

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Banking
1511 Pontiac Avenue
Cranston, Rhode Island 02920

CONCISE EXPLANATORY STATEMENT

Banking Regulation 5 – Mortgage Foreclosure

The Department of Business Regulation (“Department”) hereby adopts amendments to Banking Regulation 5 effective October 20, 2014 and makes this statement in accordance with R.I. Gen. Laws § 42-35-2.3. The Department makes these amendments in order to bring the regulation into compliance with the recent repeal of R.I. Gen. Laws § 34-27-3.1; amendments to R.I. Gen. Laws § 34-27-3.2 and adoption of R.I. Gen. Laws § 34-27-7. Non-substantive grammatical and stylistic changes have also been made to the regulation. There are 8 differences between the text of the proposed rule as published in accordance with R.I. Gen. Laws § 42-35-3 and the rule as adopted. Those differences are:

1. Section 4(F) – In response to comments the Department reversed its proposal to eliminate the final phrase of the last sentence.
2. Section 4(M) – In response to comments the Department has inserted the words “(that was originated as first-lien)” into the definition of mortgage.
3. Section 4(P) – In response to comments the Department added language to address bankruptcy proceedings.
4. Section 4(A)(1) – In response to comments the Department added language specifying the contact information to be provided to the mediation coordinator and specifying the information which must be received by the mediation coordinator before for the sixty day timeline for scheduling begins.
5. Section 5(A)(2) – In response to comments, the Department reversed its proposal to eliminate a portion of this section.
6. Appendix A – In response to comments a typographical error was fixed in the title of the document; the words “mortgage” and “foreclosure prevention” prior to “counseling” were removed; Rhode Island Legal Services was substituted for Rhode Island Housing and changes requested by United Way were made to the description of that organization.

7. Appendix B – In response to comments, the Department has fixed the improper underlining in the English version and the typographical errors in the Spanish and Portuguese versions.
8. Appendix C – In response to comments the Department has removed the signatory line from this form.

Attached is the regulation showing the proposed amendments and the differences between the proposed text and regulation as adopted.

Dated – September 30, 2014

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION

Division of Banking

1511 Pontiac Avenue, Bldg. 68
Cranston, Rhode Island 02920

BANKING REGULATION 5

MORTGAGE FORECLOSURE ~~DISCLOSURE~~

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Section 1 **Authority**

This Regulation is promulgated pursuant to R.I. Gen. Laws §§ ~~34-27-3.1~~, 34-27-3.2, 34-27-7, 42-14-17 and 42-35-3.

Section 2 **Purpose and Applicability**

The purpose of this Regulation is to promulgate the form of written notices required pursuant to R.I. Gen. Laws §§ ~~34-27-3.1 and~~ 34-27-3.2 and 34-27-7. ~~The notices implemented by this Regulation inform Individual Consumer Mortgageors of their default, of the Mortgagee's right to foreclose, the availability of counseling for Mortgageors through HUD approved counseling agencies in Rhode Island, and the availability of a mediation conference with a mediation coordinator designated by a HUD approved counseling agency as part of an effort to avoid foreclosure.~~ This Regulation also clarifies the Mortgagee's duties and consequences of its

failure to comply with R.I. Gen. Laws §§ ~~34-27-3.1 and~~ 34-27-3.2 and this Regulation. Readers are cautioned to consult the statutes for additional obligations not repeated in this Regulation.

R.I. Gen. Laws §§ ~~34-27-3.1 and~~ 34-27-3.2 and this Regulation apply to all entities and individuals subject to regulation and supervision by the Rhode Island Division of Banking (“Division”) as well as to any Mortgagee holding a loan owned or payable by an Individual ~~Consumer~~ Mortgagor ~~as defined herein~~ unless otherwise exempted as described in Section 4(C) herein.

Section 3 **Notice of Pending Foreclosure**

The form of notice to be provided pursuant to R.I. Gen. Laws § 34-27-7 is attached hereto as Exhibit A.

Section 34 **Definitions**

As used in sections 5 through 7 of this Regulation the following terms have the following meanings:

- A. “Certificate Authorizing Foreclosure” means the form attached in Appendix C herein.
- B. “Days” means calendar days.
- C. “Default” means default as defined in the terms of the Workout Agreement the failure of the mortgagor to make a timely payment of an amount due under the terms of the mortgage contract, which failure has not been subsequently cured.
- D. “Delinquency” means delinquency as defined in terms of the underlying note.
- E. “Department” means the Rhode Island Department of Business Regulation.
- F. “Eligible Workout Agreement” means an agreement between a Mortgagor and Mortgagee (including but not limited to a temporary or permanent loan modification, a short sale, or a deed-in-lieu of foreclosure) which would result in a net financial benefit to the Mortgagor as compared to the terms of the original Mortgage, or is otherwise in the best interests of the Mortgagor.
- ~~F. “Disclosure” means Form 34-27-3.1 attached hereto in Appendix A (in English and Spanish) or a form substantially similar to Appendix A.~~
- G. “Headquartered in Rhode Island” means an entity whose national or international corporate office or main administrative office or center of operations is located in Rhode Island (whether or not such functions are in located in one location or in separate locations within Rhode Island) and is the office from which decision-making functions are performed and orders issued (including decisions and orders regarding mortgage servicing and foreclosure).

