



Sen. John G. Mulroe

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09700SB2534sam004

LRB097 14747 AJ0 69879 a

1 AMENDMENT TO SENATE BILL 2534

2 AMENDMENT NO. _____. Amend Senate Bill 2534, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Criminal Code of 1961 is amended by
6 changing Section 21-3 as follows:

7 (720 ILCS 5/21-3) (from Ch. 38, par. 21-3)

8 Sec. 21-3. Criminal trespass to real property.

9 (a) Except as provided in subsection (a-5), whoever:

10 (1) knowingly and without lawful authority enters or
11 remains within or on a building; or

12 (2) enters upon the land of another, after receiving,
13 prior to such entry, notice from the owner or occupant that
14 such entry is forbidden; or

15 (3) remains upon the land of another, after receiving
16 notice from the owner or occupant to depart; or

1 (3.5) presents false documents or falsely represents
2 his or her identity orally to the owner or occupant of a
3 building or land in order to obtain permission from the
4 owner or occupant to enter or remain in the building or on
5 the land; or

6 (4) intentionally removes a notice posted on
7 residential real estate as required by subsection (1) of
8 Section 15-1505.8 of Article XV of the Code of Civil
9 Procedure before the date and time set forth in the notice;

10 commits a Class B misdemeanor.

11 For purposes of item (1) of this subsection, this Section
12 shall not apply to being in a building which is open to the
13 public while the building is open to the public during its
14 normal hours of operation; nor shall this Section apply to a
15 person who enters a public building under the reasonable belief
16 that the building is still open to the public.

17 (a-5) Except as otherwise provided in this subsection,
18 whoever enters upon any of the following areas in or on a motor
19 vehicle (including an off-road vehicle, motorcycle, moped, or
20 any other powered two-wheel vehicle) after receiving, prior to
21 that entry, notice from the owner or occupant that the entry is
22 forbidden or remains upon or in the area after receiving notice
23 from the owner or occupant to depart commits a Class A
24 misdemeanor:

25 (1) A field that is used for growing crops or that is
26 capable of being used for growing crops.

1 (2) An enclosed area containing livestock.

2 (3) An orchard.

3 (4) A barn or other agricultural building containing
4 livestock.

5 (b) A person has received notice from the owner or occupant
6 within the meaning of Subsection (a) if he has been notified
7 personally, either orally or in writing including a valid court
8 order as defined by subsection (7) of Section 112A-3 of the
9 Code of Criminal Procedure of 1963 granting remedy (2) of
10 subsection (b) of Section 112A-14 of that Code, or if a printed
11 or written notice forbidding such entry has been conspicuously
12 posted or exhibited at the main entrance to such land or the
13 forbidden part thereof.

14 (b-5) Subject to the provisions of subsection (b-10), as an
15 alternative to the posting of real property as set forth in
16 subsection (b), the owner or lessee of any real property may
17 post the property by placing identifying purple marks on trees
18 or posts around the area to be posted. Each purple mark shall
19 be:

20 (1) A vertical line of at least 8 inches in length and
21 the bottom of the mark shall be no less than 3 feet nor
22 more than 5 feet high. Such marks shall be placed no more
23 than 100 feet apart and shall be readily visible to any
24 person approaching the property; or

25 (2) A post capped or otherwise marked on at least its
26 top 2 inches. The bottom of the cap or mark shall be not

1 less than 3 feet but not more than 5 feet 6 inches high.
2 Posts so marked shall be placed not more than 36 feet apart
3 and shall be readily visible to any person approaching the
4 property. Prior to applying a cap or mark which is visible
5 from both sides of a fence shared by different property
6 owners or lessees, all such owners or lessees shall concur
7 in the decision to post their own property.

8 Nothing in this subsection (b-5) shall be construed to
9 authorize the owner or lessee of any real property to place any
10 purple marks on any tree or post or to install any post or
11 fence if doing so would violate any applicable law, rule,
12 ordinance, order, covenant, bylaw, declaration, regulation,
13 restriction, contract, or instrument.

