

2017 -- H 5542

LC001209

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO PROPERTY - CONDOMINIUM LAW

Introduced By: Representatives Casey, Marshall, Kennedy, Williams, and Johnston

Date Introduced: February 16, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-36.1-3.21 of the General Laws in Chapter 34-36.1 entitled
2 "Condominium Law" is hereby amended to read as follows:

3 **34-36.1-3.21. Foreclosure of condominium lien.**

4 (a) (1) If a condominium unit owner shall default in the payment of any assessment, fine,
5 or any other charge which is a lien on the unit in favor of the association or its assigns, then it
6 shall be lawful for the association or its assigns, through its executive board, to sell the unit of any
7 defaulting unit owner and the benefit and equity of redemption of the defaulting unit owner and
8 his or her heirs, executors, administrators, and assigns therein, at public auction upon the
9 premises or at such other place, if any, as may be designated for that purpose by the association or
10 its assigns.

11 (2) The association must first mail written notice of the time and place of sale to the
12 defaulting unit owner, at his or her last known address and the holder of the first mortgage or
13 deed of trust of record at the address for service required by subdivision 34-36.1-3.16(b)(4), both
14 by certified mail, return receipt requested, at least twenty (20) days prior to publishing said
15 notice; second, the association must publish the same at least once each week for two (2)
16 successive weeks in a public newspaper. The time of sale shall be at least fifteen (15) days after
17 the publication of the first notice in a public newspaper. Publication shall be ~~as follows:~~ [in a
18 public newspaper published daily in the city or town in which the condominium is situated or in a
19 public newspaper published daily in the county in which the condominium is situated or in a](#)

1 public newspaper published daily in the city of Providence.

2 (i) ~~If the condominium is situated in the city of Central Falls, in a public newspaper~~
3 ~~published daily in the city of Pawtucket;~~

4 (ii) ~~If the condominium is situated in the town of North Providence, in a public~~
5 ~~newspaper published daily in the city of Providence;~~

6 (iii) ~~If the condominium is situated in any of the towns of Cumberland, Lincoln,~~
7 ~~Smithfield or North Smithfield, in a public newspaper published daily in either the city of~~
8 ~~Pawtucket, Woonsocket, or Providence;~~

9 (iv) ~~If the condominium is situated in the county of Providence elsewhere than in the~~
10 ~~above last named cities and towns, in a public newspaper published daily in the city of~~
11 ~~Providence;~~

12 (v) ~~If the condominium is situated in the county of Newport, in a public newspaper~~
13 ~~published daily in the city of Newport; but if there be no such newspaper so published, then in~~
14 ~~some public newspaper published anywhere in the county of Newport;~~

15 (vi) ~~If the condominium is situated in any of the counties of Bristol, Kent, or Washington,~~
16 ~~in a public newspaper published daily in the city or town in which the condominium is situated;~~
17 ~~or in some public newspaper published daily in the county in which the condominium is situated~~
18 ~~or in a public newspaper published daily in the city of Providence.~~

19 (3) The sale may be adjourned from time to time, provided that publishing of the notice
20 shall be continued, together with a notice of the adjournment or adjournments, at least once each
21 week in the same newspaper; and third, the association must mail written notice of the same to
22 any person or entity having an interest of record in the unit, recorded not later than thirty (30)
23 days prior to the date originally scheduled for the sale, including without limitation, the holder of
24 any mortgage or deed of trust with respect to the unit, to the address of the person or entity may
25 have provided for that purpose in the land evidence records or at any other address the person or
26 entity may have provided the association in writing, such notice to be given by regular or certified
27 mail, return receipt requested, at least ten (10) days prior to the date originally scheduled for such
28 sale; and in his or her or their own name or names, or as the attorney or attorneys of the
29 defaulting unit owner (for that purpose by these presents duly authorized and appointed with full
30 power of substitution and revocation) to make, execute, and deliver to the purchaser or purchasers
31 at the sale a good and sufficient deed or deeds of the defaulted condominium unit, in fee simple,
32 and to receive the proceeds of the sale or sales, and from the proceeds to retain all sums secured
33 by the lien in favor of the association as of the date of such sale together with all expenses
34 incident to such sale or sales, or for making deeds hereunder, and for fees of counsel and

1 attorneys, and all costs or expenses incurred in the exercise of such powers, and all taxes,
2 assessments, and premiums for insurance, if any, either theretofore paid by the association, or its
3 assigns, or then remaining unpaid upon the defaulted condominium unit, rendering and paying the
4 surplus of the proceeds of sale, if any there be, over and above the amounts to be retained, and
5 paid to other encumbrances of record, together with a true and particular account of such sale or
6 sales, expenses, and charges, to the defaulting unit owner, or his or her heirs, executors,
7 administrators or assigns. The sale or sales shall forever be a perpetual bar against the defaulting
8 unit owner and his or her heirs, executors, administrators and assigns, and all persons claiming
9 the defaulted condominium unit, so sold, by, through or under him, her, them or any of them
10 [subject to rights of redemption referenced herein](#).

11 (4) Within seven (7) days after the foreclosure sale, the association shall send an
12 additional written notice to [the defaulting unit owner, at their last known address and](#) the holder
13 of the first mortgage or deed of trust of record as appears in the land evidence records [on the day](#)
14 [of the foreclosure sale](#), as provided in subdivision 34-36.1-3.16(b)(4) by certified mail, return
15 receipt requested, and first class mail, identifying the name of the highest bidder and the amount
16 of the bid.

17 (b) Any foreclosure sale held by the association pursuant to subsection (a) above, and the
18 title conveyed to any purchaser or purchasers pursuant to such sale, shall be subject to any lien or
19 encumbrance entitled to a priority over the lien of the association pursuant to § 34-36.1-3.16(b).

20 (c) Any foreclosure sale held by the association pursuant to subsection (a) above, shall be
21 subject to a thirty (30) day right of redemption running in favor of [the defaulting unit owner and](#)
22 the holder of the first mortgage or deed of trust of record. The right of redemption shall be
23 exercised by tendering payment to the association in full of all assessments due on the unit
24 together with all attorney's fees and costs incurred by the association in connection with the
25 collection and foreclosure process within thirty (30) days of the date of the post-foreclosure sale
26 notice sent by the association pursuant to subdivision (a)(4) above. Otherwise, the right of
27 redemption shall terminate thirty (30) days from the date of the post-foreclosure sale notice sent
28 by the association pursuant to subdivision (a)(4) above.

29 (d) Upon request the association shall provide to any person or entity having an interest
30 of record in the unit: (1) an itemized statement of the amounts owed the association by the
31 defaulting unit owner, separating common expense assessments referred to in § 34-36.1-
32 3.16(b)(2) from interest, attorney's fees, fines and other charges secured by the lien of the
33 association; and (2) a copy of the most recent periodic budget adopted by the association pursuant
34 to § 34-36.1-3.15(a).

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would consolidate the newspaper notice publication requirements of
2 condominium foreclosure sales, subject the sale to rights of redemption, require written notice to
3 defaulting unit owner within seven (7) days after the sale, and grant thirty (30) day right of
4 redemption to a defaulting unit holder on the foreclosure sale by the association.

5 This act would take effect upon passage.

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