

**2008 -- H 7149 SUBSTITUTE A AS AMENDED**

LC00524/SUB A/2

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2008**

**A N A C T**

**RELATING TO PROPERTY - MORTGAGE FORECLOSURE AND SALE**

Introduced By: Representatives Kilmartin, E Coderre, Rose, Dennigan, and San Bento

Date Introduced: January 16, 2008

Referred To: House Municipal Government

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           **34-27-6. 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  
7 section shall include only installments thereof required by law to be paid as of the date the  
8 foreclosure 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 (in the aggregate) for each month or  
11 part thereof during which such violation or violations continue. For purposes of determining the  
12 penalty due hereunder, a month commences on the day on which the first such violation occurs  
13 and a new month commences on the same day (or if there is no such day, then on the last day) of  
14 each succeeding calendar month until all taxes due and owing are paid. In the event of a violation  
15 of subsection (a), taxes due and owing shall be determined as of the date required thereunder for  
16 the recording of a foreclosure deed.

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

23 SECTION 2. Section 19-9-2 of the General Laws in Chapter 19-9 entitled "Community  
24 Obligations and Banking Offenses" is hereby amended to read as follows:

25 **19-9-2. Escrow accounts -- Interest. --** (a) Every mortgagee holding funds of a  
26 mortgagor in escrow for the payment of taxes and insurance premiums with respect to mortgaged  
27 property located in this state shall pay or credit interest on those funds at a rate ~~of not less than~~  
28 ~~four percent (4%) per annum, which shall be credited annually on December 31.~~ equal to the rate  
29 paid to the mortgagee on its regular savings account, if offered, and otherwise at a rate not less  
30 than the prevailing market rate of interest for regular savings accounts offered by local financial  
31 institutions as determined by the director, said determination to be made within thirty (30) days of  
32 the effective date of this provision and thereafter annually on the first business day of the year.  
33 Said credit of interest shall accrue on the daily balance and be made annually on December 31. If  
34 the mortgage debt is paid prior to December thirty-first in any year, the interest to the date of

1 payment shall be paid to the mortgagor. The provision of this section shall apply only with  
2 respect to mortgages on owner-occupied residential property consisting of not more than four (4)  
3 living units. The provisions of this section shall not be waived. No mortgagee holding the  
4 mortgagor's funds in escrow for the payment of taxes shall also charge an annual "tax service fee"  
5 or other annual fee for ascertaining whether or not the real estate taxes have in fact been paid.  
6 Any mortgagee violating the provisions of this section shall be fined not more than one hundred  
7 dollars (\$100) for each offense.

8 (b) Mortgages insured or guaranteed by the farmer's home loan administration, federal  
9 housing administration, or the veterans' administration, or a private mortgage insurer licensed to  
10 do business in the state of Rhode Island or made pursuant to the provisions of chapter 55 of title  
11 42 shall be exempt from the requirements of this section.

12 (c) The director or the director's designee shall adopt any regulations that are necessary  
13 to carry out the provisions of this section.

14 SECTION 3. Section 1 of this act shall take effect sixty (60) days after passage and shall  
15 apply to foreclosure auction sales occurring after the date on which section 1 takes effect.  
16 Sections 2 and 3 of this act shall take effect upon passage, provided that the rate of interest  
17 payable under section 19-9-2 shall change as of the date of determination by the director of the  
18 prevailing market rate of interest.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would require foreclosure deeds to be recorded within thirty (30) days of the  
2 foreclosure sale and would also require that all outstanding real estate taxes be paid at the time of  
3 the recording of the foreclosure deed. In addition it would change the interest rate that mortgagees  
4 must pay an escrow from four percent (4%) to the interest rate.

5           Section 1 of this act would take effect sixty (60) days after passage and would apply to  
6 foreclosure auction sales occurring after the date on which section 1 takes effect. Sections 2 and  
7 3 of this act would take effect upon passage, provided that the rate of interest payable under  
8 section 19-9-2 would change as of the date of determination by the director of the prevailing  
9 market rate of interest.

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