- H. “HUD” means the United States Department of Housing and Urban Development and any successor to such department.
- I. “Individual Consumer Mortgagor” means a natural person who is a Mortgagor owing or indebted pursuant to a loan secured by Residential Real Estate as defined herein. R.I. Gen. Laws § 34-27-3.1 applies to all Individual Consumer Mortgagors regardless of whether loan proceeds are used for business or personal purposes.
- J. “Locally-based Mortgagee” means a Rhode Island-based Mortgagee with Headquarters in Rhode Island or with a physical office or offices exclusively in Rhode Island from which it carries out full-service mortgage operations including acceptance and processing of mortgage payments and the provision of local customer service and loss mitigation and where Rhode Island staff have the authority to approve loan restructuring and other loss mitigation strategies.
- K. "Mediation conference" means a conference involving the mortgagee and mortgagor, coordinated and facilitated by a mediation coordinator whose purpose is to determine whether an alternative to foreclosure is economically feasible to both the mortgagee and the mortgagor, and if it is determined that an alternative to foreclosure is economically feasible, to facilitate a loan workout or other solution in an effort to avoid foreclosure.
- KL. “Mediation Coordinator” means a person ~~designated~~ employed by a Rhode Island based HUD approved counseling agency designated to serve as the unbiased, impartial, and independent coordinator and facilitator of the mediation conference, with no authority to impose a solution or otherwise act as a consumer advocate, provided that such person possesses the experience and qualifications established in Section ~~56~~ herein. ~~For purposes of the emergency implementation of this Regulation and until such time that a hearing is held to further establish qualification and experience requirements of Mediation Coordinators and until this Regulation is further amended or clarified,~~ R.I. Housing shall be deemed qualified to perform Mediation Coordination functions in the State of Rhode Island for purposes of compliance with R.I. Gen. Laws § 34-27-3.2.
- LM. “Mortgage” means an individual consumer first-lien mortgage (that was originated as first-lien) on any owner occupied, one to four (4) unit residential property which serves as the mortgagor's primary residence ~~a lien on Residential Real Estate that secures the Mortgagor's promise to repay a loan or a security agreement.~~
- MN. “Mortgagee” means ~~one to whom the property is~~ the holder of a mortgage (e.g. the lender, mortgage-creditor, or mortgage-holder) ~~and may include a mortgage holder's or its agents or employees~~ including a mortgage servicer acting on behalf of a mortgagee.
- NO. “Mortgagor” means ~~an individual consumer who mortgages the property (e.g. mortgage-debtor or borrower) and/or owner, as applicable .~~ the person that has signed a mortgage in order to secure a debt or other duty, or the heir or devisee of such person provided that:
(i) The heir or devisee occupies the property as his or her primary residence; and

(ii) The heir or devisee has record title to the property or a representative of the estate of the mortgagor has been appointed by a body having jurisdiction over the estate with authority to participate in a mediation conference.

~~OP.~~ “Notice of Mediation Conference” means Form 34-27-3.2 attached hereto in Appendix B (in English, Portuguese, and Spanish) or a form substantially similar to Appendix B sent to the Mortgagor ~~and owner~~ of the property at issue ~~in the foreclosure proceedings when a Mortgage is not more than one hundred twenty (120) days delinquent in the foreclosure proceeding when a Mortgage is not more than one hundred twenty (120) days delinquent or, if applicable, within sixty (60) days after the date upon which the loan is released from the protection of the automatic stay in a bankruptcy proceeding, or any similar injunctive order issued by a state or federal court.~~

~~PQ.~~ “Reasonable Time” means 14 calendar days unless extended for good cause by the Mediation Coordinator

~~QR.~~ “Residential Real Estate” is defined as real property located in Rhode Island having between one (1) and four (4) dwelling units of which at least one is occupied by the Mortgagor. An individual owner-occupied residential condominium unit is included within this definition.

Section 45 Requirements

~~A.~~ ~~In addition to any other notice or disclosure required under federal or state law, the Mortgagee shall provide the Disclosure to Mortgagor consistent with the requirements of R.I. Gen. Laws § 34-27-3.1 as follows:~~

~~(i) The Disclosure must be provided to all Individual Consumer Mortgagors no less than forty five (45) days prior to initiating any foreclosure of Residential Real Estate by first class mail at the address of the Residential Real Estate and, if different, at the address designated by the Individual Consumer Mortgagor by written notice to the Mortgagee as the consumer Mortgagor’s address for receipt of notices.~~

~~(ii) The Disclosure must therefore be provided to Individual Consumer Mortgagors at least seventy five (75) days prior to the publication of the first (1st) notice of the sale by publication in a public newspaper as required by R.I. Gen. Laws § 34-27-4(a), including the date of mailing in the computation.~~

~~BA.~~ In addition to any other notice or disclosure required under federal or state law, the Mortgagee shall provide the Notice of Mediation Conference to the Mortgagor ~~and owner~~ of the Residential Real Estate at issue consistent with the requirements of R.I. Gen. Laws § 34-27-3.2 as follows:

(i) The written Notice of Mediation Conference must be provided to all Mortgagors ~~and Owners (if other than Mortgagor)~~ of the Residential Real Estate prior to

~~initiation of foreclosure of real estate pursuant to § 34-27-4(b) when a Mortgage is not more than one hundred twenty (120) days delinquent by certified and first class mail~~ at the address of the Residential Real Estate and, if different, at the address designated by the Individual Consumer Mortgagor by written notice to the Mortgagee as the consumer Mortgagor's address for receipt of notices. Notice addressed and delivered as provided in this section shall be effective with respect to the Mortgagor and any heir or devisee of the Mortgagor. A copy of the Notice of Mediation Conference shall also be sent by mail to the Mediation Coordinator, along with contact information for a single mortgagee point of contact to handle all communications with the mediation coordinator (by mail or email) so that the Mediation Coordinator may commence the Mediation process by contacting the Mortgagor. The sixty (60) day timeline for scheduling the Mediation Conference shall begin when a completed Appendix B, single point of contact information for the Mortgagee, and payment for initiating the mediation process has been received by the Medication Coordinator. The Mortgagee may contact the Mediation Coordinator to obtain information on the Mediation Coordinator's procedures for Mediation.

