

D.N.J. LBR 6004-1. Motion to Sell Property

(a) General requirements. A motion to sell property under § 363 of the Code must include:

- (1) a copy of the proposed sale agreement, or a form of agreement substantially similar to the form that will be executed in connection with the proposed sale;
- (2) a copy of the proposed order approving the sale;
- (3) the material terms of the proposed sale, including:
 - (A) a description of the property to be sold;
 - (B) the date, time, and place of sale;
 - (C) the purchase price;
 - (D) a condition of the sale;
 - (E) a deadline for the approval or closing of the sale;
 - (F) a deposit requirement and the conditions under which the deposit may be forfeited;
 - (G) a request for a tax determination under § 1146(b) of the Code;
 - (H) an identification of the entity that will retain or have access to the debtor's books and records, if the proposed sale is of substantially all of the debtor's assets;
 - (I) an identification of any executory contract or unexpired lease to be assumed and assigned under § 365 of the Code;
 - (J) a provision regarding credit bidding under § 363(k) of the Code; and
 - (K) a broker or sales agent's anticipated fee or commission; and
- (4) a request for the appointment of a consumer privacy ombudsman under § 332 of the Code, if applicable.

(b) Special provisions. The motion must identify the location of any of the following provisions in the sale agreement and proposed order:

- (1) identification of any insider to which property is being sold; description of the insider's relationship to the debtor; and description of any measures taken to ensure the fairness of the sale process and the proposed transaction;

- (2) description of the material terms of any agreement with management or key employees regarding compensation or future employment; statement as to whether the terms comply with § 503(c) of the Code; and a description of the measures taken to ensure the fairness of the sale and the agreement;
- (3) a waiver, release, or satisfaction of any claim;
- (4) an agreement to limit marketing of the property or to not solicit competing offers;
- (5) an interim agreement with the proposed purchaser;
- (6) a release of sale proceeds on or after the closing, or allocation of sale proceeds between or among sellers, without further court order;
- (7) a sale or limitation of the right to pursue avoidance claims under chapter 5 of the Code;
- (8) a limitation of the proposed purchaser's successor liability;
- (9) a provision to sell property free and clear of a leasehold interest, license, or other right; and
- (10) a provision to waive the stay of an order imposed by Bankruptcy Rule 6004(h) or 6006(d).

(c) Notice of sale. A motion to sell property must be accompanied by Local Form *Notice of Proposed Private Sale* or *Notice of Proposed Public Sale*.

2015 Comment

This Rule now incorporates a portion of the Guidelines for Sale of Estate Property in Chapter 11 cases, which were formerly in the Appendix to the Rule.

Local Bankruptcy Rule [6004-2](#) addresses bidding and auction procedures.

Subdivision (c) provides the procedure for a party seeking approval of a proposed sale to supply information to the court to satisfy the clerk's responsibility to send notice under Bankruptcy Rule 2002(a)(2).