
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2141 Session of
2024

INTRODUCED BY McANDREW, MADDEN, SANCHEZ, HILL-EVANS, CEPEDA-FREYTIZ, D. WILLIAMS, GREEN, DELLOSO, STEELE, GIRAL AND KHAN, MARCH 20, 2024

REFERRED TO COMMITTEE ON COMMERCE, MARCH 20, 2024

AN ACT

1 Amending Title 68 (Real and Personal Property) of the
2 Pennsylvania Consolidated Statutes, in real estate
3 foreclosure, further providing for definitions, for effect of
4 certification of vacancy and abandonment and for
5 applicability and providing for private selling officer sales
6 and for conduct of online sheriff sales.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Section 2303 of Title 68 of the Pennsylvania
10 Consolidated Statutes is amended by adding a definition to read:
11 § 2303. Definitions.

12 The following words and phrases when used in this chapter
13 shall have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 * * *

16 "Affiliate." A person that, directly or indirectly through
17 one or more intermediaries, controls, is controlled by or is
18 under common control with a specified judgment creditor or
19 mortgage servicer.

1 * * *

2 Section 2. Sections 2306(c) heading and (1) and 2312 of
3 Title 68 are amended to read:

4 § 2306. Effect of certification of vacancy and abandonment.

5 * * *

6 (c) Scheduling of [sheriff's] foreclosure sale.--

7 (1) If a mortgaged property is certified as vacant and
8 abandoned, upon the request of a creditor or purchaser, the
9 sheriff or private selling officer, on receipt of an
10 accelerated sale fee of \$500, shall schedule a sale of the
11 mortgaged property to be conducted no later than 60 days
12 following the filing of the writ of execution and the
13 sheriff's deed must be recorded no later than 30 days
14 following the sale. A private selling officer sale shall be
15 conducted in accordance with Subchapter C (relating to
16 private selling officer sales).

17 * * *

18 § 2312. Applicability.

19 This subchapter shall apply to the extent provided under
20 sections 2310 (relating to sheriff's commission) [and], 2311
21 (relating to limitation on creditor's attorney fees), 2318
22 (relating to private selling officer commission) and 2322
23 (relating to conduct of online sheriff sales) and shall not be
24 limited to mortgaged properties certified as vacant and
25 abandoned under Subchapter A (relating to vacant and abandoned
26 property).

27 Section 3. Chapter 23 of Title 68 is amended by adding
28 subchapters to read:

29 SUBCHAPTER C
30 PRIVATE SELLING OFFICER SALES

1 Sec.
2 2313. Definitions.
3 2314. Private selling officer appointment.
4 2315. Conduct of sale.
5 2316. Registration to bid on property sale.
6 2317. Duties of purchaser.
7 2318. Private selling officer commission.
8 § 2313. Definitions.

9 The following words and phrases when used in this subchapter
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Bidder." A person that participates in a sale of mortgaged
13 property at a public sale conducted under a foreclosure or
14 similar action by placing a bid through a private selling
15 officer.

16 "Private selling officer." As follows:

17 (1) A person or entity licensed in this Commonwealth as
18 both an auctioneer in accordance with the act of December 22,
19 1983 (P.L.327, No.85), known as the Auctioneer Licensing and
20 Trading Assistant Registration Act, and as a real estate
21 broker, brokerage or salesperson in accordance with the act
22 of February 19, 1980 (P.L.15, No.9), known as the Real Estate
23 Licensing and Registration Act.

24 (2) The term does not include an affiliate or subsidiary
25 of the plaintiff, mortgage lender or mortgage servicer.

26 "Purchaser." Any of the following:

27 (1) A person that acquires equitable title to a
28 mortgaged property at a public sale conducted under a
29 foreclosure or similar action and has paid settlement funds
30 and delivered required documentation to:

1 (i) the private selling officer to obtain a deed;
2 (ii) the owner of a property under a recorded deed
3 to the property; or
4 (iii) the person's designee.

5 (2) The owner of a mortgaged property under a recorded
6 deed to the mortgaged property.

