



SPONSOR: Rep. J. Johnson & Sen. Townsend
Reps. Bolden, Miro, D. Short, K. Williams; Sen. Henry

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 187

AN ACT TO AMEND TITLES 9 AND 22 OF THE DELAWARE CODE RELATING TO SHERIFF'S SALES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Section 8726, Title 9 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 8726. Sales subject to approval of Department of Finance or Chief County Financial Officer.

4 (a) The department of finance or the chief county financial officer as designated by the county governing body
5 may approve or disapprove the final bid at a sale made by the sheriff under this subchapter for any public purpose or
6 reason, including the failure of the successful bidder or its affiliates to comply with the requirements of any law or
7 regulation with respect to any other real property owned by such successful bidder or its affiliates, the failure of such
8 successful bidder or its affiliates to timely pay any amounts owed to the State or any county or municipality or the inability
9 of the successful bidder to remedy any unlawful conditions at the property subject to such sheriff sale in a timely manner;
10 provided that the notice of the public sale includes that such sale is "subject to the approval of the department of finance or
11 the chief county financial officer" in the terms of sale. In the event the department of finance or the chief county financial
12 officer does not approve the final bid at such sale, the said department of finance or chief county financial officer may
13 expose the property to another and as many succeeding sales as it chooses.

14 (b) Provided that the notice of the public sale so indicates, the county governing body may require that bidders at a
15 sheriff sale, prior to any bid, certify to the county governing body that such bidder, either directly or through any affiliated
16 entities, does not own any interest in any real property in such county that (i) has been subject to fines or penalties or the
17 abatement of violations within the past 24 months for a failure to comply with the requirements of any law or regulation
18 with respect to such property, (ii) has amounts past due identified in § 2901(a) of Title 25, in excess of \$1,000, or (iii) has
19 been vacant for at least 18 consecutive months and such property is not subject to a valid building permit or a pending land
20 use application.

(c) The county shall generate a certificate that the bidder shall present to the sheriff prior to the sale, and the sheriff shall require presentation of such certificate prior to registering any bidder. The county may establish a fee that reflects the costs of preparing and issuing the certificate that shall be paid by bidder prior to issuance of the certificate.

(d) For purposes of this section, "affiliated entity" means either of the following:

(1) Any other entity that is under common control with the bidder.

(2) Any person or entity who directly or indirectly holds any beneficial or ownership interest in the bidder of 5% or greater.

Section 2. Amend Section 113, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 113. Approval of final bid at sheriff's sale.

(a) The municipality, by and through its director of its department of finance, or the director's designee, may approve or disapprove the final bid at a sale made by the sheriff under the monition method of sale; for any public purpose or reason, including the failure of the successful bidder or its affiliates to comply with the requirements of any law or regulation with respect to any other real property owned by such successful bidder or its affiliates, the failure of such successful bidder or its affiliates to timely pay any amounts owed to the State or any county or municipality or the inability of the successful bidder to remedy any unlawful conditions at the property subject to such sheriff sale in a timely manner; provided, that the notice of the public sale includes in its terms that such sale is subject to the approval of the director of the finance department of the municipality. In the event the director of the department of finance, or the director's designee, does not approve the final bid at such sale, the said director of the department of finance, or the director's designee, may expose the property to another and as many succeeding sales as it chooses. The final bid at a sale made by the sheriff shall be presumed to be approved unless notice of disapproval of such final bid shall be received by the sheriff within 20 days from the date of such public sale.

(b) Provided that the notice of the public sale so indicates, the municipality may require that bidders at a sheriff sale, prior to any bid, certify to the municipality that such bidder, either directly or through any affiliated entities, does not own any interest in any other real property in such municipality that (i) has been subject to fines or penalties or the abatement of violations within the past 24 months for a failure to comply with the requirements of any law or regulation with respect to such property, (ii) has amounts past due identified in § 2901(a) of Title 25, in excess of \$1,000, or (iii) has been vacant for at least 18 consecutive months and such property is not subject to a valid building permit or a pending land use application.

(c) The municipality shall generate a certificate that the bidder shall present to the sheriff prior to the sale, and the

51 sheriff shall require presentation of such certificate prior to registering any bidder. The municipality may establish a fee
52 that reflects the costs of preparing and issuing the certificate that shall be paid by bidder prior to issuance of the certificate.

53 (d) For purposes of this section, "affiliated entity" means either of the following:

54 (1) Any other entity that is under common control with the bidder.

55 (2) Any person or entity who directly or indirectly holds any beneficial or ownership interest in the bidder
56 of 5% or greater.

SYNOPSIS

With the implementation of land banks in the State of Delaware, an increasing number of vacant and abandoned properties will be brought to sheriff's sales. Many of these parcels will be dilapidated and require investment to render the house habitable. Blight will only be ameliorated if the bidders upon such property acquire it intending to invest in the property, thereby improving the housing in the neighborhood and eliminating blight. If bidders at a tax lien sale have failed to pay taxes when due and have failed to maintain the condition of other real property they own in the same jurisdiction, it is not likely that they intend to invest in and improve the condition of additional property they acquire. Instead they are speculating on a turnaround in the neighborhood based upon the investment and efforts of others.

Under current law, New Castle County, or any municipal government, may disapprove of the winning bid for any tax lien sheriff's sale, at the election of the governmental entity initiating the tax lien sale, for any public purpose or reason. This bill allows any county or municipality to additionally require that bidders at such tax lien sales certify, prior to bidding, that they do not have a record of failing to maintain other real property in which they own an interest, do not have outstanding liens owed to governmental entities in excess of \$1,000 at such other property, and do not hold properties that have been vacant for 18 consecutive months unless there is active construction on the property.