

2A:61-1

LEGISLATIVE HISTORY CHECKLIST

HJSA 2A:61-1 (Real estate - Public sale--Prescribe publication requirement)

LAWS OF 1979 CHAPTER 364

Bill No. A3624

Sponsor(s) Martin and others

Date Introduced Nov. 26, 1979

Committee: Assembly Municipal Government

Senate -----

Amended during passage Yes Amendments during passage denoted by asterisks

Date of Passage: Assembly Jan. 3, 1980

Senate Jan. 7, 1980

Date of approval Feb. 1, 1980

Following statements are attached if available:

Sponsor statement Yes Original bill not printed; see Assembly Committee statement for sponsor's statement

Committee Statement: Assembly Yes
Senate Yes No

Fiscal Note Yes No

Veto message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

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ASSEMBLY, No. 3624

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 26, 1979

By Assemblymen MARTIN, BURNS, BORNHEIMER, RAND, BURSTEIN, HURLEY, CHINNICI, D. GALLO, Assemblywoman CURRAN, Assemblymen KAVANAUGH, DOYLE, SCHWARTZ, DEVERIN, LESNIAK, BAER, VAN WAGNER, FLYNN and KARCHER

Referred to Committee on Municipal Government

AN ACT concerning sales of real estate under statutes or judicial proceedings, and amending N. J. S. 2A:61-1.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. N. J. S. 2A:61-1 is amended to read as follows:

2 2A:61-1. **[In all cases whatsoever where]** *When* any sheriff, cor-
3 oner, master, executor, administrator, guardian, commissioner, audi-
4 tor or other officer or person is authorized or required by any public
5 statute or the direction of any court of competent jurisdiction in
6 this State to make sales of real estate, he shall, unless otherwise
7 specially directed or authorized by law, before making **[such]**
8 *the sale*, give notice of the time and place of **[such]** *the sale* by
9 public advertisement, signed by himself, and set up in the office of
10 the sheriff of the county or counties where **[such]** *the real estate*
11 is **[situate]** *located* and at the premises to be sold ***[for]*** **,* at*
12 *least 3 weeks [next] before the time appointed for [such] the*
13 *sale. [Such] The notice need not be set up at any other place. The*
14 *notice of sale shall include either a diagram of the premises or a*
15 *concise statement indicating the municipality, *the tax lot and*
16 *block and where appropriate,* the street and street number, *[the*
17 *tax lot and block,]* and the dimensions of the premises, as well as*
18 *the number of feet to the nearest cross street. The notice of sale*
19 *shall state that the diagram or concise description does not consti-*
20 *tute a full legal description of the premises, and shall state where*
21 *the full legal description can be found.*

22 Such officer or person **[,]** shall also cause **[such]** *the notice to*
23 *be published 4 times, at least once a week, during 4 consecutive*
24 *weeks, in two newspapers, to be by him designated,*

EXPLANATION—Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

25 (a) both printed and published in the county [wherein] where
26 the real estate to be sold is [situate] located, one of which shall
27 be either a newspaper published at the county seat of [such] the
28 county or a newspaper published in the municipality in [such]
29 the county having the largest population according to the latest
30 census, or

31 (b) one printed and published in [such] the county and one cir-
32 culating in [such] the county, if only one daily newspaper is
33 printed and published in [such] the county, or

34 (c) one published at the county seat and one circulating in the
35 county, if no daily newspaper is published in [such] the county, or

36 (d) both circulating in [such] the county, if no newspapers are
37 printed and published in [such] the county.

38 The first publication shall be at least 21 days prior and the last
39 publication not more than 8 days prior to the time appointed for
40 the sale of [such] the real estate.

41 Whenever, in the opinion of any such officer or person, the ends
42 of justice shall require it, or the sale [so] being conducted by him
43 will be benefited thereby, the notice of [such] sale may be pub-
44 lished in three [of such] newspapers instead of two as required by
45 the second paragraph of this section, if there be that number
46 printed and published in the county [wherein] where the real
47 estate to be sold is [situate] located.

48 [Where real estate is to be sold at public sale, the court, on
49 motion made on notice, may order the sheriff or other officer to
50 publish with the notice of the sale, a diagram of the premises, in
51 lieu of the actual description.]

52 The officer or person so advertising in the newspapers shall be
53 entitled therefor, in addition to his other fees, to the sum of \$1.50,
54 except where it is otherwise specifically provided.