7 (3) A person that takes title to a mortgaged property
8 under a deed in lieu of foreclosure.

9 "Sale." A public foreclosure auction of a mortgaged premises
10 under this chapter, whether online or in person.

11 "SOC2 report." A report generated from an audit conducted by
12 an authorized certified public accountant organization that
13 evaluates an information system relevant to security,
14 availability, processing integrity, confidentiality and privacy
15 in regards to common controls specified in Statement on
16 Standards for Attestation Engagements No. 18 as produced and
17 published by the American Institute of Certified Public
18 Accountants Auditing Standards Board.

19 § 2314. Private selling officer appointment.

20 (a) Praecipe to be filed.--A creditor or a party with a
21 financial interest in the mortgaged premises may file a praecipe
22 with the court for an order authorizing a specified private
23 selling officer to conduct the sale of a mortgaged premises
24 under this chapter. The appointment of a private selling officer
25 shall be available for all sales and not limited to vacant or
26 abandoned property. The praecipe appointing the private selling
27 officer shall include the name, address and email address of the
28 private selling officer to be appointed.

29 (b) Denial of appointment.--The court may not deny the use
30 of the private selling officer specified within the praecipe

1 without good and reasonable cause.

2 (c) Responsibility of sheriff.--Other than conducting the
3 sale, the sheriff shall remain responsible for all other
4 administrative requirements associated with the foreclosure sale
5 and shall be entitled to commissions under section 2310
6 (relating to sheriff's commission). The private selling officer
7 and the sheriff shall cooperate as necessary to complete the
8 responsibilities under this subchapter.

9 § 2315. Conduct of sale.

10 A private selling officer authorized to conduct a foreclosure
11 sale of real estate may do so in accordance with the following
12 provisions and requirements:

13 (1) The private selling officer shall conduct the sale
14 of the real estate and, upon agreement of the sheriff and
15 private selling officer, shall further assist the sheriff
16 with administrative matters as necessary to effectuate the
17 sale.

18 (2) The private selling officer may conduct the sale of
19 the real estate online, at a physical location in the county
20 as permitted by law, or both, at the discretion of the
21 private selling officer. The praecipe for appointment of the
22 private selling officer must state the manner in which the
23 sale will be conducted.

24 (3) The private selling officer must take reasonable
25 steps to market the public auction of the real estate, in
26 addition to the advertising conducted by the sheriff as
27 prescribed by Pa.R.C.P. No. 3129.2(d) (relating to notice of
28 sale, handbills, written notice and publication). If the
29 auction occurs online, the auction shall be open for
30 competitive bidding for a minimum of two hours.

1 (4) An officer, employee or independent contractor of
2 the private selling officer shall be prohibited from
3 participating in the sale as a purchaser, provided, however,
4 that the private selling officer may enter bids on behalf of
5 a bidder.

6 (5) A creditor that obtains an appointment of a
7 specified private selling officer to sell the real estate at
8 a public auction under this section may instruct the private
9 selling officer to stay, continue, postpone or adjourn the
10 sale of the real estate one or more times, provided, however,
11 that all rescheduled sale dates must occur within 130 days of
12 the initial sale date as provided in Pa.R.C.P. No. 3129.3
13 (relating to postponement of sale, new notice, failure of
14 plaintiff to attend sale).

15 (6) Upon receiving the instruction, the private selling
16 officer shall stay, continue, postpone or adjourn the sale of
17 the real estate by making a public announcement. If the sale
18 is at a physical location, the public announcement shall be
19 made at the sale and include the date, time and place of the
20 rescheduled sale of the real estate. If the sale is online,
21 the public announcement shall be made on the auction website
22 and include the date of the rescheduled sale of real estate.
23 Each public announcement shall be deemed to meet the
24 requirements in Pa.R.C.P. No. 3129.3.

25 (7) If the sale of the real estate is stayed, continued,
26 postponed or adjourned as described in paragraph (5), all
27 prior bids made on the real estate shall be void.

28 (8) If the auction occurs online, the following shall
29 apply:

30 (i) The private selling officer shall provide a

1 method by which a bidder may receive feedback during the
2 bidding process to indicate where the bidder's current
3 bid is in relation to the highest bid.

