

[Third Reprint]

ASSEMBLY, No. 5664

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JUNE 26, 2023

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District 15 (Hunterdon and Mercer)

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SYNOPSIS

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

CURRENT VERSION OF TEXT

As amended by the General Assembly on December 21, 2023.

(Sponsorship Updated As Of: 1/8/2024)

1 AN ACT concerning sheriff's sales and amending and
2 supplementing P.L.1995, c.244, and amending N.J.S.22A:4-8.

3

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

6

7 1. Section 12 of P.L.1995, c.244 (C.2A:50-64) is amended to
8 read as follows:

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

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

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

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

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

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

28 (4) That notice for the sale of a foreclosed upon residential
29 property be mailed to the primary address of the foreclosed upon
30 defendant and to the address of the foreclosed upon residential
31 property. Notice of the sale shall be mailed in an envelope that
32 plainly states on its exterior that the envelope is a notice for the sale
33 of the foreclosed upon residential property¹. The language used on
34 the exterior of the envelope shall comply with the federal ^{2,2}Fair
35 Debt Collection Practices Act,^{2,2} 15 U.S.C. s.1692 et seq¹.

36 (5) (a) That notice of the ¹**final**¹ upset price for the sale of a
37 foreclosed upon residential property be provided at least four weeks
38 prior to the sheriff's sale and posted on the Internet website of the
39 sheriff's office and on any other medium used to provide notice of
40 the sheriff's sale. The ¹**final**¹ upset price provided ¹in the notice
41 shall be a good faith estimate of the upset price¹ on the day of the
42 sheriff's sale ¹**shall not differ from the final upset price provided**
43 **in the notice**; however, the upset price on the day of the sheriff's

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

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACE committee amendments adopted December 11, 2023.

²Assembly AAP committee amendments adopted December 18, 2023.

³Assembly floor amendments adopted December 21, 2023.

1 sale shall not increase by more than three percent from the upset
2 price originally provided in the notice. If the sheriff's sale is
3 delayed or postponed, ³or if circumstances occur that require
4 unforeseen advances to protect the borrower or the foreclosed upon
5 residential property in the event of vandalism, weather damage, or
6 other emergency property preservation needs,³ the upset price may
7 be adjusted to reflect ³these costs in³ the latest price¹; and

8 (b) Prior to providing the ¹["final"]¹ upset price to the sheriff's
9 office pursuant to subparagraph (a) of this paragraph, the
10 foreclosing plaintiff or agent of the foreclosing plaintiff shall be
11 prohibited from contacting the foreclosed upon defendant, next of
12 kin of the foreclosed upon defendant, or a nonprofit community
13 development corporation to inquire whether the foreclosed upon
14 defendant, next of kin, or nonprofit community development
15 corporation intends to participate in the sheriff's sale for the
16 foreclosed upon property or exercise the provisions of P.L. , c.
17 (C.) (pending before the Legislature as this bill)¹. If, after
18 providing notice of the upset price pursuant to subsection a. of this
19 section, the foreclosing plaintiff is informed that the foreclosed
20 upon defendant, next of kin, or nonprofit community development
21 corporation intends to participate in the sheriff's sale or exercise the
22 provisions of P.L. , c. (C.) (pending before the Legislature
23 as this bill), the foreclosing plaintiff shall not attempt to delay or
24 postpone the sheriff's sale by reason of the foreclosed upon
25 defendant, next of kin, or nonprofit community development
26 corporation's intention to participate in the sheriff's sale or exercise
27 the provisions of P.L. , c. (C.) (pending before the
28 Legislature as this bill)¹ ³. Any notice required pursuant to this
29 paragraph shall comply with the federal "Fair Debt Collection
30 Practices Act," 15 U.S.C. s.1692 et seq³.

31 (6) Prior to the sale of residential property, the foreclosing
32 plaintiff shall disclose, if known, whether the property is vacant,
33 tenant-occupied, or owner-occupied. If the property is vacant, the
34 foreclosing plaintiff shall provide the successful bidder access to
35 the property if the foreclosing plaintiff has such access and may
36 condition access by the successful bidder on being accompanied by
37 a representative of the foreclosing plaintiff.

38 (7) (a) Except as otherwise provided in subparagraphs (b) and
39 (c) of this paragraph, the successful bidder at the sheriff's sale shall
40 pay a 20 percent deposit in either cash or by a certified or cashier's
41 check, made payable to the sheriff of the county in which the sale is
42 conducted, immediately upon the conclusion of the foreclosure sale.

43 (b) In the case of residential property in which the successful
44 bidder is the foreclosed upon defendant, next of kin, tenant,
45 nonprofit community development corporation, or a bidder who
46 shall occupy the property as the bidder's primary residence for a

1 period of at least 84 months, the successful bidder who has fulfilled
 2 the requirements set forth in subsection e. of this section shall pay a
 3 3.5 percent deposit ¹ of the original upset price listed in the notice
 4 provided by the foreclosing plaintiff pursuant to subparagraph (a) of
 5 paragraph (5) of this subsection,¹ ³ or the final starting upset price
 6 listed for the sale of the property, whichever is less,³ with the rest
 7 of the balance due within 90 business days by cash, certified or
 8 cashier's check, or by wire transfer, made payable to the sheriff of
 9 the county in which the sale is conducted or to the Special Master,
 10 if the sheriff cannot comply with the provisions of subparagraph (a)
 11 of paragraph (3) of this subsection, immediately upon the
 12 conclusion of the foreclosure sale.

