

2012 -- H 7136

=====  
LC00361  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

—————  
A N A C T

RELATING TO PROPERTY - RESIDENTIAL LANDLORD AND TENANT ACT

Introduced By: Representatives Edwards, Cimini, O`Grady, Slater, and Diaz

Date Introduced: January 17, 2012

Referred To: House 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 or any successor in interest to a  
2 mortgagor takes title subject to the same rights and responsibilities toward the tenant which the  
3 seller or mortgagor had.

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

6 **34-18-38.1. Eviction of tenants in foreclosed properties only for just cause.** – (a) As  
7 used in this section, the following words shall, unless the context clearly requires otherwise, have  
8 the following meanings:

9 (1) “Bona fide lease” or “bona fide tenancy” means a lease or tenancy shall not be  
10 considered bona fide unless:

11 (i) The mortgagor, or the child, spouse or parent of the mortgagor under the contract, is  
12 not the tenant; and

13 (ii) The lease or tenancy was the result of an arms-length transaction.

14 (2) “Entity” means a business organization, or any other kind of organization including,  
15 without limitation, a corporation, partnership, trust, limited liability corporation, limited liability  
16 partnership, joint venture, sole proprietorship or any other category of organization and any  
17 employee, agent, servant or other representative of such entity.

18 (3) “Eviction” means an action, without limitation, by a foreclosing owner of a housing  
19 accommodation which is intended to actually or constructively evict a tenant or otherwise compel  
20 a tenant to vacate such housing accommodation.

21 (4) “Foreclosing owner” means an entity that holds title in any capacity, directly or  
22 indirectly, without limitation, whether in its own name, as trustee or as beneficiary, to a housing  
23 accommodation that has been foreclosed upon and either:

24 (i) Held or owned a mortgage or other security interest in the housing accommodation at  
25 any point prior to the foreclosure of the housing accommodation or is the subsidiary, parent,  
26 trustee, or agent thereof; or

27 (ii) Is an institutional mortgagee that acquires or holds title to the housing  
28 accommodation within three (3) years of the filing of a foreclosure deed on the housing  
29 accommodation; or

30 (iii) Is the Federal National Mortgage Association or the Federal Home Loan Mortgage  
31 Corporation.

32 (5) “Foreclosure” means an action to terminate a mortgagor’s interest in property by sale  
33 of property pursuant to a power of sale in a mortgage, as described in section 34-11-22 or  
34 conveyance of the property by the mortgagor in lieu of foreclosure or an action filed in court

1 pursuant to section 34-27-1.

2 (6) "Housing accommodation" means a building or structure, or part thereof of land  
3 appurtenant thereto, and any other real or personal property used, rented or offered for rent for  
4 living or dwelling purposes, together with all services connected with the use or occupancy of  
5 such property.

6 (7) "Institutional mortgagee" means an entity or an entity which is the subsidiary, parent,  
7 trustee or agent thereof or otherwise related to such entity, that holds or owns mortgages or other  
8 security interests in three (3) or more housing accommodations or that acts as a mortgage servicer  
9 of three (3) or more mortgages of housing accommodations.

10 (8) "Just cause" means one of the following:

11 (i) The tenant has failed to pay rent in effect prior to the foreclosure or failed to pay use  
12 and occupancy charges, as long as the foreclosing owner notified the tenant in writing of the  
13 amount of rent or the amount of use and occupancy that was to be paid and to whom it was to be  
14 paid;

15 (ii) The tenant has materially violated either an express or legally required obligation or  
16 covenant of the tenancy or occupancy, other than the obligation to surrender possession upon  
17 proper notice, and has failed to cure such violation within thirty (30) days after having received  
18 written notice thereof from the foreclosing owner;

19 (iii) The tenant is committing a nuisance in the unit; is permitting a nuisance to exist in  
20 the unit; is causing substantial damage to the unit or is creating a substantial interference with the  
21 quiet enjoyment of other occupants;

22 (iv) The tenant is using or permitting the unit to be used for any illegal purpose;