4 (ii) All bidders who register to participate in the
5 online sale must have their identity verified through an
6 ID verification process.

7 (iii) Notwithstanding any other provision of law to
8 the contrary, the private selling officer may not charge
9 a fee for members of the public to view properties for
10 sale online or to place a bid on a property for sale
11 online. The private selling officer, in its discretion,
12 may require the deposit as provided in section 2317(c)(1)
13 (relating to duties of purchaser) to be paid prior to
14 bidding on a property.

15 (9) All bid information and participant financial data
16 is deemed property of the private selling officer.

17 (10) A private selling officer that sells real estate
18 under this chapter that is advertised under Pa.R.C.P. No.
19 3129.2 may advertise a subsequent sale by a method that the
20 private selling officer finds suitable, which may include
21 online advertisement instead of print. The advertisement of a
22 subsequent sale shall be deemed to meet the notice
23 requirement in Pa.R.C.P. No. 3129.2.

24 (11) Notwithstanding any other provision of law to the
25 contrary, no fee, including a buyer's premium, may be charged
26 to a purchaser at the sale of real estate in addition to the
27 winning bid amount.

28 (12) An online platform utilized by the private selling
29 officer to conduct a sale online shall maintain satisfactory
30 internal controls and shall obtain an annual SOC2 report or

1 equivalent in line with industry standards to ensure that the
2 platform meets certain performance and security requirements,
3 with the ability to test and report on the design
4 effectiveness (Type I) and operating effectiveness (Type II)
5 of the platform's controls. Upon the request of the court,
6 evidence of satisfactory internal controls specified in this
7 section shall be provided.

8 § 2316. Registration to bid on property sale.

9 (a) Registration form.--A private selling officer may
10 require persons seeking to bid to complete a registration form
11 that includes information relevant to the objective of enabling
12 the private selling officer to identify the bidder, contact the
13 bidder and complete the sale of the property. If the property is
14 sold online, the private selling officer shall require persons
15 seeking to bid to register online with the website as a
16 condition of being authorized to bid.

17 (b) Attorneys.--If an attorney or a law firm that represents
18 the plaintiff or a party to the action bids on property in a
19 representative capacity, the attorney or law firm:

20 (1) may submit the bid directly to the private selling
21 officer to be bid during the auction; or

22 (2) may register as the representative of the plaintiff
23 or party, either as an individual or entity.

24 (c) Individuals.--If the person registering to bid is an
25 individual, the information required under subsection (a) shall
26 include the individual's name, email address, telephone number,
27 name of entity being represented, if applicable, and, if
28 applicable, additional information required for identity
29 verification in accordance with section 2315(6) (relating to
30 conduct of sale).

1 § 2317. Duties of purchaser.

2 (a) Submission of information to private selling officer.--

3 The purchaser of lands and tenements taken in execution shall
4 submit to the private selling officer who makes the sale the
5 following information:

6 (1) If the purchaser is an individual, the individual's
7 name, address, which may not be a post office box, email
8 address and other information requested by the private
9 selling officer in order to comply with section 2316
10 (relating to registration to bid on property sale).

11 (2) If the purchaser is an entity, the entity's legal
12 name, trade name if different from its legal name, state and
13 date of formation, mailing address, the name of an individual
14 contact person for the entity and an email address and
15 telephone number for that individual.

16 (b) Attorneys.--An attorney or a law firm that represents a
17 purchaser may submit the information required under subsection
18 (a)(1) in a representative capacity, either as an individual or
19 entity.

20 (c) Deposit.--

21 (1) The purchaser at the sale shall pay a 20% deposit
22 immediately upon the conclusion of the sale or within the
23 time period designated in writing by the private selling
24 officer, whichever is longer, in the event that the deposit
25 was not required prior to bidding. The form of the receipt of
26 funds is at the discretion of the private selling officer
27 conducting the sale. The remaining balance shall be due to
28 the private selling officer within a reasonable time period
29 imposed by the private selling officer, which time period may
30 not exceed 30 days.

