

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 2009-42

No. 341

AN ORDINANCE IN AMENDMENT OF THE CODE OF ORDINANCES, CHAPTER 13 ENTITLED "HOUSING," ARTICLE X ENTITLED "RESPONSIBILITIES OF OWNERS, OPERATORS AND OCCUPANTS," TO ADD SECTIONS 13-218 THROUGH 13-220

Approved **JULY 27, 2009**

Be it ordained by the City of Providence:

WHEREAS, The number of foreclosures nationally soared in 2007, with 405, 000 households losing their homes – an increase of 51 percent over 2006 levels; and

WHEREAS, In the City of Providence, foreclosure rates have dramatically increased, from 303 in 2006, more than doubling to 718 in 2007, and numbering 1158 by October, 2008; and

WHEREAS, The City of Providence and communities across this country have been devastated by the foreclosure crises, leaving many neighborhoods with neglected and abandoned housing, declining property values and rising crime as a result, affecting urban as well as rural areas and homeowners as well as renters; and

WHEREAS, The State of Rhode Island presently has an unemployment rate of 10% with more than 50,000 individuals out of work and deprived of adequate resources to meet their financial obligations; and

WHEREAS, Providence residents, many of whom have recently joined the corps of the unemployed, are finding it increasingly difficult to meet their residential mortgage obligations, frequently leading to foreclosure actions by their lenders; and

WHEREAS, Sub prime loans and predatory lending practices, compounded by a lack of government oversight, have disproportionately impacted low income families and minorities; and

WHEREAS, The enormity of this foreclosure crisis has resulted in eroding property values directly and significantly impacting the quality of life in the City's neighborhoods, reducing the tax base of local government and imposing increasing costs to city budgets already heavily burdened by a weakened economy.

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Providence amends the Code of Ordinances to add the following sections to Chapter 13, Article X:

SECTION 1.

Sec. 13-218 Definitions.

A bona fide tenant shall mean a person who has entered into a written or oral rental agreement with a homeowner or landlord (mortgagor) 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 whether the residential premises is or is not owner-occupied.

The City shall mean the City of Providence.

Rules and regulations shall mean any rules adopted by the City necessary for the proper enforcement of this Ordinance to interpret and secure its intent.

Sec. 13-219. Notice to Bona Fide Tenants

Effective upon passage of this Ordinance, no bona fide tenant legally occupying a rental residential property within the City 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 the 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 13-218, 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 both English and Spanish stating the name and address of the successor in interest, and/or managing agent designated pursuant to Sec. _____, so that the tenant may know to whom the ongoing rental payments should be made.

(c) Where any 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 of 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 13-213, 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 both English and Spanish: (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) providing 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 (a-b), is provided.

Sec. 13-220. 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.

SECTION 2.

This Ordinance shall take effect immediately upon passage.

IN CITY COUNCIL
JUL 2 2009
FIRST READING
READ AND PASSED
[Signature] CLERK

IN CITY COUNCIL
JUL 16 2009
FIRST READING
READ AND PASSED
[Signature] PRESIDENT
[Signature] CLERK

APPROVED

[Signature]
MAYOR 7/27/09