

2016 -- H 7671

=====
LC004752
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

—————
A N A C T

RELATING TO PROPERTY -- COMMERCIAL REAL ESTATE BROKER LIEN

Introduced By: Representative Michael J. Marcello

Date Introduced: February 24, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 34-49 of the General Laws entitled "Commercial Real Estate
2 Broker Lien Act" is hereby amended by adding thereto the following section:

3 **34-49-3.1. Dismissal of complaint for other cause --** (a) If any person or entity in
4 interest claims that the notice of lien filed by a real estate broker in the land evidence records does
5 not follow the applicable provisions of chapter 49 of title 34 or that there are other specific legal
6 reasons why the notice of lien was improper, then that person or entity of interest may forthwith
7 challenge the property of the notice seeking an order to show cause why the lien in question is
8 invalid or otherwise void, or that the basis of the lien is without probability of a judgment
9 rendered in favor of the lien. A mortgage holder or servicer is not a necessary party under this
10 section and shall not be named as a party in any such application or order of notice.

11 (b) An order of notice to appear and show cause why the relief demanded in the
12 complaint should not be granted shall be served upon the necessary parties no later than one week
13 prior to the date of the scheduled hearing. If the necessary parties cannot be found, such service
14 may be made as the court shall direct. The application shall be made upon a verified complaint
15 accompanied by other written proof of facts upon which the application is made. Upon granting
16 or denying the application, the court shall enter an order or judgment as applicable on the matter
17 involved. Nothing herein shall affect the validity of, or otherwise modify or alter, the mortgage
18 contract nor otherwise affect, alter or modify the mortgage holder's rights under §34-28-16.1.

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

=====
LC004752
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PROPERTY -- COMMERCIAL REAL ESTATE BROKER LIEN

1 This act would establish a process by which a notice of lien filed by a commercial real
2 estate broker may be promptly challenged in court.

3 This act would take effect upon passage.

=====
LC004752
=====