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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO PROPERTY -- RESIDENTIAL LANDLORD AND TENANT ACT

Introduced By: Senators Metts, Jabour, and Pichardo

Date Introduced: February 16, 2011

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-18-23 of the General Laws in Chapter 34-18 entitled
2 "Residential Landlord and Tenant Act" is hereby amended to read as follows:

3 **34-18-23. Limitation of liability upon sale or change of management.** -- (a) (1) A
4 landlord who conveys premises that include a dwelling unit subject to a rental agreement in a
5 good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this
6 chapter as to events occurring after written notice to the tenant of the conveyance. In no event
7 may the relief from liability predate the conveyance itself.

8 (2) Written notice, for purposes of this section, must include the name(s), address, and
9 telephone number of the person or persons purchasing the property and assuming liability. To be
10 effective, the written notice must also certify compliance with section 45-24.3-17 which prohibits
11 sale or lease of property until any outstanding housing code violations have been corrected or the
12 seller or lessor has provided to the buyer or lessee, as well as to the enforcing officer, all notices
13 regarding violations, as required by the statute.

14 (b) A manager of premises that include a dwelling unit is relieved of liability under the
15 rental agreement and this chapter as to events occurring after written notice to the tenant of the
16 termination of his or her management. The written notice must include the name(s), address, and
17 telephone number of the person or persons assuming management and/or the person or persons
18 within the state exercising ownership or responsibility over the property.

19 (c) Nothing in this section shall be construed to affect the tenant's rights and duties under

1 an existing rental agreement, and the purchaser of property, including any purchaser of property
2 at a foreclosure sale conducted pursuant to a power of sale in a mortgage as described in section
3 34-11-22 or grantee of property conveyed by a mortgagor in lieu of foreclosure, takes title subject
4 to the same rights and responsibilities toward the tenant which the seller or mortgagor had.

5 SECTION 2. Chapter 34-18 of the General Laws entitled "Residential Landlord and
6 Tenant Act" is hereby amended by adding thereto the following sections:

7 **34-18-38.1. Eviction of tenants in foreclosed properties only for just cause.** – (a) The
8 eviction of any tenant of the mortgagor of property purchased at a foreclosure sale may be
9 brought by a foreclosing mortgagee or any person acting on behalf of said foreclosing mortgagee
10 only for the following reasons:

11 (1) Non-payment of rent by the tenant pursuant to chapter 34-35;

12 (2) Material noncompliance by the tenant with the rental agreement or a noncompliance
13 with chapter 34-24 materially affecting health and safety pursuant to chapter 34-36;

14 (3) Where tenants remain in possession without the foreclosing mortgagee's consent after
15 expiration of the term of the rental agreement with the mortgagor; provided, the tenant refuses the
16 foreclosing mortgagee's good faith offer of a new tenancy on a month to month basis, made at
17 least thirty (30) days prior to the commencement of the eviction action;

18 (4) Where the tenant remains in possession without the foreclosing mortgagee's consent
19 after the termination of a periodic tenancy by the foreclosing mortgagee in accordance with
20 chapter 34-37, but only when:

21 (i) The tenant refuses to allow the foreclosing mortgagee reasonable access to the
22 dwelling unit for the purpose of making necessary repairs or improvements required by the laws
23 of the United States, the State of Rhode Island or any subdivision thereof, or for the purpose of
24 showing the dwelling unit to a prospective purchaser or mortgagee; or

25 (ii) The foreclosing mortgagee has entered into a binding written agreement to sell the
26 property to a natural person who will take occupancy of the unit occupied by the tenant or
27 otherwise requires the unit be vacated as a condition of sale.

28 (b) The tenant may present any lawful defense to any eviction brought pursuant to this
29 section.

30 (c) This section shall not apply to:

31 (1) The eviction of any tenant by a bona fide purchaser of the property from the
32 foreclosing mortgagee; or

33 (2) The eviction of any tenant who entered into a rental agreement with the mortgagor of
34 the property less than thirty (30) days prior to the foreclosure sale where the rent is discounted

1 more than twenty-five percent (25%) of the rent charged by the mortgagor for comparable
2 dwelling units.