23 (v) The tenant who had a written bona fide lease or other rental agreement which  
24 terminated, on or after August 10, 2011, has refused, after written request or demand by the  
25 foreclosing owner, to execute a written extension or renewal thereof for a further term of like  
26 duration and in such terms that are not inconsistent with this chapter;

27 (iv) The tenant has refused the foreclosing owner reasonable access to the unit for the  
28 purpose of making necessary repairs or improvement required by the laws of the United States,  
29 the state of Rhode Island or any subdivision thereof, or for the purpose of inspection as permitted  
30 or required by agreement or by law or for the purpose of showing the unit to a prospective  
31 purchaser or mortgagee;

32 (vii) The foreclosing owner: (A) Seeks to permanently board up or demolish the premises  
33 because the premises has been cited by a state or local minimum housing code enforcement  
34 agency for substantial violations affecting the health and safety of tenants and it is economically

1 unfeasible for the foreclosing owner to eliminate the violations; or (B) Seeks to comply with a  
2 state or local minimum housing code enforcement agency that has cited the premises for  
3 substantial violations affecting the health and safety of tenants and it is unfeasible to so comply  
4 without removing the tenant; or (C) Seeks to correct an illegal occupancy because the premises  
5 has been cited by a state or local minimum housing code enforcement agency or zoning official  
6 and it is unfeasible to correct such illegal occupancy without removing the tenant; and provided  
7 further that nothing in this section shall limit the rights of a third-party owner to evict a tenant at  
8 the expiration of an existing lease.

9 (9) “Mortgagee” means an entity to whom property is mortgaged, the mortgage creditor  
10 or lender including, but not limited to, mortgage services, lenders in a mortgage agreement and  
11 any agent, servant or employee of the mortgagee or any successor in interest or assignee of the  
12 mortgagee’s rights, interests or obligations under the mortgage agreement.

13 (10) “Mortgage servicer” means an entity which administers or at any point administered  
14 the mortgage; provided, however, that such administration shall include, but not be limited to,  
15 calculating principle and interest, collecting payments from the mortgager, acting as escrow agent  
16 or foreclosing in the event of a default.

17 (11) “Tenant” means a person or group of persons, who at the time of foreclosure, is  
18 entitled to occupy a housing accommodation pursuant to a bona fide lease or tenancy or a tenancy  
19 at will. A person who moves into the housing accommodation owned by the foreclosing owner,  
20 subsequent to the foreclosure sale, without the express written permission of the foreclosing  
21 owner shall not be considered a tenant under this section.

22 (12) “Unit” or “residential unit” means the room or group of rooms within a housing  
23 accommodation which is used or intended for use as a residence by one household.

24 (13) “Use and occupancy charges” means a periodic payment charged by a foreclosing  
25 owner to a person or persons other than a “tenant” as defined in this section for use and  
26 occupancy of a housing accommodation.

27 (b) Notwithstanding any law to the contrary, a foreclosing owner shall not evict a tenant  
28 except just for just cause or unless a binding purchase and sale agreement has been executed for a  
29 bona fide third party to purchase the housing accommodation from a foreclosing owner and the  
30 foreclosing owner has disclosed to the third-party purchaser that said purchaser may be  
31 responsible for evicting the current occupants of the housing accommodation after the sale  
32 occurs.

33 (c) Within thirty (30) days of the foreclosure, the foreclosing owner shall post in a  
34 prominent location in the building in which the rental housing unit is located, a written notice

1 stating the names, addresses, telephone numbers and telephone contact information of the  
2 foreclosing owner, the building manager or other representative of the foreclosing owner  
3 responsible for the management of such building and stating the address to which rent and use  
4 and occupancy charges shall be sent. This requirement shall be satisfied if the foreclosing owner  
5 or someone acting on his behalf has:

- 6 (1) Posted in a prominent location in the building;
- 7 (2) Mailed by first class mail to each unit; and
- 8 (3) Slid under the door of each unit in the building a document stating the names,  
9 addresses, and telephone contact information of the foreclosing owner, the building manager or  
10 other representative of the foreclosing owner responsible for the management of such building  
11 and stating the address to which rent and use and occupancy charges shall be sent.

