



Department of Business Regulation
Banking Division
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

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Mediation Compliance during the COVID-19 emergency

Governor Gina Raimondo has issued a series of Executive Orders declaring a state of emergency in Rhode Island due to the COVID-19 virus. The emergency is creating widespread interruptions in the economy and loss of income for many Rhode Island residents and businesses. This bulletin is being provided to clarify elements of the foreclosure mediation process in light of the COVID-19 emergency.

In response to the emergency the federal CARES Act has expanded the availability of forbearance options and other relief for affected homeowners with federally-backed mortgages. The Rhode Island Banking Division strongly encourages mortgagees to enter into forbearance options in any commercially reasonable situation whether or not the terms of the CARES Act apply. This request requires that we clarify the requirement of the foreclosure mediation statute to these forbearances.

The Rhode Island foreclosure mediation conference statute provides at [R.I. Gen. Laws § 34-27-3.2\(d\)\(1\)](#) that

If the mortgagee fails to mail the notice required by this subsection to the mortgagor within one hundred twenty (120) days after the date of default, it shall pay a penalty at the rate of one thousand (\$1,000) per month for each month or part thereof....until the mortgagee sends the mortgagor written notice as required by this section.

During the pendency of the emergency, as indicated by the Governor's Executive Orders, the phrase "after the date of default" in the above referenced section is interpreted to mean one hundred twenty (120) days after the date on which a forbearance agreement terminates. This means that mortgagees will be able to honor the spirit of the CARES Act by affording relief to mortgagors who have requested assistance without being in violation of R.I. Gen. Laws § 34-27-3.2(d)(1). This interpretation applies to (1) all mortgages that are not in default at the time of the forbearance agreement was reached and (2) all mortgages in which the forbearance agreement was reached on or before the one hundred twentieth (120th) day following the date of default under the mortgage.

This interpretation means that no penalty will accrue to a mortgagee if the notice required by this section is mailed to the mortgagor within one hundred twenty (120) days after the date on which the forbearance agreement terminates. The mediation coordinator may request documentation to evidence the terms of the forbearance agreement.

If you have any questions regarding this bulletin or any other matters, please send an email to dbr.bankinquiry@dbr.ri.gov.

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Superintendent of Banking
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