

[First Reprint]

**SENATE, No. 3703**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED APRIL 26, 2021

**Sponsored by:**

**Senator TROY SINGLETON**

**District 7 (Burlington)**

**Senator RONALD L. RICE**

**District 28 (Essex)**

**SYNOPSIS**

Creates “New Jersey Online Foreclosure Sale Act.”

**CURRENT VERSION OF TEXT**

As reported by the Senate Community and Urban Affairs Committee on June 10, 2021, with amendments.



**(Sponsorship Updated As Of: 5/20/2021)**

1 AN ACT concerning the electronic sale of real properties at  
 2 foreclosure and amending N.J.S.2A:61-1 <sup>1</sup>[and] ,<sup>1</sup> N.J.S.2A:61-4,  
 3 <sup>1</sup>and N.J.S.2A:50-64,<sup>1</sup> and supplementing Title 2A of the New  
 4 Jersey Statutes.

5  
 6 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
 7 *of New Jersey:*

8  
 9 1. (New section) This act shall be known and may be cited as  
 10 the “New Jersey Online Foreclosure Sale Act.”

11  
 12 2. N.J.S.2A:61-1 is amended to read as follows:

13 2A:61-1. a. When any sheriff, coroner, master, executor,  
 14 administrator, guardian, commissioner, auditor or other officer or  
 15 person is authorized or required by any public statute or the  
 16 direction of any court of competent jurisdiction in this State to  
 17 make sales of real estate, he shall, unless otherwise specially  
 18 directed or authorized by law, before making the sale, give notice of  
 19 the time and place of the sale by public advertisement, signed by  
 20 himself, and set up in the office of the sheriff of the county or  
 21 counties where the real estate is located and at the premises to be  
 22 sold, at least 3 weeks before the time appointed for the sale. The  
 23 notice need not be set up at any other place. The notice of sale shall  
 24 include either a diagram of the premises or a concise statement  
 25 indicating the municipality, the tax lot and block and where  
 26 appropriate, the street and street number, and the dimensions of the  
 27 premises, as well as the number of feet to the nearest cross  
 28 street. The notice of sale shall state that the diagram or concise  
 29 description does not constitute a full legal description of the  
 30 premises, and shall state where the full legal description can be  
 31 found.

32 Such officer or person shall also cause the notice to be published  
 33 4 times, at least once a week, during 4 consecutive weeks, in two  
 34 newspapers as set forth in paragraphs (a) through (d) of this  
 35 subsection, or online and in one newspaper as set forth in paragraph  
 36 (e) of this subsection, to be by him designated **[,]** as follows:

37 (a) both printed and published in the county where the real  
 38 estate to be sold is located, one of which shall be either a newspaper  
 39 published at the county seat of the county or a newspaper published  
 40 in the municipality in the county having the largest population  
 41 according to the latest census **[, or]**;

42 (b) one printed and published in the county and one circulating  
 43 in the county, if only one daily newspaper is printed and published  
 44 in the county **[, or]**;

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCU committee amendments adopted June 10, 2021.

1 (c) one published at the county seat and one circulating in the  
2 county, if no daily newspaper is published in the county~~], or]~~;

3 (d) both circulating in the county, if no newspapers are printed  
4 and published in the county; or

5 (e) if the sale of property is to be conducted in an online,  
6 electronic format, online at the public website at which the sale will  
7 be conducted electronically and one newspaper, which, as  
8 applicable shall be:

9 (1) a newspaper printed and published in the county where the  
10 real estate to be sold is located, either published at the county seat  
11 of the county or in the municipality in the county having the largest  
12 population according to the latest census;

13 (2) one printed and published in the county, if no newspaper is  
14 published at the county seat of the county or in the municipality in  
15 the county having the largest population according to the latest  
16 census; or

17 (3) one circulating in the county, if no daily newspaper is  
18 published in the county.

19 The first publication shall be at least 21 days prior and the last  
20 publication not more than 8 days prior to the time appointed for the  
21 sale of the real estate.

