

2026 -- S 3361 AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

A N A C T

RELATING TO PROPERTY -- MORTGAGE FORECLOSURE AND SALE

Introduced By: Senators LaMountain, Felag, Burke, Tikoian, Gallo, DiPalma, and Britto

Date Introduced: June 05, 2026

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-27-4 of the General Laws in Chapter 34-27 entitled "Mortgage
2 Foreclosure and Sale" is hereby amended to read as follows:

3 **34-27-4. Publication of notice under power of sale and rights of active military**
4 **servicemembers.**

5 (a) Whenever any real estate shall be sold under any power of sale mortgage executed
6 subsequent to May 4, 1911, and the mortgage shall provide for the giving of notice of the sale by
7 publication in some public newspaper at least once a week for three (3) successive weeks before
8 the sale, the first publication of the notice shall be at least twenty-one (21) days before the day of
9 sale, including the day of the first publication in the computation, and the third publication of the
10 notice shall be no fewer than seven (7) days before the original date of sale listed in the
11 advertisement, including the day of the third publication in the computation, and no more than
12 fourteen (14) days before the original date of sale listed in the advertisement. The sale may take
13 place no more than fourteen (14) days from the date on which the third successive notice is
14 published, excluding the day of the third publication in the computation. Provided, however, that
15 if the sale is adjourned as provided in § 34-11-22, and the adjourned sale is held during the same
16 calendar week as the originally scheduled day of sale, no additional advertising is required.
17 Otherwise, publication of the notice of the adjourned sale, together with a notice of the adjournment
18 or adjournments, shall be continued at least once each week commencing with the calendar week
19 following the originally scheduled day of sale; the sale, as so adjourned, shall take place during the

1 same calendar week in which the last notice of the adjourned sale is published, at least one day
2 after the date on which the last notice is published.

3 (b) Provided, however, that no notice shall be valid or effective unless the mortgagor has
4 been ~~mailed sent~~ written notice of the time and place of sale by ~~certified mail return receipt~~
5 ~~requested at~~ way of United States Postal Service First Class Mail and an overnight delivery service
6 the address of the real estate and, if different, at the mortgagor's address listed with the tax
7 assessor's office of the city or town where the real estate is located or any other address the
8 mortgagor designates by written notice to the mortgagee at their, or its last known address, at least
9 twenty (20) days for mortgagors other than individual consumer mortgagors, and at least thirty (30)
10 days for individual consumer mortgagors, days prior to the first publication, including the day of
11 mailing in the computation. The mortgagee shall include in the foreclosure deed an affidavit of
12 compliance with this provision.

13 (c) Provided further, that the notice ~~mailed sent~~ to the mortgagor in accordance with
14 subsection (b) above shall also contain a copy of subsection (d) below (printed in not less than 12
15 point type) headed by the following notice (printed in not less than 14 point type): "A
16 servicemember on active duty or deployment or who has recently ceased such duty or deployment
17 has certain rights under § 34-27-4(d) of the Rhode Island general laws set out below. To protect
18 your rights if you are such a servicemember, you should give written notice to the servicer of the
19 obligation or the attorney conducting the foreclosure, prior to the sale, that you are a servicemember
20 on active duty or deployment or who has recently ceased such duty or deployment. This notice may
21 be given on your behalf by your authorized representative. If you have any questions about this
22 notice, you should consult with an attorney." The mortgagee shall include in the foreclosure deed
23 an affidavit of compliance with this provision.

24 **(d) Foreclosure sales affecting servicemembers.**

25 (1) The following definitions shall apply to this subsection and to subsection (c):

26 (i) "Servicemember" means a member of the Army, Navy, Air Force, Marine Corps, Space
27 Force, or Coast Guard and members of the National Guard or Reserves called to active duty.

28 (ii) "Active duty" has the same meaning as the term is defined in 10 U.S.C. §§ 12301 —
29 12304. In the case of a member of the National Guard, or Reserves "active duty" means and
30 includes service under a call to active service authorized by the president or the secretary of defense
31 for a period of time of more than thirty (30) consecutive days under 32 U.S.C. § 502(f), for the
32 purposes of responding to a national emergency declared by the president and supported by federal
33 funds.

34 (2) This subsection applies only to an obligation on real and related personal property

1 owned by a servicemember that:

2 (i) Originated before the period of the service member's military service or in the case of
3 a member of the National Guard or Reserves originated before being called into active duty and for
4 which the servicemember is still obligated; and

5 (ii) Is secured by a mortgage or other security in the nature of a mortgage.

6 (3) **Stay of right to foreclose by mortgagee.** Upon receipt of written notice from the
7 mortgagor or mortgagor's authorized representative that the mortgagor is participating in active
8 duty or deployment or that the notice as provided in subsection (c) was received within ~~nine (9)~~
9 ~~months~~ one year of completion of active duty or deployment, the mortgagee shall be barred from
10 proceeding with the execution of sale of the property as defined in the notice until such ~~nine-month~~
11 ~~(9)~~ one year period has lapsed or until the mortgagee obtains court approval in accordance with
12 subsection (d)(5) below.

13 (4) **Stay of proceedings and adjustment of obligation.** In the event a mortgagee proceeds
14 with foreclosure of the property during, or within ~~nine (9) months~~ one year after a servicemember's
15 period of active duty or deployment notwithstanding receipt of notice contemplated by subsection
16 (d)(3) above, the servicemember or their authorized representative may file a petition against the
17 mortgagee seeking a stay of such foreclosure, after a hearing on such petition, and on its own
18 motion, the court may:

19 (i) Stay the proceedings for a period of time as justice and equity require; or

20 (ii) Adjust the obligation as permitted by federal law to preserve the interests of all parties.

21 (5) **Sale or foreclosure.** A sale, foreclosure or seizure of property for a breach of an
22 obligation of a servicemember who is entitled to the benefits under subsection (d) and who provided
23 the mortgagee with written notice permitted under subsection (d)(3) shall not be valid if made
24 during, or within ~~nine (9) months~~ one year after, the period of the servicemember's military service
25 except:

26 (i) Upon a court order granted before such sale, foreclosure, or seizure after hearing on a
27 petition filed by the mortgagee against such servicemember; or

28 (ii) If made pursuant to an agreement of all parties.

29 (6) **Penalties.** A mortgagee who knowingly makes or causes to be made a sale, foreclosure,
30 or seizure of property that is prohibited by subsection (d)(3) shall be fined the sum of one thousand
31 dollars (\$1,000), or imprisoned for not more than one year, or both. The remedies and rights
32 provided hereunder are in addition to and do not preclude any remedy for wrongful conversion
33 otherwise available under law to the person claiming relief under this section, including
34 consequential and punitive damages.

1 (7) Any petition hereunder shall be commenced by action filed in the superior court for the
2 county in which the property subject to the mortgage or other security in the nature of a mortgage
3 is situated. Any hearing on such petition shall be conducted on an expedited basis following such
4 notice and/or discovery as the court deems proper.

5 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO PROPERTY -- MORTGAGE FORECLOSURE AND SALE

1 This act would allow for sending of the notice under power of sale and rights of active
2 military servicemembers by United States Postal Service First Class Mail and/or an overnight
3 delivery service, instead of by United States Postal Service certified mail return receipt requested.

4 This act would take effect upon passage.

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