



**Baltimore County Sheriff's Office
Towson, Maryland**

**Sheriff
R. Jay
Fisher**

General Order

Subject: Sheriff's Sales	Effective Date 1/11/13	Number B-24
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Purpose: To establish the policies and procedures for Sheriff's Sales.

Contents:

- I. Policy**
- II. Definitions**
- III. Maryland Rule 2-644 (2012) Sale of Property Under Levy**
- IV. General Procedures of Sheriff's Sales**
- V. Field Operations Lieutenants' Responsibilities**
- VI. Sergeants' Responsibilities**

I. Policy

All attachments and sales executed by the Baltimore County Sheriff's Office will be conducted in accordance with the Annotated Code of Maryland, Maryland Rules, and the established procedures of this Office.

II. Definitions

- A. Levy:** An act of a Sheriff that brings property under control of the court so that the property, real or personal, becomes available for the satisfaction of a money judgment.
- B. Judgment:** Any order of a court final in its nature.
- C. Money Judgment:** A judgment determining that a specified amount of money is immediately payable to the judgment creditor. It does not include a judgment mandating the payment in money.
- D. Writ:** A written order by a court addressed to a Sheriff whose action the court desires to command to require performance of a specified act or to give authority to have the act done.
- E. Property:** Includes real, personal, mixed, tangible or intangible property of every kind.
- F. Tenants in Common:** Property that is owned jointly by two or more persons such as business partners or persons not married.
- G. Tenants by Entirety:** Property that is owned by a husband and wife.
- H. Custodia-legis:** Property that has been levied on and is in custody of the Sheriff and Court. The control is known as Custodia-legis.

General Order B-24
Sheriff's Sales

III. Maryland Rule 2-644 (2012) Sale of Property Under Levy:

- A. By Sheriff. Upon request of the judgment creditor, the Sheriff, without further order of court, shall sell property under levy in the manner provided by this Rule. No sale shall be made before 30 days after the levy or before disposition of an election made by the judgment debtor pursuant to Rule 2-643 (d). The Sheriff may sell so much of the debtor's interest in the property under levy as is necessary to obtain the amount of the judgment and costs of the enforcement proceedings. The debtor's interest includes all legal and equitable interests of the debtor in the property at the time the judgment became a lien on the property.
- B. Notice of sale. The Sheriff shall give notice of the time, place, and terms of the sale. The notice shall be posted on the courthouse door or on a bulletin board in the immediate vicinity of the door of the courthouse also posted on real property and published in a newspaper of general circulation in the county where the property is located at least (1) ten days before the sale of an interest in personal property or (2) 20 days before the sale of an interest in real property. When the property under levy is perishable, the Sheriff may sell the property with less notice or with no notice, if necessary to prevent spoilage and loss of value. *Note: Ads for real property must run 3 weeks in a row and ads for personal property only runs once in the newspaper.*
- C. Conduct of sale. The sale shall be public and shall be held at the time and place given in the notice. The sale shall be for the highest cash offer, but the Sheriff may reject all offers if they are unconscionably low and offer the property for sale at a later time. When both personal property and real property have been levied upon under the same judgment, the Sheriff upon written request of the debtor received prior to the first publication of notice of a first sale shall sell the property in the order requested. Otherwise the order of sale shall be in the discretion of the Sheriff.
- D. Transfer of real property following sale. The procedure following the sale of an interest in real property shall be as prescribed by Rule 14-305, except that (1) the provision of Rule 14-305 (f) for referral to an auditor does not apply and (2) the court may not ratify the sale until the judgment creditor has filed a copy of the public assessment record for the real property kept by the supervisor of assessments in accordance with Code, Tax-Property Article, § 2-211. After ratification of the sale by the court, the Sheriff shall execute and deliver to the purchaser a deed conveying the debtor's interest in the property, and if the interests of the debtor included the right to possession, the Sheriff shall place the purchaser in possession of the property. It shall not be necessary for the debtor to execute the deed.
- E. Transfer of personal property following sale. Following the sale of personal property, the sheriff shall execute and deliver to the purchaser a bill of sale conveying the debtor's interest in the property. If the interests of the debtor include the right to possession, the sheriff shall deliver the property to the purchaser.
- F. Distribution of proceeds. The Sheriff may withdraw from the proceeds of the sale all appropriate unpaid Sheriff's expenses and fees incident to the enforcement proceedings. Unless otherwise ordered by the court, the Sheriff shall distribute the balance of the proceeds of the sale, first to the judgment creditor in satisfaction of the amount owe

General Order B-24

Sheriff's Sales

under the judgment plus costs of the enforcement proceedings advanced by the creditor, and then, to the judgment debtor.

- G. Report to the court. The Sheriff shall file a report stating the property sold, the purchasers, the amount of the proceeds, and the distribution of the proceeds.

History: (Amended Jan. 10, 1995, effective Feb. 1, 1995; June 5, 1996, effective Jan. 1, 1997; Nov. 12, 2003, effective Jan. 1, 2004; May 8, 2007, effective July 1, 2007.)