12 (d) A foreclosing owner shall not evict a tenant for actions that constitute just cause; and

13 (1) A foreclosing owner shall not evict a tenant for the following actions that constitute  
14 just cause until thirty (30) days after the notice required by subsection (c) of this section is posted  
15 and delivered:

16 (i) The tenant has failed to pay the rent in effect prior to the foreclosure or failed to pay  
17 use and occupancy charges, as long as the foreclosing owner notified the tenant in writing of the  
18 amount of rent or the amount of use and occupancy that was to be paid and to whom it was to be  
19 paid;

20 (ii) The tenant has materially violated an obligation or covenant of the tenancy or  
21 occupancy, other than the obligation to surrender possession upon proper notice;

22 (iii) The tenant who had a written bona fide lease or other rental agreement which  
23 terminated, on or after June 30, 2012, has refused, after written request or demand by the  
24 foreclosing owner, to execute a written extension or renewal thereof for a further term of like  
25 duration and in such terms that are not inconsistent with this section; and

26 (iv) The foreclosing owner: (A) Seeks to permanently board up or demolish the premises  
27 because the premises has been cited by a state or local minimum housing code enforcement  
28 agency for substantial violations affecting the health and safety of tenants and it is economically  
29 unfeasible for the foreclosing owner to eliminate the violations; or (B) Seeks to comply with a  
30 state or local minimum housing code enforcement agency that has cited the premises for  
31 substantial violations affecting the health and safety of tenants and it is unfeasible to so comply  
32 without removing the tenant; or (C) Seeks to correct an illegal occupancy because the premises  
33 has been cited by a state or local minimum housing code enforcement agency or zoning officials  
34 and it is unfeasible to correct such illegal occupancy without removing the tenant.

1           (2) A foreclosing owner shall not evict a tenant for the following actions that constitute  
2 just cause until the notice required by subsection (c) is posted and delivered:

3           (i) The tenant is committing a nuisance in the unit; is permitting a nuisance to exist in the  
4 unit; is causing substantial damage to the unit or is creating a substantial interference with the  
5 quiet enjoyment of other occupants;

6           (ii) The tenant is using or permitting the unit to be used for any illegal purpose; and

7           (iii) The tenant has refused the foreclosing owner reasonable access to the unit for the  
8 purpose of making necessary repairs or improvements required by the laws of the United States,  
9 the state of Rhode Island or any subdivision thereof, or for the purpose of showing the unit to a  
10 prospective purchaser or mortgagee.

11           (e) The following procedures shall be followed for the eviction of a tenant pursuant to  
12 subsection (d) of this section:

13           (1) For evictions brought pursuant to paragraph (d)(1)(i), the foreclosing owner shall  
14 follow section 34-18-35;

15           (2) For evictions brought pursuant to paragraph (d)(1)(ii) or subdivision (d)(2), the  
16 foreclosing owner shall follow section 34-18-36;

17           (3) For evictions brought pursuant to paragraphs (d)(1)(iii) or (d)(1)(iv) or for evictions  
18 brought where a binding purchase and sale agreement has been executed for a bona fide third  
19 party to purchase the housing accommodation from a foreclosing owner, the foreclosing owner  
20 shall follow the procedures for terminating a month to month tenancy set forth in section 34-18-  
21 37.

22           (f) A foreclosing owner may evict any person other than a tenant by following the  
23 procedures for terminating a month to month tenancy set forth in section 34-18-37.

24           (g) If a foreclosing owner disagrees with the amount of use and occupancy charges paid  
25 to the foreclosing owner, the foreclosing owner may bring a claim in district court to claim that  
26 the charge is unreasonable and set a new use and occupancy rate.

27           **34-18-38.2. Eviction of tenants at sufferance in foreclosed properties only for just**  
28 **cause.** – (a) Unless otherwise specified in this section, the terms defined in subsection (a) of  
29 section 34-18-38.1 shall have the same meaning for purposes of this section.