1 2. This act shall take effect 30 days following enactment.

ASSEMBLY MUNICIPAL GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3624

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 1979

For purposes of establishing legislative intent, the sponsor's statement reads as follows:

Whenever a statute or a court requires that real estate be sold at public sale, the official in charge publishes notice of the sale in two newspapers. According to practice, the notice includes a lengthy and costly legal description of the metes and bounds of the premises being sold. In most cases, this advertisement is the greatest expense associated with the sale, often costing from \$300.00 to \$400.00. Moreover, the advertisement duplicates information easily available elsewhere. The legal description can usually be obtained from the sheriff's office in the county where the premises are located.

The purpose of this bill is to lower the cost of publishing the notice of sale by requiring that a diagram of the premises or a concise statement indicating the municipality, the street and street number, the tax lot and block, the dimensions, and the number of feet to the nearest cross street of the premises be published instead of the legal description.

To avoid deception, the advertisement will explain that the concise description and the diagram do not constitute a legal description of the real estate, and it will state where the legal description can be found.

This bill will not only lower the cost of advertising, but also eliminate an unnecessary duplication of information.

The committee amendments are technical.

ASSEMBLY, No. 26

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 14, 1949

By Mr. KATES

Referred to Committee on Constitution Law Revision

AN ACT concerning sales of real estate under statutes or judicial proceedings and the disposition of the proceeds of such sales, in certain cases, and amending sections 2:75-1, 2:75-7, 2:75-8, 2:75-11 and 2:75-17, supplementing chapter seventy-five of Title 2 and repealing sections 2:29-84, 2:29-85 and 2:29-86 of the Revised Statutes.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Section 2:75-1 of the Revised Statutes is amended to read as follows:

2 2:75-1. In all cases whatsoever where any sheriff, coroner, master, ex-
3 ecutor, administrator, guardian, commissioner, auditor or other officer or
4 person is authorized or required by any public statute or the direction of
5 any court of competent jurisdiction in this State to make sales of real estate,
6 he shall, unless otherwise specially directed or authorized by law, before
7 making such sale, give notice of the time and place of such sale by public
8 advertisement, signed by himself, and set up in the office of the sheriff of
9 the county or counties where such real estate is situate and at the premises
10 to be sold at least three weeks next before the time appointed for such sale.
11 Such notice need not be set up at any other place.

12 Such officer or person, shall also cause such notice to be published four
13 times in two newspapers to be by him designated, and printed and published
14 in the county wherein the real estate to be sold is situate, at least once a

5 heretofore or hereafter made by or under the authority of any public or mu-
 6 nicipal authority, authorized or empowered by any law of this State to make
 7 and execute or to direct the making and execution of any deed, declaration
 8 of sale or conveyance; and the proceedings upon which such deeds, declara-
 9 tions of sale and conveyances are founded shall not be subject to be ques-
 10 tioned collaterally, but may be, at any time, reviewed by [certiorari] a pro-
 11 ceeding in lieu of the prerogative writs or other proper proceeding.

1 5. Section 2:75-17 of the Revised Statutes is amended to read as fol-
 2 lows:

3 2:75-17. Whenever any real estate has heretofore been or shall hereafter
 4 be sold or taken upon compensation pursuant to any competent judicial
 5 authority or any law of this State, and the proceeds of such sale or the com-
 6 pensation for such taking have been or shall be paid into any court of this
 7 State other than the Superior Court [of Chancery], pursuant to such au-
 8 thority or law, and it shall appear to the court wherein the same have been
 9 or shall be paid that the interests of any person or persons entitled thereto,
 10 or any part thereof, require or will be substantially promoted by the pay-
 11 ment into the Superior Court [of Chancery] of so much or such proportion
 12 of such proceeds or compensation as the court wherein such money is paid
 13 may determine belong to or should be reserved for the benefit of such person,
 14 it shall be lawful for such court to order the same paid into the Superior
 15 Court [of Chancery], to be thence disposed of as ordered and directed by the
 16 Superior Court [of Chancery].)

17 Upon filing such order in the Superior Court [of Chancery] and pay-
 18 ment of such money thereunder, such person or persons shall, so far as re-
 19 lates to such property or money and its income, be considered a ward of the
 20 Superior Court [of Chancery].

21 [The Court of Chancery and all other courts of this State may make
 22 such rules, regulations and orders, and establish such form of practice as
 23 shall be necessary and proper to fully carry this section into effect.]

