

2016 -- H 7529

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO PROPERTY - MORTGAGE FORECLOSURE AND SALE

Introduced By: Representatives Edwards, Newberry, and Ajello

Date Introduced: February 10, 2016

Referred To: House Judiciary

(Attorney General)

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

14 (b) Notwithstanding any other general law or local ordinance to the contrary, the grantee
15 of real estate named in the foreclosure deed shall pay to the municipality, on or before the date
16 the foreclosure deed is recorded, all taxes and other assessments, including water charges, interest
17 and penalties, if any, which constitute liens on the real estate described in the foreclosure deed
18 and which are due and owing on the recording date (collectively, "taxes due and owing");
19 provided, however, that a grantee shall not be deemed in violation of this subsection (b) if the

1 grantee shall apply for a municipal lien certificate from the tax collector for the municipality
2 during the forty-five (45) day period ending on the day on which the foreclosure deed is recorded
3 and shall pay the taxes due and owing within thirty (30) days after the date on which the
4 municipal lien certificate is mailed by the tax collector by the United States mail, postage prepaid,
5 certified, return receipt requested, and addressed to the grantee at the address therefor set forth in
6 the application for the municipal lien certificate. Taxes due and owing for purposes of this section
7 shall include only installments thereof required by law to be paid as of the date the foreclosure
8 deed is recorded.

9 (c) Upon a violation of any one or more of the requirements of this section, a penalty
10 shall accrue at the rate of ~~forty dollars (\$40.00) per month~~ one hundred dollars (\$100) per day (in
11 the aggregate) for each ~~month~~ day or part thereof during which such violation or violations
12 continue. ~~For purposes of determining the penalty due hereunder, a month commences on the day~~
13 ~~on which the first such violation occurs and a new month commences on the same day (or if there~~
14 ~~is no such day, then on the last day) of each succeeding calendar month until all taxes due and~~
15 ~~owing are paid.~~ In the event of a violation of subsection (a), taxes due and owing shall be
16 determined as of the date required thereunder for the recording of a foreclosure deed.

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

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

25 **34-27-8. Notice of intention to foreclose.** – (a) A mortgagee that serves a notice of
26 intention to foreclose on a mortgage on residential property in this state pursuant to this chapter,
27 shall file in the land evidence records of the city or town in which the property is located a copy
28 of the notice at the same time that the mortgagee serves the notice on the mortgagor of the
29 property.

30 (b) A mortgagee who is not a resident of this state shall designate and continuously
31 maintain an agent, who is a resident of this state, upon whom service may be made of any
32 process, notice, or demand required or permitted by law to be served. The mortgagee's
33 designation shall be in writing and it shall include the full name and address of the agent and the
34 street address of each property designated to said agent. The mortgagee's designation shall be

1 [filed in the land evidence records of the city or town in which the property is located.](#)

2 [\(c\) A mortgagee in violation of this section shall be subject to a fine of up to one](#)
3 [thousand dollars \(\\$1,000\) per month in violation payable to the municipality.](#)

4 SECTION 3. This act shall take effect on September 1, 2016.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would increase the fines for failing to file a foreclosure deed to one hundred
2 dollars (\$100) per day. The act would also require mortgagees, upon serving a notice of intent to
3 foreclose against a mortgagor, to file a copy of that notice in the land evidence records of the city
4 or town in which the property is located and designate an agent for service of process within the
5 state.

6 This act would take effect on September 1, 2016.

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