

FRANKLIN COUNTY SHERIFF'S OFFICE

FORECLOSURE PROCEDURES HOUSE BILL 390

Any **Praecipe Order of Sale** filed **on/after September 28, 2016** will be subject to the following procedures and policies adopted by the Franklin County Sheriff's Office to effectively and efficiently meet the requirements outlined in recent changes in the law.

Any order of sale filed **PRIOR** to the effective date will be processed according to current procedures. A joint effort toward the timely completion of the foreclosures ordered sold prior to September 28, 2016, will prevent confusion for both the law firms and the Sheriff's Office.

Due to the requirements of House Bill 390, the following changes in the Sheriff's Policies and Procedures Foreclosure Sales will be implemented. These guidelines may be changed or modified as necessary to expedite the weekly sales.

PLEASE NOTE: This will be for Sheriff sales on and after December 2016

2329.211 In every action of Judicial Sale or Execution of residential property if the Judgment Creditor is the purchaser they **shall not** be required to make a deposit on the sale.

All other purchasers shall make sale deposit as follows:

If the appraised value of the property is less than or equal to \$10,000.00 Deposit is \$ 2,000.00

If the appraised value of the property is greater than \$10,000.00 but less than or equal to \$200,000.00 the deposit shall be \$5,000.00

If the appraised value of the property is greater than \$200,000.00 the deposit shall be \$10,000.00

REMOTE BID:

2329.152(B)(2)and(3)

The law authorizes the creation of an official public Sheriff's sale website to be implemented within 5 years. Until then Sheriff's sales may be conducted at a physical location. If the sale is at a physical location each Plaintiff, Judgment Creditor or Lienholder in the action may submit a remote bid in writing to the Sheriff via fax, email or overnight delivery or courier. The fixed maximum amount bid must be delivered to the Sheriff prior to 4:30pm the business day before the sale. The Sheriff shall confirm receipt via email or fax to the Plaintiff, Judgment Creditor or Lienholder who entered the bid. Franklin County Sheriff's Real Estate office **closes at 4:00pm any remote bids done after this time will be verified the following morning.**

The Sheriff shall provide notice of the results not later than the close of the business day on the date of sale to all who submitted remote bids via email, fax or posting on The Sheriff's website.

If the **remote bid** is not made on the Plaintiff, Judgment Creditor or Lienholders behalf they can file a motion to vacate the sale within 10 days after the sale date.

****REMOTE BIDDERS will have to provide their Purchase Information Form when they email, fax or overnight delivery or courier their bid.****

*****Judgement Creditors and/or lienholder, who is a defendant in the case, may make a remote bid. Judgement Creditors are not required to make the deposit as defined in the sale advertisement; HOWEVER, judgement creditor is defined as the creditors (plaintiff or defendants) who are awarded judgement in the foreclosure case. All remote bids received from lienholders who have not been awarded or confirmed by the foreclosure decree must deliver the required deposit to the Franklin County Sheriff's Office no later than 9:00 am on the date of the sale corresponding to their remote bid.*****

The Sheriff's Office will have the following language inserted in the property advertisements to insure public notification of "2329.152(B)(2)and(3) requires the Sheriff to place a bid on behalf of the plaintiff, judgment creditor or lienholder in the action. 2327.02(C) requires successful bidders pay recording and conveyance fees to the Sheriff at the time of sale." These fees are in addition to the deposit stated above and are due with final payment.

THIRD PARTY PURCHASERS MUST DELIVER THE REQUIRED DEPOSIT AND THE COMPLETED PURCHASER INFORMATION FORM AT THE TIME OF THE FINAL BID OR THE PROPERTY WILL BE IMMEDIATELY RESOLD. CASHIER'S CHECK ONLY IS ACCEPTED AT TIME OF FINAL BID.

ALL TERMS OF SALE SHALL BE 30 CALENDAR DAYS FROM THE DATE OF FILING OF THE CONFIRMATION OF SALE IN ACCORDANCE WITH LAW.

PURCHASER INFORMATION AT TIME OF SALE

2329.271

The purchaser shall submit to the selling officer:

If purchaser is an individual the information shall include:

Name

Mailing Address (**which shall not be a post office box**)

Telephone number

Email address

Financial transaction device information of the purchaser (**see ORC 301.28**)

If purchaser is an legal entity the information shall include:

The entity's legal name

Trade name **(if different)**

State and date of formation

Active status with the office of the Secretary of State

Mailing address

Telephone number

Financial transaction device information **(see ORC 301.28)**

Name of an individual contact person for the entity

Contact person's title

Mailing address **(which shall not be a post office box)**

Email address

Telephone number

If an attorney or law firm that represents a purchaser may submit the information required for the individual (since they represent either an individual or entity). If purchaser is buying residential rental property and it is purchased by a trust, business trust, estate, partnership, limited partnership, limited liability company, association, corporation or any other business entity:

Name

Address

Telephone number **(purchaser must be readily accessible through the contact person, and located in the State of Ohio)**

A statement indicating whether the purchaser will occupy the lands and tenements. All purchaser information will be submitted to the Clerk of the Court and also be maintained by the Sheriff's office record of proceedings. **The information is public record except (in 2329.271 (B) (2)) for email address, telephone number and financial transaction device information which are all confidential.**

****Registration will contain a statement that the information is true and correct under penalties of perjury****

WHEN FILING A PRAECIPE ORDER OF SALE, PLAINTIFFS MUST STILL PROVIDE A COPY OF THE PROPERTY'S LEGAL DESCRIPTION SUMMARY OBTAINED FROM THE AUDITOR'S WEBSITE WITH THE PAPERWORK.