14 (b-10) Any owner or lessee who marks his or her real
15 property using the method described in subsection (b-5) must
16 also provide notice as described in subsection (b) of this
17 Section. The public of this State shall be informed of the
18 provisions of subsection (b-5) of this Section by the Illinois
19 Department of Agriculture and the Illinois Department of
20 Natural Resources. These Departments shall conduct an
21 information campaign for the general public concerning the
22 interpretation and implementation of subsection (b-5). The
23 information shall inform the public about the marking
24 requirements and the applicability of subsection (b-5)
25 including information regarding the size requirements of the
26 markings as well as the manner in which the markings shall be

1 displayed. The Departments shall also include information
2 regarding the requirement that, until the date this subsection
3 becomes inoperative, any owner or lessee who chooses to mark
4 his or her property using paint, must also comply with one of
5 the notice requirements listed in subsection (b). The
6 Departments may prepare a brochure or may disseminate the
7 information through agency websites. Non-governmental
8 organizations including, but not limited to, the Illinois
9 Forestry Association, Illinois Tree Farm and the Walnut Council
10 may help to disseminate the information regarding the
11 requirements and applicability of subsection (b-5) based on
12 materials provided by the Departments. This subsection (b-10)
13 is inoperative on and after January 1, 2013.

14 (b-15) Subsections (b-5) and (b-10) do not apply to real
15 property located in a municipality of over 2,000,000
16 inhabitants.

17 (c) This Section does not apply to any person, whether a
18 migrant worker or otherwise, living on the land with permission
19 of the owner or of his agent having apparent authority to hire
20 workers on such land and assign them living quarters or a place
21 of accommodations for living thereon, nor to anyone living on
22 such land at the request of, or by occupancy, leasing or other
23 agreement or arrangement with the owner or his agent, nor to
24 anyone invited by such migrant worker or other person so living
25 on such land to visit him at the place he is so living upon the
26 land.

1 (d) A person shall be exempt from prosecution under this
2 Section if he beautifies unoccupied and abandoned residential
3 and industrial properties located within any municipality. For
4 the purpose of this subsection, "unoccupied and abandoned
5 residential and industrial property" means any real estate (1)
6 in which the taxes have not been paid for a period of at least 2
7 years; and (2) which has been left unoccupied and abandoned for
8 a period of at least one year; and "beautifies" means to
9 landscape, clean up litter, or to repair dilapidated conditions
10 on or to board up windows and doors.

11 (e) No person shall be liable in any civil action for money
12 damages to the owner of unoccupied and abandoned residential
13 and industrial property which that person beautifies pursuant
14 to subsection (d) of this Section.

15 (e-5) (i) A mortgagee or agent of the mortgagee shall be
16 exempt from prosecution for criminal trespass for entering,
17 securing, or maintaining an abandoned residential property.

18 (ii) No mortgagee or agent of the mortgagee shall be
19 liable to the mortgagor or other owner of an abandoned
20 residential property in any civil action for negligence or
21 civil trespass in connection with entering, securing, or
22 maintaining the abandoned residential property.

23 (iii) For the purpose of this subsection (e-5) only,
24 "abandoned residential property" means mortgaged real
25 estate that the mortgagee or agent of the mortgagee
26 determines in good faith meets the definition of abandoned

1 residential property set forth in Section 15-1200.5 of
2 Article XV of the Code of Civil Procedure.

3 (f) This Section does not prohibit a person from entering a
4 building or upon the land of another for emergency purposes.
5 For purposes of this subsection (f), "emergency" means a
6 condition or circumstance in which an individual is or is
7 reasonably believed by the person to be in imminent danger of
8 serious bodily harm or in which property is or is reasonably
9 believed to be in imminent danger of damage or destruction.

10 (g) Paragraph (3.5) of subsection (a) does not apply to a
11 peace officer or other official of a unit of government who
12 enters a building or land in the performance of his or her
13 official duties.

14 (h) A person may be liable in any civil action for money
15 damages to the owner of the land he or she entered upon with a
16 motor vehicle as prohibited under subsection (a-5) of this
17 Section. A person may also be liable to the owner for court
18 costs and reasonable attorney's fees. The measure of damages
19 shall be: (i) the actual damages, but not less than \$250, if
20 the vehicle is operated in a nature preserve or registered area
21 as defined in Sections 3.11 and 3.14 of the Illinois Natural
22 Areas Preservation Act; (ii) twice the actual damages if the
23 owner has previously notified the person to cease trespassing;
24 or (iii) in any other case, the actual damages, but not less
25 than \$50. If the person operating the vehicle is under the age
26 of 16, the owner of the vehicle and the parent or legal

1 guardian of the minor are jointly and severally liable. For the
2 purposes of this subsection (h):

3 "Land" includes, but is not limited to, land used for
4 crop land, fallow land, orchard, pasture, feed lot, timber
5 land, prairie land, mine spoil nature preserves and
6 registered areas. "Land" does not include driveways or
7 private roadways upon which the owner allows the public to
8 drive.