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

32           (1) “Just cause” means one of the following:

33           (i) The tenant at sufferance has failed to pay the reasonable rent, as long as the  
34 foreclosing owner notified the tenant in writing of the amount of rent that was to be paid and to

1 whom it was to be paid;

2 (ii) The tenant at sufferance has materially violated an express or legally required  
3 obligation or covenant of the tenancy;

4 (iii) The tenant at sufferance is committing a nuisance in the unit; is permitting a nuisance  
5 to exist in the unit; is causing substantial damage to the unit or is creating a substantial  
6 interference with the quiet enjoyment of other occupants;

7 (iv) The tenant is using or permitting the unit to be used for any illegal purpose;

8 (v) The tenant at sufferance has refused after written request or demand by the  
9 foreclosing owner, to execute a written rental agreement at a reasonable rent and on such other  
10 terms that are not inconsistent with this chapter;

11 (vi) The tenant at sufferance has refused the foreclosing owner reasonable access to the  
12 unit for the purpose of making necessary repairs or improvements required by the laws of the  
13 United States, the state of Rhode Island, or any subdivision thereof, or for the purpose of  
14 inspection as permitted or required by agreement or by law or for the purpose of showing the unit  
15 to a prospective purchaser or mortgagee;

16 (vii) The foreclosing owner: (A) Seeks to permanently board up or demolish the premises  
17 because the premises has been cited by a state or local minimum housing code enforcement  
18 agency for substantial violations affecting the health and safety of tenants and it is economically  
19 unfeasible for the foreclosing owner to eliminate the violations; or (B) Seeks to comply with a  
20 state or local minimum housing code enforcement agency that has cited the premises for  
21 substantial violations affecting the health and safety of tenants and it is unfeasible to so comply  
22 without removing the tenant at sufferance; or (C) Seeks to correct an illegal occupancy because  
23 the premises has been cited by a state or local minimum housing code enforcement agency or  
24 zoning officials and it is unfeasible to correct such illegal occupancy without removing the tenant  
25 at sufferance; and provided further that nothing in this section shall limit the rights of a third-  
26 party owner to evict a tenant at sufferance upon purchasing the unit from a foreclosing owner by  
27 following the procedures for terminating a month to month tenancy set forth in section 34-18-37.

28 (2) “Reasonable rent” means the lesser of:

29 (i) The fair market as established by the United States Department of Housing and Urban  
30 Development pursuant to 42 U.S.C.(c) section 1437(o) as it exists or may be amended, for a unit  
31 of comparable size in the area in which the housing accommodation is located; or

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

34 (3) “Tenant at sufferance” means any former owner-occupant of property who becomes

1 a tenant at sufferance as a result of foreclosure.

2 (c) Notwithstanding any law to the contrary, a foreclosing owner shall not evict a tenant  
3 at sufferance except for just cause or unless a binding purchase and sale agreement has been  
4 executed for a bona fide third party to purchase the housing accommodation from a foreclosing  
5 owner and the foreclosing owner has disclosed to the third-party purchaser that said purchaser  
6 may be responsible for evicting the current occupants of the housing accommodation after the  
7 sale occurs.

8 (d) Within thirty (30) days of the foreclosure, the foreclosing owner shall deliver to the  
9 tenant at sufferance a written notice stating the names, addresses, telephone numbers and  
10 telephone contact information of the foreclosing owner, the building manager or other  
11 representative of the foreclosing owner responsible for the management of such building and  
12 entering into a written rental agreement at a reasonable rent and on such other terms permitted by  
13 this section, stating the amount of reasonable rent to be paid and the address to which rental  
14 payments shall be sent. This requirement shall be satisfied if the foreclosing owner or someone  
15 acting on behalf has:

16 (1) Posted in a prominent location in the building;

17 (2) Mailed by first class mail to each unit; and

18 (3) Slid under the door of the unit occupied by the tenant at sufferance a written notice  
19 containing the information required by this paragraph.

