

2009 -- H 5115

LC00349

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO TOWNS AND CITIES

Introduced By: Representatives Lima, Giannini, E Coderre, Ajello, and Almeida

Date Introduced: January 21, 2009

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 45 of the General Laws entitled "TOWNS AND CITIES" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 24.6

4 FORECLOSED PROPERTY UPKEEP ACT

5 **45-24.6-1. Short title.** -- This chapter shall be known as the "Rhode Island Foreclosed  
6 Property Upkeep Act."

7 **45-24.6-2. Legislative findings.** -- (a) The number of mortgage foreclosures in Rhode  
8 Island has increased dramatically, and as a consequence, the upkeep of many foreclosed  
9 residential properties has been neglected. These neglected properties have a detrimental effect on  
10 the neighborhoods and the municipalities in which they are located.

11 (b) Neglected properties are often occupied by individuals for illicit purposes subjecting  
12 the neighborhood to increased crime and a host of other social ills.

13 (c) As a foreclosed property falls deeper into disrepair, the value of nearby property  
14 decreases.

15 (d) Municipalities are required to spend an excessive and disproportionate amount of  
16 public funds for police protection, fire protection, code enforcement, and other purposes directly  
17 and indirectly related to the presence of neglected foreclosed properties.

18 (e) The presence of neglected foreclosed properties is detrimental to the public's health,  
19 safety, and welfare.

1 (f) Enactment and enforcement of this chapter is therefore declared to be essential to the  
2 protection and preservation of the public's health, safety, and welfare. It is intended that the  
3 provisions of this chapter be liberally construed to effectuate its stated purposes.

4 **45-24.6-3. Foreclosed property upkeep bond. --** (a) A financial institution or other  
5 business entity that purchases by foreclosure a residential property upon which that financial  
6 institution or other business entity holds a mortgage shall maintain the property in compliance  
7 with chapter 45-24.3, the Rhode Island housing maintenance and occupancy code, or in  
8 compliance with a municipal ordinance enacted pursuant to chapter 45-24.2.

9 (b) A financial institution or business entity that purchases by foreclosure a residential  
10 property upon which that financial institution or business entity holds a mortgage shall post with  
11 the municipality in which the foreclosed property is located, a bond in the amount of twenty-five  
12 percent (25%) of the assessed value of the property. The bond shall be in a form approved by the  
13 municipality. A document evidencing the posting of the bond shall be recorded together with the  
14 foreclosure deed, and no recorder of deeds shall accept a foreclosure deed for recording that is not  
15 accompanied by such a document.

16 (c) If the municipality determines that the foreclosed property is in violation of chapter  
17 45-24.3, or in violation of any municipal ordinance enacted pursuant to chapter 45-24.2, and the  
18 violation is not abated within thirty (30) days of the date the financial institution or other business  
19 entity receives written notice of the violation, the bond posted for that property shall be forfeited,  
20 and the municipality shall have the right to use any part of the proceeds to correct the violation.

21 (d) If the municipality uses the entire proceeds of the bond to correct the violation, it shall  
22 notify the financial institution or other business entity by certified mail, and the financial  
23 institution or other business entity shall post another bond in the same amount as the original  
24 bond within ten (10) days of the receipt of such a notice. If the financial institution or other  
25 business entity fails to post the replacement bond within (10) days of the receipt of the notice, the  
26 municipality shall have the right to sell the property by public auction for the amount of the bond  
27 not posted according to the procedure required by chapter 44-9 for tax sales.

28 (e) Upon transfer of ownership of the property by the financial institution or other  
29 business entity, the municipality shall release the bond, or return any unused portion of the bond  
30 proceeds to the entity that posted the bond.

31 **45-24.6-4. Foreclosed property – Agent for service. –** A financial institution or other  
32 business entity that purchases by foreclosure a residential property upon which that financial  
33 institution or other business entity holds a mortgage shall record in the land evidence records of  
34 the municipality in which the property is located, a document identifying an agent in Rhode

1 [Island to accept service of any process, notice, or demand.](#)

2 SECTION 2. Section 5-21-1 of the General Laws in Chapter 5-21 entitled "Second-Hand  
3 Dealers" is hereby amended to read as follows:

4 **5-21-1. Local licensing -- Fees -- Penalty. -- (a)** The city or town council of any city or  
5 town is authorized to provide by ordinance for the issuing and revocation at pleasure of licenses  
6 to all persons selling, purchasing, bartering, and dealing in junk, old metals, and any other  
7 second-hand articles, and to all persons establishing, operating, or maintaining automobile  
8 junkyards, subject to any conditions and restrictions and for a term not exceeding one year that  
9 may be in the like manner prescribed; and also for charging and collecting fees for those licenses.  
10 The fees in the like manner prescribed shall not exceed the sum of one hundred dollars (\$100) for  
11 the keeper of a shop or storehouse for the reception of any junk, old metals, or second-hand  
12 articles which is not an automobile junkyard, the sum of five dollars (\$5.00) for any  
13 foundryperson or other person receiving the same for the purpose of melting or converting the  
14 junk, old metals, or second-hand articles into castings, the sum of five dollars (\$5.00) for any  
15 gatherer of these items in any bag, wagon, or cart, or the sum of one hundred dollars (\$100) for  
16 any person establishing, operating, or maintaining an automobile junkyard; and also to fix a  
17 penalty for carrying on that business without a license, or in violation of any ordinance or  
18 regulation made as authorized in this chapter, not exceeding for any one offense a fine of five  
19 hundred dollars (\$500) or imprisonment not exceeding six (6) months.

20 [\(b\) The ordinance shall provide that a dealer licensed to purchase or receive old or used](#)  
21 [metals other than junked automobiles or automobile parts shall require each seller of old or used](#)  
22 [metals other than junked automobiles or automobile parts to provide identification that contains a](#)  
23 [photograph, date of birth, and current address. The ordinance shall require each seller of old or](#)  
24 [used metals other than junked automobiles or automobile parts to complete and sign a document](#)  
25 [stating that the seller is the legal owner of the property or is the agent of the legal owner and is](#)  
26 [authorized to sell the property, and stating when, where, and in what manner the property was](#)  
27 [obtained. The ordinance shall require the dealer to retain any such document for at least two \(2\)](#)  
28 [years and to produce any such document at the request of law enforcement officials.](#)

29 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TOWNS AND CITIES

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1           This act would establish the Rhode Island foreclosed property upkeep act and would  
2 require certain used metals dealers to request and retain proof of ownership from persons selling  
3 such metals.

4           This act would take effect upon passage.

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