

2017 -- H 6057

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LC002104
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO PROPERTY - COMMERCIAL REAL ESTATE BROKER LIEN

Introduced By: Representatives Keable, Casey, Johnston, and McKiernan

Date Introduced: March 31, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 34-49-6 of the General Laws in Chapter 34-49 entitled
2 "Commercial Real Estate Broker Lien Act" is hereby amended to read as follows:

3 **34-49-6. Dismissal of complaint for other cause.**

4 (a) If any person of interest, including, but not limited to the owner, claims that:

5 (1) The notice of lien ~~filed by a real estate broker in the land evidence records that the~~
6 ~~commercial real estate broker lien has not been filed or recorded in accordance with the~~
7 ~~applicable provisions of this chapter~~ was not recorded by the real estate broker in accordance with
8 the applicable provisions of this chapter; or

9 (2) That, for any other reason, a claimed real estate broker lien is invalid ~~by reason or for~~
10 failure to comply with the provisions of this chapter, then, in such event, the person of interest
11 may apply forthwith to the superior court, in the county where the land lies, for an order to show
12 cause why the lien in question is invalid or otherwise void, that the basis of the lien is without
13 probability of a judgment rendered in favor of the lienor. A mortgage holder or servicer is not a
14 necessary party under this section and shall not be named as a party in any such application or
15 order of notice.

16 (b) An order of notice to appear and show cause why the relief demanded in the
17 complaint should not be granted shall be served upon the necessary parties no later than one week
18 prior to the date of the scheduled hearing. If the necessary parties cannot be found, such service
19 may be made as the court shall direct. The application shall be made upon a verified complaint

1 accompanied by other written proof of facts upon which the application is made. Upon granting
2 or denying the application, the court shall enter an order or judgment as applicable on the matter
3 involved.

4 (c) Nothing herein shall affect the validity of, or otherwise modify or alter, the mortgage
5 contract, nor otherwise affect, alter, or modify the mortgage holder's rights under § 34-28-16.1.

6 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 provide that failure to record a notice of lien by the real estate broker in
2 accordance with chapter 49 of title 34, the commercial estate broker lien act, would result in
3 dismissal of a complaint pursuant to the act.

4 This act would take effect upon passage.

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