13 (c) If the successful bidder cannot satisfy **[this]** the requirement
 14 of this paragraph that is applicable to the bidder, or the applicable
 15 requirement of this paragraph respectively, the bidder shall be in
 16 default and the sheriff shall immediately void the sale and proceed
 17 further with the resale of the premises without the necessity of
 18 adjourning the sale, without renotification of any party to the
 19 foreclosure and without the republication of any sales notice. Upon
 20 such resale, the defaulting bidder shall be liable to the foreclosing
 21 plaintiff for any additional costs incurred by such default including,
 22 but not limited to, any difference between the amount bid by the
 23 defaulting bidder and the amount generated for the foreclosing
 24 plaintiff at the resale. In the event the plaintiff is the successful
 25 bidder at the resale, the plaintiff shall provide a credit for the fair
 26 market value of the property foreclosed.

27 **[(5)] (8)** It is permissible, upon consent of the sheriff
 28 conducting the sheriff's sale, that it shall not be necessary for an
 29 attorney or representative of the person who initiated the
 30 foreclosure to be present physically at the sheriff's sale to make a
 31 bid. A letter containing bidding instructions may be sent to the
 32 sheriff in lieu of an appearance.

33 **[(6)] (9)** That each sheriff's office shall use, and the plaintiff's
 34 attorney shall prepare and submit to the sheriff's office, a deed
 35 which shall be in substantially the following form:

36 THIS INDENTURE,
 37 made this (date) day of (month),
 38 (year). Between (name), Sheriff of the County
 39 of (name) in the State of New Jersey, party of the first
 40 part and (name(s)) party of the
 41 second part, witnesseth.

42 WHEREAS, on the (date) day of
 43 (month), (year), a certain Writ of Execution was issued out of
 44 the Superior Court of New Jersey, Chancery Division-
 45 (name) County, Docket No. directed and delivered to the

1 Sheriff of the said County of (name) and which said
2 Writ is in the words or to the effect following that is to say:

3 THE STATE OF NEW JERSEY to the Sheriff of the County of
4 (name),

5 Greeting:

6 WHEREAS, on the (date) day of (month),
7 (year), by a certain judgment made in our Superior Court
8 of New Jersey, in a certain cause therein pending, wherein the
9 PLAINTIFF is:

10
11
12

13 and the following named parties are the DEFENDANTS:

14
15
16

17 IT WAS ORDERED AND ADJUDGED that certain mortgaged
18 premises, with the appurtenances in the Complaint, and Amendment
19 to Complaint, if any, in the said cause particularly set forth and
20 described, that is to say: The mortgaged premises are described as
21 set forth upon the RIDER ANNEXED HERETO AND MADE A
22 PART HEREOF.

23 BEING KNOWN AS Tax Lot (number) in
24 Block (number) COMMONLY KNOWN AS
25 (street address)

26 TOGETHER, with all and singular the rights, liberties, privileges,
27 hereditaments and appurtenances thereunto belonging or in anywise
28 appertaining, and the reversion and remainders, rents, issues and
29 profits thereof, and also all the estate, right, title, interest, use,
30 property, claim and demand of the said defendants of, in, to and out
31 of the same, to be sold, to pay and satisfy in the first place unto the
32 plaintiff,

33
34

35 the sum of \$ (amount) being the principal, interest and
36 advances secured by a certain mortgage dated (date,
37 month, year) and given by (name) together with
38 lawful interest from

39
40
41

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

44 AND for that purpose a Writ of Execution should issue, directed to
45 the Sheriff of the County of (name) commanding him to
46 make sale as aforesaid; and that the surplus money arising from

1 such sale, if any there be, should be brought into our said Court, as
2 by the judgment remaining as of record in our said Superior Court
3 of New Jersey, at Trenton, doth and more fully appear; and
4 whereas, the costs and Attorney's fees of the said plaintiff have
5 been duly taxed at the following sum: \$ (amount)

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

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

20 WITNESS, the Honorable (name), Judge of the Superior
21 Court at Trenton, aforesaid, the (date) day of
22 (month), (year).

23 /s/ (Clerk)
24 Superior Court of New Jersey

25 /s/.....
26 Attorney for Plaintiff

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

31 AND WHEREAS I, the said (name), as such
32 Sheriff as aforesaid did in due form of law, before making such sale
33 give notice of the time **[and]**, place, and **'[final]'** upset price of
34 such sale by public advertisement signed by myself, and set up in
35 my office in the (name) Building in
36 (name) County, being the County in which said real estate is situate
37 and also set up at the premises to be sold at least three weeks next
38 before the time appointed for such sale.