(ii) If the Mortgagors and/or Owners reside at the same address they may be sent the Notice of Mediation Conference as one notice to listing all Mortgagors and/or Owners. If the Mortgagors and/or Owners reside at different addresses, then separate Notices of Mediation Conference (listing each Mortgagor and/or Owner separately) shall be mailed to each Mortgagor and/or Owner at their respective address. Any issues regarding mailing, addresses, and difficulty in reaching all interested parties shall be communicated to the Mediation Coordinator by the Mortgagee.

~~(iii) If a municipal (not builder's) plat and lot number for the Residential Real Estate is not easily ascertainable, then the Mortgagee may use the book and page number where the Mortgage is recorded. The Mortgagee shall make its best effort to locate the plat/lot and/or book/page numbers; however, if such information is not available after a reasonable effort, the Mortgagee shall maintain a record of its efforts to locate such information and document that the information is not available in the Notice of Mediation Conference. The Mortgagee may amend the Notice of Mediation Conference to reflect book/page number or that it has made an effort to locate the plat/lot and book/page information and it is not available.~~

(~~iv~~ii) The Mortgagee must designate an agent to participate in the Mediation Conference and respond to all requests from the Mediation Coordinator, Mortgagor, or counselor assisting the Mortgagor within a Reasonable Time not to exceed 14 days.

(i~~v~~) If the Mortgagee declines to accept the Mortgagor's Workout Agreement, if any, the Mortgagee must provide a detailed statement documenting the reasons for rejecting the proposal within 14 days.

- (vi) Pursuant to R.I. Gen. Laws § 34-27-3.2(i), if the Mortgagee and Mortgagor reach agreement after the notice of Mediation Conference is sent to the Mortgagor, but without the assistance of the Mediation Coordinator, the Mortgagee shall provide a copy of the written agreement to the Mediation Coordinator. Upon receipt of a written agreement between the Mortgagee and Mortgagor and payment of all fees and penalties required under § 34-27-3.2 subsections (d)(1) and (f), the Mediation Coordinator shall issue a certificate of eligible workout agreement, if the workout agreement would result in a net financial benefit to the Mortgagor as compared to the terms of the original Mortgage ("Certificate of Eligible Workout Agreement") in the format provided in Appendix E. For purposes of this subsection, evidence of an agreement shall include, but not be limited to, evidence of agreement by both mortgagee and mortgagor to the terms of a short sale or a deed in lieu of foreclosure, regardless of whether said short sale or deed in lieu of foreclosure is subsequently completed. If the Mortgagee and Mortgagor agree to a Workout Agreement after the Notice of Mediation Conference is sent to the Mortgagor, the Mortgagee will reduce the Workout Agreement to writing (signed by Mortgagor and Mortgagee and dated) and provide a copy to the Mediation Coordinator. The Mediation Coordinator will issue a Certificate of Eligible Workout Agreement if the Workout Agreement meets the definition of Workout Agreement herein. Where the Mediation Coordinator has issued a Certificate of Eligible Workout Agreement ~~if~~ the Mortgagor Defaults-fails to fulfill his or her obligations under the Eligible ~~on the~~ Workout Agreement, as defined therein, within twelve (12) months of entering into the Workout Agreement, the Mortgagee may proceed to foreclosure without participating in another mediation process the provisions of R.I. Gen. Laws § 34-27-3.2 shall not apply to any foreclosure initiated under this chapter within twelve (12) months following the date of the Eligible Workout Agreement.
- (vii) ~~If a Mortgagee fails to send the Notice of Mediation Conference to the Mortgagor before the Mortgagor is more than one hundred twenty (120) days delinquent, the Mortgagee may still proceed to~~ Notwithstanding the provisions of R.I. Gen. Laws § 34-27-3.2 and this Regulation, a Mortgagee may initiate a judicial foreclosure under the Rhode Island judicial foreclosure process set forth in accordance with R.I. Gen. Laws § 34-27-1 et seq.
- ~~(viii) If: (i) a commercial loan includes a personal guarantee secured by a Mortgage of the guarantor or (ii) the Mortgagor files for bankruptcy, and the parties are engaged in: a legal proceeding or other workout that allows for a mediation process that causes the delinquency to be more than one hundred and twenty (120) days, the Mortgagee may file the resulting Workout Agreement (if one is achieved) as described in Section 4B(iv) above and is not required to comply with R.I. Gen. Laws § 34-27-3.2. If no Workout Agreement results from the negotiations in these circumstances and the Mortgagor is more than one hundred twenty (120) days delinquent, the Mortgagee may still proceed to foreclosure under the judicial foreclosure process set forth in R.I. Gen. Laws § 34-27-1 et seq., if necessary.~~

CB. EXEMPTIONS

The following Mortgages are exempt from the provision of this Regulation. For such Mortgages, Mortgagees may submit the attached Appendix D as evidence of compliance with R.I. Gen. Laws § 34-27-3.2.

- (i) ~~Any Mortgages on which the~~ Mortgagor ~~that is was~~ 120 days or more delinquent ~~on the Mortgage~~ on or before September 12, 2013; ~~does not require participation in a Mediation Conference under R.I. Gen. Laws § 34-27-3.2. For such Mortgages, Mortgagees may submit the attached Appendix D2 as evidence of compliance with R.I. Gen. Laws § 34-27-3.2 for recording or insurance purposes.~~ If the property secured by the Mortgage is located in Providence, East Providence, Cranston, Warwick, or Warren, the Mortgagee should proceed under the foreclosure conciliation process defined in those communities' local ordinances if the Mortgagor was one hundred twenty (120) days delinquent on or before September 12, 2013.
- (ii) Mortgages made and serviced by ~~A~~any entity qualifying as a Locally-based Mortgagee ~~shall also confirm exemption from compliance with R.I. Gen. Laws § 34-27-3.2(m) by executing the attached Appendix D1 for recording or insurance purposes.~~
- ~~(iii)~~—Any Mortgagee seeking clarification regarding its status as a “Locally-Based Mortgagee” for purposes of meeting the requirements of this Regulation may contact the Department of Business Regulation with a detailed written description of its operations specifically with regard to its: the location of its Headquarters, the location and description of its mortgage operations including the acceptance and processing of mortgage payments and local customer service and loss mitigation, and the identification of Rhode Island staff with the authority to approve loan restructuring and other loss mitigation strategies.
- (iii) Reverse mortgages.

