

2016 -- H 7532

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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 -- CONDOMINIUM LAW

Introduced By: Representative K. Joseph Shekarchi

Date Introduced: February 10, 2016

Referred To: House Judiciary

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-36.1-3.21 of the General Laws in Chapter 34-36.1 entitled  
2 "Condominium Law" is hereby amended to read as follows:

3 **34-36.1-3.21. Foreclosure of condominium lien.** -- (a) (1) If a condominium unit owner  
4 shall default in the payment of any assessment, fine, or any other charge which is a lien on the  
5 unit in favor of the association or its assigns, then it shall be lawful for the association or its  
6 assigns, through its executive board, to sell the unit of any defaulting unit owner and the benefit  
7 and equity of redemption of the defaulting unit owner and his or her heirs, executors,  
8 administrators, and assigns therein, at public auction upon the premises or at such other place, if  
9 any, as may be designated for that purpose by the association or its assigns.

10 (2) The association must first mail written notice of the time and place of sale to the  
11 defaulting unit owner, at his or her last known address and the holder of the first mortgage or  
12 deed of trust of record at the address for service required by subdivision 34-36.1-3.16(b)(4), both  
13 by certified mail, return receipt requested, at least twenty (20) days prior to publishing said  
14 notice; second, the association must publish the same at least once each week for two (2)  
15 successive weeks in a public newspaper. The time of sale shall be at least fifteen (15) days after  
16 the publication of the first notice in a public newspaper. Publication shall be ~~as follows:~~ [in a  
17 public newspaper published daily in the city or town in which the condominium is situated, but if  
18 there is no such newspaper published, then in some public newspaper published daily anywhere  
19 in the county in which the condominium is situated. If there is no public newspaper published](#)

1 daily in the county in which the condominium is situated, publication shall be in a public  
2 newspaper published daily in the city of Providence.

3 (i) ~~If the condominium is situated in the city of Central Falls, in a public newspaper~~  
4 ~~published daily in the city of Pawtucket;~~

5 (ii) ~~If the condominium is situated in the town of North Providence, in a public~~  
6 ~~newspaper published daily in the city of Providence;~~

7 (iii) ~~If the condominium is situated in any of the towns of Cumberland, Lincoln,~~  
8 ~~Smithfield or North Smithfield, in a public newspaper published daily in either the city of~~  
9 ~~Pawtucket, Woonsocket, or Providence;~~

10 (iv) ~~If the condominium is situated in the county of Providence elsewhere than in the~~  
11 ~~above last named cities and towns, in a public newspaper published daily in the city of~~  
12 ~~Providence;~~

13 (v) ~~If the condominium is situated in the county of Newport, in a public newspaper~~  
14 ~~published daily in the city of Newport; but if there be no such newspaper so published, then in~~  
15 ~~some public newspaper published anywhere in the county of Newport;~~

16 (vi) ~~If the condominium is situated in any of the counties of Bristol, Kent, or~~  
17 ~~Washington, in a public newspaper published daily in the city or town in which the condominium~~  
18 ~~is situated; or in some public newspaper published daily in the county in which the condominium~~  
19 ~~is situated or in a public newspaper published daily in the city of Providence.~~

20 (3) The sale may be adjourned from time to time, provided that publishing of the notice  
21 shall be continued, together with a notice of the adjournment or adjournments, at least once each  
22 week in the same newspaper; and third, the association must mail written notice of the same to  
23 any person or entity having an interest of record in the unit, recorded not later than thirty (30)  
24 days prior to the date originally scheduled for the sale, including without limitation, the holder of  
25 any mortgage or deed of trust with respect to the unit, to the address of the person or entity may  
26 have provided for that purpose in the land evidence records or at any other address the person or  
27 entity may have provided the association in writing, such notice to be given by regular or certified  
28 mail, return receipt requested, at least ten (10) days prior to the date originally scheduled for such  
29 sale; and in his or her or their own name or names, or as the attorney or attorneys of the  
30 defaulting unit owner (for that purpose by these presents duly authorized and appointed with full  
31 power of substitution and revocation) to make, execute, and deliver to the purchaser or purchasers  
32 at the sale a good and sufficient deed or deeds of the defaulted condominium unit, in fee simple,  
33 and to receive the proceeds of the sale or sales, and from the proceeds to retain all sums secured  
34 by the lien in favor of the association as of the date of such sale together with all expenses

1 incident to such sale or sales, or for making deeds hereunder, and for fees of counsel and  
2 attorneys, and all costs or expenses incurred in the exercise of such powers, and all taxes,  
3 assessments, and premiums for insurance, if any, either theretofore paid by the association, or its  
4 assigns, or then remaining unpaid upon the defaulted condominium unit, rendering and paying the  
5 surplus of the proceeds of sale, if any there be, over and above the amounts to be retained, and  
6 paid to other encumbrances of record, together with a true and particular account of such sale or  
7 sales, expenses, and charges, to the defaulting unit owner, or his or her heirs, executors,  
8 administrators or assigns. The sale or sales shall forever be a perpetual bar against the defaulting  
9 unit owner and his or her heirs, executors, administrators and assigns, and all persons claiming  
10 the defaulted condominium unit, so sold, by, through or under him, her, them or any of them.

11 (4) Within seven (7) days after the foreclosure sale, the association shall send an  
12 additional written notice to the holder of the first mortgage or deed of trust of record as appears in  
13 the land evidence records, as provided in subdivision 34-36.1-3.16(b)(4) by certified mail, return  
14 receipt requested, and first class mail, identifying the name of the highest bidder and the amount  
15 of the bid.

16 (b) Any foreclosure sale held by the association pursuant to subsection (a) above, and the  
17 title conveyed to any purchaser or purchasers pursuant to such sale, shall be subject to any lien or  
18 encumbrance entitled to a priority over the lien of the association pursuant to § 34-36.1-3.16(b).

19 (c) Any foreclosure sale held by the association pursuant to subsection (a) above, shall  
20 be subject to a thirty (30) day right of redemption running in favor of the holder of the first  
21 mortgage or deed of trust of record. The right of redemption shall be exercised by tendering  
22 payment to the association in full of all assessments due on the unit together with all attorney's  
23 fees and costs incurred by the association in connection with the collection and foreclosure  
24 process within thirty (30) days of the date of the post-foreclosure sale notice sent by the  
25 association pursuant to subdivision (a)(4) above. Otherwise, the right of redemption shall  
26 terminate thirty (30) days from the date of the post-foreclosure sale notice sent by the association  
27 pursuant to subdivision (a)(4) above.

28 (d) Upon request the association shall provide to any person or entity having an interest  
29 of record in the unit: (1) an itemized statement of the amounts owed the association by the  
30 defaulting unit owner, separating common expense assessments referred to in § 34-36.1-  
31 3.16(b)(2) from interest, attorney's fees, fines and other charges secured by the lien of the  
32 association; and (2) a copy of the most recent periodic budget adopted by the association pursuant  
33 to § 34-36.1-3.15(a).

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO PROPERTY -- CONDOMINIUM LAW

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- 1           This act would amend the rules for newspaper publication of notices of condominium
- 2   lien foreclosure.
- 3           This act would take effect upon passage.

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