22 Whenever, in the opinion of any such officer or person, the ends  
23 of justice shall require it, or the sale being conducted by him will be  
24 benefited thereby, the notice of sale may be published in three  
25 newspapers instead of two as required by the second paragraph of  
26 this section, if there be that number printed and published in the  
27 county where the real estate to be sold is located.

28 The officer or person so advertising in the newspapers shall be  
29 entitled therefor, in addition to his other fees, to the sum of \$1.50,  
30 except where it is otherwise specifically provided.

31 b. If the sale of real estate is conducted electronically pursuant  
32 to section '4] 5' of P.L. , c. (C. ) (pending before the  
33 Legislature as this bill), then in addition to the requirements in  
34 subsection a. of this section, the notice shall state that the sale is  
35 being held by means of an online auction, and the notice shall  
36 include a link to the auction website, and if possible, the link to the  
37 auction of the specific property in the notice. 'Notwithstanding the  
38 provisions of P.L. , c. (C. ) (pending before the legislature  
39 as this bill), all other provisions related to the sale of real estate  
40 pursuant to section 12 of P.L.1995, c.244 (C.2A:50-64),  
41 N.J.S.2A:17-36, and the Rules of Court shall apply.'<sup>1</sup>

42 If the sale of real estate is conducted electronically pursuant to  
43 section '4] 5' of P.L. , c. (C. ) (pending before the  
44 Legislature as this bill), then the publication requirement set forth in  
45 subsection a. of this section may be satisfied by publishing a notice  
46 in the format of 'a display] an online' advertisement rather than a  
47 legal advertisement. The 'display] online' advertisement shall be

1 <sup>1</sup>at least two inches by three inches with a bold black border. The  
2 notice contained in the display advertisement shall set forth the  
3 following information displayed on a public facing website at no  
4 charge to the user. Each online advertisement shall include all of  
5 the following information<sup>1</sup>:

6 (a) The tax lot and block of the real property to be sold and  
7 where appropriate, the street, street number and municipality;

8 (b) A statement that the sale shall be conducted through an  
9 online auction;

10 (c) The full website link where the sale may be viewed;

11 (d) A statement that the sale information may be viewed  
12 without registration or cost; and

13 (e) The date and time of the sale.

14 (cf: P.L.1979, c.364, s.1)

15  
16 3. N.J.S.2A:61-4 is amended to read as follows:

17 2A:61-4. a. Any officer or person **mentioned** who is  
18 authorized or required in **section** N.J.S. 2A:61-1 of this title,  
19 making a sale of real estate governed by this chapter, shall, at the  
20 time and place appointed therefor, between the hours of 12 and 5 in  
21 the afternoon, if requested by any person interested in the sale of  
22 the real estate to be sold, read the description of the real estate to be  
23 sold by metes and bounds, or, in the absence of such a request, the  
24 officer or person making the sale shall announce the street and  
25 number, or streets and numbers, of the real estate to be sold, or the  
26 block and lot number or numbers by which such real estate is  
27 designated on the taxing maps of the municipality or municipalities  
28 in which the same is situate, if the same is not identified by a street  
29 and number or streets and numbers on such taxing maps, and where  
30 there is no street number or lot and block number, the officer or  
31 person making the sale may announce such description or  
32 designation as to him may be deemed sufficient, and sell such real  
33 estate at public vendue to the highest bidder.

34 b. As an alternative to the procedures in subsection a. of this  
35 section, any officer or person who is authorized or required in  
36 N.J.S. 2A:61-1 of this title, making a sale of real estate governed by  
37 this chapter, may conduct the sale by means of electronic auction  
38 conducted online and advertised in conformance with the provisions  
39 of N.J.S.2A:61-1.

40 (cf: N.J.S.2A:61-4)

41  
42 <sup>14</sup>4. Section 12 of P.L.1995, c.244 (C.2A:50-64) is amended to  
43 read as follows:

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

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

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

5 (3) (a) The sheriff shall conduct a sale within 150 days of the  
6 sheriff's receipt of any writ of execution issued by the court in any  
7 foreclosure proceeding.

