

2016 -- H 7486

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LC004369
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO PROPERTY -- COMMERCIAL REAL ESTATE BROKEN LIEN

Introduced By: Representatives Keable, Winfield, Johnston, Casey, and Morin

Date Introduced: February 05, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 34-49 of the General Laws entitled "Commercial Real Estate
2 Broker Lien Act" is hereby amended by adding thereto the following sections:

3 **34-49-6. Dismissal of complaint for other cause. -- (a) If any person of interest,**
4 **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; or

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

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

1 or denying the application, the court shall enter an order or judgment as applicable on the matter
2 involved.

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

5 **34-49-7. Severability. --** If any provision of this chapter or the application thereof to any
6 person or circumstances is held invalid, such invalidity shall not affect other provisions or
7 applications of the chapter, which can be given effect without the invalid provision or
8 applications, and to this end the provisions of this chapter are declared to be severable.

9 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 create an avenue to challenge the legal viability of a recorded commercial
2 real estate broker's notice of lien for their unpaid and owing commercial real estate sales
3 commission bill.

4 This act would take effect upon passage.

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