39 I also caused such notice to be published four times in two
40 newspapers designated by me and printed and published in the said
41 County, the County wherein the real estate sold is situate, the same
42 being designated for the publication by the Laws of this State, and
43 circulating in the neighborhood of said real estate, at least once a
44 week during four consecutive calendar weeks. One of such
45 newspapers, (name of newspaper) is a newspaper
46 with circulation in (name of town), the County seat of

1 said (name) County. The first publication was at least
2 twenty-one days prior and the last publication not more than eight
3 days prior to the time appointed for the sale of such real estate, and
4 by virtue of the said Writ of Execution, I did offer for sale said land
5 and premises at public vendue at the County (name)
6 Building in (name of town) on the (date)
7 day of, (month) (year) at the hour of
8 (time) in the (a.m. or p.m.).

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

22
23
24

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

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

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

4 Signed, sealed and delivered
5 in the presence of
6
7 Attorney at Law of New Jersey(name) Sheriff
8 STATE OF NEW JERSEY) SS.
9(county)

10 I, (name), Sheriff, of the County of (name),
11 do solemnly swear that the real estate described in this deed made
12 to
13
14
15

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

24
25 (name), Sheriff

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

31 STATE OF NEW JERSEY) ss.
32 (Name) County) Attorney or Notary Public

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

41
42 Attorney or Notary Public

43 b. At the conclusion of the sheriff's sale, the attorney for the
44 plaintiff shall prepare and deliver to the sheriff a deed which shall
45 be in the form provided pursuant to paragraph **[(6)] (9)** of
46 subsection a. of this section for the sheriff's execution and the deed

1 shall be delivered to the sheriff within 10 days of the date of the
2 sale. The sheriff shall be entitled to the authorized fee, as a review
3 fee, even if the plaintiff's attorney prepares the deed.

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

12 (2) Notwithstanding the provisions of paragraph (1) of this
13 subsection, in the case of residential property in which the
14 successful bidder is permitted to pay a 3.5 percent deposit upon the
15 conclusion of the foreclosure sale pursuant to ¹the provisions of
16 this section subparagraph (b) of paragraph (7) of subsection a. of
17 this section¹, no interest shall accrue on the balance of the sale of
18 the property until 60 business days have passed following the date
19 of the sale, and thereafter, the successful bidder shall have 30
20 business days to fulfill the balance. If the successful bidder fails to
21 fulfill the balance within this 90 business day period, the bidder
22 shall forfeit the deposit on the property and shall be responsible for
23 the payment of accrued interest incurred as a result of the sale being
24 void, unless the failure to fulfill the balance is due to the bidder's
25 inability to close a mortgage through no fault of their own, which
26 includes, but is not limited to, the appraised value of the property
27 being less than the purchase value of the property or the financial
28 institution denying financing, in which case the bidder shall be
29 refunded the deposit on the property and shall be responsible only
30 for the payment of accrued interest. In addition, if a successful
31 bidder fails to fulfill the balance within this 90 business day period,
32 any subsequent foreclosure sale involving the same residential
33 property and the same foreclosing plaintiff and foreclosed upon
34 defendant shall be subject to the procedures set forth in
35 subparagraph (a) of paragraph ³[(5)] (7)³ of subsection a. of this
36 section and there shall be no right of first or second refusal pursuant
37 to subsections d. and g. of this section.

38 d. In the case of a foreclosed residential property where the
39 foreclosed upon defendant is an individual and not a corporate
40 entity, if the foreclosed upon defendant, next of kin of the
41 foreclosed upon defendant, or tenant of the foreclosed upon
42 property has secured financing or assets sufficient to meet terms
43 offered by the foreclosing plaintiff or an alternative financial
44 institution to purchase the property, the foreclosed upon defendant,
45 next of kin of the foreclosed upon defendant, or tenant shall have
46 the right of first refusal to purchase the property ¹in the amount

1 approved for the opening bid of the sheriff's sale at the time of the
2 sale] for the original upset price listed in the notice provided
3 pursuant to subparagraph a. of paragraph (5) of subsection a. of this
4 section^{1 3}, or at the final starting upset price listed for the sale of the
5 property, whichever is less³. The right of first refusal shall only be
6 made available to the foreclosed upon defendant, next of kin of the
7 foreclosed upon defendant, or tenant for the initial sale of the
8 foreclosed upon property, unless the sale is delayed¹[.] or¹
9 postponed ¹[or concludes with the foreclosing plaintiff purchasing
10 the property]¹, upon which the foreclosed upon defendant, next of
11 kin of the foreclosed upon defendant, or tenant shall ¹[receive a]
12 retain the¹ right of first refusal ¹[for the subsequent sale of the
13 foreclosed upon property] for the rescheduled date of sale¹. Such
14 right shall be deemed exercised if, prior to the opening of the
15 bidding on the foreclosed property, the foreclosed upon defendant,
16 next of kin of the foreclosed upon defendant, or tenant pays a 3.5
17 percent deposit ³[¹pursuant to the provisions of this section¹]³ with
18 the rest of the balance due within 90 business days ³, pursuant to the
19 provisions of this section,³ by cash, certified or cashier's check, or
20 by wire transfer, made payable to the sheriff of the county in which
21 the sale is conducted or to the Special Master, if the sheriff cannot
22 comply with the provisions of subparagraph (a) of paragraph (3) of
23 subsection a. of this section.