Full legal descriptions must accompany the praecipe and include the County Engineer's approval if necessary. Once the legal description has been approved, "red" file stamped and returned along with the Property Description Approval Form, the certified copies should be attached to the Order of Sale, advertising notices, etc. Since title searches are a part of the foreclosure process, this added step is the most efficient way of preventing the problems that arise from incorrect legal descriptions.

If a legal description submitted to the Engineer by the Sheriff's Office is rejected, the Sheriff's Office will return the Order of Sale to the Clerk of Courts citing a rejected legal description as the reason for its return. The Sheriff's Office must adhere to the timeline outlined in the law. A rejected legal description discovered at the time a deed is ready to record, will compromise the Sheriff's ability to be compliant with the new law.

WITHDRAWALS will not be accepted once the auction begins. Only **Bankruptcies** will be accepted for withdrawal during the sale.

ADVERTISEMENTS

Any sales in pursuant to **2329.20** of the Revised Code shall state that the purchaser shall be responsible for those costs, allowances, and taxes that the proceeds of the sale are insufficient to cover.

Any sales in pursuant to **2329.52(B)** when a residential property is ordered to be sold pursuant to a residential mortgage loan foreclosure action, and the sale will be held at a physical location and if the property remains unsold after the first auction, then a second auction shall be held and the property shall be sold to the highest bidder without regard to the minimum bid requirement in section 2329.20 of the Revised code except as relates to costs, allowances, and real estate taxes see ORC 2329.21. This second auction shall be held not earlier than seven days and not later than thirty days after the first auction. A residential property that remains unsold after two auctions may be subsequently offered for sale without regard to the minimum bid requirement in section 2329.20 or disposed of in any other manner pursuant to this chapter or any other provision of the Revised Code.

In an effort to eliminate unnecessary advertising costs, ads will run for **THREE** weeks, beginning **FIVE** weeks prior to the sale. This will allow time to make corrections, when necessary, without the need to withdraw the property from sale. Keep in mind, if an error is discovered, that originated on the Praecipe or the legal description provided to the Sheriff, an Amended Praecipe must be received by the Sheriff no later than **FOUR** working days prior to the ads **THIRD** week running to insure the ad runs correctly for three weeks as required by law. If the error stems from information provided on the order of sale, no Amended Praecipe is required, however, the Sheriff must be advised of the error no later than **FOUR** working days prior to the ads **Third** week running in order to have the corrected ad running for the full three weeks.

As stated previously, **the new deposit requirements are:** If the appraised value of the property is less than or equal to \$10,000.00 Deposit is \$ 2,000.00

If the appraised value of the property is greater than \$10,000.00 but less than or equal to \$200,000.00 the deposit shall be \$5,000.00

If the appraised value of the property is greater than \$200,000.00 the deposit shall be \$10,000.00 will be required from all third party purchasers. This deposit requirement will be a part of the ad as well as the payment requirement of 30 calendar days from the date of filing of the confirmation. Reference to the conveyance/recording fees to be paid may also be included in the ad.

THE SHERIFF'S AUCTION

The Officer conducting the Sheriff's Sale will read the parcel numbers, and a summary description of the property in addition to the addresses of the properties offered for sale. In the event there is no address, then the street name, the side of the street (north, south, east or west) and two intersecting streets will be read.

ALL Third Party Purchasers interested in purchasing will be required to deposit funds as listed above. Only **Cashier's checks only** will be accepted from Third Party Purchasers. Cashiers Checks will be accepted from Third Party Purchasers when made payable as follows:

Payable to: **The Franklin County Sheriff**

Payable to: List **your name** as the payee. Example: **John Doe (Please note: Purchaser must be physically present to endorse the check at the sale.)**
This allows you the deposit the check back into your account if you are NOT the successful bidder.

Payable to: List **your name** or The Franklin County Sheriff
Example: Payable to: **John Doe or The Franklin County Sheriff**
This allows you to send someone to bid for you without the need for an endorsement. If you are the successful bidder, it requires no endorsement. If you are NOT the successful bidder, the check can be easily deposited back into your account.

