



*A Division of Ohio Bar Title Insurance Company  
A First American Company*

# TITLE ALERT

**Title Alert 2014-08**

**July 11, 2014**

## **Rules of Civil Procedure Changes**

**Purpose:** To advise Approved Attorneys of several changes to three Pennsylvania Rules of Civil Procedure governing garnishments and sheriff sale procedures.

**Background:** By order of the Pennsylvania Supreme Court, amendments to Rules 3111, 3129.3, and 3135 of the Pennsylvania Rules of Civil Procedure took effect on April 7, 2014.<sup>1</sup>

Under amended Rule 3129.3, an execution creditor must now file a notice of the date of the continued sheriff's sale with the prothonotary at least fifteen days before the continued sale date. The execution creditor must also file a certificate with the sheriff confirming filing of the notice of the continued sale date. Unless raised prior to the delivery of the sheriff's deed, non-compliance with this procedure is not a basis for setting aside the sheriff's sale.

Amended Rule 3135 addresses the situation in which an executing creditor has failed to provide notice of sale to a junior lienholder in accordance with Rule 3129.2, in which case the junior lien has not been divested. With this rule change, the plaintiff, its assignee, or the purchaser at the sheriff's sale can file a petition requesting that:

- 1) The lien held by the junior lienholder be divested, or
- 2) another sheriff's sale be held where only the junior lienholder and the plaintiff may be the bidders, or
- 3) such relief as may be approved by order of Court.

**Advisory:** Please be aware of these Pennsylvania Rules of Civil Procedure changes. The new procedure codified in Rule 3135 provides an option for clearing the title of liens not divested by the sheriff's sale. Please note that the status of liens with priority over the lien being executed in the current sheriff's sale is not affected by this Rule change.

If you have any questions, please feel free to contact us.

Note: Under the Approved Attorney system, the scope of our relationship is limited to the functions of underwriting and the issuance of title insurance policies on your behalf and does not include closing or escrow services. We sometimes provide information and recommendations with regard to your closing or escrow business as a courtesy to you. Moreover, some communications, depending on whether noncompliance could impact on liability under our policies or closing protection letters, should be considered directives. This Advisory is being provided to you with those considerations in mind.

**WARNING: This Underwriting Communication is intended solely for the employees of Penn Attorneys/Ohio Bar Title Insurance Company and its Approved Attorneys, and is not to be distributed to third parties, and any reliance by any other person or entity is unauthorized. This Underwriting Communication is intended solely for the purpose of underwriting policies of Ohio Bar Title Insurance Company.**

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<sup>1</sup> Rule 3111 was amended to allow for defendants or third parties to petition the court for termination of a garnishment that has been inactive for one year, as otherwise garnishments can languish indefinitely.