

2017 -- S 0668

LC001559

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO PROPERTY -- MORTGAGE FORECLOSURE AND SALE

Introduced By: Senator James C. Sheehan

Date Introduced: March 29, 2017

Referred To: Senate Judiciary

(by request)

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 **34-27-9. Residual debt after short sale of residential property.**

4 (a) As used in this chapter:

5 (1) "Borrower" means an individual who, directly or indirectly and individually or
6 together with another person, is obligated on a real estate loan agreement, including, but not
7 limited to, a mortgagor or a grantor or an assignee or successor in interest.

8 (2) "Lender" means a person that makes, extends or holds a real estate loan agreement,
9 including, but not limited to, a mortgagee, as defined in §19-14-1(4), or an assignee or successor
10 in interest.

11 (3) "Real estate loan agreement" means an arrangement between a lender and a borrower,
12 including, but not limited to, a mortgage, by means of which the lender agrees to extend a loan
13 and the borrower agrees to secure the loan in whole or in part with residential property, or an
14 interest in residential property, that is located in this state.

15 (4) "Residential property" means real property upon which is situated four (4) or fewer
16 improvements designed for residential use, one of which a borrower occupies as the borrower's
17 residence.

18 (5) "Residual debt" means an amount due on a loan, evidence of which exists in a real
19 estate loan agreement, note, bond, contract or similar written agreement, that a borrower is unable

1 to pay out of the proceeds from a sale of the residential property that secures the loan.

2 (6) "Short sale" means a sale of residential property that is in the process of foreclosure
3 proceedings, subject to a contractual or statutory power of sale, or any sale pursuant to chapters
4 11 and 27 of title 24 for an amount that is less than the remaining amount due on the loan that the
5 residential property secures.

6 (b) If a lender reports to the Internal Revenue Service that as a consequence of or in
7 conjunction with a short sale of residential property the lender has canceled all or a portion of a
8 borrower's obligation under a real estate loan agreement and the lender provides to the borrower
9 written evidence of the lender's report to the Internal Revenue Service, the lender or an assignee
10 of the lender may not bring an action or otherwise seek payment for the residual debt following
11 the short sale.

12 SECTION 2. This act shall take effect upon passage and apply to all actions for residual
13 debt after short sale filed on or after July 1, 2017.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would prohibit a lender from filing an action for a deficiency judgment following
2 a short sale of residential property if the lender reports to the Internal Revenue Service (IRS) that
3 it has cancelled all or part of the borrower's debt and provides the borrower with a copy of the
4 report.

5 This act would take effect upon passage and would apply to all actions for residual debt
6 after short sale filed on or after July 1, 2017.

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