

[AMENDED MAY 31, 2022]

FIFTH JUDICIAL DISTRICT FORECLOSURE SALE COVID-19 PROTOCOLS

The Unified Court System (UCS) has established policies and procedures relating to the COVID-19 health emergency. In accordance with Administrative Order 35/22 signed by the Hon. Lawrence K. Marks, Chief Administrative Judge of the Courts, on January 16, 2022, the following policies and procedures will best ensure that foreclosure sales in the Fifth Judicial District comply with the current UCS COVID-19 protocols for social distancing and face coverings, if any, in effect at the time of the foreclosure sale. If an Administrative Order relating to foreclosures is issued by the Chief Administrative Judge of the Courts, or the UCS COVID-19 policies pertaining to social distancing and masks are amended or modified, the Administrative Order and/or amended or modified UCS COVID-19 policies supersede the provisions of these protocols to the extent they are inconsistent with their terms and provisions.

1. Resumption of Residential and Commercial Mortgage Foreclosure Matters. All residential and commercial mortgage foreclosure matters may resume in the normal course subject to the auction procedures listed below and the applicable Fifth Judicial District Foreclosure Action Procedures (Covid-19 Period) for each County.
2. Resumption of Tax Foreclosure Matters. All tax lien foreclosure matters may resume in the normal course, subject to the conferencing requirements set forth in Administrative Order 262/21. Courts are encouraged to use calendar calls, with notices to appear sent to non-defaulting parties who have appeared or answered by the court clerk's office or chambers. Failure to appear at the calendar call shall satisfy the conferencing requirement, and the case may proceed as a default.

3. Filing and Service. In accordance with AO/35/22, the filing and service of documents in foreclosure proceedings shall continue to be governed by AO/267/20.
4. Auctions. The following auction procedures shall be followed in accordance with the Fifth Judicial District and UCS COVID-19 protocols, unless these procedures are inconsistent with an Administrative Order or UCS COVID-19 policy in effect as of the date of the auction/sale
 - a. The Court shall attach to the Judgment of Foreclosure and Sale a copy of the COVID-19 protocols that will be implemented at the foreclosure auction/sale. The Amended Judgment of Foreclosure and Sale shall direct that a COVID-19 Notice shall be included in the advertisement published in the local newspaper stating that COVID-19 safety protocols will be followed at the foreclosure sale.
 - b. Each Supreme Court Clerk in the Fifth Judicial District has established a centralized telephone, email or similar system to allow the Referee, attorneys, parties and participants to schedule and obtain any information relating to the auction, including the date, place and time. No more than one public auction may be conducted at one time. Auctions must be scheduled at least 30 minutes apart.
 - c. All Orders appointing the Referee shall include a provision that the Referee agrees to comply with these Fifth Judicial District Foreclosure Sale Protocols, including social distancing and PPE guidelines.
 - d. Before entering the Courthouse, the Referee, attorneys and any member of the public shall undergo standard COVID-19 and New York State Travel Advisory questioning, be instructed to wear a face covering and have their temperature taken. Anyone with a fever will be excused from attending the foreclosure sale, as well as

anyone answering the screening questions in the affirmative. The location of any foreclosure sale shall be held in a large venue to ensure appropriate social distancing as set forth below.

- e. During the auction/sale, the Referee, attorneys and any potential bidders shall stand or sit at least three (3) feet from one another. The Lobby or designated area should be prepared and marked to ensure appropriate social distancing. All attendees shall wear a face mask at all times. In addition, the Referee may wear a face shield. Court Security shall be present to enforce all safety protocols. In the rare event that an auction/sale shall exceed the space required for appropriate social distancing, the Referee shall immediately request the Supreme Court Clerk to relocate the sale to a larger room. If such larger room is necessary and not available, the auction/sale may be held outdoors and/or rescheduled.
- f. The Referee may, upon application to the Court, and upon good cause shown, apply to allow participants/bidders to appear virtually, provided the Chief Clerk is given three (3) business days' advance notice of the need for virtual capability.
- g. The Supreme Court Clerk of each County shall ensure that there is sufficient room and space to allow the Referee, participants and winning bidder to complete paperwork after the auction in an area that meets all safety protocols.
- h. The following will act as the locations for foreclosure auctions/sales in each applicable county in the Fifth Judicial District:
 - i. Onondaga County: The foreclosure auction shall be held in the Onondaga County Courthouse, Second Floor Lobby outside the County Clerk's Office. The Lobby is very large and will allow for adequate

social distancing. A Court Security Officer shall be in attendance to ensure compliance with all COVID-19 protocols.

- ii. Oswego County. The foreclosure auction shall be held in the Main Lobby of the Oswego County Courthouse. A Court Security Officer shall be in attendance to ensure compliance with all COVID-19 protocols.
- iii. Oneida County. The foreclosure auction shall be held in the Lobby of the Rome Supreme Courthouse to accommodate social distancing. A Court Security Officer shall be in attendance to ensure compliance with all COVID-19 protocols.
- iv. Jefferson County. The foreclosure auction shall be held at the Jefferson County Court Complex in the front vestibule area with any overflow into the Lobby. Only bidding parties would be permitted in together with the Referee. The vestibule can accommodate four (4) people and the Lobby would add 5-6. Historically, this is more than enough space. The Referee shall immediately notify the Supreme Court Clerk if the need for a larger space is anticipated.
- v. Herkimer County. The foreclosure auction shall be held in the Lobby of the Fifth Floor of the County Court Facility. Court Security shall supervise the area for social distancing and PPE guidelines.
- vi. Lewis County. The foreclosure auction shall be held in the Main Lobby of the Lewis County Courthouse, Lowville, NY. Court Security shall supervise the area for social distancing and PPE guidelines.