

One Minute Memo[®]



Massachusetts Creates a 90-Day Cure Period

On May 1, 2008, a Massachusetts law granting mortgagors of residential property a 90-day right to cure defaults of required payments goes into effect. Under G.L. c. 244, §35A, lenders may not accelerate the maturity of the unpaid balance of the mortgage or in any way enforce the mortgage following a mortgagor's default for a period of 90 days. During this 90-day timeframe, the mortgagor may pay all amounts that are due at anytime without penalty. To trigger the start of the 90-day period, the lender is required to provide written notice to the mortgagor informing him of the default and right to cure. After the 90 days have passed, the lender may proceed with foreclosure. A copy of the 90-day notice of the right to cure must be filed in any action or proceeding to foreclose, and a copy must be filed with the Massachusetts Division of Banks.

The law makes no distinction between commercial transactions and residential transactions, meaning a lender who allows a mortgagor to secure a commercial loan with a residential property will need to comply with

the notice and 90-day right to cure provisions of the statute before foreclosure may occur.

The mortgagor may take advantage of the right to cure once during any five year period.

If you have any questions regarding this One Minute Memo, please contact the Seyfarth Shaw attorney with whom you work, or any Real Estate attorney on our website, www.seyfarth.com.

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