

THE CITY OF WARWICK
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 10
BUSINESSES

ARTICLE V
FORECLOSURE OF OWNER-OCCUPIED HOMES

No..... Date.....

Approved.....Mayor

Be it ordained by the City of Warwick:

Section I. Chapter 10 Article V of the Code of Ordinances of the City of Warwick is hereby amended as follows:

Sec. 10-36. - Definitions.

The ~~city~~ shall mean the City of Warwick following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Good Faith means that the mediation coordinator determines that the mortgagor and mortgagee deal honestly and fairly with each other and the mediation coordinator in an effort determine whether an alternative to foreclosure is economically feasible for the mortgagor and mortgagee, as evidenced by some or all of the following factors:

- (i) Mortgagee provided notice as required by this article;
- (ii) Mortgagee designated an agent to participate in the mediation conference on its behalf, and with the authority to agree to a work-out agreement on its behalf;
- (iii) Mortgagee made reasonable efforts to respond in a timely manner to requests for information from the mediation coordinator, mortgagor, or counselor assisting the mortgagor;
- (iv) Mortgagee declines to offer the mortgagor an eligible work-out proposal, and the mortgagee provided a detailed statement, in writing, of its reasons for rejecting the proposal;
- (v) Whether the mortgagee offers the mortgagor a work-out proposal that the mediation coordinator determines would result in net financial benefit to the mortgagor as compared to the terms of the mortgage, and /or is affordable to the mortgagor.

HUD means the United States Department of Housing and Urban Development.

~~Homeowner shall mean~~ Mortgagor means an individual who owns and resides in residential real property located in the City of Warwick and for whom such residential real property is a principal

1 ~~residence. *Lender* shall mean an entity which has is subject to a mortgage securing funds advanced~~
2 ~~funds secured by a Mortgagee mortgage on residential premises, and recorded in the land evidence~~
3 ~~records of the city.~~

4 *Mortgagee* means the holder of a mortgage recorded in the land evidence records of the city,
5 including a mortgage servicer acting on behalf of a mortgagee.

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

9 ~~*Loan/mortgage conciliation conference*~~ Mediation coordinator shall mean means an individual
10 employed by a Rhode Island based HUD-approved independent counseling agency to facilitate the
11 discussion between the homeowner/mortgagor and the lender/mortgagee certified by the city to serve
12 as an unbiased, impartial and independent coordinator of the mediation conference, with no authority
13 to impose a solution or otherwise act as a consumer advocate.

14 ~~*The parties* shall mean the homeowner/mortgagor and the lender/mortgagee.~~

15 *Mediation conference* means a conference involving the mortgagee and mortgagor coordinated
16 and facilitated by a mediation coordinator whose purpose is to determine whether an alternative to
17 foreclosure is economically feasible to both the mortgagee and the mortgagor, and if it is determined
18 that an alternative to foreclosure is economically feasible, to facilitate a loan workout or other
19 solution in an effort to avoid foreclosure.

20 ~~*Residential premises/property* shall mean means real property that is owner-occupied as an~~
21 ~~owner's principal residence, located within the City of Warwick that is either (i) a single-family~~
22 ~~dwelling, (ii) or a structure containing not more than four (4) residential units, and shall also include~~
23 ~~(iii) a residential condominium unit or (iv) a residential co-op unit and which is occupied by an~~
24 ~~owner as an owner's as a mortgagor's principal residence. Property deemed abandoned or under~~
25 ~~order for demolition by the city's Building Department as a result of fire or other calamity by the~~
26 ~~city's minimum housing division is not considered owner-occupied for the purpose of this article.~~

27 ~~*Rules and regulations* shall mean means~~ any rules adopted by the city necessary for the proper
28 enforcement of this article to interpret and secure its intent.

29 *The city* means the City of Warwick.

30 *The parties* means the mortgagor and the mortgagee.

31 32 **Sec. 10-37. - Statement of policy.**

33 It is hereby declared that residential mortgage foreclosures actions, caused in part by so-called
34 ~~sub-prime mortgage lending and predatory lending practices, as well as an underperforming~~
35 ~~economy, unemployment and underemployment, rising interest rates, unemployment and~~
36 ~~underemployment and properties with negative equity, have negatively impacted a substantial~~
37 ~~number of homeowners mortgagors in the city, creating a foreclosure crisis which endangers the~~
38 ~~economic stability of the city and the health and safety of its citizens, as the increasing numbers The~~
39 ~~prevalence of foreclosures leads to increases in unoccupied and unattended buildings in the city and~~
40 ~~give impetus to the continuation, extension and aggravation of urban blight and decay. More~~

1 importantly, foreclosures cause the unnecessary and unwanted displacement of a considerable
2 number of homeowners and tenants who desire to live and work in the city.