3 (d) As used in this section, the following words shall, unless the context clearly requires
4 otherwise, have the following meanings:

5 (1) "Entity" means a business organization, or any other kind of organization, including
6 without limitation, a corporation, partnership, trust, limited liability corporation, limited liability
7 partnership, joint venture, sole proprietorship, or any other category of organization, and any
8 employee, agent, servant or other representative of such entity;

9 (2) "Foreclosing mortgagee" means an entity that holds title, in any capacity, directly or
10 indirectly, without limitation, whether in its own name, as trustee, or as beneficiary, to a property
11 that has been foreclosed upon, and either:

12 (i) Held or owned a mortgage or other security interest in the property at any point to the
13 foreclosure of the property or is the subsidiary, parent, trustee, or agent of, or otherwise is related
14 to any entity which held or owned the mortgage or other security interest in the property at any
15 time prior to the foreclosure of the property; or

16 (ii) Is an institutional mortgagee that acquires or holds title to the property within three
17 (3) years of the filing of a foreclosure deed on the property;

18 (3) "Foreclosure sale" means the foreclosure of a mortgage by sale of property pursuant
19 to a power of sale in a mortgage, as set forth in section 34-11-22 or conveyance of the property by
20 the mortgagor in lieu of foreclosure;

21 (4) "Institutional mortgagee" means any entity, that is the subsidiary, parent, trustee, or
22 agent of, or otherwise related to any such entity, that holds or owns a mortgage or other security
23 interest in three (3) or more properties, or acts as a mortgage servicer of three (3) or more
24 mortgaged properties;

25 (5) "Mortgage servicer" means an entity which administers or at point administered the
26 mortgage, including, but not limited to, calculating principle and interest, collecting payments
27 from the mortgagor acting as an escrow agent and foreclosing in the event of a default; and

28 (6) "Property" means a dwelling unit and the structure of which it is a part and facilities
29 and appurtenances therein and grounds, areas and facilities held out for the use of tenants
30 generally, or the use of which is promised to the tenant.

31 **34-18-38.2. Eviction of tenants at sufferance in foreclosed properties only for just**
32 **cause. -- (a) The eviction of any former owner occupant of property who becomes a tenant at**
33 **sufferance as a result of a foreclosure of any mortgage on the property by sale of the property**
34 **pursuant to a power of sale in a mortgage, as set forth in section 34-11-22, may be brought by a**

1 foreclosing mortgagee or any person acting on behalf of said foreclosing mortgagee only for the
2 following reasons:

3 (1) Non-payment of the reasonable rent by the tenant at sufferance pursuant to chapter
4 34-35;

5 (2) Material noncompliance by the tenant at sufferance with the duty to maintain the
6 premises applicable to tenants as set forth in chapter 34-24, pursuant to chapter 34-36;

7 (3) Where tenant at sufferance remains in possession without the foreclosing mortgagee's
8 consent, following the procedures for terminating a month to month tenancy as set forth in section
9 34-18-37, but only when:

10 (i) The tenant at sufferance refuses, after written request or demand by the foreclosing
11 mortgagee, to execute a written rental agreement at a reasonable rent for the property;

12 (ii) The tenant at sufferance refuses to allow the foreclosing mortgagee reasonable access
13 to the dwelling unit for the purpose of making necessary repairs or improvements required by the
14 laws of the United States, the state of Rhode Island or any subdivision thereof, or for the purpose
15 of showing the dwelling unit to a prospective purchaser or mortgagee; or

16 (iii) The foreclosing mortgagee has entered into a binding written agreement to sell the
17 property to a natural person who will take occupancy of the unit occupied by the tenant at
18 sufferance or otherwise requires the unit be vacated as a condition of the sale;

19 (b) The tenant at sufferance may present any lawful defense to any eviction brought
20 pursuant to this section;

21 (c) The terms set forth in section 34-38.1 shall have the same meanings for purposes of
22 this section.