24 e. A bidder²[.]² who is permitted to pay a 3.5 percent deposit
25 upon the conclusion of the foreclosure sale pursuant to the
26 provisions of this section²[.]² may purchase residential property at
27 a sheriff's sale by way of financing if the bidder provides
28 documentation that the bidder has been pre-approved by a financial
29 institution regulated by the Department of Banking and Insurance or
30 by a federal banking agency, as defined by section 3 of the "New
31 Jersey Residential Mortgage Lending Act," P.L.2009, c.53
32 (C.17:11C-53), for financing a residential property.

33 (1) A bidder who is permitted to pay a 3.5 percent deposit upon
34 the conclusion of the foreclosure sale pursuant to the provisions of
35 this section and intends to finance the purchase of residential
36 property at a sale shall be:

37 (a) ³preapproved for the amount of the original upset price listed
38 in the notice provided pursuant to subparagraph a. of paragraph (5)
39 of subsection a. of this section or the final starting upset price listed
40 for the sheriff's sale of the property, whichever is less;

41 (b)³ limited to submitting bids no higher than the amount for
42 which the bidder has been pre-approved for financing; and

43 ³[(b)] (c)³ if the bidder is an individual, required to present
44 current and valid photo identification that substantially conforms to

1 the name and information contained on the financing pre-approval
2 forms obtained by the bidder.

3 (2) ³【To be】 A tenant or³ a successful bidder ³【who is not the
4 plaintiff, and】³ who intends to occupy the property ³for 84 months,³
5 and ³【finance】 finances³ the purchase of the property ³【, the
6 bidder】 and pays a 3.5 percent deposit pursuant to the provisions of
7 this section,³ shall have received eight hours of homebuyer
8 education and counseling through a United States Department of
9 Housing and Urban Development (HUD) certified housing
10 counseling agency, and shall present a certificate of completion or
11 proof of enrollment in that program to the sheriff.

12 (3) To ensure that the provisions of this section only apply to a
13 foreclosed upon defendant or next of kin of the foreclosed upon
14 defendant who has entered foreclosure proceedings due to
15 circumstances outside of the foreclosed upon defendant's control,
16 subsections d. through f. of this section shall only apply to a
17 foreclosed upon defendant or next of kin of the foreclosed upon
18 defendant that demonstrates to the foreclosing plaintiff that the
19 foreclosed upon defendant experienced:

20 (a) financial hardship;

21 (b) a physical or mental illness preventing the foreclosed upon
22 defendant from earning an income;

23 (c) divorce or legal separation;

24 (d) proof of death of the foreclosed upon defendant, or the
25 foreclosed upon defendant's spouse, or child; or

26 (e) predatory loan practices.

27 Any information provided under this paragraph shall be provided
28 at the request of the foreclosing plaintiff prior to the date of sale for
29 the foreclosing property and shall not conflict with subparagraph
30 (b) of paragraph (5) of subsection a. of this section.

31 (4) If a bidder intending to finance the purchase of the
32 residential property is a current tenant, the tenant shall provide
33 documentation confirming:

34 (a) that the tenant has resided at the property for at least a year;
35 and

36 (b) that the tenant is not in arrears with rent payments as of the
37 date the foreclosed upon defendant received a notice of foreclosure
38 from the foreclosing plaintiff.

39 (5) To prove the residency requirement pursuant to
40 subparagraph (a) of paragraph (4) of this subsection, the tenant shall
41 also be required to present at least two current and valid forms of
42 identification that substantially conform to the name and property
43 address contained in the tenant's lease agreement, which shall
44 include but not be limited to:

45 (a) a driver's license issued by the New Jersey Motor Vehicle
46 Commission;

