

2009 -- H 5492 AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

A N A C T

RELATING TO PROPERTY -- MORTGAGE FORECLOSURE AND SALE

Introduced By: Representatives Segal, Fierro, Giannini, DaSilva, and Almeida

Date Introduced: February 12, 2009

Referred To: House Judiciary

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 **34-27-3.1. Foreclosure counseling.** – (a) No less than forty-five (45) days prior to
4 initiating any foreclosure of real estate pursuant to subsection 34-27-4(b), the mortgagee shall
5 provide to an individual consumer mortgagor written notice of default and the mortgagee's right
6 to foreclose by first class mail at the address of the real estate and, if different, at the address
7 designated by the mortgagor by written notice to the mortgagee as the mortgagor's address for
8 receipt of notices.

9 (b) The written notice required by this section shall be in English and Spanish and,
10 provided the same is then available, shall advise the mortgagor of the availability of counseling
11 through HUD-approved mortgage counseling agencies and, the toll-free telephone number and
12 website address maintained to provide information regarding no-cost HUD-approved mortgage
13 counseling agencies in Rhode Island. The written notice may also contain any other information
14 required under federal law. A form of written notice meeting the requirements of this section
15 shall be promulgated by the department of business regulation for use by mortgagees at least
16 thirty (30) days prior to the effective date of this section. Counseling shall be provided at no cost
17 to the mortgagee.

18 (c) Failure of the mortgagee to provide notice to the mortgagor as provided herein shall
19 render the foreclosure void, without limitation of the right of the mortgagee thereafter to

1 reexercise its power of sale or other means of foreclosure upon compliance with this section. The
2 mortgagee shall include in the foreclosure deed an affidavit of compliance with this section.

3 (d) As used herein and in this chapter, the term “HUD” means the United States
4 Department of Housing and Urban Development and any successor to such department.

5 SECTION 2. This act shall take effect sixty (60) days after passage

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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- 1 This act would require foreclosing lenders to offer mediation to their mortgagors.
- 2 This act would take effect upon passage and would apply to all foreclosure sales for
- 3 which the first publication of the notice of sale has not occurred.

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