

2017 -- S 0417

LC000771

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO PROPERTY - MORTGAGE AND FORECLOSURE SALE

Introduced By: Senator Harold M. Metts

Date Introduced: March 02, 2017

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

SECTION 1. Section 34-27-6 of the General Laws in Chapter 34-27 entitled "Mortgage Foreclosure and Sale" is hereby amended to read as follows:

34-27-6. Payment of outstanding taxes.

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

(b) Notwithstanding any other general law or local ordinance to the contrary, the grantee of real estate named in the foreclosure deed shall pay to the municipality, on or before the date the foreclosure deed is recorded, all taxes and other assessments, including water charges, interest and penalties, if any, which constitute liens on the real estate described in the foreclosure deed and which are due and owing on the recording date (collectively, "taxes due and owing");

1 provided, however, that a grantee shall not be deemed in violation of this subsection (b) if the
2 grantee shall apply for a municipal lien certificate from the tax collector for the municipality
3 during the forty-five (45) day period ending on the day on which the foreclosure deed is recorded
4 and shall pay the taxes due and owing within thirty (30) days after the date on which the
5 municipal lien certificate is mailed by the tax collector by the United States mail, postage prepaid,
6 certified, return receipt requested, and addressed to the grantee at the address therefor set forth in
7 the application for the municipal lien certificate. Taxes due and owing for purposes of this section
8 shall include only installments thereof required by law to be paid as of the date the foreclosure
9 deed is recorded.

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

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

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

26 **34-27-9. Notice of intention to foreclose.**

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

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

1 street address of each property designated to said agent. The mortgagee's designation shall be
2 filed in the land evidence records of the city or town in which the property is located.

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

5 SECTION 3. This act shall take effect on September 1, 2017.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO PROPERTY - MORTGAGE AND FORECLOSURE SALE

1 This act would increase the fines for failing to file a foreclosure deed. This act would also
2 require mortgagees, upon filing notice of intent to foreclose against a mortgagor, to file a copy of
3 that notice in the land evidence records of the city or town in which the property is located and
4 designate an agent for service of process within the state.

5 This act would take effect on September 1, 2017.

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