- 1 (b) a utility bill;
2 (c) a checking or savings account statement from a bank or credit
3 union issued at least 60 days prior to submitting documentation
4 required pursuant to this subparagraph;
5 (d) a statement, receipt, or letter of correspondence from a
6 federal, State, or local government office delivered at least one year
7 prior to submitting documentation required pursuant to this
8 subparagraph; or
9 (e) any other form of identification that the sheriff deems valid
10 pursuant to this paragraph.
11 (6) A tenant shall be allowed to purchase residential property
12 pursuant to this subsection if a foreclosed upon defendant or next of
13 kin of the foreclosed upon defendant decides not to participate in
14 the sheriff's sale ³ [, enter into an agreement with a nonprofit
15 community development corporation pursuant to subsection f. of
16 this section,]³ or ³ [fail to secure financing or assets sufficient to
17 meet the terms offered by the foreclosing plaintiff or an alternative
18 financial institution to purchase the property] exercise the
19 provisions of P.L. , c. (C.) (pending before the Legislature
20 as this bill)³. A tenant shall have up to ² [45] 90 business² days to
21 purchase the residential property after successfully bidding for the
22 property.
23 (7) With exception to the foreclosed upon defendant, the
24 foreclosed upon defendant's next of kin, or a nonprofit community
25 development corporation, an individual bidder purchasing
26 residential property in a sheriff's sale pursuant to this subsection
27 shall be required ¹ [by the financial institution]¹ to occupy the
28 property as the bidder's primary residence for a fixed term of at
29 least 84 months after taking possession. The deed for the property
30 shall clearly state that the property may not be sold for 84 months
31 from the date of the sheriff's sale, except pursuant to the exceptions
32 permitting a successful bidder to vacate the property prior to
33 residing in the property for 84 months in paragraph (8) of this
34 subsection.
35 (8) With exception to the foreclosed upon defendant, the
36 foreclosed upon defendant's next of kin, or a nonprofit community
37 development corporation, a successful individual bidder who
38 finances the purchase pursuant to this subsection and does not
39 occupy the residence for a period of at least 84 months shall be
40 assessed a fine by a court of competent jurisdiction up to \$100,000
41 for the first violation, and \$500,000 thereafter for each subsequent
42 violation. These penalties shall not be assessed against a bidder
43 who finances the purchase with good faith and intent and is
44 thereafter required to vacate the property prior to residing in the
45 property for 84 months due to:
46 (a) death of the bidder or the bidder's spouse or child;

- 1 (b) disability of the bidder or a member of the bidder's
2 household;
3 (c) divorce;
4 (d) legal separation;
5 (e) military deployment;
6 (f) a change in employment of the bidder or a member of the
7 bidder's household that results in a reduction in income or a need to
8 move out-of-state;
9 (g) a change in the number of permanent residents of the
10 household due to: the birth or adoption of a child; or the permanent
11 relocation of an elder into the household, as proved by a note from
12 the doctor or social worker of the elder;
13 (h) a need to move to care for a family member for a period of
14 at least six months, as evidenced by: an address change; and a note
15 from the family member in need of care, the doctor of the family
16 member, or the social worker for the family member; or
17 (i) foreclosure.

18 ³A bidder who finances the purchase of the residential property
19 in good faith and intent and is thereafter required to vacate the
20 property prior to residing in the property for 84 months pursuant to
21 paragraph (8) of this subsection shall retain the deed to the property
22 until the deed is transferred.³

23 In the event of the death of a successful bidder, the property may
24 be transferred to another owner in accordance with applicable laws
25 governing estate, inheritance, and probate matters and the
26 occupancy requirement shall be extinguished.

27 ³A fraudulent violation of subparagraphs (a) through (i) of this
28 paragraph by a bidder shall be an unlawful practice and a violation
29 of P.L.1960, c.39 (C.56:8-1 et seq.).³

30 f. If the foreclosed upon defendant, next of kin of the
31 foreclosed upon defendant, or tenant of the foreclosed upon
32 property fails to secure financing or assets sufficient to meet the
33 terms offered by the foreclosing plaintiff or an alternative financial
34 institution to purchase the residential property, the foreclosed upon
35 defendant, next of kin of the foreclosed upon defendant, or tenant
36 may request that a nonprofit community development corporation
37 purchase the property. If the nonprofit community development
38 corporation agrees in writing to purchase the property ²~~from~~ for²
39 the foreclosed upon defendant, next of kin of the foreclosed upon
40 defendant, or tenant ³to reside in³, the corporation shall:

41 (1) allow the foreclosed upon defendant, next of kin of the
42 foreclosed upon defendant, or tenant to reside at the property for a
43 period of time as agreed upon in paragraph (2) of this subsection;
44 and

45 (2) negotiate with the foreclosed upon defendant, next of kin of
46 the foreclosed upon defendant, or tenant on an affordable lease

1 schedule that shall include an option to purchase the property from
2 the corporation.

3 g. In the case of a foreclosed residential property, a nonprofit
4 community development corporation, that has a written agreement
5 with a foreclosed upon defendant, next of kin of the foreclosed
6 upon defendant, or tenant of the foreclosed upon property pursuant
7 to subsection f. of this section, shall have a right of second refusal
8 to purchase the property which is subordinate to the first right of
9 refusal provided to a foreclosed upon defendant, next of kin of the
10 foreclosed upon defendant, or tenant pursuant to subsection d. of
11 this section. If the foreclosed upon defendant, next of kin of the
12 foreclosed upon defendant, or tenant decides not to participate in
13 the sheriff's sale, enter into an agreement with the corporation
14 pursuant to subsection f. of this section, or ²~~fail~~ fails² to secure
15 financing or assets sufficient to meet the terms offered by the
16 foreclosing plaintiff or an alternative financial institution to
17 purchase the property, a nonprofit community development
18 corporation shall have the right of second refusal to purchase the
19 property in the amount approved for the ³~~opening bid~~ final
20 starting upset price on the day³ of the sheriff's sale at the time of
21 the sale. Such right shall be deemed exercised if, prior to the
22 opening of the bidding on the foreclosed property, the corporation
23 pays a 3.5 percent deposit with the rest of the balance due within 90
24 business days by cash, certified or cashier's check, or by wire
25 transfer, made payable to the sheriff of the county in which the sale
26 is conducted or to the Special Master, if the sheriff cannot comply
27 with the provisions of subparagraph (a) of paragraph (3) of
28 subsection a. of this section. A nonprofit community development
29 corporation shall only have a right of second refusal to purchase the
30 property if it satisfies the requirements set forth in subsection h. of
31 this section and fulfills the conditions set forth in subsection j. of
32 this section.