23 (d) As used in this section, the following words shall, unless the context clearly requires
24 otherwise, have the following meanings:

25 (1) "Reasonable rent" means the lesser of:

26 (i) The fair market rent as established by the United States Department of Housing and
27 Urban Development pursuant to chapter 42 USC section 1437f(o), for a unit of comparable size
28 in the area in which the housing accommodation is located; or

29 (ii) Any other amount agreed as rent between the tenant at sufferance and the foreclosing
30 mortgagee.

31 SECTION 3. Section 34-18.1-1 of the General Laws in Chapter 34-18.1 entitled
32 "Commercial Leasing and Other Estates" is hereby amended to read as follows:

33 **34-18.1-1. Purpose. --** This chapter shall apply to all commercial properties and other
34 estates, excluding residential properties governed by the Residential Landlord and Tenant Act,

1 chapter 18 of this title. This chapter shall not apply to the continued occupancy of property by
2 any former owner occupant of the property who becomes a tenant at sufferance as a result of a
3 foreclosure of any mortgage on the property by sale of the property pursuant to a power of sale in
4 a mortgage, as described in section 34-11-22; said continued occupancy shall be subject to the
5 provisions of chapter 34-18.

6 SECTION 4. Chapter 34-27 of the General Laws entitled "Mortgage Foreclosure and
7 Sale" is hereby amended by adding thereto the following section:

8 **34-27-7. Notification of foreclosure to households in occupancy.** – (a) The purchaser
9 of property sold at a foreclosure sale conducted pursuant to a power of sale in a mortgage as set
10 forth in section 34-11-22, or grantee of property conveyed by a mortgagor in lieu of foreclosure
11 shall, within seven (7) days of said sale or conveyance, provide a written notice to every
12 household residing in a dwelling unit in said property:

13 (1) Stating that the property was either purchased at a foreclosure sale or conveyed in lieu
14 of foreclosure;

15 (2) Informing each tenant of the former mortgagor that said tenant may continue to
16 occupy their respective dwelling unit under the same terms and conditions in effect with the
17 former mortgagor;

18 (3) Informing the former mortgagor that said mortgagor may continue to occupy the
19 dwelling unit provided said mortgagor signs a written agreement for continued occupancy at a
20 reasonable rent within fourteen (14) days and the amount of reasonable rent to be charged;

21 (4) Stating the name, address and telephone number of the person taking responsibility
22 for the property;

23 (5) Stating the address where rental payments may be sent or made in person; and

24 (6) Stating the name of the person that the former mortgagor must contact for purposes of
25 signing a written agreement for continued occupancy.

26 (b) The failure to provide notice pursuant to this section shall not affect the validity of the
27 foreclosure; however, no successor in interest to the mortgagor may commence an action to
28 recover possession of the property from any household residing in the property until said notice is
29 provided.

30 (c) As used in this section, the following words shall, unless the context clearly requires
31 otherwise, have the following meanings:

32 (1) "Dwelling unit" shall have the same meaning as provided in subdivision 34-18-11(4).

33 (2) "Reasonable rent" means the lesser of the fair market rent as established by the United
34 States Department of Housing and Urban Development pursuant to chapter 42 USC section

1 1437f(o), for a unit of comparable size in the area in which the housing accommodation is located
2 or any other amount agreed as rent between the tenant at sufferance and the foreclosing
3 mortgagee.

4 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PROPERTY -- RESIDENTIAL LANDLORD AND TENANT ACT

1 This act would allow for the eviction of a tenant of the mortgagor of property purchased
2 at a foreclosure sale but only for certain reasons such as nonpayment. It would also allow for
3 eviction of former owner-occupants who become tenants at sufferance after foreclosure for
4 certain reasons and it would require that the purchaser of property sold at a foreclosure sale give
5 notice within seven (7) days to every household residing in that dwelling unit.

6 This act would take effect upon passage.

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