

CHAPTER 2009-41

No. 340 **AN ORDINANCE** IN AMENDMENT OF THE CODE OF ORDINANCES, CHAPTER 13 ENTITLED "HOUSING," ARTICLE X ENTITLED "RESPONSIBILITIES OF OWNERS, OPERATORS AND OCCUPANTS," TO ADD SECTIONS 13-213 THROUGH 13-217

Approved JULY 27, 2009

Be it ordained by the City of Providence:

WHEREAS, The number of foreclosures nationally soared in 2007, with 405, 000 households losing their homes – an increase of 51 percent over 2006 levels; and

WHEREAS, In the City of Providence, foreclosure rates have dramatically increased, from 303 in 2006, more than doubling to 718 in 2007, and numbering 1158 by October, 2008; and

WHEREAS, The City of Providence and communities across this country have been devastated by the foreclosure crises, leaving many neighborhoods with neglected and abandoned housing, declining property values and rising crime as a result, affecting urban as well as rural areas and homeowners as well as renters; and

WHEREAS, The State of Rhode Island presently has an unemployment rate of 10% with more than 50,000 individuals out of work and deprived of adequate resources to meet their financial obligations; and

WHEREAS, Providence residents, many of whom have recently joined the corps of the unemployed, are finding it increasingly difficult to meet their residential mortgage obligations, frequently leading to foreclosure actions by their lenders; and

WHEREAS, Sub prime loans and predatory lending practices, compounded by a lack of government oversight, have disproportionately impacted low income families and minorities; and

WHEREAS, The enormity of this foreclosure crisis has resulted in eroding property values directly and significantly impacting the quality of life in the City's neighborhoods, reducing the tax base of local government and imposing increasing costs to city budgets already heavily burdened by a weakened economy; and

WHEREAS, The City of Providence determines that it is in the best interests of its citizens and the overall public welfare to establish regulations requiring foreclosing lenders to participate in an attempt to conciliate the default, under the jurisdiction and guidance of a HUD-approved independent counseling agency, prior to the recording of any deed associated with the foreclosure.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Providence amends the Code of Ordinances to add the following sections to Chapter 13, Article X:

SECTION 1.

Sec. 13-213. Definitions.

The City shall mean the City of Providence.

Residential premises/property shall mean real property that is owner-occupied as an owner's principal residence, located within the City and County of Providence, that is either a single-family dwelling or a structure containing not more than four residential units, and shall also include a residential condominium unit or a residential co-op unit occupied by an owner as an owner's principal residence.

Loan/mortgage conciliation conference coordinator shall mean an individual employed by a HUD-approved independent counseling agency to facilitate the discussion between the homeowner/mortgagor and the lender/mortgagee.

Loan/mortgage conciliation conference shall mean the formal discussion and negotiation taking place at the call of the loan/mortgage conciliation conference coordinator between the homeowner/mortgagor and the lender/mortgagee.

Homeowner shall mean an individual who owns and resides in residential real property located in the City and County of Providence, and for whom such residential real property is a principal residence.

Lender shall mean an entity which has advanced funds secured by a mortgage on residential premises, and recorded in the Land Evidence Records of the City.

The Parties shall mean the homeowner/mortgagor and the lender/mortgagee.

Rules and regulations shall mean any rules adopted by the City necessary for the proper enforcement of this Ordinance to interpret and secure its intent.

Sec. 13-214. Statement of Policy.

It is hereby declared that residential mortgage foreclosure actions, caused in part by so-called sub-prime mortgage lending and predatory lending practices as well as rising interest rates, unemployment and underemployment, have negatively impacted a substantial number of homeowners in the City, creating a foreclosure crisis which endangers the economic stability of the City and the health and safety of its citizens, as the increasing numbers of foreclosures lead to increases in unoccupied and unattended buildings in the City and give impetus to the continuation, extension and aggravation of urban blight and decay. More importantly, foreclosures cause the unnecessary and unwanted displacement of a considerable number of homeowners and tenants who desire to live and work in the City.

Sec. 13-215. Purpose.

The City's purpose in Sections 13-213 through 13-217, inclusive, is to protect the public health, safety and welfare by providing early, HUD-approved independent counseling agency-supervised intervention in residential owner-occupied mortgage foreclosure cases which will assure timely determination of eligibility under various federal, state and local programs established to facilitate loan work-out and other solutions to permit residential homeowners, where possible, to retain their properties and permit lenders to move forward to auction/sale of the properties and recordation of a foreclosure deed upon conclusion of the process.

Sec. 13-216. Filing/ Recording of Foreclosure Deed.