33 h. (1) If a foreclosed upon defendant, next of kin of the
34 foreclosed upon defendant, or tenant of the foreclosed upon
35 property does not participate in the sheriff's sale, secure financing
36 or assets sufficient to meet the terms offered by the foreclosing
37 plaintiff or an alternative financial institution, or enter into
38 agreement with a nonprofit community development corporation
39 pursuant to subsection f. of this section, the nonprofit community
40 development corporation may enter a bid for the foreclosed upon
41 residential property.

42 (2) A nonprofit community development corporation intending
43 to bid in a sheriff's sale for residential property and pay a 3.5
44 percent deposit as permitted by this section shall, on the date of the
45 sheriff's sale, register its participation with the sheriff or Special
46 Master if the sheriff cannot comply with the provisions of

1 paragraph (3) of subsection a. of this section. In registering its
2 participation in the sale, a corporation shall provide the most recent
3 form 1023 filing provided to the United States Internal Revenue
4 Service, stating the corporation's mission includes community
5 revitalization and the creation or preservation of affordable housing
6 through the restoration of vacant and abandoned property.

7 i. (1) If more than one nonprofit community development
8 corporation seeks to exercise the right of second refusal, the right
9 shall belong in the first instance to a nonprofit community
10 development corporation that fulfills the conditions set forth in
11 subsection f. of this section. If no such nonprofit community
12 development corporation exists, priority shall belong to the
13 nonprofit community development corporation that first registers its
14 participation in the foreclosure sale pursuant to paragraph (2) of
15 subsection h. of this section.

16 (2) If an individual or nonprofit community development
17 corporation exercises a right of first or second refusal pursuant to
18 subsection d. or f. of this section, the foreclosure sale shall be
19 deemed concluded and the person or corporation shall be deemed to
20 be the successful bidder and shall be subject to the applicable
21 provisions and procedures of this section.

22 j. (1) A nonprofit community development corporation that
23 successfully bids on the purchase of a residential property in a
24 sheriff's sale and satisfies the conditions set forth in subsection h.
25 of this section shall be subject to the fines assessed pursuant to
26 paragraph (3) of this subsection if the nonprofit corporation does
27 not:

28 (a) restore as need be and sell the property to a household
29 earning no more than 120 percent below area median income or rent
30 the property as an affordable housing unit to a household who earns
31 no more than 100 percent below area median income, if the
32 property is vacant or abandoned at the time of the sheriff's sale; or

33 (b) if the property is occupied at the time of sale by either a
34 tenant or the foreclosed upon defendant with whom the nonprofit
35 community development corporation does not already have an
36 agreement pursuant to subsection f. of this section, the nonprofit
37 community development corporation shall negotiate in good faith
38 with the foreclosed upon defendant or tenant on an affordable lease
39 schedule that will allow the foreclosed upon defendant or tenant to
40 continue to occupy the property should the foreclosed upon
41 defendant or tenant desire to do so. If after 120 business days the
42 foreclosed upon defendant or tenant does not respond to the
43 requests of the nonprofit community development corporation to
44 negotiate, the corporation may bring an action in a court of
45 competent jurisdiction to remove the foreclosed upon defendant or
46 tenant. If removal has successfully occurred, the nonprofit

1 community development corporation shall comply with the
2 requirements of subparagraph (a) of paragraph (1) of this
3 subsection.

4 (2) A nonprofit community development corporation that
5 successfully bids on the purchase of a residential property and
6 satisfies the conditions set forth in subsection f. of this section shall
7 ensure that, in any future sale of the property pursuant to
8 subparagraph (a) of paragraph (1) of this subsection, the property be
9 subject to a renewable deed restriction, with the minimum number
10 of affordability years being 30 years and with the option to renew,
11 requiring any future property owner to sell the property to a
12 household earning no more than 120 percent below area median
13 income or rent the property as an affordable housing unit to a
14 household who earns no more than 100 percent below area median
15 income.