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

12 (c) Upon the foreclosing plaintiff making such application to the  
13 office, the office shall issue the appropriate order appointing a  
14 Special Master to hold the foreclosure sale. The office may issue  
15 the order to appoint a Special Master to hold foreclosure sales for  
16 one or more properties within a vicinage.

17 (4) That the successful bidder at the sheriff's sale shall pay a 20  
18 percent deposit [in either cash or by a certified or cashier's check,  
19 made payable to the sheriff of the county in which the sale is  
20 conducted,] immediately upon the conclusion of the foreclosure  
21 sale or within a timeframe established by the sheriff regarding  
22 online sales. If the successful bidder cannot satisfy this  
23 requirement, the bidder shall be in default and the sheriff shall  
24 immediately void the sale and proceed further with the resale of the  
25 premises without the necessity of adjourning the sale, without  
26 renotification of any party to the foreclosure [and] , without the  
27 republication of any sales notice , or the reposting of the online  
28 sales notice. Upon such resale, the defaulting bidder shall be liable  
29 to the foreclosing plaintiff for any additional costs incurred by such  
30 default including, but not limited to, any difference between the  
31 amount bid by the defaulting bidder and the amount generated for  
32 the foreclosing plaintiff at the resale. In the event the plaintiff is  
33 the successful bidder at the resale, the plaintiff shall provide a credit  
34 for the fair market value of the property foreclosed.

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

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

44 THIS INDENTURE,

45 made this ..... (date) day of ..... (month), .....  
46 (year). Between ..... (name), Sheriff of the County  
47 of ..... (name) in the State of New Jersey, party of the first

1 part and ..... (name(s)) party of the  
2 second part, witnesseth.  
3 WHEREAS, on the ..... (date) day of .....  
4 (month), ..... (year), a certain Writ of Execution was issued out of  
5 the Superior Court of New Jersey, Chancery Division- .....  
6 (name) County, Docket No. .... directed and delivered to the  
7 Sheriff of the said County of ..... (name) and which said  
8 Writ is in the words or to the effect following that is to say:  
9 THE STATE OF NEW JERSEY to the Sheriff of the County of  
10 ..... (name),  
11 Greeting:  
12 WHEREAS, on the ..... (date) day of ..... (month),  
13 ..... (year), by a certain judgment made in our Superior Court  
14 of New Jersey, in a certain cause therein pending, wherein the  
15 PLAINTIFF is:  
16 .....  
17 .....  
18 .....  
19 and the following named parties are the DEFENDANTS:  
20 .....  
21 .....  
22 .....  
23 IT WAS ORDERED AND ADJUDGED that certain mortgaged  
24 premises, with the appurtenances in the Complaint, and Amendment  
25 to Complaint, if any, in the said cause particularly set forth and  
26 described, that is to say: The mortgaged premises are described as  
27 set forth upon the RIDER ANNEXED HERETO AND MADE A  
28 PART HEREOF.  
29 BEING KNOWN AS Tax Lot ..... (number) in Block .....  
30 (number) COMMONLY KNOWN AS (street address)  
31 .....  
32 TOGETHER, with all and singular the rights, liberties, privileges,  
33 hereditaments and appurtenances thereunto belonging or in anywise  
34 appertaining, and the reversion and remainders, rents, issues and  
35 profits thereof, and also all the estate, right, title, interest, use,  
36 property, claim and demand of the said defendants of, in, to and out  
37 of the same, to be sold, to pay and satisfy in the first place unto the  
38 plaintiff,  
39 .....  
40 .....  
41 the sum of \$ ..... (amount) being the principal, interest and  
42 advances secured by a certain mortgage dated ..... (date,  
43 month, year) and given by ..... (name) together with  
44 lawful interest from  
45 .....  
46 .....  
47 .....

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

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

11 THEREFORE, you are hereby commanded that you cause to be  
12 made of the premises aforesaid, by selling so much of the same as  
13 may be needful and necessary for the purpose, the said sum of  
14 \$..... (amount) and the same you do pay to the said plaintiff  
15 together with contract and lawful interest thereon as aforesaid, and  
16 the sum aforesaid of costs with interest thereon.

