

2017 -- H 5397 SUBSTITUTE A

LC001133/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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) days after the date of
9 the sale. The deed shall be captioned "foreclosure deed" and the date of the foreclosure shall be
10 stated in the deed. This subsection (a) shall not apply to any such sale if, prior to the recording of
11 the foreclosure deed: (1) the mortgagor files a voluntary proceeding, or an order for relief is
12 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) day period ending on the day on which the foreclosure deed is recorded
4 and shall pay the taxes due and owing within thirty (30) days after the date on which the
5 municipal lien certificate is mailed by the tax collector by the United States mail, postage prepaid,
6 certified, return receipt requested, and addressed to the grantee at the address therefor set forth in
7 the application for the municipal lien certificate. Taxes due and owing for purposes of this section
8 shall include only installments thereof required by law to be paid as of the date the foreclosure
9 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)~~ three hundred dollars (\$300) per month (in the
12 aggregate) for each month or part thereof during which such violation or violations continue. For
13 purposes of determining the penalty due hereunder, a month commences on the day on which the
14 first such violation occurs and a new month commences on the same day (or if there is no such
15 day, then on the last day) of each succeeding calendar month until all taxes due and owing are
16 paid. In the event of a violation of subsection (a), taxes due and owing shall be determined as of
17 the date required thereunder for the recording of a foreclosure deed. The maximum aggregate
18 penalty shall not exceed two thousand dollars (\$2,000), which shall be paid prior to the city or
19 town clerk accepting the foreclosure deed for recording.

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

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

29 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 three hundred dollars (\$300) per month up to an
2 aggregate total of two thousand dollars (\$2,000) upon financial institutions failing to promptly
3 record foreclosure deeds and pay outstanding taxes. Most holders of a private mortgage would be
4 exempt from the penalty requirements.

5 This act would take effect upon passage.

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