

**State of Rhode Island and Providence Plantations  
DEPARTMENT OF BUSINESS REGULATION**

*Division of Banking*  
1511 Pontiac Avenue  
Buildings 68 and 69  
Cranston, Rhode Island 02920

**STATEMENT OF NEED FOR EMERGENCY AMENDMENT OF  
BANKING REGULATION 5-MORTGAGE FORECLOSURE DISCLOSURE**

R.I. Gen. Laws § 34-27-3.2 was enacted on July 15, 2013 (and effective on September 13, 2013) and required that the Department of Business Regulation (“Department”) promulgate a specific notice and certificates related to foreclosure mediation at least 30 days prior to the effective date of the statute which is August 14, 2013. An Emergency Regulation was filed and in effect on August 14, 2013; however, it is necessary file this amendment to the Emergency Regulation in order to: provide the Portuguese and Spanish translations of required Appendix B (Notice of Mediation Conference) and to add Affidavits related to certain applicable exemptions to facilitate the confirmation of compliance by Mortgagees with R.I. Gen. Laws § 34-27-3.2 and to facilitate the filing and recording of deeds. This emergency amendment does not change the effective date or term of the initial Emergency Regulation. That is, the initial Emergency regulation is effective for 120 days from August 14, 2013 and renewable once for a period not to exceed 90 days as allowed under R.I. Gen. Laws § 42-35-3(b). Due to the time constraints posed by the enactment and requirements of the statute and in order to ensure the stability and continuity of related real estate transactions (including but not limited to providing affected parties with notice and certification allowing foreclosures to proceed consistent with statutory requirements, and the effect on title to real estate resulting in title insurance issues), the Department is required to amend its Banking Regulation 5 in order to comply with statutory requirement via the emergency promulgation process. While the amendments to Banking Regulation 5 are being implemented on an emergency basis and effective immediately, the Department will be issuing a Public Notice of Proposed Rulemaking and scheduling a public hearing on September 23, 2013. The regulatory promulgation process will provide an opportunity for hearing and subsequent amendments based on comments if necessary and appropriate as determined by the Department.

Banking Regulation 5 is hereby amended as follows:

1. Current Sections 5 (Enforcement), 6 (Severability), and 7 (Effective Date) have been renumbered as new Sections 7 (Enforcement), 8 (Severability), and 9 (Effective Date).
2. References to R.I. Gen. Laws § 34-27-3.2 have been added to reflect statutory authority for relevant provisions in Sections 1, Section 2, Section 3 (in the definition of “Mediation Coordinator,” Section 4(B), Section 4(H), and in Appendix B Form 34-27-3.2, and Appendix C.
3. Current Section 3 has been amended to include new definitions for “Certificate Authorizing Foreclosure,” “Days,” “Mediation Coordinator,” “Notice of Mediation Conference.”

4. Current Section 4 has been modified to include requirements for the Notice of Mediation Conference mandated by R.I. Gen. Laws § 34-27-3.2(f) and states that all Mortgagees will be required to comply with R.I. Gen. Laws § 34-27-3.2 by September 13, 2013. Appendix B, Form 34-27-3.2 is the Notice of Mediation Conference.
5. A new Section 5 entitled “Qualifications of Mediation Coordinator” has been added and sets forth experience requirements for Mediation Coordinators pursuant to R.I. Gen. Laws § 34-27-3.2(c)(2).
6. A new Section 5 entitled “Certificate Authorizing Foreclosure” has been added and sets forth requirements mandated by R.I. Gen. Laws § 34-27-3.2(h) and (i).
7. Section 9, entitled “Effective Date” has been clarified to reflect that mediation conference requirements in R.I. Gen. Laws § 34-27-3.2 expire on July 1, 2018.
8. The Spanish and Portuguese translations of Appendix B have been included.
9. A new Section, 4C has been added to explain exemptions under R.I. Gen. Laws § 34-27-3.2(m) and for those Mortgagors that are 120 days or more delinquent as of September 12, 2013. Corresponding Affidavits have been added in Appendix D.
10. The filing of this amendment to the Emergency Regulation does not change the effective date or term of the initial Emergency Regulation. That is, the initial Emergency regulation is effective for 120 days from August 14, 2013 and renewable once for a period not to exceed 90 days as allowed under R.I. Gen. Laws § 42-35-3(b).

Pursuant to R.I. Gen. Laws § 42-35-3(b), an agency may, if it finds adoption of a rule upon less than thirty (30) days’ notice is necessary because of imminent peril to the public health, safety, or welfare, adopt an emergency rule without prior notice or hearing, or upon any abbreviated notice and hearing that it finds practicable. The rule so adopted may be effective for a period not exceeding one hundred and twenty (120) days. *Id.* Furthermore, R. I. Gen. Laws § 42-35-4(b)(2) provides that, subject to constitutional or statutory provisions, an emergency rule may become effective immediately upon filing with the Secretary of State if the agency finds that such an effective date is necessary because of imminent peril to the public health, safety, or welfare.

The Department of Business Regulation has determined that conditions exist that necessitate the amendment and adoption of this Regulation on an emergency basis, to be effective upon filing with the Secretary of State. The Department finds that there is imminent peril to the public health, safety, or welfare in that the provisions set forth in the regulation are necessary for the Department to comply with R.I. Gen. Laws § 34-27-3.2. Therefore, this Emergency Regulation is required, *inter alia*, in order to: (i) ensure timely and thorough compliance with the requirements of R.I. Gen. Laws § 34-27-3.2; (ii) protect the public interest with respect to providing verification of foreclosure mediation in affected real estate transactions; and (iii) protect the viability and integrity of the real estate marketplace and all related entities and individuals.