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

25 WITNESS, the Honorable ..... (name), Judge of the Superior  
26 Court at Trenton, aforesaid, the ..... (date) day of .....  
27 (month), ..... (year).

28 /s/ ..... (Clerk)

29 Superior Court of New Jersey

30 /s/.....

31 Attorney for Plaintiff

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

36 AND WHEREAS I, the said ..... (name), as such  
37 Sheriff as aforesaid did in due form of law, before making such sale  
38 give notice of the time and place of such sale by public  
39 advertisement signed by myself, and set up in my office in the  
40 ..... (name) Building in ..... (name) County,  
41 being the County in which said real estate is situate and also set up  
42 at the premises to be sold at least three weeks next before the time  
43 appointed for such sale.

44 I also caused such notice to be published [four times in two  
45 newspapers designated by me and printed and published in the said  
46 County, the County wherein the real estate sold is situate, the same  
47 being designated for the publication by the Laws of this State, and

1 circulating in the neighborhood of said real estate, at least once a  
2 week during four consecutive calendar weeks] according to the  
3 provisions set forth in N.J.S.2A:61-1. One of such newspapers,  
4 ..... (name of newspaper) is a newspaper with  
5 circulation in ..... (name of town), the County seat of said  
6 ..... (name) County. The first publication was at least  
7 twenty-one days prior and the last publication not more than eight  
8 days prior to the time appointed for the sale of such real estate, and  
9 by virtue of the said Writ of Execution, I did offer for sale said land  
10 and premises at public vendue at the County ..... (name)  
11 Building in ..... (name of town) or electronically in due  
12 form of law on the ..... (date) day of ....., ...  
13 (month) (year) at the hour of ..... (time) in the ..... (a.m. or  
14 p.m.).

15 WHEREUPON the said party of the second part bidding  
16 therefore for the same, the sum of \$..... (amount) and no  
17 other person bidding as much I did then and there openly and  
18 publicly in due form of law between the hours of ..... (time)  
19 and ..... (time) in the ..... (a.m. or p.m.), strike off and sell  
20 tracts or parcels of land and premises for the sum of \$ .....  
21 (amount) to the said party of the second part being then and there  
22 the highest bidder for same. And on the ..... (date) of  
23 ..... (month) in the year last aforesaid I did truly report the  
24 said sale to the Superior Court of New Jersey, Chancery Division  
25 and no objection to the said sale having been made, and by  
26 Assignment of Bid filed with the Sheriff of ..... (name)  
27 County said bidder assigned its bid to:

28 .....  
29 .....  
30 .....

31 NOW, THEREFORE, This Indenture witnesseth, that I, the said  
32 ..... (name), as such Sheriff as aforesaid under and by the  
33 virtue of the said Writ of Execution and in execution of the power  
34 and trust in me reposed and also for and in consideration of the said  
35 sum of \$ ..... (amount) therefrom acquit, exonerate and  
36 forever discharge to the said party of the second part, its successors  
37 and assigns, all and singular the said tract or parcel of lands and  
38 premises, with the appurtenances, privileges, and hereditaments  
39 thereunto belonging or in any way appertaining; to have and hold  
40 the same, unto the said party of the second part, its successors and  
41 assigns to its and their only proper use, benefit, and behoof forever,  
42 in as full, ample and beneficial manner as by virtue of said Writ of  
43 Execution I may, can or ought to convey the same.

44 And, I, the said ..... (name), do hereby covenant, promise and  
45 agree, to and with the said party of the second part, its successors  
46 and assigns, that I have not, as such Sheriff as aforesaid, done or  
47 caused, suffered or procured to be done any act, matter or thing



b. At the conclusion of the sheriff's sale, the attorney for the plaintiff shall prepare and deliver to the sheriff a deed which shall

1 be in the form provided pursuant to paragraph (6) of subsection a.  
2 of this section for the sheriff's execution and the deed shall be  
3 delivered to the sheriff within 10 days of the date of the sale. The  
4 sheriff shall be entitled to the authorized fee, as a review fee, even  
5 if the plaintiff's attorney prepares the deed.

