

FRANKLIN COUNTY SHERIFF'S OFFICE

FORECLOSURE PROCEDURES DUE TO HOUSE BILL 138

Any **Praeipce Order of Sale** filed after **September 11, 2008** will be subject to the following procedures and policies adopted by the Franklin County Sheriff's Office in order to most effectively and efficiently meet the requirements outlined in House Bill 138.

Any order of sales filed **PRIOR** to this date will be processed according to current procedures. The Franklin County Sheriff will **NOT** record any deeds resulting from an Order of Sale filed prior to September 11, 2008. A joint effort toward the timely completion of the foreclosures ordered sold prior to September 11, 2008, will avoid unnecessary confusion to both the law firms and the Sheriff's Office.

Primarily due to requirements of House Bill 138, the following changes in the Sheriff's Policies and Procedures Foreclosure Sales will be implemented. These guidelines may need to be changed or additional ones developed as the need arises.

PLEASE NOTE:

A STANDARD DEPOSIT AMOUNT OF 10% OF THE APPRAISED VALUE HAS BEEN ESTABLISHED BY THE SHERIFF FOR THIRD PARTY PURCHASES.

PLAINTIFFS AND OTHER PARTIES TO THE ACTION WILL ALSO BE REQUIRED TO PLACE DEPOSITS AT THE SALE . (The Sheriff's Office has devised a chart based on appraised property values so checks can be prepared ahead of time. At this time, exact fees will not be calculated at the sale.)

The Sheriff's Office will have the following language inserted in the property advertisements to insure public notification of this new requirement: **"2327.02(C) requires successful bidders pay recording and conveyance fees to the Sheriff at the time of sale."**

ALL 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. Only law firm checks or cashier's checks will be accepted from Plaintiff's counsel. Third Party Purchases must have a cashier's check or cash .

ALL TERMS OF SALE WILL NOW BE 30 CALENDAR DAYS FROM THE DATE OF FILING OF THE CONFIRMATION IN COMPLIANCE WITH THE NEW LEGISLATION.

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

The BSSA Civil Process Committee recommends adopting the Property Description Approval Form statewide to help eliminate errors with legal descriptions. The Sheriff of Franklin County would like to adopt this form in Franklin County. 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 without a duplication of effort.

Since September 11, 2008, the Sheriff's Real Estate Staff has been working with the Franklin County Engineer's Office to obtain approvals on the meets and bounds legal descriptions corresponding with the praecipies received by our office. When the law firms are contacted in an attempt to resolve problems with legal descriptions rejected by the Engineer's Office, the issues are then referred to title searchers. Resolving these issues has proven difficult at best. **Therefore, in the future, if a legal description submitted to the engineers 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 HB 138. A rejected legal description discovered at the time a deed is ready to record, could very easily compromise the Sheriff's ability to be compliant with the new law.

WITHDRAWALS will no longer be accepted once the auction begins. Only **Bankruptcies** will be accepted during the sale.

ADVERTISEMENTS

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 Praeceptum 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, a standard deposit of 10% of the appraised value will now 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 deposit 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 will be required to deposit funds equal to 10% of the appraised value of the property they are interested in purchasing. Only **Cashier's checks** or **Cash** 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 to 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.

Plaintiffs, defendants and other parties to the action will also be required to put a deposit down at the sale. This deposit must be able to support the cost of conveyance and recording. In order to afford plaintiffs to come prepared with a check for deposit at the time of the sale, the FCSO has developed a scale based on the **Appraised Value** of the properties. Plaintiff deposit checks should be made payable to the **FRANKLIN COUNTY SHERIFF**. The FCSO will accept law firm checks or cashier's checks for plaintiff purchases. Any excess funds will be refunded and shortages must be paid in accordance with HB138 guidelines. **SINCE THE LEGISLATION REQUIRES CONVEYANCE AND RECORDING COSTS ARE TO BE PAID AT THE TIME OF SALE, FAILURE TO HAVE A CONVEYANCE DEPOSIT CHECK READY TO BE RECEIPTED AT THE TIME OF THE FINAL BID OF A PROPERTY, WILL RESULT IN THE PROPERTY BEING IMMEDIATELY RESOLD.**

APPRAISED VALUE RANGE	DEPOSIT AMOUNT
\$50,000 or less	\$ 250.00
\$50,001 to \$100,000	\$ 350.00
\$100,001 to \$150,000	\$ 450.00
\$150,001 to \$200,000	\$ 550.00
\$200,001 to \$250,000	\$ 650.00
\$250,001 to \$300,000	\$ 750.00
\$300,001 to \$350,000	\$ 850.00
\$350,001 to \$400,000	\$ 950.00
\$400,001 to \$450,000	\$1,050.00
\$450,001 to \$500,000	\$1,150.00
\$500,001 or more	.0025 per cent of appraised value

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. (See attached.) This form will be available on the FCSO website (www.sheriff.franklincountyohio.gov) for printing. HB 138 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 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 new 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. Cash in exact amounts only. Third Party Purchasers may remit payment in the form of a Cashier's Check, Title Company Check or exact Cash. 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**

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.