1 6. Whenever, by virtue of any order or judgment of the Superior Court,
2 any officer or other person, except a sheriff or coroner, sells any real estate
3 or interest therein, he shall, within five days thereafter, report such sale to
4 the court in the manner prescribed by the Rules Governing Civil Practice in
5 the Superior Court, and the court shall, if it approves the sale, confirm the
6 same as valid and effectual in law, and shall, by order, direct the officer or
7 other person to execute good and sufficient conveyance in law to the pur-
8 chaser or purchasers for the real estate or interest therein sold; but no such
9 sale shall be confirmed unless and until the provisions of said Rules, appli-
10 cable thereto, have been fully complied with. Any such sale and the con-
11 firmation thereof shall be subject to such orders in respect thereto as the court
12 may, at any time, make.

1 7. When a sale of real estate is ordered by the Superior Court in any
2 civil action, wherein the order or judgment under which such sale is ordered,
3 is founded upon a cause of action of an equitable nature, except mortgage
4 foreclosure sales, the officer or person authorized or directed to make the sale
5 may, in his discretion, make the same at public or private sale and on such
6 terms as he may deem to be most advantageous to the parties concerned
7 therein. A private sale shall not be valid until it is confirmed by the court
8 upon a report of the terms thereof by the officer or person making the sale.

1 8. In all civil actions in the Superior Court, in the nature of a proceed-
2 ing in equity, for the sale of real estate, the court may, when the personal
3 estate of the ancestor from whom the real estate descended is insufficient to
4 pay his just debts, direct such real estate to be sold free from the lien of such
5 debts, and to make such order touching the disposition of the proceeds of the
6 sale as may be necessary for the ascertainment and payment of such deficiency
7 thereout before the distribution of the fund.

1 9. Whenever there shall be a surplus from the sale of real estate sold by
2 virtue of any order or judgment, and such surplus shall be deposited in the
3 court ordering the sale or in which the judgment was entered, and any per-

5 owner of such real estate or any other person who shall be entitled to such
6 surplus, or any part thereof, the court shall, upon affidavit filed by or in
7 behalf of such judgment creditor, and notice given as prescribed by the Rules
8 Governing Civil Practice in the Superior Court, and upon proof made to the
9 satisfaction of the court that the residence of the person entitled to such sur-
9A plus is unknown and cannot be ascertained, order and direct such sur-
10 plus to be applied upon such judgment, although such creditor was not made
11 defendant in such cause, in which case it shall not be necessary that the
12 judgment creditor be admitted as a party defendant in such cause, but such
13 affidavit shall be entitled in the cause out of which such surplus was realized.
14 The proof required by this section may be made by affidavit, or otherwise, as
15 the court shall direct.

1 10. Sections 2:29-84, 2:29-85 and 2:29-86 of the Revised Statutes are
2 repealed.

1 11. This act shall take effect July first, one thousand nine hundred and
2 forty-nine, but its enactment shall not in any manner affect any action, suit
3 or proceeding commenced prior to its effective date.

STATEMENT

This bill was drawn by the Law Revision and Bill Drafting Commission for the purpose of making the statutes affected conform to the civil practice in the Superior Court.

Mr. Kates, Chairman of the Committee on Law Revision, reported

Assembly Bill No. 26,

With the following committee amendments, which were read by the Clerk.

Proposed amendments to Assembly Bill No. 26:

Amend page 1, section 1, line 3, omit “, auditor”.

Amend page 2, section 2, line 2, omit “or auditor in attachment”.

Amend page 5, section 6, line 2, omit “, except a sheriff or coroner,”.

Amend page 5, section 6, line 3, omit “, within five days thereafter,”.

Amend page 5, section 6, line 4, omit “in the manner prescribed by the Rules Governing Civil Practice in” substitute “in accordance with the practice and procedure of”.

Amend page 5, section 6, line 5, after “if” insert “confirmation thereof is required under said practice and procedure and if”.

Amend page 5, section 6, line 9, omit “provisions of said Rules” substitute “requirements of the practice and procedure of the Superior Court”.

Amend page 6, section 9, line 7, omit “prescribed by the Rules”.

Amend page 6, section 9, line 8, omit “Governing Civil Practice in” substitute “required under the practice and procedure of”.

Amend page 6, section 9, line 13, omit “cause” substitute “action”.

Mr. Kates moved the adoption of the committee amendments.

Which motion was adopted.