale from 4 percent to 5 percent, or 6 percent
24 to 10 percent, depending on whether the sum involved is greater than
25 or less than \$5,000, respectively. The bill also increases the minimum
26 fee to be charged by virtue of an execution sale from \$50 to \$750.

27 Finally, the bill provides creditors and creditors' agents with
28 immunity from liability for damages to certain vacant and abandoned
29 property so long as reasonable care is exercised, and clarifies that
30 bidders are not authorized to enter the property prior to the time of
31 sale.