All purchasers at the sale, **including plaintiffs**, will also be required to have a completed **Real Estate Judicial Sale Purchaser Information Form** ready to deliver to the Officers conducting the sale. This form will be available on the FCSO website (www.sheriff.franklincountyohio.gov) for printing. **2329.271** requires that this information is to be made a part of the court record. Since this form will become a part of the Common Pleas Court Case File, care should be taken to insure the form is prepared legibly and completely. The FCSO will attach the completed **Real Estate Judicial Sale Purchaser Information Form** to the Sheriff Return on Order of Sale and file with the Common Pleas Clerk of Courts after the sale. **Due to the volume of sales in Franklin**

County, the importance of having these forms completed prior to sale and ready to be handed over to the Officers conducting the sale, at the time of sale, cannot be stressed enough.

Since the vast majority of the properties are purchased back by the Plaintiffs, the cooperation and preparedness of the law firm representatives will greatly impact the efficiency of the Sheriff's Auction. Verifying that the necessary paperwork is completed and checks are correctly issued prior to the auction will save everyone in attendance valuable time.

TIME LINE

Confirmation Must be filed within 30 days calendar days of sale date

Deed Prepared by the Plaintiff's Attorney 7 (calendar) days from confirmation

Payment Must be received within 30 calendar days from confirmation

Deed Recorded 14 business days from date of payment

A **two and a half month** process from the date of sale

CONFIRMATIONS

Since it is the **intent** of the legislation to have purchaser information a part of court record (2329.271B), if, after the sale, the property is to be conveyed to an entity other than the purchaser named at the sale, any assignments of bid should be accompanied by a **Real Estate Judicial Sale Purchaser Information Form** completed with the information that pertains to the new grantee.

Since the Sheriff's Real Estate Division is subject to audit, the Auditor's Conveyance Fee, the Recorder's Fee, the Deed Fee as well as the Sheriff's Fee for conveying and recording the deed should probably be indicated somewhere in the confirmation, if it is determined they should not be made a part of the actual distribution of proceeds.

As in the past, distributions to the Plaintiff's should be indicated in **credit** terms. When our records are audited, this clarifies those monies were not paid into the Sheriff for distribution.

In order to prevent a duplication of effort and aid in tracking, the Sheriff Office will only accept a confirmation upon delivery of the deed.

DEEDS

Preparation of the deeds will be done by the Plaintiff's counsel and must be delivered to the Sheriff's Office within **7 calendar days** of the filing of the confirmation. **Deeds should be prepared on the approved short form deed as provided on this website with the complete legal description attached. Please note: The spacing below the Sheriff's signature line on the**

deed has been determined to allow room for adding additional signature lines during the absence of Sheriff Scott for the temporarily appointed Acting Sheriff's signature. Adopting this short form deed saves on recording costs.

A stamped self addressed envelope with the case number indicated on the lower left hand corner of the envelope **MUST** accompany the deed for plaintiff purchases when delivered to the Sheriff. The deed will be returned by the Recorder in this envelope. A clerk stamped copy of the confirmation should also be included.

PAYMENT

Payment for all properties must be made within 30 calendar days from confirmation. **When payment is submitted, the case number, sale date and defendant name must be provided.** The Sheriff will accept law firm checks, cashier's checks and title company checks. Third Party Purchasers may remit payment in the form of a Cashier's Check and Title Company Check. All checks should be made payable to the Franklin County Sheriff.

CALCULATING CONVEYANCE FEES

A COMPLETED AND SIGNED CONVEYANCE FORM SHOULD ACCOMPANY ALL PAYMENTS.

Conveyance forms will be available at the sale to accommodate Third Party Purchasers. Completion of this form will require the calculation of actual conveyance fees. **ALTHOUGH THE FRANKLIN COUNTY SHERIFF HAS ESTABLISHED A \$75.00 FEE FOR CONVEYING AND RECORDING EACH DEED, THIS FEE IS NOT INCLUDED ON THE CONVEYANCE FORM.** The following is the formula to be used in the calculation of these fees:

Actual Purchase Price X .001, the product rounded up where applicable. Multiply the result X 2 and add .50 (Fifty cents) for each parcel number. See examples.

Purchase price of \$56,565.00 X .001 = \$56.57 \$56.60 X 2 = \$113.20 \$113.20 + .50 (if one parcel)= **\$113.70**

Purchase price of \$87,631.27 X .001 = \$87.64 \$87.70 X 2= \$175.40 \$175.40 + .50 (if one parcel)=**\$175.90**

Purchase price of \$100,000.00 X .001 = \$100.00 \$100.00 X 2 = \$200.00 \$200.00 + \$1.00(if two parcels)= **\$201.00**

Or go to www.franklincountyauditor.com to the bottom of the page click on Transfer Tax & Conveyance Fee Calculator.

Third Party Purchasers should also include a stamped self addressed envelope with the case number indicated on the lower left hand corner of the envelope when payment is delivered to the Sheriff. Third Party Purchasers will be notified by telephone of the exact amount required.

WRITS OF POSSESSION

Writs of Possession will not be posted until the deeds have been recorded.