

2015 -- H 5465

=====  
LC001053  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

\_\_\_\_\_

A N A C T

RELATING TO PROPERTY - MORTGAGE FORECLOSURE AND SALE

Introduced By: Representatives Edwards, Reilly, Canario, Gallison, and O`Grady

Date Introduced: February 12, 2015

Referred To: House Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-27-6 of the General Laws in Chapter 34-27 entitled "Mortgage  
2 Foreclosure and Sale" is hereby amended to read as follows:

3 **34-27-6. Payment of outstanding taxes.** -- (a) In connection with any sale by public  
4 auction made under and according to the provisions of any mortgage of real estate or any power  
5 of sale contained therein or annexed thereto, if the mortgagee or an affiliate of the mortgagee is  
6 the successful bidder for the real estate or property offered for sale, the foreclosure deed shall be  
7 recorded in the records of land evidence for the municipality where the real estate is located  
8 within ~~forty five (45)~~ fifteen (15) days after the date of the sale. The deed shall be captioned  
9 "foreclosure deed" and the date of the foreclosure shall be stated in the deed. This subsection (a)  
10 shall not apply to any such sale if, prior to the recording of the foreclosure deed: (1) the  
11 mortgagor files a voluntary proceeding, or an order for relief is entered in any involuntary  
12 proceeding against the mortgagor, under any federal or state bankruptcy or insolvency statute; or  
13 (2) the mortgagee abandons or otherwise terminates such sale.

14 (b) Notwithstanding any other general law or local ordinance to the contrary, the grantee  
15 of real estate named in the foreclosure deed shall pay to the municipality, on or before the date  
16 the foreclosure deed is recorded, all taxes and other assessments, including water charges, interest  
17 and penalties, if any, which constitute liens on the real estate described in the foreclosure deed  
18 and which are due and owing on the recording date (collectively, "taxes due and owing");  
19 provided, however, that a grantee shall not be deemed in violation of this subsection (b) if the

1 grantee shall apply for a municipal lien certificate from the tax collector for the municipality  
2 during the ~~forty five (45)~~ fifteen (15) day period ending on the day on which the foreclosure deed  
3 is recorded and shall pay the taxes due and owing within thirty (30) days after the date on which  
4 the municipal lien certificate is mailed by the tax collector by the United States mail, postage  
5 prepaid, certified, return receipt requested, and addressed to the grantee at the address therefor set  
6 forth in the application for the municipal lien certificate. Taxes due and owing for purposes of  
7 this section shall include only installments thereof required by law to be paid as of the date the  
8 foreclosure deed is recorded.

9 (c) Upon a violation of any one or more of the requirements of this section, a penalty  
10 shall accrue at the rate of ~~forty dollars (\$40.00)~~ one thousand dollars (\$1,000) per month (in the  
11 aggregate) for each month or part thereof during which such violation or violations continue. For  
12 purposes of determining the penalty due hereunder, a month commences on the day on which the  
13 first such violation occurs and a new month commences on the same day (or if there is no such  
14 day, then on the last day) of each succeeding calendar month until all taxes due and owing are  
15 paid. In the event of a violation of subsection (a), taxes due and owing shall be determined as of  
16 the date required thereunder for the recording of a foreclosure deed.

17 (d) As used in this section, the term "affiliate" shall mean, with respect to any  
18 mortgagee, any individual or legal entity that controls, is controlled by or is under common  
19 control with such mortgagee, and the term "foreclosure deed" shall mean the mortgagee's deed or  
20 other conveyance of title to the successful bidder at any sale by public auction made under and  
21 according to the provisions of any mortgage of real estate or any power of sale contained therein  
22 or annexed thereto.

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

25 **34-27-8. Notice of intention to foreclose.** -- (a) A mortgagee that serves a notice of  
26 intention to foreclose on a mortgage on residential property in this state pursuant to this chapter,  
27 shall serve the clerk of the city or town in which the property is located with a copy of the notice  
28 at the same time that the mortgagee serves the notice on the mortgagor of the property.

