State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Banking
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

Public Notice of Proposed Rule-Making

Pursuant to the provisions of Chapter 5, Section 8 of the General Laws of Rhode Island, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation hereby gives notice of its intent to amend the Banking Regulation 5 – Mortgage Foreclosure.

The purpose of this amendment is to bring the regulation into compliance with an amendment to R.I. Gen. Laws § 34-27-3.2; to add a reference to federal and state statutes concerning military personnel and to change the name of one of the forms.

The proposed amended regulation and concise summary of non-technical amendments are available for public inspection at www.dbr.ri.gov, in person at Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or by email elizabeth.dwyer@dbr.ri.gov or by calling Elizabeth Kelleher Dwyer at (401) 462 9520.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by August 13, 2015 to Elizabeth Kelleher Dwyer, Department of Business Regulation, 1511 Pontiac Avenue, Bldg. 69-2, Cranston, RI 02920, (401) 462 9520 elizabeth.dwyer@dbr.ri.gov. A public hearing to consider the proposed amendment shall be held on August 13, 2015 at 10:00 am at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 at which time and place all persons interested therein will be heard.

All are welcome at the Rhode Island Department of Business Regulation ("DBR"). If any reasonable accommodation is needed to ensure equal access, service or participation, please contact DBR at 401-462-9551, RI Relay at 7-1-1, or email directorofficeinquiry@dbr.ri.gov at least three (3) business days prior to the hearing.

Macky McCleary
Director, Department of Business Regulation

Posted: July 14, 2015

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1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

Concise Summary of Proposed Non-technical Amendments to Banking Regulation Number 5 – Mortgage Foreclosure

In accordance with the Administrative Procedures Act, Section 42-35-3(a)(1) of the General Laws of Rhode Island, following is a concise summary of proposed non-technical amendments:

Section 4(P) – Insert language to reflect the federal and state protections afforded active duty military.

Section 5(B) – Remove subsection (i) which was inadvertently retained after the last amendment to the statute and is not consistent with R.I. Gen. Laws § 34-27-3.2(d) which requires notice prior to the initiation of foreclosure regardless of the date of default. This change does not in any way impact interpretation of R.I. Gen. Laws § 34-27-3.2(d)(1)(2)(3) and (4) that are dependent upon the date of default not the date foreclosure is initiated.

Section 7 – Change the name of the form.

Appendix B – Add the reference to federal and state law concerning veterans.

Appendix C – Change the name of the form.

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

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Section 1 Authority

This Regulation is promulgated pursuant to R.I. Gen. Laws §§ 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 §§ 34-27-3.2 and 34-27-7. This Regulation also clarifies the Mortgagee's duties and consequences of its failure to comply with R.I. Gen. Laws § 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 § 34-27-3.2 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 Mortgagor 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 4 ***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 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.

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.

L. “Mediation Coordinator” means a person 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 6 herein. 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.

M. “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.

N. “Mortgagee” means is the holder of a mortgage (e.g. the lender, mortgage-creditor, or mortgage-holder) or its agent or employee including a mortgage servicer acting on behalf of a mortgagee.

O. “Mortgagor” means 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.

P. “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 of the property at issue 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~~.~~ or if applicable, within sixty (60) days after the date upon which the loan is released from protections of the Servicemembers Civil Relief Act, 50 U.S.C. App. §501 et seq., or R.I. Gen. Laws §34-27-4(d).

Q. "Reasonable Time" means 14 calendar days unless extended for good cause by the Mediation Coordinator

R. "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 5 ***<u>Requirements</u>***

A. 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 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 of the Residential Real Estate prior to initiation of foreclosure of real estate pursuant to § 34-27-4(b) 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 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) 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.

(iv) 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.

(v) 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. Where the Mediation Coordinator has issued a Certificate of Eligible Workout Agreement if the Mortgagor fails to fulfill his or her obligations under the Eligible Workout Agreement, 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.

(vi) Notwithstanding the provisions of R.I. Gen. Laws § 34-27-3.2 and this Regulation, a Mortgagee may initiate a judicial foreclosure in accordance with R.I. Gen. Laws § 34-27-1 *et seq.*

B. 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) Mortgages on which the Mortgagor was 120 days or more delinquent on or before September 12, 2013; 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.~~

(i~~i~~) Mortgages made and serviced by any entity qualifying as a Locally-based Mortgagee. 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.

(ii~~i~~) Reverse mortgages.

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

D. 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.

E. 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.

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

Section 6 ***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 maintain a list of approved Mediation Coordinators on its website.

Section 7 ***Certificate Authorizing Foreclosure***

A. The Certificate ~~Authorizing Foreclosure~~of Compliance with Mediation Requirement 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, the Notice of Mediation Conference was properly served upon the Mortgagor 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 Mediation Coordinator shall be provided to the Mortgagee and maintained by the Mortgagee consistent with the Department's record-keeping requirements.

Section 8 ***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 9 ***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 10 ***Effective Date***

This Regulation shall be effective as indicated below. 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 20, 2014
AMENDED: May , 2015

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 foreclose.

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 counseling agencies approved by the United States Department of Housing and Urban Development (HUD). You can locate a HUD-approved 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. Counseling services are available free of charge through HUD's Housing Counseling Program.

4. 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, in 175 languages and dialects. This free and confidential services connects people resources offered by health and human service providers, government agencies and community-based organizations. 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.