DC. Any Mortgagee subject to regulation and supervision by the Division must maintain a duplicate of the ~~completed Disclosure and~~ Notice of Mediation Conference including information regarding delivery in Individual Consumer Mortgagor’s file consistent with the Division’s record-keeping requirements.

ED. If the Mortgagee decides to send a “substantially similar” document there shall be no changes to the wording, font or information required by Appendix A, and Appendix B, in any way. “Substantially similar” only allows the Mortgagee to put the notice on its own letterhead or insert a logo and to add information required by federal laws such as the Fair Credit Reporting Act on the same form as the Disclosure.

~~FE.~~ Mortgagees may provide contact information for a dedicated customer service group as authorized representative so long as the consumer can obtain the required information from the contact information given.

~~G.~~ ~~The contact provided by the Mortgagee must be able to provide a hard copy of HUD Approved Counseling Agencies in Rhode Island as indicated on Appendix A. When contacted by a consumer a list of such agencies shall be sent within five (5) business days of the request by regular mail to the address given by the consumer as part of the request.~~

~~H.~~ ~~All Mortgagees will be required to comply with R.I. Gen. Laws § 34-27-3.1 and this Regulation by March 6, 2010.~~

~~IF.~~ All Mortgagees ~~will be~~ are required to comply with R.I. Gen. Laws § 34-27-3.2 ~~by no later than~~ September 14, 2013.

Section 56 **Qualifications of Mediation Coordinator**

A. The Mediation Coordinator shall have a minimum of three (3) years of experience in residential mortgage lending and loss mitigation guidelines with a working knowledge of prime and sub-prime loan products, modifications, forbearance agreements, bankruptcy laws, tax sales, excellent written and verbal communication skills, strong analytical, problem-solving and organizational skills, and experience with tracking systems.

B. The Mediation Coordinator will also have the knowledge, ability, and contacts to access local and national offices of lenders and foreclosure attorneys.

C. The Department will ~~provide~~ maintain a list of approved Mediation Coordinators on its website ~~by September 13, 2013.~~

Section 67 **Certificate Authorizing Foreclosure**

A. The Certificate Authorizing Foreclosure shall be issued by the Mediation Coordinator and/or its designee upon confirmation that all criteria in R.I. Gen. Laws § 34-27-3.2 ~~(g)~~ and (h) have been met, ~~and~~ the Notice of Mediation Conference was properly served upon the Mortgagor ~~and Owner~~ of the Residential Real Estate and all fees and penalties required under § 34-27-3.2 subsections (d)(1) and (f) have been paid.

B. All written correspondence and documents related to the Mediation Conference process received by or submitted to the Mortgage Mediation Coordinator shall be provided to the Mortgagee and maintained by the Mortgagee consistent with the Department's record-keeping requirements.

Section 78 **Enforcement**

Any Mortgagee regulated and supervised by the Division who fails to comply with this Regulation may be subject to administrative action pursuant to Titles 19 and 42 of the Rhode Island General Laws and/or any relevant regulation promulgated pursuant thereto.

| **Section 89 Severability**

If any section, term, or provision of this Regulation should be adjudged invalid for any reason, that judgment should not effect, impair, or invalidate any remaining section, term, or provision, which shall remain in full force and effect.

| **Section 910 Effective Date**

This Regulation shall be effective as indicated below. ~~All references to mediation expire on July 1, 2018 pursuant to Section 2 of Senate Bill 0416 and House Bill 2013-5335 Substitute B (as subsequently reflected in the Rhode Island Public Laws) unless otherwise authorized by statutory amendment. Should the statutes upon which the regulation is based expire the regulation will also cease to be effective as to those provisions based upon the statute that expires.~~

EFFECTIVE DATE: January 29, 2010

AMENDED: August 26, 2010

AMENDED: October 20, 2011

AMENDED: August 9, 2013, EFFECTIVE AUGUST 14, 2013

AMENDED: August 21, 2013, EFFECTIVE AUGUST 14, 2013

AMENDED: September 12, 2013, EFFECTIVE AUGUST 14, 2013

AMENDED: January 23, 2014, , EFFECTIVE: FEBRUARY 12, 2014

~~AMENDED: October 620, 2014~~

APPENDIX A

~~FORM 34-27-3.1~~

NOTICE OF DEFAULT AND MORTGAGEE'S RIGHT TO FORECLOSE AND NOTICE OF AVAILABILITY OF MORTGAGE COUNSELING SERVICES
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~~This Notice is provided to you to inform you of the protections provided by R.I. Gen. Laws § 34-27-3.1 of The Rhode Island Mortgage Foreclosure and Sale Act.~~

~~**NOTICE OF DEFAULT AND MORTGAGEE'S RIGHT TO FORECLOSE**~~

~~Re: _____ (Insert mortgage loan number)~~

~~The mortgagee named below ("Mortgagee") hereby notifies you that you are in default on your mortgage. If you fail to remedy this default, Mortgagee has the right to foreclose on the real estate securing the mortgage loan referenced in this Notice.~~

~~**NOTICE OF AVAILABILITY OF MORTGAGE COUNSELING SERVICES**~~

~~**Housing counseling services are available to you at no cost.** Counseling services that can help you understand your options and provide resources and referrals that may assist you in preventing foreclosure are available from mortgage counseling agencies approved by the United States Department of Housing and Urban Development (HUD). You can locate a HUD approved mortgage counseling agency by calling HUD's toll-free telephone number, 1-800-569-4287, or by accessing HUD's Internet homepage at www.hud.gov. The TDD number is 1-800-877-8339. Foreclosure prevention counseling services are available free of charge through HUD's Housing Counseling Program.~~