29 (b) A mortgagee who is not a resident of this state shall designate and continuously  
30 maintain an agent, who is a resident of this state, upon whom service may be made of any  
31 process, notice, or demand required or permitted by law to be served. The mortgagee's  
32 designation shall be in writing and it shall include the full name and address of the agent and the  
33 street address of each property designated to said agent. The mortgagee's designation shall be  
34 filed with the clerk of the city or town in which the property is located.

1           (c) A mortgagee in violation of this section shall be subject to a fine of up to one  
2 thousand dollars (\$1,000) per month, for each violation, payable to the municipality.

3           **34-27-9. Maintenance of vacant and abandoned residential real property. -- (a) If the**  
4 director determines that a vacant and abandoned residential real property is in violation of  
5 relevant housing codes, building codes, and other any applicable state or municipal laws  
6 concerning maintenance, security, and upkeep of dwellings, the director shall notify the  
7 mortgagee and/or their local agent of the violation(s), including potential penalties associated  
8 with non-compliance as described below. It shall be the burden of the mortgagee and/or their  
9 local agent to bring the vacant and abandoned residential real property into compliance and  
10 inform the director that the required changes and/or repairs were made no more than thirty (30)  
11 days after notification. If the specific violation is determined not to have been brought into  
12 compliance at the time of re-inspection, the mortgagee and/or their local agent shall have five (5)  
13 additional days to bring the property into compliance. If, after this time, the mortgagee and/or  
14 their local agent have not rectified the violations in question, fines of up to one thousand dollars  
15 (\$1,000) per violation shall be imposed on the mortgagee and/or their local agent.

16           (b) For purposes of this section, residential real property will be deemed "vacant and  
17 abandoned" when at least three (3) monthly payments are past due on the mortgage loan or the  
18 mortgagor has informed the mortgagee or loan servicing company in writing that the mortgagor  
19 does not intent to occupy the property in the future; and there is reasonable basis to believe that  
20 the property is not occupied which shall be determined in accordance with the requirements of  
21 subsection (c) of this section.

22           (c) The residential real property will be deemed not occupied when the mortgagor has  
23 manifested intent to abandon the residential real property through some act or omission. The  
24 intent of the owner to abandon the residential real property can be inferred from the surrounding  
25 facts and circumstances that include, but are not limited to, violations of relevant housing codes,  
26 building codes, and any other applicable state or municipal laws concerning maintenance,  
27 security, and upkeep of dwellings.

28           (d) A residential real property shall not be deemed vacant and abandoned where such  
29 property is:

30           (1) An unoccupied building which is undergoing construction, renovation or  
31 rehabilitation that is proceeding to completion, and the building is in compliance with all  
32 applicable ordinances, codes, regulations and statutes;

33           (2) A building occupied on a seasonal basis that is otherwise secure;

34           (3) A building that is secure, but is the subject of a probate action, action to quiet title, or

1 other similar ownership dispute;

2 (4) A building damaged by a natural disaster and one or more owner intends to repair and  
3 reoccupy the property; or

4 (5) Occupied by the mortgagor, a relative of the mortgagor or a tenant lawfully in  
5 possession.

6 (e) For purposes of this section, the "director" shall mean the person responsible for code  
7 enforcement or its equivalent for the municipality in which the residential real property is located,  
8 or his or her designee.

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

=====  
LC001053  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO PROPERTY - MORTGAGE FORECLOSURE AND SALE

\*\*\*

1           This act would reduce the number of days within which a foreclosure deed must be filed  
2 from forty-five (45) to fifteen (15). The act would also require mortgagees, upon giving notice of  
3 intent to foreclose a mortgage, to file a copy of that notice with the city or town clerk and appoint  
4 an agent for service of process within the state. The act would also require holders of vacant and  
5 abandoned property to provide for the maintenance, security, and upkeep such property.

6           This act would take effect upon passage.

=====  
LC001053  
=====