ASSEMBLY COMMERCE AND ECONOMIC DEVELOPMENT COMMITTEE

STATEMENT TO

[First Reprint]
ASSEMBLY, No. 793

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 14, 2022

The Assembly Commerce and Economic Development Committee reports favorably Assembly Bill No. 793 (1R).

As amended, this bill, designated as the "Community Wealth Preservation Program," would revise 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, under certain circumstances. 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, in the case of residential property in which the bidder will occupy the property for at least 84 months, the bidder 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. If the successful bidder does not pay the balance within this 90 business day period, the bidder would forfeit the deposit on the property and be responsible for the payment of accrued interest and fees or penalties incurred as a result of the sale being void, unless the failure to fulfill the balance is due to the bidder's inability to close a mortgage through no fault of the bidder's own.

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, other than the foreclosed upon defendant or the foreclosed upon defendant's next of kin, 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 for the first violation and $500,000 for each violation thereafter. 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 homebuyer education and counseling from 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. The information posted on a sheriff's website or displayed in a sheriff's office concerning the program must contain language notifying the public that the program excludes those purchasing property for investment purposes.

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 $150.

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.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) require that the upset price for the sale of the foreclosed upon property be no higher than 50 percent of the sum of the outstanding mortgage and any interest, fees, or other costs accumulated from the beginning of the foreclosure action;

(2) define the term "upset price" to mean the minimum amount that a foreclosed upon property will be sold for in a sheriff's sale;

(3) lower the minimum fee to be charged for a sale by virtue of execution from $750 to $150;

(4) permit the sheriff's office to collect a flat fee of six percent on any sale by virtue of an execution;

(5) make the bill take effect 90 days from the date of enactment rather than immediately upon enactment; and

(6) make certain technical changes.