~~**HUD Approved Housing Counseling Agencies in Rhode Island may be found at this link <http://www.hud.gov/offices/hsg/sfh/hcc/hes.cfm?&webListAction=search&searchstate=RI>. If you do not have internet access, call the toll-free number above and request a printed list.**~~

~~Mortgagee: _____

(Type or print name of Mortgagee)~~

~~Mortgagee Address:
Street: _____~~

~~City, State, Zip Code: _____

_____~~

~~Mortgagee Authorized Representative: _____ Date mailed: _____

(Type or print) (mm/dd/yyyy)~~

~~Contact Information for Mortgagee Authorized Representative:~~

~~Telephone: _____

(Provide toll free number if available)~~

~~Email: _____~~

AVISO DE MORA Y DERECHO DEL ACREEDOR HIPOTECARIO A EJECUTAR LA HIPOTECA Y NOTIFICACIÓN DE DISPONIBILIDAD DE SERVICIOS DE ORIENTACIÓN HIPOTECARIA

Se le proporciona esta notificación para informarle acerca del amparo que ofrecen las Leyes Generales de Rhode Island § 34-27-3.1 de *The Rhode Island Mortgage Foreclosure and Sale Act* (Ley sobre Ejecución de Hipotecas y Remates de Rhode Island).

AVISO DE MORA Y DERECHO DEL ACREEDOR HIPOTECARIO A EJECUTAR LA HIPOTECA

Asunto: _____ (inserte el número del préstamo hipotecario)

Por medio del presente el acreedor hipotecario indicado abajo ("Acreedor hipotecario") le notifica que su hipoteca esta morosa. Si no puede solventar la situación, el Acreedor hipotecario tiene el derecho de ejecutar la hipoteca del inmueble que avala el préstamo hipotecario al cual se alude en el presente aviso.

NOTIFICACIÓN DE DISPONIBILIDAD DE SERVICIOS DE ORIENTACIÓN HIPOTECARIA

Se encuentran a disposición servicios de orientación sobre vivienda sin costo adicional. Los servicios de orientación pueden ayudarle a comprender las opciones de las que dispone, así como también ofrecerle recursos y referencias que podrían contribuir a evitar la ejecución de la hipoteca. Dichos servicios los ofrecen agencias de orientación hipotecaria aprobadas por el *United States Department of Housing and Urban Development* (Departamento de Vivienda y Desarrollo Urbano de EE.UU., HUD, por sus siglas en inglés). Puede localizar agencias de orientación hipotecaria aprobadas por HUD llamando al número gratuito de dicho departamento al 1-800-569-4287, o ingresando a la página en Internet de HUD www.hud.gov. El número del dispositivo de comunicación para sordos (TDD, por sus siglas en inglés) es 1-800-877-8339. Los servicios de orientación para prevenir la ejecución de hipotecas se ofrecen sin costo alguno mediante el Programa de Orientación para la Vivienda de HUD.

Agencias de asesoría aprobadas por el Departamento de Vivienda y Desarrollo Urbano en Rhode Island pueden ser encontradas en este lugar

<http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?&webListAction=search&searchstate=RI>. Si usted no tiene acceso a internet, llame a la línea de teléfono gratuita que aparece arriba para solicitar una lista impresa.

Acreedor hipotecario: _____
—(Escriba a máquina o en letra de molde el nombre del Acreedor hipotecario)

Dirección del Acreedor hipotecario:

Calle: _____

Ciudad, estado, código postal: _____

Representante autorizado del Acreedor hipotecario: _____
—(Escriba a máquina o en letra de molde)

Fecha de envío por correo: _____
(mm/dd/aaaa)

~~Información de contacto del representante autorizado del Acreedor hipotecario:~~

~~Teléfono: _____~~

~~_____ (Proporcione un número gratuito si lo tiene)~~

~~Correo electrónico: _____~~

~~THIS SPACE LEFT INTENTIONALLY BLANK~~

APPENDIX A

FORM 34-27-7

[Mailing Date]

[Occupant Name or if unknown "Occupant"]

[Street Address]

[City, State, Zip Code]

NOTICE OF PENDING FORECLOSURE

This Notice is provided to you to inform you of the intent to foreclose on property address listed above. The holder of the mortgage on the property address listed above hereby notifies you that the above referenced property is currently scheduled to be sold at foreclosure.

TENANTS ARE HEREBY NOTIFIED OF THE FOLLOWING

1. The property listed above is scheduled to be sold at foreclosure;
2. The foreclosure sale is scheduled for (insert date time and place initially scheduled for the sale);
3. **Housing counseling services are available to you at no cost.** Counseling services that can help you understand your options and provide resources and referrals are available from mortgage counseling agencies approved by the United States Department of Housing and Urban Development (HUD). You can locate a HUD-approved mortgage counseling agency by calling HUD's toll-free telephone number, 1-800-569-4287, or by accessing HUD's Internet homepage at www.hud.gov. The TDD number is 1-800-877-8339. Foreclosure prevention eCounseling services are available free of charge through HUD's Housing Counseling Program.
4. Rhode Island Housing HelpCenter is an independent, HUD-approved counseling agency. You can reach them by e-mail at helpcenter@rhodeislandhousing.org or by telephone at 401-457-1130. Rhode Island Housing HelpCenter is located at 44 Washington Street, Providence, Rhode Island 02903. Rhode Island Legal Services (RILS) may be able to provide assistance. RILS may be reached at (401) 274 2652 or rils.org and is located at 56 Pine Street, 4th Floor, Providence, Rhode Island 02903..
5. United Way 2-1-1 in Rhode Island is an information and referral line available 24 hours a day, 7 days a week, 365 in 175 languages and dialects. This free and confidential services helps connect people connect to social services resources offered by health and human service providers, government agencies and community-based organizations. Simply dial 211 on your telephone or visit www.211RI.org. United Way of Rhode Island is located a 50 Valley Street, Providence, Rhode Island 02909.
56. This notice does not eliminate your obligation to pay rent. **You must continue to pay rent to the landlord until the foreclosure sale occurs.**

THIS IS NOT AN EVICTION NOTICE.