6. 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)

INSERT ADDRESS OF RESIDENTIAL REAL ESTATE:

_____

Date of Default _____

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

Date of release of loan from protections of the Servicemembers Civil Relief Act, 50 U.S.C. App. §501 et seq., or R.I. Gen. Laws §34-27-4(d), 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: _____

Fecha de liberación de la hipoteca de la protección de la ley general Servicemembers Civil Relief Act, 50 U.S.C. App. §501 et seq., or R.I. Gen. Laws §34-27-4(d), si corresponde:_____

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:_____
Data da exoneração da hipoteca da proteção conferida pela lei dos Estados Unidos da America e do Estado de Rhode Island (Servicemembers Civil Relief Act, 50 U.S.C. App §501 et seq. or R.I. Gen. Laws §34-27-4(d)), se aplicavel:
_____

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~~OF COMPLIANCE WITH MEDIATION REQUIREMENT 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, located at INSERT ADDRESS (the "Mortgage").

2. (MORTGAGOR) was properly served with the Notice of Mediation Conference pursuant to R.I. Gen. Laws § 34-27-3.2.

3. (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, 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 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.

6. 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 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 D

Affidavit of Exemption From Compliance With R.I. Gen. Laws § 34-27-3.2

I, [**NAME AND TITLE OF MORTGAGEE REPRESENTATIVE]** of [**NAME OF MORTGAGEE]** , hereby affirm under oath that:

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

   A**.** **[MORTGAGEE NAME]** is Headquartered at **[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 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 ❑

4. For the reasons set forth above, **[NAME OF MORTGAGEE]** is deemed to be in compliance with the requirements of 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 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, and located at INSERT ADDRESS (the "Mortgage").

2. (INSERT NAME OF MORTGAGOR) 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:_____

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

OFFICE OF REGULATORY REFORM

OFFICE OF MANAGEMENT & BUDGET
DEPARTMENT OF ADMINISTRATION

One Capitol Hill
Providence, RI 02908-5890
Office: (401) 574-8430
www.omb.ri.gov

Executive Order 15-07: Submission Form

AGENCY AND REGULATION INFORMATION

1. Title of Regulation	Banking Regulation 5 - Mortgage Foreclosure		
2. Agency Name	Department of Business Regulation	**3. Date Submitted (mm/dd/yy)**	04/15/15
4. Agency Contact Name	Elizabeth Kelleher Dwyer	**5. Telephone (include Area Code)**	(401) 462-9615
6. Email	elizabeth.dwyer@dbr.ri.gov		
7. Rulemaking Action	☑ Amendment ☐ Adoption ☐ Repeal ☐ Emergency Rulemaking		
8. State Statutory Authority	R.I. Gen. Laws section 34-27-3.2		
9. Federal or other Statutory Authority (please describe)			
10. Is there a legal deadline for this action?	☑ None Describe: ☐ Statutory deadline: _____ ☐ Court-ordered deadline: _____		
11. Current ERLID #	_____ OR ☑ No current ERLID # assigned		

AGENCY CERTIFICATIONS

12. Regulatory Flexibility Analysis/Small Business Regulatory Fairness in Administrative Procedures

By signature in item 13, the agency Rules Coordinator or authorized designee deems that this regulation:

☑ **DOES have impact on small business** ☑ **DOES NOT have impact on small business,**

and that if such small business impact exists, the agency has completed the additional documentation for further Regulatory Flexibility Analysis, in order to consider, without limitation, all methods of reducing the impact of this regulation on small business.

Executive Order 15-07

By signature in item 13, the agency Rules Coordinator or authorized designee certifies that the agency has complied with the requirements of E.O 15-07 and any applicable policy directives.

13. Signature of Rules Coordinator or Authorized Designee	/s/ Elizabeth Kelleher Dwyer	**14. Date (mm/dd/yy)**	04/15/15
	I understand that my typed name shall have the same force and effect as my written signature.		
15. Position	Associate Director		

EXECUTIVE SUMMARY OF REGULATION

16. Briefly summarize the purpose of this regulation.

This regulation implements the provisions of R.I. Gen. Laws section 34-27-3.2 delegated to the Department of Business Regulation by the legislature. R.I. Gen. Laws section 34-27-3.2 was enacted by the legislature in 2013 to put in place a procedure for all entities foreclosing on Rhode Island mortgages (other than locally based Rhode Island lenders) requiring that the homeowner receive notice that (s)he may take advantage of mediation offered through Rhode Island Housing. If the homeowner is not notified of their right to mediation, the mortgage foreclosure will not be valid. These provisions do not apply to judicial foreclosure. The statute and regulation are applicable only to holders of mortgages who utilize the Rhode Island statutes that allow foreclose without a judicial proceeding. The statute was amended in 2014 and the regulation was amended in October 2014. However, since that time we have determined that there are three areas that need additional clarification. These amendments address those areas.

The proposed amendments are:

Section 4(P) - The definition of "Notice of Mediation Conference" is amended to reflect existing law which prevents foreclosures during periods of time in which the Servicemembers Civil Relief Act, 50 U.S.C. App. §501 et seq., and/or R.I. Gen. Laws §34-27-4(d) are in effect. The amendment also provides that the timing of the notice begins when the protection of those statutes end;

Section 5(B)(1) - Deletes an exemption which was removed from the statute in 2014 but was inadvertently left in the regulation.

Section 7(A) and Appendix C - Changes the name of the form issued by the Mediation Coordinator in response to comments that the name of the form may give the incorrect impression that the mortgage holder is authorized to foreclose regardless of other legal defects to that foreclosure.

Appendix B - Adds a line to the form to reflect the Servicemembers Civil Relief Act, 50 U.S.C. App. §501 et seq., and/or R.I. Gen. Laws §34-27-4(d) if applicable.

17. Briefly summarize the societal costs and benefits of this regulation on Rhode Island.

The regulation is required by the statute which provides Rhode Island homeowners with the right to mediation services before the foreclosure of their home by out of state mortgage holders. Locally based lenders are exempt.