

## Surplus Money Application

Only applications by original parties to the foreclosure action are to be filed with the Office of Foreclosure, using the notice of motion form mandated by *Rule* 4:64-9. All other applications (third party assignees, attorneys-in-fact, purchasers of a subordinate mortgage or judgment or the equity of redemption) must be directly filed with the appropriate General Equity judge in the county of venue (where the property is located). Surplus money motions must be served in accordance with *Rule* 1:6-3 on all parties, including defaulted parties. *R.* 4:64-3; *R.* 4:57-2.

In order to facilitate the Office of Foreclosure's review of surplus money motions, so that the office may make a recommendation to the judge for entry of an order on such applications pursuant to *R.*1:34-6(15), the following should accompany a notice of motion for the payout of foreclosure surplus money in the custody of the Superior Court Trust Fund:

1. An affidavit or certification supporting the motion, which includes the following factual information:
  - (a) Address: The property address that generated the foreclosure surplus money;
  - (b) Supporting Documents: Subordinate mortgagees must attach the original or certified true copies of the note, recorded mortgage and any assignments. A subordinate judgment creditor, must furnish the "J" or "DJ" number along with a true copy of the judgment or judgment abstract;
  - (c) Establishment of Connection to Foreclosure Action: Proof that the applicant is the party named in the foreclosure complaint, for example, a former owner may attach an old utility bill, homeowner insurance declaration page or other evidence establishing his or her previous connection to the property;
  - (d) Identity: Proof of the applicant's identity by attaching a copy of a document, such as an unexpired passport or valid driver's license;
  - (e) Computation: A computation of the amount due on the applicant's claim, including, if applicable, the original amount due, any credits and a computation showing the amount of accrued interest;
  - (f) Other Parties: The identity of other parties with an interest in the surplus money and the factual basis supporting the applicant's claim that his/her/its interest is superior;
  - (g) Ownership at Time of Sale: A recital of the property's ownership at the time of the sheriff's sale and, if the owners are different from the party or parties who executed the mortgage, the documents showing how the ownership interest was created.
2. An affidavit or certificate of service evidencing service of the motion and associated papers on all parties, including defaulted parties, named in the foreclosure judgment and writ of execution. Attach copies of return receipt requested green cards or the unclaimed certified mail envelope.

Note. To facilitate the Office of Foreclosure's review, the first paragraph of the proof of service must identify the property address that is the subject of the foreclosure sheriff's sale.

- 3 a copy of the writ of execution issued as part of the foreclosure action.
- 4 the proposed form of order; and
- 5 a stamped pre-addressed return envelope.

### ***Service***

Attempted service on the former mortgagor(s) or owner(s) at the foreclosed property address is unsatisfactory unless sufficient proofs are submitted to establish that the former mortgagor(s) or owner(s) remain in possession of the foreclosed property notwithstanding a sheriff's sale generating the surplus money. If service of the motion is made by publication, an affidavit of diligent inquiry must be submitted to the Office of Foreclosure.

### ***Business Entity***

If the applicant is a business entity, an affidavit by the chief executive officer or the governing board's resolution, under the seal of the business entity, should be attached, stating that the representative making the application is a duly authorized representative of the business entity.

### ***Personal Representative***

A personal representative of a deceased applicant must provide appropriate testate or intestate probate Letters issued less than 60 days before the surplus money application to establish the personal representative's right to act for the decedent's estate.

### ***Superior Court Trust Fund Unit***

The Superior Court Trust Fund Unit verifies the foreclosure action's trust fund principal sum on deposit before the Office of Foreclosure processes, or a General Equity judge hears, a surplus money motion. Applicants seeking surplus money must communicate with the New Jersey Superior Court Trust Fund Unit, P.O. Box 971, Hughes Justice Complex, 6th Floor North Wing, 25 Market St., Trenton, New Jersey 08625 (telephone 609-292-4012). A copy of the surplus money application must be simultaneously submitted to the Superior Court Trust Fund Unit along with an IRS form W-9, if accrued interest is to be paid to other than a government agency or a corporation. If the applicant is an individual receiving more than \$2000, a certification from a private search company that no child support judgment lien is extant against the applicant should be provided, along with a stamped pre-addressed envelope.

### ***Objections & Questions***

If the Office of Foreclosure receives an objection or has any question about the correctness of the amount claimed or the propriety of the application, the motion will be referred to the General Equity judge in the county of venue for resolution. The judge will inform the appearing parties of any additional information required and of the time and place of the hearing.