

WRIT OF ASSISTANCE PROCEDURE FOR PICKENS COUNTY FORECLOSURE CASES

If, after the high bidder has complied with the bid and received a deed, the debtor or other occupants refuse to vacate the property, the successful purchaser has the right to return to the court to seek a Writ of Assistance that directs the sheriff to eject the person remaining on the property. See Griggs v. Griggs, 205 S.C. 276, 31 S.E.2d 505 (1944).

Therefore, the Master in Equity will sign a Deed after the bidder or plaintiff complies with the balance of their bid. The Bidder becomes the owner of the foreclosed property after the deed is recorded with the Register of Deeds,

Should the Defendant(s) or any occupants still be residing at the property after the Deed is recorded, the new owner may file a Motion (example attached) with the Master in Equity seeking an Order for Writ of Assistance (example attached). **If the new owner is an LLC or Corporation, the Motion and Order must be submitted by a South Carolina Attorney.** See Renaissance Enter. v. Summit Teleservices, 334 S.C. 649, 515 S.E.2d 257 (1999).

After the Motion for Writ of Assistance is filed with the Clerk of Court and the fees paid to the Clerk as well as the Master in Equity's Office, the Master in Equity may issue an Order for Writ of Assistance. Said Order once approved and filed, it will be ready for the Movant to pick up from the Master in Equity's office and/or will be mailed to the Movant's address on record. Movant shall follow the terms and conditions contained in the Order.

DISCLAIMER: The forms attached are meant to be a helpful starting point for your drafting needs; they are a sampling of the types of pleadings and proposed orders frequently seen in the Master-in-Equity's Office. If you have questions regarding the procedures, contact the Master in Equity's Office at 864-898-5799. If your questions are seeking legal advice, the Master in Equity's Office cannot provide legal advice and will inform you to seek advice and counsel from a licensed attorney. If the new owner is an LLC or Corporation, the Motion and Order must be submitted by a South Carolina Attorney.

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

MOVANT:

_____ ,

Plaintiff

v.

_____ ,

Defendant(s)

IN THE COURT OF COMMON PLEAS

Case No.: _____

MOTION FOR WRIT
OF ASSISTANCE

This matter concerns the above-named Defendants _____
_____ ; or any
occupant of the property located at _____ ("Property").

Movant is the title holder and owner of the Property according to that certain
Foreclosure Deed of Honorable Adam B. Lambert, Master in Equity for Pickens County, dated
_____ and recorded on _____ in Deed Book _____ at Page _____, in
the Register of Deeds Office for Pickens County, South Carolina.

Movant, as owner of record of the subject Property, hereby moves this Court according
to Rule 70 of the South Carolina Rules of Civil Procedure to issue a Writ of Assistance to the
Sheriff of Pickens County, South Carolina, ordering and directing him to remove, peaceably
or forcibly, the Defendants, _____
_____ ;
from the Property; together with any and all persons claiming under said Defendants, and all
of their personal property located within or on the subject premises described herein.

I SO MOVE.

Signature: _____

Printed Name: _____

Address: _____

Date: _____

Phone: _____

STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

MOVANT:

_____ ,

Plaintiff

v.

_____ ,

Defendant(s)

IN THE COURT OF COMMON PLEAS

Case No.: _____

**ORDER FOR WRIT
OF ASSISTANCE**

This matter came before me regarding the above named Defendants _____

_____ ;

or any occupant of the property located at _____ "Property"

to issue a Writ of Assistance by this Court to the Sheriff of Pickens County, South Carolina,

ordering and directing him to remove, peaceably or forcibly, the Defendants, _____

_____ ;

together with any and all persons claiming under said Defendants, and all of their personal property located within or on the subject premises described herein.

It appears that the Movant was the successful bidder at the public sale of the subject premises on _____, resulting in a Master's Deed filed in Deed Book _____ at Page _____ of the Pickens County Register of Deeds Office. That Movant is entitled to possession of the subject premises.

NOW, THEREFORE,

UPON MOTION of _____, Movant,

IT IS HEREBY ORDERED that the Movant is entitled to recover possession of the premises described as follows:

Legal Description: _____

TMS Number: _____

Property Address: _____

IT IS FURTHER ORDERED that upon receipt of a copy of this Order, the Sheriff of Pickens County, South Carolina, or his authorized deputies be, and they hereby are, directed and authorized to serve a copy of this Order upon the occupant(s) of the referenced property.

IT IS FURTHER ORDERED that should personal service not be effected by the Sheriff of Pickens County that copies of the Writ of Assistance shall be posted in a conspicuous place at or near the front entrance of the premises.

IT IS FURTHER ORDERED that not less than 21 days subsequent to said posting or service, the Sheriff shall be authorized to enter upon the aforescribed premises, by force if necessary, and seize the said premises and to remove therefrom any and all such persons who may be occupying the same, together with all of their possessions, and to put the Movant in full, peaceful and quiet possession of the premises without delay, and thereafter, within ten (10) days, make due Return to the Clerk of Court for Pickens County, South Carolina, showing how this Order has been executed.

IT IS FURTHER ORDERED that the Sheriff shall have discretion to extend the date of seizure, but not more than 30 days from the date of said service or posting, absent a further Order.

IT IS FURTHER ORDERED that if the occupants have voluntarily vacated the premises or have been ejected from the premises leaving personal property, automobiles, boats, furnishings, fixtures, or other items, the Movant is authorized to remove therefrom all personal property, automobiles, boats, furnishings, fixtures and items, which personal property, being deemed abandoned. Said abandoned property shall be removed by the Movant or its agents from the subject property, by placing said personal property on the public street or highway or by any other means.

IT IS FURTHER ORDERED that, should the Defendants and/or occupant(s) of the property challenge Plaintiff's right to possession, said Defendants and/or occupant(s), upon filing a Motion to Stay Writ of Assistance, shall be entitled to an expedited hearing, which may be scheduled with the Court by calling (864) 898-5799, **but only after filing said motion with the Pickens County Clerk of Court.**

AND IT IS SO ORDERED.

Judge's Electronic Signature Page to Follow