20 (e) A foreclosing owner shall not evict a tenant at sufferance for actions that constitute  
21 just cause; and:

22 (1) A foreclosing owner shall not evict a tenant at sufferance for the following actions  
23 that constitute just cause until thirty (30) days after the notice required by subsection (d) of this  
24 section is posted and delivered:

25 (i) The tenant at sufferance has failed to pay the reasonable rent, as long as the  
26 foreclosing owner notified the tenant at sufferance in writing of the amount of reasonable rent  
27 that was to be paid and to whom it was to be paid;

28 (ii) The tenant at sufferance has materially violated an express or legally required  
29 obligation or covenant of the tenancy;

30 (iii) The tenancy at sufferance has refused, after written request or demand by the  
31 foreclosing owner, to execute a written rental agreement at a reasonable rent and on such terms  
32 that are not inconsistent with this section; and

33 (iv) The foreclosing owner: (A) Seeks to permanently board up or demolish the premises  
34 because the premises has been cited by a state or local minimum housing code enforcement



1 agency for substantial violations affecting the health and safety of tenants and it is economically  
2 unfeasible for the foreclosing owner to eliminate the violations; or (B) Seeks to comply with a  
3 state or local minimum housing code enforcement agency that has cited the premises for  
4 substantial violations affecting the health and safety of tenants and it is unfeasible to so comply  
5 without removing the tenant at sufferance; or (C) Seeks to correct an illegal occupancy because  
6 the premises has been cited by a state or local minimum housing code enforcement agency or  
7 zoning officials and it is unfeasible to correct such illegal occupancy without removing the tenant  
8 at sufferance.

9 (2) A foreclosing owner shall not evict a tenant at sufferance for the following actions  
10 that constitute just cause until the notice required by subsection (d) is posted and delivered:

11 (i) The tenant at sufferance is committing a nuisance in the unit; is permitting a nuisance  
12 to exist in the unit; is causing substantial damage to the unit or is creating a substantial  
13 interference with the quiet enjoyment of other occupants;

14 (ii) The tenant at sufferance is using or permitting the unit to be used for any illegal  
15 purpose; and

16 (iii) The tenant at sufferance has refused the foreclosing owner reasonable access to the  
17 unit for the purpose of making necessary repairs or improvements required by the laws of the  
18 United States, the state of Rhode Island or any subdivision thereof, or for the purpose of  
19 inspection as permitted or required by agreement or by law or for the purpose of showing the unit  
20 to a prospective purchaser or mortgagee.

21 (f) The following procedures shall be followed for the eviction of a tenant pursuant to  
22 subsection (e) of this section:

23 (1) For evictions brought pursuant to paragraph (e)(1)(i), the foreclosing owner shall  
24 follow section 34-18-35;

25 (2) For evictions brought pursuant to paragraph (e)(1)(ii) or subdivision (e)(2), the  
26 foreclosing owner shall follow section 34-18-36; and

27 (3) For evictions brought pursuant to paragraphs (e)(1)(iii) or (e)(1)(iv) or for evictions  
28 brought where a binding purchase and sale agreement has been executed for a bona fide third  
29 party to purchase the housing accommodation from a foreclosing owner, the foreclosing owner  
30 shall follow the procedures for terminating a month to month tenancy set forth in section 34-18-  
31 37.

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

34 **34-18.1-1. Purpose. --** This chapter shall apply to all commercial properties and other

1 estates, excluding residential properties governed by the Residential Landlord and Tenant Act,  
2 chapter 18 of this title. [This chapter shall not apply to the continued occupancy of property by any](#)  
3 [former owner occupant of property who becomes a tenant at sufferance as a result of a](#)  
4 [foreclosure of any mortgage on the property by sale of the property pursuant to a power of sale in](#)  
5 [a mortgage, as described in section 34-11-22; said continued occupancy to be governed by](#)  
6 [chapter 18 of this title.](#)

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

=====  
LC00361  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO PROPERTY - RESIDENTIAL LANDLORD AND TENANT ACT

\*\*\*

1           This act would provide a tenant of a foreclosed property greater protection against  
2   eviction.

3           This act would take effect upon passage.

=====  
LC00361  
=====