

# Conditions for Sheriff's Sale

## (Under the Community Wealth Preservation Program)

At least 4 weeks prior to the Sheriff's sale, an upset price for the sale of the residential home will be posted on the Atlantic County Sheriff's internet website as well as the Atlantic City Press/Column and LocalIQ/Gannett. The upset price is plaintiff/lending institution's good faith estimate of the minimum amount for the residential property to be sold on the day of the Sheriff's sale. Should there be a delay or postponement of the Sheriff's sale on the residential home or if unforeseen circumstances occur, the plaintiff/lending institution may adjust the upset price, but it will not increase by more than 3% of the original upset price unless the Court permits an adjustment.

A successful bidder, whether the defendant/homeowner, next of kin, tenant, or a nonprofit community development corporation, **shall pay a 3.5% deposit** of the original upset price or the final starting upset price, whichever is less. A bidder (who is not the defendant/homeowner, next of kin, tenant, or a nonprofit community development corporation) shall be permitted to also pay a 3.5% deposit **so long as the bidder agrees to occupy the residential property as their primary residence for a period of at least 84 months (7 years)**. Immediately upon the conclusion of the foreclosure sale, a 3.5% deposit is due to the Sheriff's Office. Deposits are by certified or cashier's check, made payable to the Atlantic County Sheriff's Office. The balance is due on the residential property within 90 business days by certified or cashier's check, or by wire transfer, made payable to the Atlantic County Sheriff's Office. For a period of 60 business days following the date of the sale, **no interest shall accrue on the balance due on the purchase price. Thereafter interest will accrue and the homeowner/defendant, next of kin, nonprofit community development company or successful bidder will have 30 business days to fulfill the balance of the purchase price.**

If the successful bidder of a residential property fails to satisfy the balance of the purchase price, the bidder shall forfeit the deposit on the property and shall be responsible for the payment of the accrued interest incurred as a result the sale being voided, unless the balance is due to the bidder's inability to close a mortgage through no fault of their own.

If the bidder fails to pay the balance of the purchase price within the 90 business days period, any subsequent foreclosure sale on the same residential property with the same plaintiff/lending institution, there shall be no right of first or second refusal by the bidder who failed to pay the balance of the purchase price.

Should a defendant/homeowner, next of kin or tenant of the residential property (not a corporate entity) secure financing or assets sufficient to meet the terms offered by the plaintiff/lending institution or an alternative financial institution to purchase the property at the time of the Sheriff's sale, the defendant/homeowner, next of kin or tenant **shall have right of first refusal to purchase the property** at the original upset price or final upset price, whichever is less. If the Sheriff's sale is delayed or postponed, the defendant/homeowner, next of kin, or tenant retains the right of first refusal for the rescheduled date of the Sheriff's sale.

A bidder (not a defendant/homeowner or next of kin) who is permitted to pay a 3.5% deposit on a residential property at the Sheriff's sale may finance the purchase price so long as the bidder provides documentation that the bidder has preapproval by a financial institution for financing the property. The bidder is limited to submitting a bid no higher than the amount for which the bidder has been preapproved for financing. (Upload or click the link here <https://pub.njleg.state.nj.us/Bills/2022/PL23/255> .PDF for documentation required).

A tenant or a bidder (not defendant homeowner or next of kin) who intends to occupy the property for 84 months and finance the purchase price of the property will be required to receive 8 hours of homebuyer education and counseling through a U.S. Department of Housing and Urban Development approved program and present a certificate of completion or proof of enrollment in that program (For counseling, upload or click the link here:

[https://hud4.my.site.com/housingcounseling/s/?language=en\\_US](https://hud4.my.site.com/housingcounseling/s/?language=en_US) ; For homebuyer education, specifically the Fannie Mae Home View program, click here: <https://www.fanniemae.com/education> ). The certificate or proof of enrollment in the program will need to be provided to the Sheriff's Office prior to the sale of the foreclosed residential property.

If a current tenant residing at the foreclosed-upon home intends to bid and finance the purchase price of the residential property, the tenant must show proof to the Sheriff's Office prior to the Sheriff's sale that 1) tenant has resided at the residence for at least 1 year; 2) tenant is not in arrears with rent payments as of the date that defendant/homeowner received notice of the foreclosure from plaintiff/lending institution; and proof of residency at the foreclosed-upon property which will include 2 current and valid forms of identification substantially conforming to the name and property address contained in the tenant's lease – examples: a) a current NJ driver's license; b) a utility bill; c) a checking or savings account statement at least 60 days prior to submitting this documentation; d) a statement, receipt, or letter of correspondence from a federal, State, or local government office delivered at least 1 year prior to submitting this documentation to the Sheriff's Office. A tenant shall only be allowed to purchase the residential property so long as the defendant/homeowner or next of kin, decides not to participate in the Sheriff's sale.

A tenant or successful bidder (this does not include the defendant/homeowner, next of kin, or nonprofit community development corporation) will be required to occupy the residential property as the bidder's primary residence for 84 months after taking possession. The deed for the property will clearly state that the residential property may not be sold for 84 months. Absent an applicable exceptions, penalties and fines apply for failure to comply with the above residency requirement.

If defendant/owner, next of kin, or tenant fails to secure financing or assets to meet the terms of the purchase price (upset price) on the foreclosed-upon property then the defendant/owner, next of kin, or tenant may request that a nonprofit community development corporation purchase the property. In that instance, the corporation shall allow the defendant/homeowner, next of kin or tenant to reside at the property, subject to negotiating an affordable lease which will also include an option to purchase the property from the corporation.

If a nonprofit community development corporation has a written agreement on residing in the foreclosed-upon home with the defendant/homeowner, next of kin or tenant on conditions outlined in the above paragraph, then the corporation shall have a right of second refusal to purchase the property which is subordinate to the first right of refusal provided to the defendant/homeowner, next of kin or tenant. If the defendant/homeowner, next of kin, or tenant does not participate in the Sheriff's sale, the nonprofit community development corporation may enter a bid on the residential property. (Upload or click on the following link: <https://pub.njleg.state.nj.us/Bills/2022/PL23/255> .PDF for conditions and requirements for a nonprofit development corporation).

A nonprofit community development corporation that intends to bid in a sheriff's sale for residential property and pay a 3.5% deposit shall on the date of the sheriff's sale, register its participation with the Sheriff and provide the most recent approval letter from the Internal Revenue Service, the nonprofit corporation's mission statement indicating community revitalization and the creation or preservation of affordable housing through the restoration of vacant and abandoned property. (Upload or click the link here for the website <https://www.pay.gov/public/home>)

**THE DEFENDANT(S) HAVE AN UNQUALIFIED RIGHT OF REDEMPTION IN THE TEN DAY PERIOD FOLLOWING THE SALE.**

