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ASSEMBLY COMMUNITY DEVELOPMENT AND AFFAIRS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1834

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 15, 2021

The Assembly Community Development and Affairs Committee reports favorably and with committee amendments Assembly Bill No. 1834.

As amended, this bill, designated as the “County Wealth Preservation Program,” revises sheriff’s procedures for the sale of residential foreclosure properties. The bill reduces the deposit required at the time of a sheriff’s sale for residential property from 20 percent to 3.5 percent. Current law provides that all bidders on properties for sale at sheriff’s sales are required to deposit 20 percent of the purchase price of the property.

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

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

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

To be a successful bidder on a residential property the bidder, who is not the plaintiff, who intends to occupy the property and finance the purchase of the property, shall have received eight hours of training provided by the United States Department of Housing and Urban

Development (HUD), and shall present certification of completion of that training at the time of purchase.

The bill requires each sheriff's office to maintain information, written in plain language, regarding the program to finance the purchase of residential property in a foreclosure sale in accordance with this section on its internet website in a manner that is accessible to the public. Additionally, each sheriff's office is to display information, written in plain language, regarding the program in its office in a manner that is conspicuous to the public.

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

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

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

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments:

(1) require that a bidder intending to occupy the property as the bidder's primary residence occupy the property for a period of at least 84 months, and allow the sheriff to oversee occupancy of the property in that occupancy period, rather than the current 72-month occupancy period;

(2) exempt a foreclosed upon defendant and a foreclosed upon defendant's next of kin from the 84 month occupancy requirement for bidders intending to occupy the property as the bidder's primary address;

(3) eliminate the requirement that a foreclosed upon defendant or a foreclosed upon defendant's next of kin secure financing or assets sufficient to meet terms offered by the foreclosing plaintiff prior to the close of business on the banking day before a sheriff's sale is scheduled to occur on the foreclosing property;

(4) permits bidders purchasing property at a sheriff's sale by way of financing to be pre-approved by residential mortgage lending financial

institutions, as specified in the bill; removes requirement for using a New Jersey Housing and Mortgage Finance Agency participating lender list;

(5) exempts a bidder subject to a 84-month occupancy period from penalties in the event of divorce, disability, or spousal death or disability;

(6) removes penalties to bidder who is unable to complete a transaction through no fault of their own; and

(7) places the responsibility of providing program information in plain language and any language spoken by 10 percent or more of a county on individual sheriff's offices.