

Request for Action
by
Board of Commissioners

**APPROVAL OF PROPOSED RULE AND RELATED PUBLIC NOTICES REGARDING
SALE OF FORECLOSED PROPERTIES AND DISBURSEMENT OF SURPLUS
FUNDS PURSUANT TO MADELINE WALKER ACT**

1. Summary of Issues

The Madeline Walker Act of 2006 (hereinafter the “Act”) provides RIHousing with the right of first refusal to acquire tax liens on qualified properties. Furthermore, the Act empowers RIHousing to develop and promulgate regulations consistent with the purposes of the Act. RIHousing created the Madeline Walker Program and offers it to eligible homeowner participants to help them retain their homes when a tax lien has been placed on their property (the “Program”). Historically, many homeowner participants in the Program have, with guidance from RIHousing, been able to resolve the tax lien and remain in their home. There are occasions, however, when a participant is unable to resolve the lien, and RIHousing must foreclose on the tax lien and take possession of the property. In these instances, once RIHousing takes possession of one of these properties through foreclosure, RIHousing sells the property either on the open market or to a real estate developer through our First Look Program. If these sales result in a sale price exceeding the tax lien amount, and the former homeowner makes no claim, the surplus has been retained by RIHousing and used to help fund the Program. The Sale of Foreclosed Properties and Disbursement of Surplus Funds Pursuant to the Madeline Walker Act (the “Proposed Rule”) was drafted to formalize the procedure for disbursing these surplus funds back to the homeowner in keeping with recent court decisions finding that homeowners have a property interest in the surplus funds generated after a tax sale. A Madeline Walker Advisory Board meeting was held on July 17, 2024, to discuss RIHousing’s proposed approach and obtain feedback. At that meeting, the advisory board members agreed that RIHousing staff would draft the proposed regulation and subsequently submit the regulation to the Rhode Island Office of Regulatory Review (“ORR”).

Through this Request for Action, Staff seeks Board approval to initiate the public notice and comment process regarding the Proposed Rule. A form of Public Notice of Proposed Rulemaking is attached hereto and provides additional detail as to the nature of the proposed regulatory change. The Proposed Rule appears as a separate attachment for reference.

The final rule will take effect following a public comment period, final review by the ORR, final approval by the Board, and filing with the Office of the Secretary of State.

2. Recommendation

Staff recommends the approval of the attached resolution, which authorizes the publication of the attached Notice of Proposed Rulemaking and the text of the Proposed Rule. Such publication will have the effect of initiating the formal adoption process with respect to the Proposed Rule.

3. **Attachments**

- A. Public Notice of Proposed Rulemaking
- B. Proposed Rule
- C. Resolution

Attachment A

Public Notice of Proposed Rulemaking

(attached)

Attachment B

Proposed Rule

(attached)

Attachment C

Resolution of the Board of Commissioners of Rhode Island Housing and Mortgage Finance Corporation

WHEREAS: The Rhode Island General Assembly adopted the Madeline Walker Act in 2006; and

WHEREAS: The Act empowers RIHousing to develop and promulgate regulations consistent with the purposes of the Act; and

WHEREAS: Staff recommends approval of the Proposed Rule in its current form, appearing as Attachment B; and

WHEREAS: Staff recommend authorizing RIHousing staff to publish the required public notices related to the Proposed Rule entitled the Sale of Foreclosed Properties and Disbursement of Surplus Funds Pursuant to the Madeline Walker Act to formalize the procedure in which homeowners have an opportunity to apply for the disbursement of surplus funds after RIHousing sells a property it acquires after foreclosing on a tax lien.

NOW, THEREFORE, IT IS HEREBY:

RESOLVED: RIHousing is authorized to publish for public comment the attached Public Notice of Proposed Rulemaking together with the text of the Proposed Rule, each substantially in the form presented herewith, and file any other rulemaking notice(s) or document(s) that may be required pursuant to the State of Rhode Island Administrative Procedures Act or other applicable state statute, regulation, or executive order to effectuate the rulemaking activity described herein; and

RESOLVED: The Executive Director and Deputy Director, each acting singly, be, and hereby are, authorized and empowered to take any and all actions necessary or desirable to carry out the foregoing resolutions, including execution of documents.