

2017 -- H 5397

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LC001133  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO PROPERTY -- MORTGAGE FORECLOSURE AND SALE

Introduced By: Representatives Morin, Messier, Phillips, Casey, and Johnston

Date Introduced: February 03, 2017

Referred To: House Judiciary

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.**

4 (a) In connection with any sale by public auction made under and according to the  
5 provisions of any mortgage of real estate or any power of sale contained therein or annexed  
6 thereto, if the mortgagee or an affiliate of the mortgagee is the successful bidder for the real estate  
7 or property offered for sale, the foreclosure deed shall be recorded in the records of land evidence  
8 for the municipality where the real estate is located within ~~forty five (45)~~ thirty (30) days after the  
9 date of the sale. The deed shall be captioned "foreclosure deed" and the date of the foreclosure  
10 shall be stated in the deed. This subsection (a) shall not apply to any such sale if, prior to the  
11 recording of the foreclosure deed: (1) the mortgagor files a voluntary proceeding, or an order for  
12 relief is entered in any involuntary proceeding against the mortgagor, under any federal or state  
13 bankruptcy or insolvency statute; or (2) the mortgagee abandons or otherwise terminates such  
14 sale.

15 (b) Notwithstanding any other general law or local ordinance to the contrary, the grantee  
16 of real estate named in the foreclosure deed shall pay to the municipality, on or before the date  
17 the foreclosure deed is recorded, all taxes and other assessments, including water charges, interest  
18 and penalties, if any, which constitute liens on the real estate described in the foreclosure deed  
19 and which are due and owing on the recording date (collectively, "taxes due and owing");

1 provided, however, that a grantee shall not be deemed in violation of this subsection (b) if the  
2 grantee shall apply for a municipal lien certificate from the tax collector for the municipality  
3 during the ~~forty five (45)~~ thirty (30) day period ending on the day on which the foreclosure deed  
4 is recorded and shall pay the taxes due and owing within thirty (30) days after the date on which  
5 the municipal lien certificate is mailed by the tax collector by the United States mail, postage  
6 prepaid, certified, return receipt requested, and addressed to the grantee at the address therefor set  
7 forth in the application for the municipal lien certificate. Taxes due and owing for purposes of  
8 this section shall include only installments thereof required by law to be paid as of the date the  
9 foreclosure deed is recorded.

10 (c) Upon a violation of any one or more of the requirements of this section, a penalty  
11 shall accrue ~~at the rate of forty dollars (\$40.00) per month (in the aggregate) for each month or~~  
12 ~~part thereof during which such violation or violations continue. For purposes of determining the~~  
13 ~~penalty due hereunder, a month commences on the day on which the first such violation occurs~~  
14 ~~and a new month commences on the same day (or if there is no such day, then on the last day) of~~  
15 ~~each succeeding calendar month until all taxes due and owing are paid. In the event of a violation~~  
16 ~~of subsection (a), taxes due and owing shall be determined as of the date required thereunder for~~  
17 ~~the recording of a foreclosure deed~~ in the amount of two thousand dollars (\$2,000) which shall be  
18 paid prior to the city or town clerk accepting the foreclosure deed for recording.

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

25 (e) A mortgagee not licensed as a financial lending institution holding a mortgage by  
26 private agreement with another party shall be exempt from the penalty requirements of this  
27 section.

28 SECTION 2. 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 impose a penalty of two thousand dollars (\$2,000) upon financial  
2 institutions failing to promptly record foreclosure deeds and pay outstanding taxes. Most holders  
3 of a private mortgage would be exempt from the penalty requirements. The act would also require  
4 that foreclosure deeds be recorded within thirty (30) days after the date of the foreclosure sale.

5           This act would take effect upon passage.

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