



SPONSOR: Rep. Mitchell & Rep. Dorsey Walker & Sen. Poore &
Sen. Hansen
Rep. Briggs King; Sens. Ennis, Gay, Sturgeon

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 159

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO SALES OF REAL ESTATE MADE BY A SHERIFF.

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

Section 1. Amend § 4974, Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

(a) As used in this section, “public building” and “public property” mean a building or property that is open to members of the public who wish to attend a sheriff’s sale. “Public building” or “public property” includes a building or property not owned by the government or a governmental entity.

(b) All sales of real estate, made by a sheriff by virtue of execution process, shall be made at any one of the following locations:

(1) ~~on~~ On the premises to be sold, ~~or~~ or sold.

(2) ~~at~~ At the courthouse for the county in which the premises are situated, ~~situated, or in Sussex County, at the Sussex County Sheriff’s office or~~

(3) At the Sheriff’s Office or the building in which the Sheriff’s Office is located.

(4) ~~at~~ At any public building or outdoors on any public property located in the county seat of the county where the premises are situated.

(5) Through an online auction process that is available to the public and accommodates parties who cannot bid electronically.

(6) Through any public sale process authorized by a court order. ~~In Kent County, sales may also be conducted in any building in which the Sheriff’s Office is located.~~

(c) Unless otherwise directed by court order, the sheriff conducting a sale retains exclusive authority to determine the location and means for the sale of real property by virtue of execution as permitted by subsection (b) of this section.

SYNOPSIS

This act modifies the locations at which sheriff’s sales may be conducted to provide the sheriffs with needed flexibility and to modernize the sheriff’s sale process. The recent COVID-19 pandemic has revealed substantial inflexibility in 10 Del. C. § 4974 as currently adopted, forcing the sheriff of each of the three counties to either hold

sheriff's sales outdoors, find non-governmental venues in which to hold sheriff's sales or cancel sheriff's sales. Additionally, the New Castle County Sheriff is considering using an online auction process to conduct sheriff's sales, as other counties throughout the United States have done, but § 4974 as currently adopted does not permit online sheriff's sales. Finally, this act removes uncertainty regarding the meaning of the term "public building" as currently used in § 4974 by adopting a definition that is consistent with the Delaware Supreme Court's definition of that term in *Moore v. Wilmington Housing Authority*, 619 A.2d 1166, 1174-75 (Del. 1993).