

ASSEMBLY COMMUNITY DEVELOPMENT AND AFFAIRS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 793

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 3, 2022

The Assembly Community Development and Affairs Committee reports favorably and with committee amendments Assembly Bill No. 793.

As amended, this bill, designated as the “Community 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 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 2022-2023 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee proposes to amend the bill to:

(1) allow a foreclosed upon defendant or next of kin of the foreclosed upon defendant to request that a nonprofit community development corporation purchase the residential property if the foreclosed upon defendant or next of kin of the foreclosed upon defendant fail to secure financing, with certain conditions;

(2) require a nonprofit community development corporation to register with the sheriff or Special Master prior to the corporation's participation in a sheriff's sale;

(3) require a nonprofit community development corporation, founded at least 36 months prior to the enactment of this bill, that successfully bids on the purchase of a residential property in a sheriff's sale to restore as need be and sell the property to a household earning no more than 120 percent below area median income or rent the property as an affordable housing unit to a household who earns no more than 100 percent below area median income, if the property is vacant or abandoned at the time of the sheriff's sale or, if the property is occupied at the time of sale by the foreclosed upon defendant or a

tenant, to negotiate with the foreclosed upon defendant or tenant on a monthly rent payment schedule that will allow the foreclosed upon defendant or tenant to continue to occupy the property should the foreclosed upon defendant or tenant desire to do so;

(4) require a nonprofit community development corporation who successfully bids on the purchase of a residential property to include, in any future sale of the property, a 30-year deed restriction requiring any future property owner to sell the property to a household earning no more than 120 percent below area median income or rent the property as an affordable housing unit to a household who earns no more than 100 percent below area median income;

(5) require the provisions of this bill to apply to the sale of real estate owned residential property; and

(6) includes a second right of refusal for nonprofit community development corporations and requires those with first and second rights of refusal to pay 3.5 percent of the purchase price at the conclusion of the sheriff's sale if they successfully bid on a residential property.