

Town of Warren

Chapter 4 Buildings & Building Regulations

Article IX Foreclosure Requirements

Section 4-197 Foreclosure Requirements for Owner Occupied Residential Properties.

(A) **Definitions**

1. The Town – shall mean the Town of Warren
2. Residential premises/property – shall mean real property that is owner-occupied as an owner's principal resident, located within the Town of Warren, that is either a single-family 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 resident.
3. 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.
4. 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.
5. Homeowner – shall mean an individual who owns and resides in residential real property located in the Town of Warren, and for whom such residential real property is a principal resident.
6. 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.
7. The Parties – shall mean the homeowner/mortgagor and the lender/mortgagee
8. Rules and regulations – shall mean any rules adopted by the Town necessary for the proper enforcement of this Ordinance to interpret and secure its intent.

(B) **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 unemployment and underemployment, have negatively impacted a substantial number of homeowners in the Town. Increasing numbers of foreclosures leads to increases in unoccupied and unattended buildings in the Town and cause the unnecessary and unwanted displacement of homeowners and tenants who desire to live in the Town of Warren.

(C) **Purpose** – The purpose of this ordinance is to protect the public 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.

(D) **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 Town Clerk as a result of a mortgage foreclosure action shall be accepted and/or recorded in the Land Evidence Records of the Town until and unless the following events have occurred:

- a. The lender/mortgagee shall provide written notice to the Town 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 Town Clerk.
- 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 homeowners/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 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 include recording the deed. Such a certification will be in the form of a document to be filed along with all other relevant documents with the Town Clerk.
- 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 forty-five (45) 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/mortgagee conciliation conference and may proceed directly to

foreclosure and recordation of the deed concerning such property, presuming compliance with Chapter _____

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 in compliance with the requirements of this section of:

(1) The lender/mortgagee provides homeowners forbearance relief requirements applicable to FHA-Insured Mortgages, as set forth in Chapter 8 of the HUD Handbook 4.330.1 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 Town Clerk as a result of a mortgage foreclosure action contains a certification that the provisions of this sub-section have been satisfied.

(E) **Penalties** No deed offered by a lender/mortgagor to be filed with the Town Clerk shall be accepted and/or recorded in the Land Evidence Records of the Town if it is determined that the lender/mortgagor has failed in any respect with the requirements and provisions of this Ordinance.

(F) This Ordinance shall take effect upon its final adoption.

Town of Warren

Chapter 4 Buildings & Building Regulations

Article IX Foreclosure Requirements

Section 4-198 Foreclosure Requirements for Rental Properties.

(A) **Definitions** –

1. **Bona Fide Tenant** – shall mean a person who has entered into a written or oral rental agreement with a homeowner or landlord (mortgage) 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 of whether the residential premises is or is not owner-occupied.
2. **The Town** – shall mean the Town of Warren
3. **Rules and Regulations** – shall mean any rules adopted by the Town necessary for the proper enforcement of this Ordinance to interpret and secure its intent.

(B) **Notice to Bona Fide Tenants** – Effective upon passage of this Ordinance, no bona fide tenant legally occupying a rental residential property within the Town 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 be 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 (A) 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 English, Spanish and Portuguese stating the name and address of the successor in interest, and/or managing agent so that the tenant may know to whom the ongoing rental payments should be made.
- c. Where a 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, 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 (A), 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 English, Spanish and Portuguese: (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) provide 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 (d), is provided.
- (C) **Registration with the Town Clerk** – From and after the effective date of this Ordinance where any dwelling unit of a foreclosed mortgaged estate is occupied by a bona fide tenant, the successor in interest to be foreclosed mortgagor shall file with the Town, through the Town Clerk’s Office a certificate of registration. Each Certificate of Registration shall state:
- a. Name, address and telephone number of the lender/mortgagee.
 - b. Such description of each multiple dwelling/tenanted dwelling, by street number or otherwise, as will enable the easy location of same.
 - c. The name, address and telephone number of the agent appointed by the lender/mortgagee for the purpose of receiving service of process and other orders or notices.
 - d. The number of dwelling units in the building.
 - e. The names of all tenants and an identification of the type of lease said tenant is operating under.
 - f. The name and address, including the dwelling unit, apartment or room number of any person employed by the lender/mortgagor to provide regular maintenance service.
 - g. The name, address and telephone number of an individual representative of the lender/mortgagor who may be contacted at any time and who has the authority to make emergency decisions concerning the building and any repair thereto or expenditure in connection therewith.
 - h. The name and address of the fuel supplier, if any, and the grade of fuel oil used.

(D) **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.

(E) This Ordinance shall take effect upon its final adoption.