

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 secured by residential real estate located in Rhode Island.

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) and also means any amendments made to the Disclosure from time to time by Mortgagees in order to update the list of HUD-approved Rhode Island mortgage counseling agencies.

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

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

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

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 the individual consumer mortgagor **no less than forty-five (45) days prior to initiating any foreclosure of real estate** by first class mail at the address of the 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. The Mortgagee is responsible for confirming that the list of HUD-approved counseling agencies in the Disclosure is accurate and up to date.

C. The Department will translate the Disclosure into Spanish as soon as practicable.

D. Any Mortgagee subject to regulation and supervision by the Division must maintain a duplicate of the completed Disclosure in Mortgagor’s file consistent with the Division’s record-keeping requirements.

E. 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

EXTENDED: On May 29, 2010 pursuant to R.I. Gen. Laws § 42-35-3(b) for an additional 90 days after May 29, 2010.

AMENDED:

APPENDIX A

(SEE FORM 34-27-3.1)

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**NOTICE OF DEFAULT AND MORTGAGEE'S RIGHT TO FORECLOSE AND
NOTICE OF AVAILABILITY OF MORTGAGE COUNSELING SERVICES**

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. You can also directly contact one of the Rhode Island HUD-approved counseling agencies listed below. Foreclosure prevention counseling services are available free of charge through HUD's Housing Counseling Program.

HUD Approved Housing Counseling Agencies in Rhode Island as of _____
(dd/mm/yyyy)

Blackstone Valley Community Action Program, Inc.
32 Goff Avenue, Pawtucket, RI 02860-2929
Phone: (401) 723-4520
www.bvcap.org

Consumer Credit Counseling Services of Southern NE
4 Richmond Square, Suite 350, Providence, RI 02906
Phone: 888-845-2227
www.moneymanagement.org

NeighborWorks Blackstone Valley
719 Front Street, Suite 103, Woonsocket, RI 02895
Phone: (401) 762-0074
www.wndc.org

Acorn Housing Corporation
807 Broad Street, Suite 329, Providence, RI 02907
Phone: (401) 780-0509
www.acornhousing.org

HelpCenter
Rhode Island Housing
44 Washington Street, Providence, RI 02903
Phone: (401) 457-1130
www.rhodeislandhousing.org

CommunityWorks RI
693 Broad Street, Providence, RI 02907
Phone: (401) 273-2330
www.communityworksri.org

The Housing Network
48 Nashua Street, Providence, RI 02904
Phone: (401) 521-1461
www.housingnetworkri.org

West Elmwood Housing Development Corp.
392 Cranston Street, Providence, RI 02907
Phone: (401) 453-3220
www.wehdc.org

Urban League of Rhode Island
246 Prairie Avenue, Providence, RI 02905
Phone: (401) 351-5000
www.ulri.org

Olneyville Housing Corp.
1 Curtis Street, Providence, RI 02909
Phone: (401) 351-8719
www.olneyville.org

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: _____

Signature of Mortgagee Authorized Representative: _____

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. Asimismo, puede comunicarse directamente con una de las agencias de orientación de Rhode Island aprobadas por HUD que se indican abajo. 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 Orientación para la Vivienda de Rhode Island aprobadas por HUD hasta la fecha _____
(dd/mm/aaaa)

Blackstone Valley Community Action Program, Inc.
32 Goff Avenue, Pawtucket, RI 02860-2929
Teléfono: (401) 723-4520
www.bvcap.org

Consumer Credit Counseling Services of Southern NE
4 Richmond Square, Suite 350, Providence, RI 02906
Teléfono: (888) -845-2227
www.moneymanagement.org

NeighborWorks Blackstone Valley
719 Front Street, Suite 103, Woonsocket, RI 02895
Teléfono: (401) 762-0074
www.wndc.org

Acorn Housing Corporation
807 Broad Street, Suite 329, Providence, RI 02907
Teléfono: (401) 780-0509
www.acornhousing.org

HelpCenter
Rhode Island Housing
44 Washington Street, Providence, RI 02903
Teléfono: (401) 457-1130
www.rhodeislandhousing.org

CommunityWorks RI
693 Broad Street, Providence, RI 02907
Teléfono: (401) 273-2330
www.communityworksri.org

