

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO PROPERTY - RESIDUAL DEBT AFTER SHORT SALE OF RESIDENTIAL
PROPERTY

Introduced By: Senator James C. Sheehan

Date Introduced: March 29, 2017

Referred To: Senate Judiciary

(by request)

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 27.3

4 THE RESIDUAL DEBT AFTER SHORT SALE OF RESIDENTIAL PROPERTY ACT

5 **34-27.3-1. Short title.**

6 This chapter shall be known and may be cited as "The residual debt after short sale of
7 residential property act."

8 **34-27.3-2. Definitions.**

9 As used in this chapter:

10 (1) "Borrower" means an individual who, directly or indirectly and individually or
11 together with another person, is obligated on a real estate loan agreement, including, but not
12 limited to, a mortgagor or a grantor or an assignee or successor in interest.

13 (2) "Lender" means a person that makes, extends or holds a real estate loan agreement,
14 including, but not limited to, a mortgagee, as defined in §19-14-1(4), or an assignee or successor
15 in interest.

16 (3) "Payoff statement" means a written statement that sets forth, as of the date the lender
17 prepares the statement, amounts a borrower must pay in order to fully satisfy the borrower's
18 obligation under a real estate loan agreement.

1 (4) "Real estate loan agreement" means an arrangement between a lender and a borrower,
2 including, but not limited to, a mortgage, by means of which the lender agrees to extend a loan
3 and the borrower agrees to secure the loan in whole or in part with residential property, or an
4 interest in residential property, that is located in this state.

5 (5) "Residential property" means real property upon which is situated four (4) or fewer
6 improvements designed for residential use, one of which a borrower occupies as the borrower's
7 residence.

8 (6) "Residual debt" means an amount due on a loan, evidence of which exists in a real
9 estate loan agreement, note, bond, contract or similar written agreement, that a borrower is unable
10 to pay out of the proceeds from a sale of the residential property that secures the loan.

11 (7) "Short sale" means a sale of residential property that is in the process of foreclosure
12 proceedings, subject to a contractual or statutory power of sale pursuant to chapters 11 or 27 of
13 title 34, or any sale for an amount that is less than the remaining amount due on the loan that the
14 residential property secures.

15 **34-27.3-3. Action for residual debt after short sale.**

16 (a) If a lender reports to the Internal Revenue Service that as a consequence of or in
17 conjunction with a short sale of residential property the lender has canceled all or a portion of a
18 borrower's obligation under a real estate loan agreement and the lender provides to the borrower
19 written evidence of the lender's report to the Internal Revenue Service, the lender or an assignee
20 of the lender may not bring an action or otherwise seek payment for the residual debt following
21 the short sale.

22 (b)(1) Except as provided in subsection (2) of this section, a borrower or an agent of the
23 borrower may rely on a payoff statement for the purpose of establishing the amount the borrower
24 must pay to satisfy the borrower's obligation under a real estate loan agreement other than a real
25 estate loan agreement for a construction loan.

26 (2) A borrower or an agent of the borrower may not rely on a payoff statement after a
27 lender prepares and delivers an amended payoff statement to the borrower or borrower's agent.
28 For purposes of this subsection, a lender delivers an amended payoff statement to the borrower or
29 borrower's agent if the lender provides the amended payoff statement by electronic means, sends
30 the amended payoff statement by United States mail postage prepaid and correctly addressed to
31 the borrower or borrower's agent or sends the amended payoff statement by facsimile, provided
32 that the borrower or borrower's agent receives the amended payoff statement before the borrower
33 disburses funds for the purpose of satisfying the obligation in accordance with subsection (d) of
34 this section.

1 (c) If an amount that a borrower owes under a real estate loan agreement, other than a real
2 estate loan agreement for a construction loan, does not appear on a payoff statement or amended
3 payoff statement and the borrower or an agent of the borrower satisfies the obligation set forth in
4 the payoff statement in accordance with subsection (d) of this section, the lender may recover the
5 amount only as an unsecured obligation or only by foreclosing a mortgage or security agreement
6 for any other property that secures the obligation.

7 (d) To satisfy an obligation set forth in a payoff statement or an amended payoff
8 statement, a borrower must submit the amount shown in the payoff statement or amended payoff
9 statement, instruct the lender to close any line of credit that is related to the obligation and request
10 a redemption, release or transfer of the mortgage pursuant to the provisions of chapter 26 of title
11 34 before any deadline, expiration date or maturity date specified in the payoff statement or
12 amended payoff statement.

13 SECTION 2. This act shall take effect upon passage and apply to all actions for residual
14 debt after short sale filed on or after July 1, 2017.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO PROPERTY - RESIDUAL DEBT AFTER SHORT SALE OF RESIDENTIAL
PROPERTY

1 This act would prohibit a lender from filing an action for a deficiency judgment following
2 a short sale of residential property if the lender reports to the Internal Revenue Service (IRS) that
3 it has cancelled all or part of the borrower's debt and provides the borrower with a copy of the
4 report.

5 This act would take effect upon passage and would apply to all actions for residual debt
6 after short sale filed on or after July 1, 2017.

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