

2011 -- H 5673

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LC00775  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

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A N A C T

RELATING TO PROPERTY -- MORTGAGE FORECLOSURE AND SALE

Introduced By: Representative Thomas Winfield

Date Introduced: March 03, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 34-27 of the General Laws entitled "Mortgage Foreclosure and  
2 Sale" is hereby amended by adding thereto the following section:

3 **34-27-1.2. Notice and recordation of assignments and transfers.** – (a) At least forty-  
4 five (45) days before any proposed foreclosure sale, the party secured or mortgage servicer shall  
5 provide written notice to the present owner of the property to be sold of the intent of the party  
6 secured to foreclosure upon the property. The notice shall contain the name, address and  
7 telephone number of the party secured, and any employee or department of the mortgage servicer,  
8 that can be contacted for inquiries regarding alternatives to foreclosure including loan  
9 modification. The notice shall be sent by certified or registered mail to the present owner's last  
10 known address as such owner and address appears in the records of the party secured.

11 (b) On or after July 1, 2011, if a mortgage has been assigned or otherwise transferred by  
12 the original mortgagee, the party attempting to foreclose shall not proceed with any sale of the  
13 property unless:

14 (1) All transfers or assignments of the mortgage have been recorded with the land records  
15 of the locality in which the property is located; and

16 (2) The entity or person who asserts that it or he/she is the holder of the obligation  
17 secured by the mortgage can directly trace its or his/her interest through the duly recorded  
18 transfer or assignments to the original mortgagee.

19 (c) If all transfers or assignments of mortgages have not been recorded in the land-

1 evidence records of the city or town in which the property is located, a foreclosure sale may  
2 proceed only upon:

3 (1) The recordation of any assignments or transfers necessary to trace the interests of the  
4 entity or person who asserts that it or he/she is the holder of the obligation secured by the  
5 mortgage to the original mortgagee, or, if an intervening transfer or assignment cannot be  
6 recorded because the transferee or assignee no longer exists, the provision of an affidavit by the  
7 secured party attesting under penalty of perjury that the entity or person is the party secured under  
8 the mortgage; and

9 (2) The payment of all fees, taxes, and other costs applicable to the recording of the  
10 transfers or assignments. The entity or person who asserts that it or he/she is the holder of the  
11 obligation secured by the mortgage is solely responsible for paying all fees, taxes, and other costs  
12 required in subdivision (2).

13 SECTION 2. This act shall take effect on June 30, 2011.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO PROPERTY -- MORTGAGE FORECLOSURE AND SALE

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1           This act would provide that owners of property be provided with notice of an intent to  
2 foreclose. It would further require that assignments or transfers of mortgages be recorded in the  
3 land evidence records of the city or town in which the property is located.

4           This act would take effect on June 30, 2011.

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