

SUPREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE

Proposed Recommendation No. 260

**Proposed Amendment of Rule 3136 Governing
Distribution of Proceeds of Sheriff's Sales**

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 3136 governing distribution of proceeds of sheriff's sales be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than **September 26, 2014** to:

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Rule 3136. Distribution of Proceeds

- (a) Not later than thirty days after the sale of real property and not later than five days after the sale of personal property, the sheriff shall prepare a schedule of proposed distribution of the proceeds of sale which shall be [**kept on file and shall be available for inspection in the sheriff's office**] filed in the prothonotary's office. No schedule of distribution or list of liens need be filed when the property is sold to the plaintiff for costs only.
- (b) When a receipt of the plaintiff or other lien creditor has been accepted on account of the purchase price the schedule shall set forth the name and address of the plaintiff or lien creditor, the amount of the judgment or lien, identifying it, and the amount of credit claimed and allowed upon the purchase price.
- (c) In sales of real property the sheriff shall attach to the schedule a list of liens upon the property sold as certified from the record by the proper officers or a guaranteed search from any title company authorized to do business within the county. The cost of certifying the list of liens or the title search, the acknowledgment, recording and registry of the deed and transfer or documentary stamps shall be charged as an expense of distribution.
- (d) The sheriff shall distribute the proceeds of sale in accordance with the proposed schedule of distribution, unless written exceptions are filed with the sheriff not later than ten (10) days after the filing of the proposed schedule.
- (e) Upon the filing of exceptions, the sheriff shall transmit them to the prothonotary together with a copy of the proposed schedule of distribution.
- (f) The court shall determine the exceptions, and for this purpose may receive evidence by deposition or otherwise, or may appoint an auditor to hear the evidence and report to the court.

(g) The proceeds of sale need not be paid into court by the sheriff but upon petition of the sheriff or any party in interest, the court may order the proceeds to be paid into court to await distribution or may order the sheriff to invest the fund for distribution pending final disposition of the exceptions or an appeal therefrom.

(h) If the sheriff receives any money for costs or in connection with a stay, adjournment or postponement of sale or otherwise, the sheriff shall account for it on returning the writ.

Explanatory Comment

Current Rule 3136 provides for the sheriff to prepare a schedule of proposed distribution of proceeds (schedule) no later than thirty days after a sale of real property or five days after the sale of personal property. The sheriff is required to keep the schedule on file so that it is available for inspection in the sheriff's office. The parties in interest (parties) then have ten days to file exceptions to the schedule. The rule, however, does not require the sheriff to serve or notify the parties that a schedule has been prepared. As a result, the parties must monitor the sheriff's office on a daily basis to acquire the schedule in order to have the full ten days with which to prepare and file the exceptions. Instead of keeping the schedule on file in the sheriff's office, the proposed amendment would require the sheriff to file the schedule with the prothonotary and is intended to give the practitioner the ability to consult the docket, which in some counties can be done electronically.

By the Civil Procedural
Rules Committee

Peter J. Hoffman
Chair