The Housing Network
48 Nashua Street, Providence, RI 02904
Teléfono: (401) 521-1461
www.housingnetworkri.org

West Elmwood Housing Development Corp.
392 Cranston Street, Providence, RI 02907
Teléfono: (401) 453-3220
www.wehdc.org

Urban League of Rhode Island
246 Prairie Avenue, Providence, RI 02905
Teléfono: (401) 351-5000
www.ulri.org

Olneyville Housing Corp.
1 Curtis Street, Providence, RI 02909
Teléfono: (401) 351-8719
www.olneyville.org

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

Dirección del Acreeador hipotecario:

Calle: _____

Ciudad, estado, código postal: _____

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

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

Información de contacto del representante autorizado del Acreeador hipotecario:

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

Correo electrónico: _____

Firma del representante autorizado del Acreeador hipotecario: _____

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**Public Notice of Proposed Rule-Making
Banking Regulation 5
Mortgage Foreclosure Disclosure**

Pursuant to the provisions of Title 35 Chapter 27 Section 3.1 of the General Laws of Rhode Island ("R.I. Gen. Laws § 35-27-3.1") and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation ("Department") hereby gives notice of its intent to adopt Banking Regulation 5 entitled Mortgage Foreclosure Disclosure ("Banking Regulation 5").

The purpose of this adoption is to enact the statutory requirements of R.I. Gen. Laws § 35-27-3.1 which requires the Department to promulgate a form of written notice which informs mortgagees of the availability of counseling through no-cost HUD-approved mortgage counseling agencies in Rhode Island. This proposed regulation is intended to be permanent after the expiration of the current Banking Regulation 5 which was filed as an emergency regulation pursuant to the Department's authority in R.I. Gen. Laws § 42-35-3(b) and was effective as of January 29, 2010 and expires May 29, 2010. The Department is extending the effective date of the emergency Banking Regulation 5 for an additional 90 days after May 29, 2010 (through to and including August 27, 2010) pursuant to R.I. Gen. Laws § 42-35-3(b).

The proposed regulation and 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 to NSSVG1@dbr.state.ri.us or by calling Neena Sinha Savage, Esq. at (401) 462-9540.

In the development of the proposed adoption of this regulation 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.

A hearing on Banking Regulation 5 was held on April 22, 2010. The Department is in the process of considering the testimony and exhibits presented at that hearing and finalizing the amendments to Banking Regulation 5 with the goal of promulgating a final Banking Regulation 5. Therefore, the current Banking Regulation 5 will continue to remain in effect until August 27, 2010.

A. Michael Marques
Director, Department of Business Regulation

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**STATEMENT OF NEED FOR EMERGENCY ADOPTION OF BANKING
REGULATION 5– MORTGAGE FORECLOSURE DISCLOSURE**

On January 5, 2010, the Rhode Island General Assembly enacted R.I. Gen. Laws § 34-27-3.1 which requires the Department of Business Regulation (“Department”) to promulgate a form of written notice which informs mortgagees of the availability of counseling through no-cost HUD-approved mortgage counseling agencies in Rhode Island. The statute requires that the Department promulgate this notice thirty (30) days prior to the effective date of the statute, which is March 6, 2010. Therefore, the time constraints imposed by the passage date of the statute (January 5, 2010), and the date by which a notice must be promulgated (February 4, 2010) precludes the Department from promulgating this regulation in compliance with the regulatory notice provisions of R.I. Gen. Laws § 42-35-3(a) and necessitates the promulgation of this regulation by emergency regulation pursuant to R.I. Gen. Laws § 42-35-3(b).

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

The Department has determined that conditions exist that necessitate the adoption of this Regulation on an emergency basis, to be effective upon filing with the Secretary of State. This Emergency Regulation is required, *inter alia*, in order to: (i) ensure timely compliance with the statute; (ii) protect the public interest by ensuring that individuals facing foreclosure have access to counseling prior to the initiation of a foreclosure action; and (iii) protect the viability and integrity of the financial marketplace. The Department finds that there is imminent peril to the public health, safety, or welfare in that the provisions set forth in the regulation are necessary for the Department to properly implement the Act.