APPENDIX B

 FORM 34-27-3.2

NOTICE OF MEDIATION CONFERENCE PURSUANT TO
R.I. GEN. LAWS § 34-27-3.2

This Notice is provided to you to inform you of the protections provided by R.I. Gen. Laws § 34-27-3.2 of The Rhode Island Mortgage Foreclosure and Sale Act.

TO ASSIST YOU IN AVOIDING FORECLOSURE, YOU HAVE THE RIGHT TO A FREE, IN-PERSON OR TELEPHONE MEDIATION CONFERENCE WITH AN INDEPENDENT MEDIATION COORDINATOR. THE MORTGAGEE MAY NOT FORECLOSE UNLESS IT PROVIDES YOU THE OPPORTUNITY TO PARTICIPATE IN THE MEDIATION CONFERENCE, WHICH MUST TAKE PLACE WITHIN SIXTY (60) DAYS OF THE MAILING DATE OF THIS NOTICE. YOU WILL BE CONTACTED BY A FORECLOSURE MEDIATION COORDINATOR TO SCHEDULE THAT MEDIATION CONFERENCE.

Name of Mortgagor: _____

Re: _____ (Insert mortgage loan number)

~~Book/Page Number of Recorded Mortgage: _____~~

~~INSERT ADDRESS OF RESIDENTIAL REAL ESTATE AND INCLUDE PLAT/LOT NUMBER:~~

~~Date of Default _____~~

~~Date of release of loan from automatic stay in bankruptcy proceeding if applicable _____~~

The mortgagee named below ("Mortgagee") hereby notifies you that you are in Default on your mortgage. If you fail to remedy this Default, Mortgagee has the right to foreclose on the real estate securing the mortgage loan referenced in this Notice.

Mortgagee: _____

(Type or print name of Mortgagee)

Mortgagee Address:

Street: _____

City, State, Zip Code: _____

Mortgagee Authorized Representative: _____ Date mailed: _____

(Type or print)

(mm/dd/yyyy)

Contact Information for Mortgagee Authorized Representative:

Telephone: _____

(Provide toll free number if available)

Email: _____

cc: Mediation Coordinator: _____

APÉNDICE B

 FORMULARIO 34-27-3.2

**NOTIFICACIÓN DE REUNIÓN DE MEDIACIÓN SEGÚN
EL § 34-27-3.2 DE LAS LEYES GENERALES DE RHODE ISLAND (R. I.)**

Esta notificación se le proporciona para informarle sobre la protección que proveen las Leyes Generales de R. I. en el § 34-27-3.2 de la Mortgage Foreclosure and Sale Act (Ley de Ejecuciones Hipotecarias y Ventas) del estado de Rhode Island.

PARA AYUDARLO A EVITAR LA EJECUCIÓN HIPOTECARIA, USTED TIENE DERECHO A UNA REUNIÓN DE MEDIACIÓN GRATUITA CON UN COORDINADOR DE MEDIACIÓN INDEPENDIENTE. DICHA REUNIÓN SE PODRÁ EFECTUAR PERSONALMENTE O POR TELÉFONO. EL ACREEDOR HIPOTECARIO NO PODRÁ EJECUTAR LA HIPOTECA SIN HABERLE PROPORCIONADO LA OPORTUNIDAD DE PARTICIPAR EN LA REUNIÓN DE MEDIACIÓN, QUE PUEDE LLEVARSE A CABO DENTRO DE LOS SESENTA (60) DÍAS DE LA FECHA DEL ENVÍO POSTAL DE ESTA NOTIFICACIÓN. UN COORDINADOR DE MEDIACIÓN PARA EJECUCIONES HIPOTECARIAS SE COMUNICARÁ CON USTED PARA PROGRAMAR DICHA REUNIÓN.

Nombre del cliente: _____

Ref.: _____ (Escriba el número de préstamo hipotecario)

ESCRIBA LA DIRECCIÓN DE LA PROPIEDAD RESIDENCIAL:

Fecha de Defecto: _____

Fecha de liberación de préstamo de la suspensión, automática en un procedimiento de quiebra, si es aplicable:

Por la presente, el acreedor hipotecario nombrado a continuación (“Acreedor hipotecario”) lo notifica que usted está en mora en los pagos de su hipoteca. Si no soluciona esta mora, el Acreedor hipotecario tiene derecho a ejecutar la hipoteca de la propiedad que garantiza el préstamo hipotecario citado en la referencia de esta notificación.

Acreedor hipotecario: _____
(Escriba a máquina o en letra de imprenta el nombre del Acreedor hipotecario)

Dirección del Acreedor hipotecario:

Calle: _____

Ciudad, estado y código postal: _____

Representante autorizado del Acreedor hipotecario: _____ Fecha de envío postal: _____
(Escriba a máquina o en letra de imprenta) (mm/dd/aaaa)

Información de contacto del representante autorizado del Acreedor hipotecario:

Teléfono: _____
(Si hay un número de teléfono gratuito disponible, indíquelo)

Dirección de correo electrónico: _____

cc: Coordinador de Mediación: _____

APÊNDICE B

 FORMULÁRIO 34-27-3.2

NOTIFICAÇÃO DE CONFERÊNCIA DE MEDIAÇÃO CONFORME LEIS R.I. GEN. § 34-27-3.2

Esta Notificação destina-se a informar-lhe as proteções fornecidas pelas leis R.I. Gen. § 34-27-3.2 de Execução Hipotecária e a Lei de Venda de Valores Imobiliários de Rhode Island.