1 (2) If the purchaser fails to pay the required deposit,
2 the purchaser shall be in default and the private selling
3 officer shall immediately void the sale and proceed further
4 with the resale of the premises without the necessity of
5 adjourning the sale, without renotification of other parties
6 to the foreclosure and without the republication of sales
7 notice. Upon resale, the defaulting bidder shall be liable to
8 the creditor for any additional costs incurred by the default
9 including any difference between the amount bid by the
10 defaulting bidder and the amount generated for the creditor
11 at the resale.

12 (d) Penalty.--

13 (1) The court, upon notice and motion of the private
14 selling officer who makes the sale or of an interested party,
15 may impose a penalty on the purchaser of lands and tenements
16 who fails to pay within 30 days of the confirmation of the
17 sale the balance due on the purchase price of the lands and
18 tenements by:

19 (i) forfeiting the sale of the lands and tenements
20 and returning any deposit paid in connection with the
21 sale of the lands and tenements;

22 (ii) forfeiting any deposit paid in connection with
23 the sale of the lands and tenements, as for contempt; or

24 (iii) such other manner as the court considers
25 appropriate.

26 (2) Upon motion, the court may order the return of any
27 remaining portion of the deposit of the purchaser, less the
28 costs of a subsequent sale and any other remedy the court
29 considers appropriate.

30 (3) An order for contempt for failure of the purchaser

1 to pay voids the confirmation of sale and transfer.

2 § 2318. Private selling officer commission.

3 (a) Amount permitted.--The fee charged by the private
4 selling officer and all costs incurred by the private selling
5 officer shall be assessed as costs in the case not to exceed
6 \$500. To the extent the fees and costs described in this section
7 exceed \$500, the excess amount may not be included in the
8 calculation of any deficiency judgment, but rather may be paid
9 by the creditor or from the creditor's portion of the proceeds
10 of the sale, if approved by the creditor.

11 (b) Itemized report of expenses.--The private selling
12 officer shall provide to the sheriff, and the sheriff shall file
13 with the court that issued the order of sale, an itemized report
14 of all expenses of a sale conducted under this subchapter and
15 all fees charged by the private selling officer which shall be
16 assessed as costs in the case, including for marketing the real
17 estate or conducting the sale of the real estate.

18 (c) Prothonotary and recorder fees.--The purchaser shall pay
19 fees of the recorder chargeable by the prothonotary or the
20 recorder relating to consummation of real estate executions,
21 including, but not limited to, the recording of the deed to the
22 recorder of the county in which the property is situated.

23 § 2319. Exemption from taxation.

24 Sales conducted online under this subchapter do not
25 constitute a canned software and are exempt from the imposition
26 of a sales and use tax under section 202(a) of the act of March
27 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

28 SUBCHAPTER D

29 CONDUCT OF ONLINE SHERIFF SALES

30 Sec.

1 2321. Definitions.

2 2322. Conduct of online sheriff sales.

3 2323. Registration to bid on property sale.

4 2324. Duties of purchaser.

5 § 2321. Definitions.

6 The following words and phrases when used in this subchapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Bidder." A person that participates in a sale of mortgaged
10 property at a public sale conducted under a foreclosure or
11 similar action by placing a bid through the sheriff or private
12 selling officer.

13 "Online auction platform." As follows:

14 (1) An online auction website that meets the
15 requirements of this subchapter and is operated by a person
16 or entity licensed in this Commonwealth as both an auctioneer
17 in accordance with the act of December 22, 1983 (P.L.327,
18 No.85), known as the Auctioneer Licensing and Trading
19 Assistant Registration Act, and as a real estate broker,
20 brokerage or salesperson in accordance with Chapter 5 of the
21 act of February 19, 1980 (P.L.15, No.9), known as the Real
22 Estate Licensing and Registration Act.

23 (2) The term does not include an affiliate or subsidiary
24 of the plaintiff, mortgage lender or mortgage servicer.