From and after the effective date of this Ordinance, no deed offered by a lender/mortgagee to be filed with the Recorder of Deeds as a result of a mortgage foreclosure action shall be accepted and/or recorded in the Land Evidence Records of the City until and unless the following events have occurred:

- (a) The lender/mortgagee shall provide written notice to the City of its intent to foreclose on the subject residential property at the same time it issues notice to the homeowner/mortgagor of the foreclosure action. Such notice must include plat and lot information.
- (b) Said notice shall be filed by the lender/mortgagee with the Recorder of Deeds.
- (c) Following the filing of such notice, the Parties shall participate in a mandatory loan/mortgage conciliation conference at a location mutually convenient to the parties. Telephone participation by the lender/mortgagee is acceptable.

(d) Said conciliation conference shall be scheduled at a time and place to be determined by the conciliation conference coordinator, but not later than twenty-one (21) days following the mailing of the notice of intent to foreclose. The Parties will be noticed by certified and first class mail.

(e) Prior to the scheduled conciliation conference, the homeowner/mortgagor will be assigned a loan counselor to be provided by a HUD-approved independent counseling agency.

(f) The homeowner/mortgagor shall cooperate in all respects with the housing counseling agency, providing all necessary financial and employment information. The homeowner/mortgagor shall complete any and all loan resolution proposals and applications as appropriate.

(g) The conciliation conference will require the exchange of information provided as required by subsection (f) to the representative of the lender/ mortgagee.

(h) If after two attempts by the conciliation conference coordinator to contact the homeowner/mortgagor, the homeowner/mortgagor fails to respond to the conference coordinator's request to appear for the conciliation conference, or the homeowner/mortgagor fails to cooperate in any respect with the requirements outlined in this Ordinance, the requirements of the Ordinance will be deemed to be satisfied upon verification by the HUD-approved independent counseling agency that the required notice was sent; and if so, a certificate will be issued immediately by the HUD-approved independent counseling agency authorizing the lender/mortgagee to proceed with the foreclosure action to-- including recording the foreclosure deed.

(i) If, it is determined after a good faith effort made by the lender/mortgagee at the conciliation conference with the homeowner/mortgagor, that the Parties cannot come to an agreement to re-negotiate the terms of the loan in an effort to avoid foreclosure, such good faith effort on behalf of the lender/mortgagee shall be deemed to satisfy the requirements of this Ordinance. A certificate certifying such good faith effort will be issued immediately by the HUD -approved independent counseling agency authorizing the lender/mortgagee to proceed with the foreclosure action to including recording the deed. Such a certification will be the form of a document to be filed along with all other relevant documents with the recorder of deeds.

(j) Upon the demand of the lender/mortgagee at any time following completion of the conciliation conference, if the lender/mortgagee is not invoking subsection (h), the HUD-approved independent counseling agency will immediately certify that the provisions of this Ordinance have been met.

(k) The Parties shall complete the process required by this Ordinance within a period of sixty (60) days from the initial notice provided in (a).

(l) Cases involving premises which are not owner-occupied or which are not residential are not subject to the mandatory loan/mortgage conciliation conference and may proceed directly to foreclosure and recordation of the deed concerning such property, ~~with the city clerk presuming compliance with Sections 13-218 through~~ 13-220.

(m) Notwithstanding the foregoing, any lender/mortgagee which is headquartered within the State of Rhode Island and which services its own mortgages shall be deemed to be in compliance with the requirements of this section if:

(1) the lender/mortgagee provides homeowners a forbearance relief program that is consistent with the forbearance relief requirements applicable to FHA-Insured Mortgages, as set forth in Chapter 8 of HUD Handbook 4330.1 Rev. 5, Administration of Insured Home Mortgages, as the same may be amended from time to time; and

(2) the deed offered by a lender/mortgagee to be filed with the Recorder of Deeds as a result of a mortgage foreclosure action contains a certification that the provisions of this sub-section have been satisfied.

Sec. 13-217. Penalties.

No deed offered by a lender/mortgagor to be filed with the Recorder of Deeds shall be accepted and/or recorded in the Land Evidence Records of the City if it is determined that the lender/mortgagor has failed in any respect with the requirements and provisions of this Ordinance.

SECTION 2.

This Ordinance shall take effect ~~immediately upon passage by the City Council within~~

30 days of passage.

