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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO CRIMINAL OFFENSES - FRAUD AND FALSE DEALING

Introduced By: Representatives Kilmartin, and Almeida

Date Introduced: February 25, 2010

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-18 of the General Laws entitled "Fraud and False Dealing" is
2 hereby amended by adding thereto the following section:

3 **11-18-34. Residential Mortgage Fraud.** – (a) A person commits residential mortgage
4 fraud when, with the intent to defraud, such person: (1) Knowingly makes any material written
5 misstatement, misrepresentation or omission during the mortgage lending process with the
6 intention that a mortgage lender, a borrower, or any other person that is involved in the mortgage
7 lending process will rely on such written misstatement, misrepresentation or omission; (2)
8 Knowingly uses or facilitates the use or attempts to use or facilitate the use of any written
9 misstatement, misrepresentation or omission during the mortgage lending process with the
10 intention that a mortgage lender, a borrower or any other person that is involved in the mortgage
11 lending process relies on it; (3) Receives or attempts to receive proceeds or any other funds in
12 connection with a residential mortgage lending transaction that the person knew or should have
13 known resulted from an act or acts constituting residential mortgage fraud; (4) Conspires with or
14 solicits another to engage in an act or acts constituting residential mortgage fraud; or (5) Files or
15 cause to be filed with a city or town clerk any document involved in the mortgage lending process
16 that the person knows to contain a deliberate misstatement, misrepresentation or omission.

17 (b) Any person who commits an offense shall be guilty of a felony subject to
18 imprisonment for not more than five (5) years, a fine of five thousand dollars (\$5,000), or both.
19 Any person who engages or participates in a pattern of residential mortgage fraud or a conspiracy

1 or endeavor to engage or participate in a pattern of residential mortgage fraud shall be guilty of a
2 felony subject to imprisonment for not more than twenty (20) years, a fine of one hundred
3 thousand dollars (\$100,000), or both. Any person who commits an offense and knew or had
4 reason to know that the victim was vulnerable due to age, infirmity, or reduced physical or mental
5 capacity shall be guilty of a felony subject to imprisonment for not more than fifteen (15) years, a
6 fine of fifteen thousand dollars (\$15,000), or both. The court shall order restitution to the victim
7 in addition to imprisonment, a fine or both.

8 (c) For purposes of this section:

9 (1) “Mortgage lending process” means the process through which a person seeks or
10 obtains a residential mortgage loan including, but not limited to, solicitation, application, or
11 origination, negotiation of terms, third-party provider services, underwriting, signing and closing,
12 and funding of the loan. Documents involved in the mortgage lending process include, but are not
13 limited to, uniform residential loan applications or other loan applications; appraisal reports;
14 HUD-1 settlement statements; supporting personal documentation for loan applications such as
15 W-2 forms, verifications of income and employment, bank statements, tax returns, and payroll
16 stubs; and any required disclosures.

17 (2) “Pattern of residential mortgage fraud” means one or more misstatements,
18 misrepresentations, or omissions made during the mortgage lending process that involve two (2)
19 or more residential properties, which have the same or similar intents, results, accomplices,
20 victims, or methods of commission or otherwise are interrelated by distinguishing characteristics.

21 (3) “Person” means an individual, corporation, company, limited liability company,
22 partnership, trustee, association, or any other entity;

23 (4) “Residential mortgage loan” means a loan or agreement to extend credit made to a
24 person, which loan is secured by a deed to secure debt, security deed, mortgage, security interest,
25 deed of trust, or other document representing a security interest or lien upon any interest in a one-
26 to-four (4) family residential property located in Rhode Island including the renewal or
27 refinancing of any such loan.

28 (d) It shall be sufficient in any prosecution for residential mortgage fraud to show that the
29 party accused acted with the intent to defraud. It shall be unnecessary to show that any particular
30 person was harmed financially in the transaction or that the person to whom the deliberate
31 misstatement, misrepresentation or omission was made relied upon the misstatement,
32 misrepresentation or omission.

33 SECTION 2. Section 12-12-17 of the General Laws in Chapter 12-12 entitled
34 "Indictments, Informations and Complaints" is hereby amended to read as follows:

1 **12-12-17. Statute of limitations.** -- (a) There shall be no statute of limitations for the
2 following offenses: treason against the state, any homicide, arson, first degree arson, second
3 degree arson, third degree arson, burglary, counterfeiting, forgery, robbery, rape, first degree
4 sexual assault, first degree child molestation sexual assault, second degree child molestation
5 sexual assault, bigamy, manufacturing, selling, distribution or possession with intent to
6 manufacture, sell or distribute a controlled substance under the Uniform Controlled Substance
7 Act, chapter 28 of title 21, or any other offense for which the maximum penalty provided is life
8 imprisonment.

9 (b) The statute of limitations for the following offenses shall be ten (10) years: larceny
10 under section 11-41-2 (receiving stolen goods), section 11-41-3 (embezzlement and fraudulent
11 conversion), section 11-41-4 (obtaining property by false pretenses or personation), section 11-
12 41-11 (embezzlement by bank officer or employee), section 11-41-12 (fraudulent conversion by
13 agent or factor), and section 11-41-13 (obtaining signature by false pretenses), or any larceny
14 which is punishable as a felony; any violation of chapter 7 of title 11 (bribery); any violation of
15 section 11-18-1 (giving false document to agent, employee, or public official); perjury; any
16 violation of chapter 42 of title 11 (threats and extortion); any violation of chapter 15 of title 7
17 (racketeer influenced and corrupt organizations); any violation of chapter 57 of title 11 (racketeer
18 violence); ~~or~~ any violation of chapter 36 of title 6 (antitrust law); [any violation of section 11-41-](#)
19 [11.1 \(unlawful appropriation\); any violation of section 11-41-27 \(wrongful conversion by officer](#)
20 [or state or municipal employee\); any violation of section 11-18-6 \(false financial statement to](#)
21 [obtain loan or credit\); any violation of section 19-9-28 \(false statement to obtain a loan\); any](#)
22 [violation of section 11-9-29 \(bank fraud\); or any violation of section 11-18-34 \(residential](#)
23 [mortgage fraud\).](#)

24 (c) The statute of limitations for any other criminal offense shall be three (3) years unless
25 a longer statute of limitations is otherwise provided for in the general laws.

26 (d) Any person who participates in any offense, either as a principal accessory, or
27 conspirator shall be subject to the same statute of limitations as if the person had committed the
28 substantive offense.

29 (e) The statute of limitations for any violation of chapter 18.9 of title 23 (refuse
30 disposal), chapter 19 of title 23 (solid waste management corporation), chapter 19.1 of title 23
31 (hazardous waste management), chapter 12 of title 46 (water pollution), and chapter 13 of title 46
32 (public drinking water supply) shall be seven (7) years from the time that the facts constituting
33 the offense or violation shall have become known to law enforcement authorities, unless a longer
34 statute of limitations is otherwise provided for in the general laws.

1 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL OFFENSES - FRAUD AND FALSE DEALING

1 This act would make residential mortgage fraud a felony, and would extend the statute of
2 limitations for certain offenses.

3 This act would take effect upon passage.

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