PARA TE AUXILIAR A EVITAR A EXECUÇÃO DE HIPOTECA (FORECLOSURE), VOCÊ TEM DIREITO A UMA CONFERÊNCIA DE MEDIAÇÃO GRATUITA, EM PESSOA OU POR TELEFONE COM UM COORDENADOR INDEPENDENTE DE MEDIAÇÃO. A EXECUÇÃO DE HIPOTECA (FORECLOSURE) NÃO PODE SER EXECUTADO SEM TE PROPORCIONAR A OPORTUNIDADE DE PARTICIPAR NA CONFERÊNCIA DE MEDIAÇÃO, QUE DEVE ACONTECER EM SESSENTA (60) DIAS DA DATA DE ENVIO DESTA NOTIFICAÇÃO. O COORDENADOR DA MEDIAÇÃO DE EXECUÇÃO DE HIPOTECA (FORECLOSURE) ENTRARÁ EM CONTACTO COM VOCÊ PARA PROGRAMAR A CONFERÊNCIA DE MEDIAÇÃO.

Nome do cliente: _____

Re: _____ (Inserir número de empréstimo da hipoteca)

INSERIR ENDEREÇO DO IMÓVEL RESIDENCIAL:

Data de delinquência: _____

Data em que o empréstimo foi liberado da suspensão automática de falência, se aplicável: _____

O Crédito Imobiliário denominada abaixo ("Créditos Imobiliários") por este instrumento notifica -se que está inadimplente em sua hipoteca. Se você falhar em corrigir tal inadimplência, Créditos Imobiliários têm o direito de executar o empréstimo de hipoteca consistente dos bens imóveis relacionados nesta notificação.

Créditos Imobiliários: _____
(Digitar ou imprimir nome de Créditos Imobiliários)

Endereço de Créditos Imobiliários:

Rua: _____

Cidade, Estado, CEP: _____

Representante Autorizado de Créditos Imobiliários: _____ Data de envio: _____
(Digitar ou imprimir) (mm/dd/aaaa)

Informações de Contato para Representante Autorizado de Créditos Imobiliários:

Telefone: _____
(Forneça um número gratuito, se disponível)

E-mail: _____

cc: Coordenador de Mediação: _____

APPENDIX C

CERTIFICATE AUTHORIZING FORECLOSURE
PURSUANT TO R.I. GEN. LAWS § 34-27-3.2

I, (INSERT NAME OF MEDIATION COORDINATOR), of (INSERT NAME OF AGENCY), certify as follows:

1. (INSERT NAME OF MORTGAGEE) is the holder of the mortgage given by INSERT NAME OF MORTGAGOR, recorded in the CITY/TOWN of INSERT Land Evidence Records in Book INSERT, Page INSERT, and located at INSERT ADDRESS (the "Mortgage").

~~2. (INSERT NAME OF OWNER (IF DIFFERENT FROM MORTGAGEE) is the owner of the property, recorded in the CITY/TOWN of INSERT Land Evidence Records in Book INSERT, Page INSERT and located at INSERT ADDRESS.~~

~~3. INSERT NAME OF (MORTGAGOR) AND OWNER were/was properly served with the Notice of Mediation Conference pursuant to R.I. Gen. Laws § 34-27-3.2.~~

~~4. (INSERT NAME OF AGENCY) served as the Mediation Coordinator defined in R.I. Gen. Laws § 34-27-3.2 and Department of Business Regulation Banking Regulation 5 regarding the Mortgagee's potential foreclosure proceedings.~~

~~4. (MORTGAGEE) has paid all fees and penalties required under R.I. Gen. Laws § 34-27-3.2 subsections (d)(1) and (f).~~

5. For the reasons set forth below, the Mortgagee is authorized to proceed with the foreclosure action, including recording of the foreclosure deed [check one box below]:

- After two attempts by the Agency to contact the Mortgagor ~~and Owner~~, the Mortgagor failed to respond to the request of the Agency to appear for the Mediation Conference or otherwise participate in the Mediation Conference.
- The Mortgagor ~~and Owner~~ failed to comply with the requirements of R.I. Gen. Laws § 34-27-3.2.
- The parties been unable to reach an agreement to renegotiate the loan in order to avoid a foreclosure through the Mediation Conference, despite the Mortgagee's good faith efforts as noted on Attachment 1.

~~5. I am authorized by the Agency to issue this Certificate.~~

Name _____
Title _____
Date _____

ATTACHMENT 1

Good Faith Determination

The Mortgagee, or its authorized representative, has made a good faith effort to reach agreement with the Mortgagor to renegotiate the terms of the Mortgage in an effort to avoid foreclosure. The Mortgagee's good faith is evidenced by the following factors [check all applicable boxes]:

- Mortgagee provided the Notice of Mediation Conference to the Mortgagor ~~and Owner~~ as required by R.I. Gen. Laws § 34-27-3.2.
- Mortgagee designated an agent authorized to participate in the Mediation Conference on its behalf, and with authority to agree to a Workout Agreement on behalf of Mortgagee.
- Mortgagee made reasonable efforts to respond in a timely manner to requests for information from the Mediation Coordinator, Mortgagor, or counselor assisting the Mortgagor.
- Mortgagee analyzed and responded to the Workout Agreement submitted by the Mortgagor and/or Mediation Coordinator within fourteen days of the Workout Agreement.
- If the Mortgagee declines to accept the Mortgagor's Workout Agreement, the Mortgagee provided written, detailed statement of its reasons for rejecting the proposal within fourteen (14) days.
- If the Mortgagee declines to accept the Mortgagor's Workout Agreement, the Mortgagee offered, in writing within fourteen (14) days, to enter into an alternative work-out/disposition resolution proposal that would result in a material net financial benefit to the Mortgagor as compared to the terms of the Mortgage.
- Other facts demonstrating Mortgagee's good-faith [please specify]:

