

AN ORDINANCE TO ESTABLISH THE SHERIFF'S MORTGAGE FORECLOSURE SALES PROJECT AND AN ADMINISTRATIVE FEE

WHEREAS, I.C. 32-29-7-3 and I.C. 32-29-7-4 provide for mortgage foreclosure sales by the Sheriff and the charging of certain fees in connection therewith; and

WHEREAS, the Sheriff of Shelby County, Indiana ("Sheriff") desires to contract with a third party ("Contractor") for the provision of the mortgage foreclosure sales duties of the Sheriff under the above-mentioned sections of the Indiana Code with the services of such Contractor to be paid out of the administrative fee provided for in I.C. 32-29-7-3(h) ("Sheriff's Mortgage Foreclosure Sales Project"); and

WHEREAS, the Board of Commissioners of Shelby County, Indiana (the "Commissioners") have authority under I.C. 36-1-3-6 (the "Home Rule") to adopt an ordinance under Home Rule to establish and authorize the Sheriff's Mortgage Foreclosure Sales Project.

NOW, THEREFORE, be it ordained by the Board of Commissioners of Shelby County, Indiana that:

- "A. The Sheriff of Shelby County is hereby authorized to establish a Sheriff's Mortgage Foreclosure Sales Project under which the Sheriff of Shelby County shall be authorized to contract with a contractor ("Contractor") to fulfill the duties of the Sheriff of Shelby County under I.C. 32-29-7-3 and I.C. 32-29-7-4, subject to a proviso in such contract that the Sheriff of Shelby County remains fully liable for the performance of all statutory duties of the Sheriff of Shelby County in connection with the conduct of mortgage foreclosure sales.
- B. The contract negotiated by the Sheriff of Shelby County with the Contractor shall be subject to approval and execution by the Board of Commissioners of Shelby County.
- C. The contract shall provide for payment to the contractor of a fee up to an amount of One Hundred Dollars (\$100.00) for each sale of mortgaged property under a certified judgment and decree as provided for in Subsection (b) of I.C. 32-29-7-3, which shall constitute a portion of the administrative fee of the Sheriff as provided for under Subsection (h) of I.C. 32-29-7-3 ("Sheriff's Mortgage Foreclosure Sales Project Fee").
- D. The Sheriff of Shelby County is authorized to charge an additional fee up to an amount of One Hundred Dollars (\$100.00) per certified judgment and decree for sale of mortgaged property, also constituting a portion of

the administrative fee of the Sheriff as provided for under Section (h) of I.C. 32-29-7-3 ("Foreclosure Costs Fee") and to deposit such Foreclosure Costs Fee collected by the Sheriff or Contractor as costs in the County General Fund for appropriation for the operating expenses of the Sheriff's Office.

- E. The Sheriff's Mortgage Foreclosure Sales Project Fee and the Sheriff's Foreclosure Costs Fee shall be payable to the Sheriff and must be paid before the order of sale will be processed and scheduled for sale. These fees are payable by the person or entity seeking to enforce the certified judgment and decree.
- F. The Sheriff's Mortgage Foreclosure Sales Project contract shall provide for a complete and accurate accounting of all sale proceeds and be compliant with any reporting or record keeping requirements set forth by the Indiana State Board of Accounts.
- G. The Sheriff of Shelby County is authorized to cancel a Sheriff Sale of a parcel if city or county governmental liens or taxes on that parcel are not paid in full by noon of the day before the day of the scheduled Sheriff Sale date of that parcel.
- H. This ordinance does not apply to sales of time-share interests.

SECTION 2. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of Shelby County, and publication once each week for two (2) consecutive weeks as provided in I.C. 5-3-1.

ADOPTED this _____ day of June 2009 by a vote of _____ ayes and _____ nays of the members of the Board of Commissioners of Shelby County, Indiana.

Tony Newton, President

David Mohr, Vice President

Kevin P. Nigh, Member

ATTEST:

Amy Glackman
Shelby County Auditor

This Ordinance read, considered, and adopted by the Shelby County Council on the _____ day of July, 2009.

Terry Smith, President

Scott Asher

Margaret Brunk

Bob Carmony

Tom DeBaun

Linda Sanders

Tony Titus

ATTEST:

Amy Glackman
Shelby County Auditor

APPROVED AS TO LEGAL FORM:

John C DePrez, IV
County Attorney