IN CITY COUNCIL
JUL 2 2009

FIRST READING
READ AND PASSED

A.M. Ito
CLERK

IN CITY COUNCIL
JUL 16 2009

FINAL READING
READ AND PASSED

Paul S. Marra
PRESIDENT
A.M. Ito
CLERK

APPROVED

[Signature]
MAYOR 7/27/09

CHAPTER 2009-42

No. 341 **AN ORDINANCE** IN AMENDMENT OF THE CODE OF ORDINANCES, CHAPTER 13 ENTITLED "HOUSING," ARTICLE X ENTITLED "RESPONSIBILITIES OF OWNERS, OPERATORS AND OCCUPANTS," TO ADD SECTIONS 13-218 THROUGH 13-220

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WHEREAS, The State of Rhode Island presently has an unemployment rate of 10% with more than 50,000 individuals out of work and deprived of adequate resources to meet their financial obligations; and

WHEREAS, Providence residents, many of whom have recently joined the corps of the unemployed, are finding it increasingly difficult to meet their residential mortgage obligations, frequently leading to foreclosure actions by their lenders; and

WHEREAS, Sub prime loans and predatory lending practices, compounded by a lack of government oversight, have disproportionately impacted low income families and minorities; and

WHEREAS, The enormity of this foreclosure crisis has resulted in eroding property values directly and significantly impacting the quality of life in the City's neighborhoods, reducing the tax base of local government and imposing increasing costs to city budgets already heavily burdened by a weakened economy.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Providence amends the Code of Ordinances to add the following sections to Chapter 13, Article X:

SECTION 1.

Sec. 13-218 Definitions.

A bona fide tenant shall mean a person who has entered into a written or oral rental agreement with a homeowner or landlord (mortgagor) with respect to a dwelling unit of a mortgaged residential premises no less than thirty (30) days prior to the foreclosure of the mortgagor's interest. Neither the mortgagor nor any member of his or her immediate family is a "bona fide tenant". The protections afforded a bona fide tenant exist regardless whether the residential premises is or is not owner-occupied.

The City shall mean the City of Providence.

Rules and regulations shall mean any rules adopted by the City necessary for the proper enforcement of this Ordinance to interpret and secure its intent.

Sec. 13-219. Notice to Bona Fide Tenants

Effective upon passage of this Ordinance, no bona fide tenant legally occupying a rental residential property within the City shall be forced to vacate that property in the event of a mortgage foreclosure action upon that property unless and until the following series of actions are taken:

(a) Where any dwelling unit of a foreclosed mortgaged estate is occupied by a bona fide tenant, and where the foreclosed mortgagor had provided essential services including, without limitation, heat, running water, hot water, electric, sewer or gas to such tenant, any successor in interest to the foreclosed mortgagor shall continue to provide the same essential services under the same terms and conditions to the tenant.

(b) A successor in interest to a mortgagor shall provide notice to each bona fide tenant, as defined in section 13-218, by mailing an envelope addressed to "Resident of property previously subject to foreclosure sale" and by posting, in the same manner required for posting the notice of sale on the property to be sold, a written notice in both English and Spanish stating the name and address of the successor in interest, and/or managing agent ~~designated pursuant to~~ Sec. _____, so that the tenant may know to whom the ongoing rental payments should be made.

(c) Where any dwelling unit of a foreclosed mortgaged estate is occupied by a bona fide tenant of the foreclosed mortgagor, the bona fide tenant assumes a month to month periodic tenancy governed by the provisions of Chapter 18 of Title 34 of the Rhode Island General Laws, except in those instances in which the bona fide tenant has entered into a written rental agreement with a homeowner or landlord (mortgagor) with respect to a dwelling unit of a mortgaged residential premises. In such instances tenancy is assumed for the duration specified in the written agreement.

(d) The lender/mortgagee shall provide notice to each bona fide tenant, as defined in section 13-213, by mailing an envelope addressed to "Resident of property subject to foreclosure sale" and by posting, in the same manner required for posting the notice of sale on the property to be sold, at the same time notice is provided to the mortgagor, a written notice in both English and Spanish: (i) stating that the real estate is to be sold in foreclosure, which may affect the tenant's right to continue to live in the property; (ii) stating the date, time and place of sale; (iii) providing the address and telephone number of Rhode Island Legal Services; and (iv) providing the name, address and telephone number of HUD-approved counseling agencies in Rhode Island. Failure of the lender/mortgagor to provide notice as provided herein shall not affect the validity of the foreclosure; however, no successor in interest to the mortgagor shall be permitted to initiate an action for possession of the premises against such bona fide tenant until notice as required herein, in addition to the notice required in subsection (a-b), is provided.

Sec. 13-220. Penalties.

Any failure of a lender/mortgagee or successor in interest to a mortgagor to comply with the terms of this Ordinance will be penalized by a fine of not less than \$1,000.00 per offense.

SECTION 2.

This Ordinance shall take effect immediately upon passage.

IN CITY COUNCIL
JUL 2 2009
FIRST READING
READ AND PASSED

[Signature]
CLERK

IN CITY COUNCIL

JUL 16 2009
FIRST READING
READ AND PASSED

[Signature]
PRESIDENT
[Signature]
CLERK

APPROVED

[Signature]
MAYOR 7/27/09