IV. General Procedures of Sheriff's Sales:

- A. A writ of execution for a property levy is received from the Court Clerk's Office. It is date and time stamped by the Sheriff's Office clerks and entered into the Sheriff's Office Process Service System.
- B. The Field Operations Lieutenant reviews the writ and logs it into the S drive then assigns the writ to a road sergeant for execution of the property levy.
- C. After the writ is executed as directed, the road sergeant completes the Writ of Execution Return of Service section, and the writ is returned to the Sheriff's Office clerk. The clerk forwards the writ to the Court Clerk's Office.
- D. The judgment debtor has 30 days to clear the debt or file an answer to the writ of execution. After 30 days has passed the creditor/plaintiff may chose to sell the levied property. *Note: The creditor/plaintiff must notify the Sheriff, in writing, that the property is to go to sale. Judgment may be satisfied right up to the time the sale begins. If the matter is settled, the sale will not be held*
- E. After the written request to sell the property is received by the Sheriff's Office, the Field Operations Lieutenant will request the required funds from the creditor/plaintiff for advertisements, auctions and other fees needed to complete the sale.
- F. Upon receipt of the required funds the Field Operations Lieutenant places advertisements in published news paper(s), sets the date, time and location of the sale. The terms of the sale will be included in the postings and advertisements. Auctioneers are scheduled as needed. The Annotated Code of Maryland and Maryland Rules requires that notice is posted at the Baltimore County Circuit Court House and on the door of real property and published in a newspaper of general circulation in Baltimore county at least (1) 10 days before the sale of an interest in personal property or (2) 20 days before the sale of an interest in real property. *Note: Ads for real property must run 3 weeks in a row and ads for personal property only runs once in the newspaper.*
- H. The Sheriff's Sale is conducted per the terms and conditions of the postings and advertisements on the date; time and location indicated in the postings and advertisements. All Sheriff's Sales will be fairly and impartially conducted in the form of an auction, so as to promote competition and to secure the best price for the benefit of all parties. *Note: Members of the Baltimore County Sheriff's Office shall not bid at a sale conducted by the agency.*

General Order B-24
Sheriff's Sales

- I. Payment and deposits are only accepted in the form of a certified cashier's check. The purchaser's affidavit and all necessary paper work are completed at the time of sale.
- J. As soon as practicable, but not more than 30 days after the Sheriff's Sale the Field Operations Lieutenant will prepare and submit a report of the Sheriff's Sale to the clerk of the court. The report shall include: (1) item description, (2) price, (3) defendants name & address, (4) buyers name & address, (5) purchaser's affidavit, (6) certification of publication and (7) report of sale.
- K. The Field Operations Lieutenant will wait for ratification of sale by the judge prior to disbursing funds or completing a Sheriff's Deed.
- L. The Field Operations Lieutenant will distribute funds and pay the bills for rendered services to complete the sale. Copies of all applicable documents and recipes will be interred into the S drive.
- M. The Field Operations Lieutenant will ensure all forms and necessary paper work is accounted for and filed as required. Maintain an electric file of all documents on the S drive.

V. Field Operations Lieutenant's Responsibilities:

- A. The Field Operations Lieutenant reviews the Writ of Execution and logs it into the S drive then assigns the writ to a road sergeant for execution of the property levy.
- B. After the written request to sell the property is received by the Sheriff's Office, the Field Operations Lieutenant will request the required funds from the creditor/plaintiff for advertisements, auctions and other fees needed to complete the sale.
- C. Upon receipt of the required funds the Field Operations Lieutenant places advertisements in published news paper(s), sets the date, time and location of the sale. The terms of the sale will be included in the postings and advertisements. Auctioneers are scheduled as needed. Post notices in the Baltimore County Circuit Court House and on the door of real property as required. Publish notices in a newspaper of general circulation in Baltimore County as required.
- D. The Field Operations Lieutenant has overall responsibility for Sheriff's Sales and will be the point of contact for the process.
- E. Ensure that the Sheriff's Sale is conducted per the terms and conditions of the postings and advertisements on the date; time and location indicated in the postings and advertisements. Ensure all Sheriff's Sales are fairly and impartially conducted in the form of an auction, so as to promote competition and to secure the best price for the benefit of all parties.

General Order B-24
Sheriff's Sales

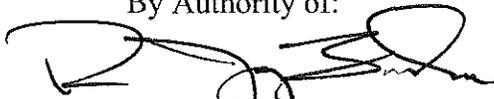
- F. Ensure payment and deposits are only accepted in the form of a certified cashier's check. Ensure the purchaser's affidavit and all necessary paper work are completed at the time of sale. All checks will be deposited in the bank as they are received.
- G. As soon as practicable, but not more than 30 days after the Sheriff's Sale, prepare and submit a report of the Sheriff's Sale to the clerk of the court for the property levy. The report shall include: (1) item description, (2) price, (3) defendants name & address, (4) buyers name & address, (5) purchaser's affidavit, (6) certification of publication and (7) report of sale.
- H. Wait for ratification of sale by the judge prior to disbursing funds or completing a Sheriff's Deed.
- I. Ensure each transaction of the Sheriff's Office checking account is recorded as each deposit and payment of funds is made.
- J. Distribute funds and pay the bills for rendered services to complete the sale. Copies of all applicable documents and recipes will be interred into the S drive.
- K. The Field Operations Lieutenant will ensure all forms and necessary paper work is accounted for and filed as required.
- L. File a report to the court stating the property sold, the purchasers, the amount of the proceeds, and the distribution of the proceeds.

VI. Sergeants' Responsibilities:

- A. Ensure the Writ of Execution/Levy is executed as directed, complete the Writ of Execution Return of Service section of the writ, and return it to the Sheriff's Office clerk.
- B. Assist the Field Operations Lieutenant with the Sheriff's Sale as directed. Ensure that the Field Operations Lieutenant is informed of any problems/issues during the execution of the Writ of Execution/Levy. (*Note: If the property is commercial ensure that the name on the commercial/business license is the same as the name on the writ of possession, if not the writ can not be enforced. Notify the Field Operations Lieutenant.*)

Distribution:

All Members

By Authority of:

R. Jay Fisher
Sheriff