16 (3) A nonprofit community development corporation that
17 successfully bids on and completes the purchase of a residential
18 property in a sheriff's sale and satisfies the conditions set forth in
19 subsection f. of this section and fails to meet the requirements of
20 this subsection shall be assessed a fine by a court of competent
21 jurisdiction of up to \$100,000 for the first violation, and \$500,000
22 thereafter for each subsequent violation. If the 'appropriate'
23 sheriff's office ¹, county administrative agent, or affordable housing
24 administrative agent that is hired by the county¹ determines based
25 upon its oversight that there has been a violation of this subsection,
26 the sheriff's office ¹, county administrative agent, or affordable
27 housing administrative agent¹ shall bring an action in a court of
28 competent jurisdiction so that the sheriff's office ¹, county
29 administrative agent, or affordable housing administrative agent¹
30 can pursue enforcement of penalties for the violation. If the
31 nonprofit community development corporation dissolves, the deed
32 of the residential property shall be transferred to another nonprofit
33 community development corporation who shall be bound by the
34 requirements of this subsection.

35 k. In the case of a residential property for which the successful
36 bidder is subject to the occupancy requirement pursuant to
37 paragraphs (7) and (8) of subsection e. of this section, the
38 appropriate sheriff's office, county administrative agent, or
39 affordable housing administrative agent that is hired by the county
40 shall oversee the occupancy of the property, which may include the
41 mailing of a questionnaire to the successful bidder within 84
42 months following the sale or requiring the bidder to respond to
43 questions and submit documentation evidencing the bidder's
44 continued residence at the property using the proof of residency
45 documents provided pursuant to paragraph (5) of subsection e. of
46 this section. If the appropriate sheriff's office, county

1 administrative agent, or affordable housing administrative agent
2 that is hired by the county determines based upon its oversight that
3 there has been an occupancy violation, the sheriff's office, county
4 administrative agent, or affordable housing administrative agent
5 hired by the county shall refer the matter to the county counsel's
6 office to bring an action in a court of competent jurisdiction so that
7 the sheriff's office can pursue enforcement of penalties for the
8 violation.

9 l. Each sheriff's office shall maintain information, written in
10 plain language, regarding the program to finance the purchase of
11 residential property in a foreclosure sale in accordance with this
12 section on its Internet website, and in any other medium used by the
13 office to advertise a foreclosure sale, in a manner that is accessible
14 to the public. Additionally, each sheriff's office shall display
15 information, written in plain language, regarding the Community
16 Wealth Preservation Program in its office in a manner that is
17 conspicuous to the public. The information posted on a sheriff's
18 Internet website or displayed in a sheriff's office concerning the
19 program shall further contain language notifying the public that the
20 program shall exclude those purchasing property for investment
21 purposes. For any county in which the primary language of 10
22 percent or more of the residents is a language other than English,
23 the sheriff's office shall provide the information required by this
24 subsection in that other language or languages in addition to
25 English. The alternate language shall be determined based on
26 information from the latest federal decennial census.

27 m. Any sheriff's sales conducted virtually shall be subject to the
28 provisions of P.L. , c. (C.) (pending before the Legislature
29 as this bill).

30 n. Any penalty imposed pursuant to this section may be
31 recovered with costs in a summary proceeding commenced by the
32 appropriate sheriff's office pursuant to the "Penalty Enforcement
33 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Fifty percent
34 of any monies collected pursuant to this section shall be forwarded
35 to the municipality in which the foreclosed upon property is located
36 to be deposited in the affordable housing trust fund of the
37 municipality for use on low income housing or moderate income
38 housing needs as defined in section 4 of P.L.1985, c.222
39 (C.52:27D-304), to the extent the municipality maintains such a
40 fund, and if the municipality does not maintain such a fund, to the
41 State Treasurer, and shall annually be appropriated to the "New
42 Jersey Affordable Housing Trust Fund," section 20 of P.L.1985,
43 c.222 (C.52:27D-320) for the purpose of developing and supporting
44 housing programs that create for-sale and rental affordable housing.
45 The remaining 50 percent of any monies collected pursuant to this
46 section shall provide for administrative and enforcement costs,

1 including costs incurred by the appropriate sheriff's office, county
2 administrative agent, or county counsel's office, necessary to
3 effectuate the purposes of this section.

4 o. The provisions of P.L. , c. (C.) (pending before the
5 Legislature as this bill) shall only apply to residential property as
6 defined pursuant to subsection p. of this section.

7 p. As used in this section:

8 "Area median income" means the midpoint of a region's
9 household income distribution, as determined by the United States
10 Department of Housing and Urban Development.

11 "Community Wealth Preservation Program" means the program
12 created by P.L. , c. (C.) (pending before the Legislature as
13 this bill) to assist prospective owner-occupants, nonprofit
14 community development corporations, foreclosed upon defendants,
15 next of kin of foreclosed upon defendants, and tenants of foreclosed
16 upon defendants in purchasing and financing foreclosed upon
17 residential properties in sheriff's sales with an initial 3.5 percent
18 deposit.

19 "Nonprofit community development corporation" means a not-
20 for-profit organization, whose mission includes community
21 revitalization through the restoration of vacant and abandoned
22 property to create or preserve affordable housing, as indicated in the
23 corporation's most recent form 1023 filing provided to the United
24 States Internal Revenue Service.

25 "Residential property" means real property located in this State
26 ²[in which people reside or dwell as their primary residence,]
27 which is utilized as a primary residence or dwelling,² and shall not
28 include ²any real² property which is ²[used] acquired² for
29 investment, commercial, or business purposes or ²[residential]
30 real² property containing more than four residential units.