25 "Purchaser." Any of the following:

26 (1) a person that acquires equitable title to a
27 mortgaged property at a public sale conducted under a
28 foreclosure or similar action and has paid settlement funds
29 and delivered required documentation to the private selling
30 officer to obtain a deed or the owner of a property under a

1 recorded deed to the property or the person's designee;

2 (2) the owner of a mortgaged property under a recorded
3 deed to the mortgaged property; or

4 (3) a person that takes title to a mortgaged property
5 under a deed in lieu of foreclosure.

6 "Sale." A public foreclosure auction of a mortgaged premises
7 under this chapter, whether online or in person.

8 § 2322. Conduct of online sheriff sales.

9 A sheriff authorized to conduct a foreclosure sale of real
10 estate online may do so, in accordance with the following
11 provisions and requirements:

12 (1) The sheriff may elect to conduct the sale of the
13 real estate online, at a physical location in the county as
14 permitted by law, or both, at the discretion of the sheriff.
15 The praecipe must state the manner in which the sale will be
16 conducted.

17 (2) The sheriff must conduct the online sale on a
18 qualifying online auction platform that is adequately
19 accessible and marketed to the public. The online auction
20 shall be open for competitive bidding for a minimum of two
21 hours.

22 (3) An officer, employee or independent contractor of
23 the online auction platform shall be prohibited from
24 participating in the sale as a purchaser.

25 (4) Upon adequate instruction, the sheriff may stay,
26 continue, postpone or adjourn the sale of the real estate one
27 or more times, provided, however, that all rescheduled sale
28 dates shall be within 130 days of the initial sale date as
29 provided in Pa.R.C.P. No. 3129.3 (relating to postponement of
30 sale, new notice, failure of plaintiff to attend sale).

1 (5) Upon receiving this instruction, the sheriff shall
2 stay, continue, postpone or adjourn the sale of the real
3 estate by making a public announcement. If the sale is at a
4 physical location, the announcement shall be made at the sale
5 and shall include the date, time and place of the rescheduled
6 sale of the real estate. If the sale is online, the
7 announcement shall be made on the online auction platform and
8 shall include the date of the rescheduled sale of real
9 estate. Each public announcement shall be deemed to meet the
10 requirements in Pa.R.C.P. No. 3129.3.

11 (6) If the sale of the real estate is stayed, continued,
12 postponed or adjourned as described in paragraph (4), all
13 prior bids made on the real estate shall be void.

14 (7) If the auction occurs online:

15 (i) The online auction platform utilized by the
16 sheriff shall provide a method by which a bidder receives
17 feedback during the bidding process to know where the
18 bidder's current bid is in relation to the highest bid.

19 (ii) All bidders who register to participate in the
20 online sale must have their identity verified through an
21 ID verification process through the online auction
22 platform.

23 (iii) Notwithstanding any other provision of law to
24 the contrary, neither the sheriff nor the online auction
25 platform may charge a fee for members of the public to
26 view properties for sale online or place a bid on a
27 property for sale online. The sheriff, in the sheriff's
28 discretion, may require the deposit as provided in
29 section 2324(c)(1) (relating to duties of purchaser) to
30 be paid prior to bidding on a property.

1 (8) A sheriff who sells real estate under this
2 subchapter that is advertised under Pa.R.C.P. No. 3129.2
3 (relating to notice of sale, handbills, written notice and
4 publication) may advertise a subsequent sale by a method the
5 sheriff finds suitable, which may include online
6 advertisement instead of print. The advertisement of a
7 subsequent sale shall be deemed to meet the notice
8 requirements in Pa.R.C.P. No. 3129.2.

9 (9) Notwithstanding any other provision of law to the
10 contrary, no fee, including a buyer's premium, may be charged
11 to a bidder or purchaser at the sale of real estate in
12 addition to the winning bid amount.

13 (10) A fee charged by the online auction platform on
14 file shall be assessed as costs in the case and shall be
15 reasonable. Fees less than or equal to \$500 shall be presumed
16 to be reasonable. Fees exceeding \$500 shall be paid only if
17 authorized by a court order.

