

RULE XXII

Foreclosure Actions

- A. AFFIDAVIT** - A foreclosure complaint shall be accompanied by an affidavit documenting that the named plaintiff is the owner and/or holder of the note and mortgage, whether the original mortgagee or by later assignment, successor in interest or as a trustee for another entity. In pending cases, if interest in the matter is transferred to a new party after the complaint is filed, the complaint shall be amended to reflect the transfer, and all parties shall be served with the amended pleading.
- B. TITLE WORK** - In every real property action subject to execution by sheriff's sale, with the exception of in rem tax foreclosure actions brought by the prosecuting attorney under R.C. § 5721.18(C), the party shall file simultaneously with the pleading seeking execution, one of the following covering the subject real estate: (1) preliminary judicial report, (2) a preliminary letter for guaranteed certificate of title, (3) a commitment for title guaranty, or (4) a commitment for owner's policy of title insurance, prepared by licensed "title insurance company" as that term is defined by R.C. § 3953.01(C). The moving party shall file an update of the title evidence dated within thirty (30) days of the date of filing of the judgment of foreclosure and order of sale showing service of summons upon all necessary parties. The cost of such title work shall be taxed as part of the court costs upon the approval of the assigned judge.
- C.** In all foreclosure actions, the attorney shall designate whether or not taxes are challenged as to the amount and/or as to the priority of the first and best lien. The attorney shall also designate whether or not the property is occupied, vacant, or abandoned. If the status of the occupancy is unknown at the time of the filing of the complaint, the attorney shall certify the property's status by the way of affidavit within thirty (30) days of filing the foreclosure complaint.
- D. ADVERTISING** - In each advertisement of sale, the Sheriff shall cause to be included, notice that anyone who purchases property at a Sheriff's sale must complete a *Real Estate Judicial Sale Purchaser Information Form* immediately following the sale, and notice that the remainder of the full purchase price shall be paid within thirty (30) days from the date Entry Confirming Sale is filed.

The Sheriff shall also keep a copy of this rule conspicuously posted at the place where he conducts sales and shall call attention to the rules before receiving bids.

E. SHERIFF SALE

(1) ORDERS OF SALE - Praecept for Orders of Sale shall be submitted by counsel to the Monroe County Clerk of Courts within 45 days after the signing of the Final Judgment Entry by the judge. One (1) copy of the *Property Description Approval Form* **MUST BE ATTACHED** to the Praecept for Order of Sale when submitted to

the Clerk of Court's office. Said *Property Description Approval Form* shall state the legal description, parcel number and deed reference number (taken from the Property Deed) has been approved and verified true by the County Auditor/Property Transfer Division. The form can be obtained through the Clerk of Court's office.

Information to be included with the Order of Sale:

1. Case caption and case number.
2. Judgment Entry with file-stamped date.
3. *Property Description Approval Form* (legal description attached).
4. Whether property is to be appraised, reappraised or no appraisal or minimum bid set by attorney.
5. Bankruptcy - if stay has been granted due to a bankruptcy and federal court has lifted the bankruptcy. Proof of this must be submitted with the Order of Sale.
6. Alias Orders of Sale - the previous Order of Sale must have been previously returned by the Sheriff's office before the new Orders of Sale can be issued.

(2) **PURCHASER INFORMATION FORM** - Pursuant to ORC § 2329.271, anyone who purchases a property at a Sheriff's sale, including but not limited to, plaintiff, defendant, or third party **MUST** complete a *Real Estate Judicial Sale Purchaser Information Form* immediately following the sale. The form is available at the Monroe County Clerk of Court's office and the Monroe County Sheriff's office.

(3) **DEPOSIT** - In every Sheriff's sale of real property, upon acceptance of a bid, the successful bidder (including the plaintiff, if the plaintiff is the successful bidder) shall deposit an amount reflected in the following scale. The deposit shall be paid in cash, certified check, money order, bank check or personal check drawn from a local bank, made payable to the Monroe County Sheriff.

APPRAISED VALUE RANGE	DEPOSIT AMOUNT REQUIRED
\$ 50,000 or less	\$ 300.00
\$ 50,001 to \$100,000	\$ 500.00
\$ 100,001 to \$150,000	\$ 700.00
\$ 150,001 to \$200,000	\$ 900.00
\$ 200,001 to \$250,000	\$ 1,100.00
\$ 250,001 to \$300,000	\$ 1,300.00
\$ 300,001 to \$350,000	\$ 1,500.00
\$ 350,001 to \$400,000	\$ 1,700.00
\$ 400,001 to \$450,000	\$ 1,900.00
\$ 450,001 to \$500,000	\$ 2,100.00
\$ 500,001 or more	.4% of appraised value plus \$100

- F. RETURN OF SHERIFF** - The Sheriff shall return the Order of Sale within 60 days after it has been filed with the Clerk of Courts. The *Real Estate Judicial Sale Purchaser Information Form* must be returned to the Clerk of Courts with the Order of Sale.
- G. CONFIRMATION** - An Entry Confirming Sale shall be presented to the Court within 20 days of the date of sale and said Entry shall be filed with the Court within 30 days of the date of sale. Said Entry shall attest to the legality of the sale and incorporate the language required under ORC § 2329.27(B)(3) and order the Sheriff to deliver a deed to the purchaser as outlined in (I.) of this Rule. Said Entry shall include distribution to the Clerk of Courts for court costs, the Treasurer for taxes, the Auditor for conveyance and transfer fees, and the Recorder for deed recording fee and shall also order the Sheriff to disburse said funds. Conveyance fees are not waived for real estate transfers where *Fannie Mae* or *Freddie Mac* are either the grantor or grantee.
- H. PAYMENT** - The unpaid balance of the purchase price shall be due and payable to the Sheriff within 30 days from the date the Entry Confirming Sale is filed with the Court. When plaintiff is the successful bidder, counsel for plaintiff shall remit to the Sheriff within 30 days from the date the Entry Confirming Sale is filed with the Court, a check made payable to the Monroe County Sheriff for the total distribution amount listed in the Entry Confirming Sale. The Sheriff shall then distribute the funds accordingly.
- I. DEED** - The attorney who files the Praeceptum for Order of Sale, not later than 7 days after the filing of the order of confirmation of sale, shall make to the purchasers, a deed, pursuant to O.R.C. § 2329.36, and deliver the deed to the Sheriff. The Sheriff shall record the deed with the Monroe County Recorder within 14 business days after receiving payment from the purchaser.
- J. DEFAULT** - If the purchaser fails to pay the balance due on the purchase price within 30 days from the date the Entry Confirming Sale is filed, the deposit shall be forfeited and first be applied to the payment of court costs with the balance held by the Sheriff until further order of the Court.

Amended November 10, 2011