3 4 **Sec. 10-38. - Purpose.**

5 The city's purpose in sections 10-36 through 10-40, inclusive, is to protect the public health,
6 safety and welfare by providing early, HUD-approved independent counseling agency-supervised
7 intervention in residential owner-occupied mortgage foreclosure cases which will assure timely
8 determination of eligibility under various federal, state and local programs established to facilitate
9 loan workout and other solutions to permit residential homeowners, where possible, to retain their
10 properties and permit lenders to move forward to auction/sale of the properties and recordation of a
11 foreclosure deed upon conclusion of the process.

12 13 **Sec. 10-39. - ~~Filing/recording of foreclosure deed~~ Notice of intent to Foreclose/Mediation** 14 **conference.**

15 Except as may be provided in this article, from and after the effective date of this article, ~~no deed~~
16 ~~offered by a lender/ a mortgagee to be filed with the recorder of deeds as a result of a mortgage~~
17 ~~foreclosure action shall be accepted and/or recorded in the land evidence records of the city until and~~
18 ~~unless initiating a non-judicial foreclosure must undertake each of the following events have~~
19 ~~occurred actions:~~

- 20 (a) ~~The lender/mortgagee shall provide written notice to the city mortgagor at the address of~~
21 ~~the residential property and, if different, at the address designated by the mortgagor by~~
22 ~~written notice to the mortgagee as the mortgagor's address for receipt of notices of its intent~~
23 ~~to foreclose on the subject residential property and to participate in good faith in a~~
24 ~~mediation conference. The mortgagee shall deliver a copy of the notice to the recorder of~~
25 ~~deeds and the mediation coordinator at the same time it issues notice to the~~
26 ~~homeowner/mortgagor of the foreclosure action. Such The notice to the recorder of deeds~~
27 ~~must include plat and lot information of the residential property.~~
- 28 (b) ~~Said A form of written notice meeting the requirements of this ordinance shall be filed by~~
29 ~~the lender/mortgagee with the recorder of deeds developed by the city at least thirty (30)~~
30 ~~days prior to the effective date of this ordinance and shall be in English, Portuguese and~~
31 ~~Spanish.~~
- 32 (c) ~~Following the filing of such notice, the parties shall participate in a mandatory~~
33 ~~loan/mortgage conciliation conference at a location mediation conference shall take place in~~
34 ~~person or over the phone at a time and place deemed mutually convenient to for the parties~~
35 ~~by an individual employed by a HUD approved independent counseling agency selected by~~
36 ~~the mortgagee to serve as a mediation coordinator. Telephone participation by the~~
37 ~~lender/mortgagee is acceptable.~~
- 38 (d) ~~Said conciliation The mediation conference shall must be scheduled at a time and place to~~
39 ~~be determined by the conciliation conference coordinator, but not later than 30 within sixty~~
40 ~~(60) days following receipt by the mailing of the notice of intent to foreclosure. The parties~~
41 ~~will be noticed by certified and first class mail mediation coordinator of a completed notice~~
42 ~~of mediation, single point of contact information for the mortgagee and payment by the~~
43 ~~mortgagee of applicable fees associated with the mediation conference.~~

