

CHAPTER 161
FORMERLY
HOUSE BILL NO. 187
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
HOUSE AMENDMENT NO. 2

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:

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

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

Prequalification of bidders.

(a) The department of finance or the chief county financial officer as designated by the county governing body may approve or disapprove the final bid at a sale made by the sheriff under this subchapter 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 that such sale is "subject to the approval of the department of finance or the chief county financial officer" in the terms of sale. In the event the department of finance or the chief county financial officer does not approve the final bid at such sale, the said department of finance or chief county financial officer may expose the property to another and as many succeeding sales as it chooses.

(b) Provided that the notice of the public sale so indicates, the county governing body may require that bidders at a sheriff sale, prior to any bid, certify to the county governing body that such bidder, either directly or through any affiliated entities, does not own any interest in any real property in such county that (i) has amounts past due identified in § 2901(a) of Title 25, in excess of \$1,000, or (ii) 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. Organizations that are exempt from federal taxation pursuant to section 501(c)(3) of the Internal Revenue Code and that have been building, rehabilitating, and providing affordable housing units within the state for at least 5 years, and community development corporations, as defined in 42 U.S.C. § 9802, shall be exempt from these provisions upon certification of such status by the county.

(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.

(e) If a sale is subject to approval of the department of finance or the chief county financial officer, no assignment of a successful bid shall occur without the approval of the department of finance or the chief county financial officer. If the county requires certification of bidders at a sale, no assignment of a successful bid shall occur unless the assignee secures a certification from the county consistent with requirements of this section or qualifies as a land bank pursuant to § 4703 of Title 31.

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; Prequalification of bidders.

(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 amounts past due identified in § 2901(a) of Title 25, in excess of \$1,000, or (ii) 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. Organizations that are

exempt from federal taxation pursuant to section 501(c)(3) of the Internal Revenue Code and that have been building, rehabilitating, and providing affordable housing units within the state for at least 5 years, and community development corporations, as defined in 42 U.S.C. § 9802, shall be exempt from these provisions upon certification of such status by the municipality.

(c) The municipality 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 municipality 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.

(e) If a sale is subject to approval of the director of a municipality's department of finance or the director's designee, no assignment of a successful bid shall occur without the approval of the director of its department of finance or the director's designee. If the municipality requires certification of bidders at a sale, no assignment of a successful bid shall occur unless the assignee secures a certification from the municipality consistent with requirements of this section or qualifies as a land bank pursuant to § 4703 of Title 31.

Approved September 7, 2017