

**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 §§ 35-27-3.1, 42-14-17 and 42-35-3.

Section 2 **Purpose and Applicability**

The purpose of this Regulation is to promulgate the form of written notice pursuant to R.I. Gen. Laws § 34-27-3.1. The notice implemented by this Regulation informs Individual Consumer Mortgagors of their default, of the Mortgagee's right to foreclose, and the availability of counseling for Mortgagors through HUD-approved counseling agencies in Rhode Island. 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 this Regulation.

R.I. Gen. Laws § 34-27-3.1 and this Regulation applies 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.

Section 3 **Definitions**

A. "Department" means the Rhode Island Department of Business Regulation.

B. “Disclosure” means Form 34-27-3.1 attached hereto in Appendix A (in English and Spanish) or a form substantially similar to Appendix A.

C “HUD” means the United States Department of Housing and Urban Development and any successor to such department.

D. “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.

E. “Mortgage” means a lien on the property that secures the promise to repay a loan or a security agreement between the lender and the buyer in which the property is collateral for the loan.

F. “Mortgagee” means one to whom the property is mortgaged (e.g. the lender, mortgage-creditor, or mortgage-holder).

G. “Mortgagor” means an individual consumer who mortgages the property (e.g. mortgage-debtor or borrower).

H. “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 4 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 Mortgagor 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.

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

C. 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 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.

D. 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.

E. 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.

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

Section 5 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 6 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 7 Effective Date

This Regulation shall be effective as indicated below.

EFFECTIVE DATE: January 29, 2010

AMENDED: August 26, 2010

AMENDED: October 20, 2011

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](http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?&webListAction=search&searchstate=RI) may be found at this link <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.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) (dd/mm/yyyy)

Contact Information for Mortgagee Authorized Representative:

Telephone: _____
(Provide toll free number if available)

Email: _____



FORMULARIO 34-27-3.1

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](http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm?&webListAction=search&searchstate=RI) 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: _____
(dd/mm/aaaa)

Información de contacto del representante autorizado del Acreedor hipotecario:

Teléfono: _____
(Proporcione un número gratuito si to time)

Correo electrónico: _____