- 1 (e) ~~Prior to the scheduled conciliation conference, the homeowner/mortgagor will be assigned~~
2 ~~a loan counselor to be provided by a HUD approved independent counseling agency.~~
- 3 (f) ~~The homeowner/mortgagor shall cooperate in all respects with the housing counseling~~
4 ~~agency, providing all necessary financial and employment information. The~~
5 ~~homeowner/mortgagor shall complete any and all loan resolution proposals and~~
6 ~~applications as appropriate.~~
- 7 (g)(e) ~~The conciliation conference will require the exchange of information provided as~~
8 ~~required by subsection (f) to the representative of the lender/mortgagee. mediation~~
9 ~~conference shall be provided at no cost to the mortgagor. The HUD approved counseling~~
10 ~~agency shall be compensated by the mortgagee at a rate not to exceed Five Hundred Dollars~~
11 ~~(\$500.00) per engagement.~~
- 12 (h)(f) ~~If after the two (2) attempts by the conciliation conference mediation coordinator to~~
13 ~~contact the homeowner/mortgagor, the homeowner/mortgagor fails to respond to the~~
14 ~~conference mediation coordinator's request to appear for the conciliation mediation~~
15 ~~conference, or the homeowner/mortgagor fails to cooperate in any respect with the~~
16 ~~requirements outlined in this article section, the requirements of the article section will be~~
17 ~~deemed to be satisfied upon verification by the HUD-approved independent counseling~~
18 ~~agency that the required notice was sent; and if so, a certificate will be issued immediately~~
19 ~~by the HUD-approved independent counseling agency authorizing the lender/mortgagee to~~
20 ~~proceed with the foreclosure action including recording the foreclosure deed certifying~~
21 ~~compliance with this ordinance.~~
- 22 (g) Prior to the scheduled mediation conference, the homeowner/mortgagor will be assigned a
23 loan counselor to be provided by a HUD approved independent counseling agency. The
24 mortgagor shall cooperate in all respects with the mediation coordinator and the counseling
25 agency including, but not limited to, providing all necessary financial and employment
26 information and completing all loan resolution proposals and applications deemed
27 appropriate by the mediation coordinator and the counseling agency.
- 28
- 29 (h) The mediation coordinator will provide the information required by subsection (g) to the
30 representative of the mortgagee.
- 31
- 32 (i) ~~If it is determined the mediation coordinator determines that~~ after a good faith effort made
33 by the lender/mortgagee at the ~~conciliation~~ mediation conference ~~with the~~
34 ~~homeowner/mortgagor, that the parties cannot come to an agreement to renegotiate the~~
35 ~~terms of the loan in an effort to avoid foreclosure, such good faith effort on behalf of by the~~
36 ~~lender/mortgagee shall be deemed to satisfy the requirements of this article. A certificate~~
37 ~~certifying such good faith effort will be promptly issued immediately by the HUD-approved~~
38 ~~independent counseling agency authorizing the lender/mortgagee to proceed with the~~
39 ~~foreclosure action, including recording the deed. Such a certification certifying compliance~~
40 ~~with this ordinance. The certificate will be the form of a document to be filed along with all~~
41 ~~other relevant documents regarding the foreclosure with the recorder of deeds.~~
42

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

5 (k) ~~The parties shall complete the process required by this article within a period of 60 days~~
6 ~~from the initial notice provided in subsection (a).~~

7 (lj) ~~Cases involving premises which are not owner-occupied or which are not residential are not~~
8 ~~subject to the mandatory loan/mortgage conciliation conference and may proceed directly to~~
9 ~~foreclosure and recordation of the deed concerning such property this ordinance.~~

10 (mk) ~~Notwithstanding the foregoing, any lender/mortgagee which is headquartered based within~~
11 ~~the State of Rhode Island and which services its own mortgages shall be deemed to be in~~
12 ~~compliance with the requirements of this section if provided that:~~

13 (1) ~~The lender/mortgagee provided homeowners~~ The mortgagee offers mortgagors a forbearance
14 ~~relief program that is consistent with the forbearance relief requirements applicable to~~
15 ~~FHA-insured mortgages, as set forth in Chapter 8 of the HUD Handbook 4330.1 Rev. 5,~~
16 ~~Administration of Insured Home Mortgages, as the same may be amended from time to~~
17 ~~time; and~~

18 (2) ~~The deed offered by a lender/mortgagee to be filed with the recorder of deeds as a result of~~
19 ~~a mortgage foreclosure action contains a certification that the provisions of this subsection~~
20 ~~have been satisfied;~~

21 (3) The mortgagee is headquartered in Rhode Island or maintains a physical office in Rhode
22 Island from which office it carries out full service mortgage operations regarding mortgages
23 on residential property located in the city, including the acceptance and processing of
24 mortgage payments and the provision of local customer service; and

25 (4) The mortgage has Rhode Island based staff with the authority to approve loan restructuring
26 and other loss mitigation efforts.

27
28 **Sec. 10-40. – Penalties and Effective Date.**
29

30 (1) ~~No deed offered by a lender/mortgagor to be filed with the recorder of deeds shall be accepted~~
31 ~~and/or recorded~~ Where the mortgagee presents a foreclosure deed for recording in the land
32 ~~evidence records of the city if it is determined and the recorder of deeds determines that the~~
33 ~~lender/mortgagor mortgagee has failed in any material respect to comply with the requirements~~
34 ~~and provisions of this article ordinance~~ In the event that a foreclosure has taken place without
35 ~~affording the homeowner of the relief afforded by this article, the recorder of deeds shall assess a~~
36 ~~penalty of \$2,000.00 five hundred dollars (\$500.00) in addition to any other penalties and fees~~
37 ~~that may be assessed prior to recording the foreclosure deed. The rights of the homeowner to any~~
38 ~~redress afforded under the law are not abridged by this section ordinance.~~

39 (2) This ordinance shall have no effect unless and until the provisions of Rhode Island General Laws
40 Section 34-27-3.2 are repealed or expire.
41

1 Section II. This Ordinance shall take effect upon passage and publication as prescribed by law.
2
3
4
5
6
7
8

9 SPONSORED BY: COUNCILMAN HOWE
10

11 COMMITTEE: HEALTH, EDUCATION AND WELFARE
12