

**SUPREME COURT, COUNTY OF NASSAU
RULES GOVERNING
PUBLIC FORECLOSURE AUCTIONS**



REVISED MAY 12, 2023

SCHEDULING THE AUCTION

(A Pre-Foreclosure Auction Status Conference is NO Longer Required)

1. Effective May 11, 2022, and pursuant to the Order of the Chief Administrative Judge, AO/35/22, the Court continues to require submission of requests for public foreclosure auction dates in the County of Nassau in accordance with these rules before any foreclosure sale can proceed to auction.
2. To schedule a foreclosure sale, the Court Appointed Referee must upload a “Request for Foreclosure Auction Date” form in room 186 of the Supreme Court or through NYSCEF. The required **Request for Foreclosure Auction Date form** can be found at the following link:

<http://ww2.nycourts.gov/COURTS/10JD/nassau/foreclosure.shtml>

3. The completed “Request for Foreclosure Auction Date” form must contain the following information:
 - Index number
 - Title of the action
 - Plaintiff’s attorney
 - Referee’s name and telephone number
 - 1st choice requested date and time for the auction
 - Auctions must be scheduled 30 minutes apart on the hour and half hour on any date certain between the hours of 2:00 pm and 4:30 pm Monday through Friday (exclusive of court holidays) on the north side steps of the Nassau County Supreme Court, 100 Supreme Court Drive, Mineola, NY 11501.
 - Optional: Enter propose alternative date and time (to be considered if 1st choice is unavailable)

4. The Clerk's Office will either confirm the proposed date and time requested by the Referee or advise of the need to submit a new request if the requested date and time is not available.
5. Pursuant to RPAPL § 231, Plaintiff must include the confirmed place of sale, date, and time information and must arrange for the timely publication of the foreclosure sale.
6. Calendars of scheduled foreclosure auctions will be accessible through E-Courts and updated on a weekly basis.
 - A list of auctions will be posted on an auction calendar.
 - The auction calendars will be updated at a minimum every Friday (unless it is a holiday, then the next business day).
 - Please be aware that the auction calendars are subject to change at any time as the accuracy of the scheduling information posted on the court's website is dependent upon the information provided by individual Referees responsible for scheduling and conducting these auctions.
7. The Foreclosure Auction Calendar and Terms of Sale will be posted on a bulletin board located near the north side steps of the Nassau County Supreme Court 45 minutes *prior* to the commencement of the foreclosure auction.
8. The Referee shall conduct and supervise the noticed foreclosure auction. A representative of the Plaintiff, authorized to act on Plaintiff's behalf, must appear at the foreclosure auction.
9. The Referee must contact the Court Clerk via e-mail at ncforauction@nycourts.gov to advise of any and all cancellations of a scheduled foreclosure auction in a timely manner but no later than two days after the cancelled auction date.
 - The e-mail shall contain in the Subject Line "CANCELLATION OF FORECLOSURE SALE, Index No. ____" and the body shall contain the following information in the following order: Index Number, Date and Time of Auction, Referee's full name, and the reason for cancellation.
 - The Court Clerk will respond confirming such cancellation has been recorded.
 - Advance notice of cancellations will open up the timeslot for availability.

* Note: If a foreclosure auction has been cancelled and needs to be rescheduled, the Referee must separately file a new "Request for Foreclosure Auction Date" form as indicated above.

COURT APPOINTED REFEREES

1. Upon notice of a Court appointment as a Referee, the Referee certifies that he or she is eligible to act pursuant to the provisions of Part 36 of the Rules of the Chief Administrative Judge (22 NYCRR Part 36) including, but not limited to, section 36.2 (c) (“Disqualification from appointment”) and section 36.2 (d) (“Limitations on appointments based upon compensation”).

2. **A REFEREE’S OATH SHALL BE NOTARIZED.**

3. Referees are discouraged from seeking substitution. If a Referee is disqualified from appointment pursuant to the provisions of Part 36, the Referee must immediately notify the appointing Judge by e-mailing a letter application requesting substitution to the Clerk at ncforcauction@nycourts.gov. The letter application will be presented to the appointing Judge for further instruction.