APPENDIX D1

**Affidavit of Exemption From Compliance With R.I. Gen. Laws § 34-27-3.2(m)
(~~For LOCALLY-BASED MORTGAGEES IN RHODE ISLAND~~)**

I, **[INSERT NAME AND TITLE OF MORTGAGEE REPRESENTATIVE]** of **[INSERT NAME OF MORTGAGEE]** (~~“[INSERT Mortgagee NAME]”~~), hereby affirm under oath that:

1. I have personal knowledge of the matters referred to herein.
2. **[INSERT NAME OF MORTGAGEE]** is the holder of the mortgage recorded in the Land Evidence Records in Book **[INSERT]** at Page **[INSERT]**, and located at ~~INSERT~~ (the “Mortgage”).

3. The Mortgage is exempt from the requirement to participate in a foreclosure mediation conference as set forth in R.I. Gen. Laws § 34-27-3.2 for the following reason:

3A. [INSERT MORTGAGEE NAME] is Headquartered at **[INSERT RHODE ISLAND ADDRESS]** or maintains a physical office or offices exclusively in Rhode Island from which it carries out full-service mortgage operations including the acceptance and processing of mortgage payments and the provision of local customer service and loss mitigation and where Rhode Island staff have the authority to approve loan restructuring and other loss mitigation strategies. **and**

4. ~~[INSERT NAME OF MORTGAGEE]~~ services its own Mortgages, including without limitation, the Mortgage.

B. the Mortgagor was more than one hundred twenty days delinquent on or before September 12, 2013

C. the Mortgage is a reverse mortgage

D. the Mortgagor failed to fulfill his or her obligations under an Eligible Workout Agreement within twelve months of receiving a Certificate of Eligible Workout Agreement

54. For the reasons set forth above, **[INSERT NAME OF MORTGAGEE]** is deemed to be in compliance with the requirements of ~~R.I. Gen. Laws §~~ R.I. Gen. Laws § 34-27-3.2(m).

Name of Authorized Representative of Mortgagee

Title of Authorized Representative of Mortgagee

Sworn to and subscribed before me this ___ day of _____, 2013.

Notary Public

Printed Name: _____

My Commission Expires: _____

APPENDIX D2

**Affidavit of Exemption from R.I. Gen. Laws § 34-27-3.2
(FOR MORTGAGORS MORE THAN 120 DAYS DELINQUENT ON OR BEFORE
SEPTEMBER 12, 2013)**

I, ~~INSERT NAME AND TITLE OF MORTGAGEE REPRESENTATIVE~~ of
~~INSERT NAME OF MORTGAGEE~~ (“~~INSERT Mortgagee NAME~~”), hereby affirm under
oath that:

- ~~1. I have personal knowledge of the matters referred to herein.~~
- ~~2. INSERT NAME OF MORTGAGEE is the holder of the mortgage recorded in the Land
Evidence Records in Book INSERT at Page INSERT, et seq. (the “Mortgage”) and
located at INSERT.~~
- ~~3. I am exempt from complying with R.I. Gen. Laws § 34-27-3.2 because the Mortgagor is
or was more than one hundred twenty days delinquent on or before September 12, 2013.~~
- ~~4. For the reasons set forth above, INSERT NAME OF MORTGAGEE is exempt from
compliance with the requirements of R.I. Gen. Laws § ~~R.I. Gen. Laws § 34-27-3.2~~.~~

Name of Authorized Representative of Mortgagee
Title of Authorized Representative of Mortgagee

Sworn to and subscribed before me this ___ day of _____, 2013.

Notary Public

Printed Name: _____

My Commission Expires: _____

APPENDIX E

CERTIFICATE OF ELIGIBLE WORKOUT AGREEMENT

I, (INSERT NAME OF MEDIATION COORDINATOR), of (INSERT NAME OF AGENCY), certify as follows:

I have reviewed the terms of the written Workout Agreement reached between the Mortgagee and Mortgagor and confirm that the Workout Agreement was negotiated in good-faith and that:

1. (INSERT NAME OF MORTGAGEE) is the holder of the mortgage given by INSERT NAME OF MORTGAGOR, recorded in the CITY/TOWN of INSERT Land Evidence Records in Book INSERT, Page INSERT and located at INSERT ADDRESS (the "Mortgage").

~~2. (INSERT NAME OF OWNER (IF DIFFERENT FROM MORTGAGEE)) is the owner of the property, recorded in the CITY/TOWN of INSERT Land Evidence Records in Book INSERT, Page INSERT, and located at INSERT ADDRESS.~~

~~3. (INSERT NAME OF MORTGAGOR) AND OWNER were was~~ properly served with the Notice of Mediation Conference pursuant to R.I. Gen. Laws § 34-27-3.2.

~~3. (INSERT NAME OF MORTGAGEE) has paid all fees and penalties required under § 34-27-3.2 subsections (d)(1) and (f).~~

4. A. (INSERT NAME OF AGENCY) served as the Mediation Coordinator defined in R.I. Gen. Laws § 34-27-3.2 and Department of Business Regulation 5 regarding the Mortgagee's potential foreclosure proceedings.

OR

B. The Mortgagee and Mortgagor entered into the Workout Agreement without the involvement of the Mediation Coordinator.

5. The Workout Agreement is an eligible Workout Agreement for purposes of compliance with R.I. Gen. Laws 37-24-3.2.

6. I am authorized by the Agency to issue this Certificate.

Name: _____

Title: _____

Date: _____