

2015 -- H 5365

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO PROPERTY - CONDOMINIUM LAW

Introduced By: Representatives Shekarchi, Ackerman, Fogarty, Keable, and Marshall

Date Introduced: February 11, 2015

Referred To: House Judiciary

(by request)

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

10 (2) The association must first mail written notice of the time and place of sale to the
11 defaulting unit owner, at his or her last known address and the holder of the first mortgage or
12 deed of trust of record at the address for service required by subdivision 34-36.1-3.16(b)(4), both
13 by certified mail, return receipt requested, at least twenty (20) days prior to publishing said
14 notice; second, the association must publish the same at least once each week for two (2)
15 successive weeks in a public newspaper. The time of sale shall be at least fifteen (15) days after
16 the publication of the first notice in a public newspaper. Publication shall be ~~as follows:~~ in a
17 public newspaper published daily in the city or town in which the condominium is situated, but if
18 there is no such newspaper so published, then in a public newspaper published daily anywhere in
19 the county in which the condominium is situated. If there is no public newspaper published daily

1 in the county in which the condominium is situated, publication shall be in a public newspaper
2 published daily in the city of Providence.

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

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

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

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

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

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

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

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

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

18 (b) Any foreclosure sale held by the association pursuant to subsection (a) above, and the
19 title conveyed to any purchaser or purchasers pursuant to such sale, shall be subject to any lien or
20 encumbrance entitled to a priority over the lien of the association pursuant to section 34-36.1-
21 3.16(b).

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

31 (d) Upon request the association shall provide to any person or entity having an interest
32 of record in the unit: (1) an itemized statement of the amounts owed the association by the
33 defaulting unit owner, separating common expense assessments referred to in section 34-36.1-
34 3.16(b)(2) from interest, attorney's fees, fines and other charges secured by the lien of the

1 association; and (2) a copy of the most recent periodic budget adopted by the association pursuant
2 to section 34-36.1-3.15(a).

3 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 amend the condominium lien foreclosure law to allow for publication of
2 legal advertisements in any public newspaper published daily in the municipality where the
3 condominium unit is located, and, if no such newspaper exists, then in any public newspaper
4 published daily in the county where the condominium is located.

5 This act would also extend the right of redemption to the defaulting unit owner of the
6 condominium.

7 This act would take effect upon passage.

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