18 (11) An online auction platform utilized to conduct a
19 sale online shall maintain satisfactory internal controls and
20 shall obtain an annual SOC2 report to ensure the platform
21 meets certain performance and security requirements, with the
22 ability to test and report on the design effectiveness (Type
23 I) and operating effectiveness (Type II) of the platform's
24 controls. Upon the request of the court, evidence of
25 satisfactory internal controls specified in this section
26 shall be provided.

27 § 2323. Registration to bid on property sale.

28 (a) Registration form.--The sheriff may require a
29 registration form that shall include information relevant to the
30 objective of enabling the sheriff to identify the bidder,

1 contact the bidder and complete the sale of the property. If
2 property is sold online, the sheriff shall require persons
3 seeking to bid to register online through the online auction
4 platform as a condition of being authorized to bid.

5 (b) Attorneys.--If an attorney or a law firm that represents
6 the plaintiff or a party to the action bids on property in a
7 representative capacity, the attorney or law firm:

8 (1) may submit the bid directly to the sheriff to be bid
9 during the auction; or

10 (2) may register as the representative of the plaintiff
11 or party, either as an individual or entity.

12 (c) Individuals.--If the person registering to bid is an
13 individual, the information required under subsection (a) shall
14 include the individual's name, email address, telephone number,
15 name of entity being represented, if applicable, and, if
16 applicable, additional information required for identity
17 verification in accordance with this subchapter.

18 § 2324. Duties of purchaser.

19 (a) Submission of information to sheriff.--The purchaser at
20 sale shall submit to the sheriff who makes the sale the
21 following information:

22 (1) If the purchaser is an individual, the information
23 shall include the individual's name, address, which may not
24 be a post office box, email address and other information
25 requested by the sheriff in order to comply with section 2323
26 (relating to registration to bid on property sale).

27 (2) If the purchaser is an entity, the information shall
28 include the entity's legal name, trade name, if different
29 from its legal name, state and date of formation, mailing
30 address, the name of an individual contact person for the

1 entity and an email address and telephone number for that
2 individual.

3 (b) Attorneys.--An attorney or a law firm that represents a
4 purchaser may submit the information required under subsection
5 (a)(1) in a representative capacity, either as an individual or
6 entity.

7 (c) Deposit.--

8 (1) The purchaser at the sale shall pay a 20% deposit
9 immediately upon the conclusion of the sale or within the
10 time period designated in writing by the sheriff, whichever
11 is longer, in the event that the deposit was not required
12 prior to bidding. The form of the receipt of funds is at the
13 discretion of the sheriff conducting the sale. The remaining
14 balance shall be due to the sheriff within a reasonable time
15 period imposed by the sheriff, which time period may not
16 exceed 30 days.

17 (2) If the purchaser fails to pay the required deposit,
18 the purchaser shall be in default and the sheriff shall
19 immediately void the sale and proceed further with the resale
20 of the premises without the necessity of adjourning the sale,
21 without renotification of other parties to the foreclosure
22 and without the republication of sales notice. Upon resale,
23 the defaulting bidder shall be liable to the creditor for any
24 additional costs incurred by the default, including any
25 difference between the amount bid by the defaulting bidder
26 and the amount generated for the creditor at the resale.

27 (d) Penalty.--

28 (1) The court, upon notice and motion of the sheriff who
29 makes the sale or of an interested party, may impose a
30 penalty on the purchaser of lands and tenements who fails to

1 pay within 30 days of the confirmation of the sale the
2 balance due on the purchase price of the lands and tenements
3 by:

4 (i) forfeiting the sale of the lands and tenements
5 and returning any deposit paid in connection with the
6 sale of the lands and tenements;

7 (ii) forfeiting any deposit paid in connection with
8 the sale of the lands and tenements, as for contempt; or

9 (iii) such other manner the court considers
10 appropriate.

11 (2) Upon motion, the court may order the return of any
12 remaining portion of the deposit of the purchaser, less the
13 costs of a subsequent sale and any other remedy the court
14 considers appropriate.

15 (3) An order for contempt for failure of the purchaser
16 to pay voids the confirmation of sale and transfer.

17 Section 4. This act shall take effect in 60 days.