6 c. The sheriff's office shall, within two weeks of the date of the  
7 sale, deliver a fully executed deed to the successful bidder at the  
8 sale provided that the bidder pays the balance of the monies due [to  
9 the Sheriff by either cash or certified or cashier's check]. In the  
10 event a bid is satisfied after the expiration and additional interest is  
11 collected from the successful bidder, the sheriff shall remit to the  
12 plaintiff the total amount, less any fees, costs and commissions due  
13 the sheriff, along with the additional interest.<sup>1</sup>

14 (cf: P.L.2019, c.71, s.1)  
15

16 <sup>1</sup>[4] 5<sup>1</sup>. (New Section) Any sheriff or other officer or person  
17 wishing to conduct an online foreclosure sale of real estate may do  
18 so, in accordance with the following provisions and requirements:

19 a. Any contract with a vendor to conduct an online foreclosure  
20 sale of real estate shall require that New Jersey law shall govern the  
21 contract and the relationship between vendor and the officer.

22 b. The officer may conduct the public auction of the real estate  
23 online, at a physical location in the county as permitted by law, or  
24 both.

25 c. If the auction occurs only online, the auction shall be open  
26 for bidding at the time set forth by the notice and be held open for a  
27 minimum of two hours.

28 d. Notwithstanding any other provision of law to the contrary,  
29 an electronic real property foreclosure service may be procured  
30 through competitive contracting pursuant to P.L.1999, c.440  
31 (C.40A:11-4.1 et seq.), without the need for a resolution by the  
32 governing body.

33 e. If the auction occurs online, any vendor providing online  
34 sale services shall maintain satisfactory internal controls and shall  
35 meet the performance requirements of a Service Organization  
36 Control (SOC) 2 engagement based upon the existing Trust Services  
37 Principles (WebTrust<sup>TM</sup> and SysTrust<sup>TM</sup>) carried out in  
38 accordance with AT 101 standards, with the ability to test and  
39 report on the design effectiveness (Type I) and operating  
40 effectiveness (Type II) of the vendor's controls. Upon the request of  
41 the officer, a vendor shall provide evidence of satisfactory internal  
42 controls set forth in this section.

43 f. All bid information and participant financial data is deemed  
44 property of the officer.

45 g. Any officer, employee, or independent contractor of the  
46 vendor shall be prohibited from participating in the auction.

1 h. All bids entered during the auction shall be visible to the  
2 public online and displayed at the time they are placed. Any  
3 maximum bid amounts provided by bidders ahead of the sale shall  
4 not be visible to the public or to the sheriff while the auction is in  
5 process until the bid is placed.

6 <sup>1</sup>i. All bidders who wish to participate in an online auction shall  
7 first have their identity verified through an identification  
8 verification process before a bid can be placed.

9 j. All winning bidders shall be checked against the federal  
10 Office for Foreign Assets Control (OFAC) sanction list and any  
11 property auctioned by the federal Treasury Executive Office for  
12 Asset Forfeiture (TEOAF).prior to purchase of the property.

13 k. The officer shall receive the funds deposited as provided in  
14 paragraph (4) of subsection a of section 12 of P.L.1995, c.244  
15 (C.2A:50-64). The form of the receipt of funds shall be at the  
16 discretion of the officer conducting the sale.<sup>1</sup>

17 Notwithstanding any other provision of law to the contrary, the  
18 cost of an electronic real property foreclosure service shall be  
19 deemed a reasonable and necessary taxable expense under N.J.S.<sup>1</sup>**【**  
20 **】**<sup>1</sup>22A:2-8. The website shall not charge a fee for members of the  
21 public to view properties for sale, and no fee may be charged to a  
22 buyer at the sale of real estate over and above the winning bid  
23 amount, including but not limited to, a buyer's premium to cover  
24 the cost of the electronic real property foreclosure service. <sup>1</sup>This  
25 provision shall not be construed to contradict the assessment of fees  
26 by the sheriff or other officer within 30 days as required by  
27 N.J.S.2A:17-38.<sup>1</sup>

28  
29 <sup>1</sup>**【5.】** 6.<sup>1</sup> This act shall take effect immediately.