31 "Upset price" means the minimum amount that a foreclosed upon
32 property shall be sold for in a sheriff's sale as determined by the
33 foreclosing plaintiff.

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

35

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

37 22A:4-8. For the services hereinafter enumerated sheriffs and
38 other officers shall receive the following fees:

39 In addition to the mileage allowed by law, for serving every
40 summons and complaint, attachment or any mesne process issuing out
41 of the Superior Court, the sheriff or other officer serving such process
42 shall, for the first defendant or party on whom such process is served,
43 be allowed \$22.00 and, for service on the second defendant named
44 therein, \$20.00, and for serving such process on any other defendant or
45 defendants named therein, \$16.00 each, and no more. If a man and his

1 wife be named in such process they shall be considered as one
2 defendant, except where they are living separate and apart.

3 Serving summons and complaint in matrimonial actions, in
4 addition to mileage, \$22.00.

5 Serving *capias ad respondendum*, *capias ad satisfaciendum*,
6 warrant of commitment, writ of *ne exeat*, in addition to mileage,
7 \$48.00.

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

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

11 For returning every writ, \$2.00.

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

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

16 For serving each out-of-State paper, in addition to the mileage
17 allowed by law, \$25.00 for the first defendant on whom such paper is
18 served, \$20.00 for service on the second defendant named therein, and
19 \$16.00 for serving such paper on any other defendant or defendants
20 named therein. If a man and wife be named in such paper, they shall be
21 considered as one defendant, except where they are living separate and
22 apart.

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

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

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

36

37 EXECUTION SALES

38

39 **[When]** ¹Except as to sales conducted in accordance with
40 section 12 of P.L.1995, c.244 (C.2A:50-64), when a sale is made by
41 virtue of an execution the sheriff shall be entitled to charge the
42 following fees: On all sums not exceeding \$5,000.00, **[6%]** 10
43 percent; on all sums exceeding \$5,000.00 on such excess, **[4%]** five
44 percent; the minimum fee to be charged for a sale by virtue of an
45 execution, **[\$50.00]** \$150.00. When sales are] On a sale¹ conducted
46 in accordance with section 12 of P.L.1995, c.244 (C.2A:50-64), the

1 sheriff shall be entitled to charge six percent on a sale by virtue of an
2 execution ¹; however, if a sale reverts to the foreclosing plaintiff, the
3 fee to be charged on a sale by virtue of an execution shall be \$150.00.

4 When a sale is made by virtue of an execution and is not conducted
5 in accordance with section 12 of P.L.1995, c.244 (C.2A:50-64), the
6 sheriff shall be entitled to charge the following fees:

7 On all sums not exceeding \$5,000.00, 10 percent; on all sums
8 exceeding \$5,000.00 on such excess, five percent; the minimum fee to
9 be charged for a sale by virtue of an execution, \$150.00. ¹ ²However, if
10 a sale reverts to the foreclosing plaintiff, the fee to be charged on a
11 sale by virtue of an execution shall be \$150.00. ²

12 On an execution against wages, commissions and salaries, the
13 sheriff shall charge the same percentage fees on all sums collected as
14 those percentage fees applicable in cases wherein an execution sale is
15 consummated.

16 When the execution is settled without actual sale and such
17 settlement is made manifest to the officer, the officer shall receive
18 **[1/2]** one-half of the amount of percentage allowed herein in case of
19 sale.

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

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

23 Posting property for sale, \$20.00. For the crier of the vendue, when
24 the sheriff proceeds to sell, for every day he shall be actually
25 employed in such sale, \$5.00.

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

30 Drawing and making a deed to a purchaser of real property,
31 \$75.00.

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

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

1 issued shall be equally divided among the several sheriffs in whose
2 hands an execution in the same cause may have been placed.

3 The sheriff shall file his taxed bill of costs with the clerk of the
4 court out of which execution issued, within such time as the court shall
5 direct by general rule or special order, or, in default thereof, he shall
6 not be entitled to any costs. If any sheriff shall charge in such bill of
7 costs for services not done, or allowed by law, or shall take any greater
8 fee or reward for any services by him done than is or shall be allowed
9 by law, he shall be liable for the damages sustained by the party
10 aggrieved including a penalty of \$30.00, to be recovered in a summary
11 manner, in the action or proceeding wherein the execution was issued
12 or otherwise.

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

14

15 3. (New section) a. In situations in which a creditor has
16 instituted a foreclosure proceeding pursuant to the "Fair Foreclosure
17 Act," P.L.1995, c.244 (C.2A:50-53 et seq.) and a creditor employs
18 an agent to be responsible for the care, maintenance, security, and
19 upkeep of the property if it becomes vacant and abandoned, the
20 creditor and agent who peacefully enter the property and exercise
21 reasonable care in doing so, shall be immune from liability, before
22 and after the bid, for any damage to the property or any person
23 entering the property.

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

26

27 4. This act shall take effect immediately.