

2011 -- S 0344

LC01386

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO PROPERTY

Introduced By: Senators Pichardo, Goodwin, Metts, Tassoni, and Crowley

Date Introduced: February 16, 2011

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 34 of the General Laws entitled "PROPERTY" is hereby amended by  
2 adding thereto the following chapter:

3 CHAPTER 18.3

4 NOTICE TO BONA FIDE TENANTS

5 **34-18.3-1. Definitions.** – As used in this chapter, unless the context otherwise requires:

6 (1) “Bona fide tenant” shall mean a person who has entered into a written or oral rental  
7 agreement with a homeowner or landlord (mortgagor) with respect to a dwelling unit of a  
8 mortgaged residential premises no less than thirty (30) days prior to the foreclosure of the  
9 mortgagor’s interest. Neither the mortgagor nor any member of his or her immediate family shall  
10 be a bona fide tenant. The protections afforded a bona fide tenant exist regardless whether the  
11 residential premises is or is not owner-occupied.

12 (2) “Rules and regulations” shall mean any rules adopted by municipalities necessary for  
13 the proper enforcement of this chapter to interpret and secure its intent.

14 **34-18.3-2. Notice to bona fide tenants.** – Effective upon the effective date of this  
15 chapter, no bona fide tenant legally occupying a rental residential property within the state shall  
16 be forced to vacate that property in the event of a mortgage foreclosure action upon that property  
17 unless and until the following requirements are met:

18 (1) Where any dwelling unit of a foreclosed mortgaged estate is occupied by a bona fide  
19 tenant, and where the foreclosed mortgagor has provided essential services to such tenant

1 including, without limitation, heat, running water, hot water, electric or gas any successor in  
2 interest to the foreclosed mortgagor shall continue to provide the same essential services to the  
3 tenant under the same terms and conditions.

4 (2) A successor in interest to a mortgagor shall provide notice to each bona fide tenant by  
5 mailing an envelope addressed to “Resident of property previously subject to foreclosure sale”  
6 and by posting, in the same manner required for posting the notice of sale on the property to be  
7 sold, a written notice in both English and Spanish stating the name and address of the successor in  
8 interest and/or managing agent so that the tenant may know to whom the ongoing rental payments  
9 should be made.

10 (3) Where any dwelling unit of a foreclosed mortgaged estate is occupied by a bona fide  
11 tenant of the foreclosed mortgagor, the bona fide tenant assumes a month to month periodic  
12 tenancy governed by the provisions of chapter 18 of title 34, except in those instances in which  
13 the bona fide tenant has entered into a written rental agreement with a homeowner or landlord  
14 (mortgagor) with respect to a dwelling unit of a mortgaged residential premises. In such instances  
15 tenancy is assumed for the duration specified in the written agreement.

16 (4) The lender/mortgagee shall provide notice to each bona fide tenant by mailing an  
17 envelope addressed to “Resident of property subject to foreclosure sale” and by positing, in the  
18 same manner required for posting the notice of sale on the property to be sold, at the same time  
19 notice is provided to the mortgagor, a written notice in both English and Spanish: (i) Stating that  
20 the real estate is to be sold in foreclosure which may affect the tenant’s right to continue to live in  
21 the property; (ii) Stating the date, time and place of sale; (iii) Providing the address and telephone  
22 number of Rhode Island legal services; and (iv) Providing the name, address and telephone  
23 number of HUD-approved counseling agencies in Rhode Island. Failure of the lender/mortgagor  
24 to provide notice as provided herein shall not affect the validity of the foreclosure; however, no  
25 successor in interest to the mortgagor shall be permitted to initiate an action for possession of the  
26 premises against such bona fide tenant until notice as required herein, in addition to the notice  
27 required in subdivision (2), is provided.

28 **34-18.3-3. Penalties.** – Any lender/mortgagee or successor in interest to a mortgagor that  
29 fails to comply with the terms of this chapter shall be subject to a fine of not less than one  
30 thousand dollars (\$1,000) per offense.

31 SECTION 2. Chapter 34-27 of the General Laws entitled "Mortgage Foreclosure and  
32 Sale" is hereby amended by adding thereto the following section:

33 **34-27-7. Preemption.** – No ordinance or regulation adopted by any municipality shall  
34 impose, or at any time be construed to continue to impose, any requirements or obligations on

1 mortgagees with respect to foreclosure of real estate that are inconsistent with, or more  
2 burdensome on mortgagees than any laws regarding notice to bona fide tenants or regarding  
3 foreclosure counseling or consulting.

4 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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- 1           This act would require any successor in interest to a foreclosed mortgagor to meet certain
- 2 notification requirements prior to evicting a tenant legally occupying a foreclosed property.
- 3           This act would take effect upon passage.

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