

RULE 4:65. Sales Of Property; In General

4:65-1. Compensation

A sheriff, receiver or other person, ordered to sell real or personal estate in any action, shall be allowed the same fees which are allowed by law to a sheriff on sale by execution.

Note: Source-R.R. 4:83-1.

4:65-2. Notice of Sale; Posting and Mailing

If real or personal property is authorized by court order or writ of execution to be sold at public sale, notice of the sale shall be posted in the office of the sheriff of the county or counties where the property is located, and also, in the case of real property, on the premises to be sold, but need not be posted in any other place. If the premises are residential, the notice of sale shall have annexed thereto, in bold type of at least 14-point, the notice of tenants' rights during foreclosure in the form prescribed by Appendix XII-K of the rules of court. The party who obtained the order or writ shall, at least 10 days prior to the date set for sale, serve a notice of sale by registered or certified mail, return receipt requested, upon (1) every party who has appeared in the action giving rise to the order or writ and (2) the owner of record of the property as of the date of commencement of the action whether or not appearing in the action, and (3) except in mortgage foreclosure actions, every other person having an ownership or lien interest that is to be divested by the sale and is recorded in the office of the Superior Court Clerk, the United States District Court Clerk or the county recording officer, and in the case of personal property, recorded or filed in pertinent public records of security interests, provided, however, that the name and address of the person in interest is reasonably ascertainable from the public record in which the interest is noted. The notice of sale shall include notice that there may be surplus money and the procedure for claiming it. The party obtaining the order or writ may also file the notice of sale with the county recording officer in the county in which the real estate is situate, pursuant to N.J.S.A. 46:26A-11 , and such filing shall have the effect of the notice of settlement as therein provided.

Note: Source — R.R. 4:83-2; caption and rule amended July 13, 1994 to be effective September 1, 1994; amended July 3, 1995, to be effective immediately; amended July 9, 2008 to be effective September 1, 2008; amended July 23, 2010 to be effective September 1, 2010; amended July 19, 2012 to be amended September 4, 2012.

4:65-3. Advertisement of Diagram or Statement in Lieu

If real estate is to be sold at public sale, the sheriff, receiver or other person shall publish with the notice of the sale the actual description or a diagram of the premises or a concise statement indicating the municipality in which, and the street or road on which the premises are located, and specifying the tax lot and block, the number of feet to the nearest cross street, the dimensions of the premises, and the street number, if any. If the notice does not contain the full legal description, it shall state that the diagram or concise statement does not constitute a full description and shall also state where the full legal description can be found. An immaterial error in the diagram or statement shall not constitute ground for relieving the purchaser and ordering a new sale.

Note: Source-R.R. 4:83-3; amended June 29, 1990 to be effective September 4, 1990.

4:65-4. Place of Public Sale; Adjournments

Unless the court otherwise orders, all public sales in any action shall be held at the place where the sheriff usually makes such sales, or at the premises to be sold. The sheriff, receiver or other

person may continue such sale by public adjournment, subject to such limitations and restrictions as are provided specially therefor.

Note: Source-R.R. 4:83-4.

4:65-5. Sheriff's Sale; Objections

A sheriff who is authorized or ordered to sell real estate shall deliver a good and sufficient conveyance in pursuance of the sale unless a motion for the hearing of an objection to the sale is served within 10 days after the sale or at any time thereafter before the delivery of the conveyance. Notice of the motion shall be given to all persons in interest, and the motion shall be made returnable not later than 20 days after the sale, unless the court otherwise orders. On the motion, the court may summarily dispose of the objection; and if it approves the sale and is satisfied that the real estate was sold at its highest and best price at the time of the sale, it may confirm the sale as valid and effectual and direct the sheriff to deliver a conveyance as aforesaid.

Note: Source-R.R. 4:83-5; amended July 13, 1994 to be effective September 1, 1994.

4:65-6. Report and Confirmation of Sales

- **(a) Report of Sales.** A sheriff, receiver, guardian, or a personal representative of decedent selling lands to pay debts or other person ordered to sell real estate shall file with the court a report of any sale made, verified by affidavit, stating the name of the purchaser and the price and terms of sale. If the sale was made by such guardian or personal representative, the report shall also state the names and addresses of all persons in interest. In case of a private sale, the report shall have annexed to it the affidavits of at least 2 persons, stating the fair market value of the property sold.
- **(b) Notice of Application for Confirmation.** Any person making the sale, other than a sheriff, shall apply for the court's confirmation of the sale on 10 days' notice, given personally or by ordinary mail to all persons in interest who reside in the State and 20 days' notice similarly given to all persons in interest who reside outside this State; but the court may by order dispense with notice or make any other provision with respect thereto.
- **(c) Objections to Confirmation; Order Confirming Sale.** Written objection to the confirmation of the sale and opposing affidavits shall be served upon the person making the sale not later than 3 days before the hearing unless the court permits service thereof at some other time. At the hearing the court may summarily dispose of the objection on affidavits. If the court approves the sale and is satisfied that the real estate was sold at its highest and best price at the time of the sale, it shall by order confirm the sale as valid and effectual and direct the person by whom it was made to deliver a good and sufficient conveyance in pursuance of the sale. If a private sale is submitted to the court for confirmation, the court may approve a better offer received after the tentative contract of sale.
- **(d) Sale by Fiduciary Under a Will Within One Year of Decedent's Death.** Where within one year after testator's death a fiduciary under the will sells real estate pursuant to a power of sale conferred either by the will or by N.J.S.A. 3B:14-23, the fiduciary shall have the power, but shall not be required, to report the sale to the court for approval.

Note: Source-R.R. 4:83-6, 4:83-7, 4:83-8. Paragraphs (a) and (d) amended July 22, 1983 to be effective September 12, 1983; paragraphs (a) and (d) amended July 13, 1994 to be effective September 1, 1994.