4. If a Plaintiff adjourns or cancels a Foreclosure Auction / Foreclosure Sale, Plaintiff must provide at least 5 days-notice, both in writing and by telephone to the Court Appointed Referee. If such notice is not timely given, the Court Appointed Referee may seek additional fees by submitting an affirmation to [Court Clerk or Justice] as why additional fees are warranted.

5. Pursuant to CPLR § 8003(a), in the discretion of the court, upon the filing of the Referee’s report, and upon the filing of the Surplus Monies Form in NYSCEF, a fee shall be paid to the Referee for the computation of the amount due;

6. The Referee shall not request or accept additional compensation for the computation unless it has been fixed by the court in accordance with CPLR § 8003(b);

7. A Court Appointed Referee is prohibited from accepting or retaining any funds for him or herself or paying funds to him or herself without compliance with Part 36 of the Rules of the Chief Administrative Judge.

THIRD-PARTY BIDDERS

1. It is the *sole responsibility and obligation* of a bidder, *prior* to the date of the foreclosure auction, to acquaint him or herself with the subject property or any of the subject properties he or she intends to bid on, any encumbrances thereon, and the Terms of Sale, which is a legally binding and enforceable contract between the parties involved, before placing a bid at the foreclosure auction. It is strongly advisable to consult an attorney and to be thoroughly familiar with the Terms of Sale.
2. On the day of the foreclosure auction, a successful third-party bidder shall provide the Referee proof of identification.
3. As directed by the Referee on the day of the auction, a successful third-party bidder shall execute the Terms of Sale for the purchase of the subject property and pay to the Referee 10% of the sum bid.
4. While the Court does not prohibit the tender of a cash down payment, the Referee may refuse cash on grounds of security and/or convenience. In that event, the property will need to be re-auctioned in the absence of a down payment acceptable to the Referee. The Court, therefore, strongly encourages successful third-party bidders to pay the full 10% of the sum bid by certified check or bank check made payable to the Referee.
5. Double-endorsed checks will not be accepted by the Referee.
6. A foreclosure auction will not be deemed final until the full 10% percent deposit has been paid by the successful third-party bidder to the Referee and a contract has been signed, which must take place immediately following the foreclosure auction at the courthouse.
7. If a successful third-party bidder fails to pay the full 10% percent deposit and sign the Terms of Sale for the subject property as directed by the Referee, the Referee will exercise his/her discretion to determine if the property will re-auction on the same day or be re-noticed for a new auction.
8. The amount of the successful bid, which will become the “Purchase Price”, will be recorded by the Referee on the Memorandum of Sale that will memorialize the foreclosure auction and be signed by the Referee, bank representative, and the successful third-party bidder.

CONCLUSION OF FORECLOSURE AUCTION

1. The Court Appointed Referee shall complete and submit a **Fiduciary Form** at the conclusion of each day's Foreclosure Auction sales;
2. The Court Appointed Referee, bank representative, and successful third-party bidder shall memorialize each sale by **completing**, executing, and submitting the **Memorandum of Sale**;
3. The **Fiduciary Form and the Memorandum of Sale** shall promptly be submitted to the Court by the Court Appointed Referee on the day of the Foreclosure Auction at the Clerk's office, which is located on the first floor of the courthouse in Room 186;
4. The Court Appointed Referee shall *within 30 days of the closing* of the subject property, complete and submit, through the *NYSCEF System*, the **Surplus Monies Form**, *before which time he or she may NOT request or receive any compensation* for conducting the foreclosure sale. The Surplus Monies Form shall be uploaded to NYSCEF as a "Foreclosure Action Surplus Monies Form".
5. The Court Appointed Referee shall promptly notify the Surplus Monies Clerk, in writing, of any delay pertaining to the scheduled closing of the subject property which was sold at public Foreclosure Auction.
6. **Please submit notifications to the Court of any delay and other inquiries via email to the Surplus Monies Clerk at: ncforcstatus@nycourts.gov.**
7. For additional information and to download the **Fiduciary Form, Memorandum of Sale, and the Surplus Monies Form** please go to the Court's website. The link to the Court's website is as follows:

<http://ww2.nycourts.gov/COURTS/10JD/nassau/foreclosure.shtml>