9 "Owner" means the person who has the right to
10 possession of the land, including the owner, operator or
11 tenant.

12 "Vehicle" has the same meaning as provided under
13 Section 1-217 of the Illinois Vehicle Code.

14 (i) This Section does not apply to the following persons
15 while serving process:

16 (1) a person authorized to serve process under Section
17 2-202 of the Code of Civil Procedure; or

18 (2) a special process server appointed by the circuit
19 court.

20 (Source: P.A. 97-184, eff. 7-22-11; 97-477, eff. 8-22-11;
21 revised 9-14-11.)

22 Section 10. The Code of Civil Procedure is amended by
23 changing Sections 15-1219, 15-1504, and 15-1508, changing and
24 renumbering Section 15-1507.1, and by adding Sections
25 15-1200.5, 15-1200.7, and 15-1505.8 as follows:

1 (735 ILCS 5/15-1200.5 new)

2 Sec. 15-1200.5. Abandoned residential property. "Abandoned
3 residential property" means residential real estate that:

4 (a) either:

5 (1) is not occupied by any mortgagor or lawful occupant
6 as a principal residence; or

7 (2) contains an incomplete structure if the real estate
8 is zoned for residential development, where the structure
9 is empty or otherwise uninhabited and is in need of
10 maintenance, repair, or securing; and

11 (b) with respect to which either:

12 (1) two or more of the following conditions are shown
13 to exist:

14 (A) construction was initiated on the property and
15 was discontinued prior to completion, leaving a
16 building unsuitable for occupancy, and no construction
17 has taken place for at least 6 months;

18 (B) multiple windows on the property are boarded up
19 or closed off or are smashed through, broken off, or
20 unhinged, or multiple window panes are broken and
21 unrepaired;

22 (C) doors on the property are smashed through,
23 broken off, unhinged, or continuously unlocked;

24 (D) the property has been stripped of copper or
25 other materials, or interior fixtures to the property

1 have been removed;

2 (E) gas, electrical, or water services to the
3 entire property have been terminated;

4 (F) there exist one or more written statements of
5 the mortgagor or the mortgagor's personal
6 representative or assigns, including documents of
7 conveyance, which indicate a clear intent to abandon
8 the property;

9 (G) law enforcement officials have received at
10 least one report of trespassing or vandalism or other
11 illegal acts being committed at the property in the
12 last 6 months;

13 (H) the property has been declared unfit for
14 occupancy and ordered to remain vacant and unoccupied
15 under an order issued by a municipal or county
16 authority or a court of competent jurisdiction;

17 (I) the local police, fire, or code enforcement
18 authority has requested the owner or other interested
19 or authorized party to secure or winterize the property
20 due to the local authority declaring the property to be
21 an imminent danger to the health, safety, and welfare
22 of the public;

23 (J) the property is open and unprotected and in
24 reasonable danger of significant damage due to
25 exposure to the elements, vandalism, or freezing; or

26 (K) there exists other evidence indicating a clear

1 intent to abandon the property; or
2 (2) the real estate is zoned for residential
3 development and is a vacant lot that is in need of
4 maintenance, repair, or securing.

5 (735 ILCS 5/15-1200.7 new)

6 Sec. 15-1200.7. Abandoned residential property;
7 exceptions. A property shall not be considered abandoned
8 residential property if: (i) there is an unoccupied building
9 which is undergoing construction, renovation, or
10 rehabilitation that is proceeding diligently to completion,
11 and the building is in substantial compliance with all
12 applicable ordinances, codes, regulations, and laws; (ii)
13 there is a building occupied on a seasonal basis, but otherwise
14 secure; (iii) there is a secure building on which there are
15 bona fide rental or sale signs; (iv) there is a building that
16 is secure, but is the subject of a probate action, action to
17 quiet title, or other ownership dispute; or (v) there is a
18 building that is otherwise secure and in substantial compliance
19 with all applicable ordinances, codes, regulations and laws.

20 (735 ILCS 5/15-1219) (from Ch. 110, par. 15-1219)

21 Sec. 15-1219. Residential Real Estate. "Residential real
22 estate" means any real estate, except a single tract of
23 agricultural real estate consisting of more than 40 acres,
24 which is improved with a single family residence or residential

1 condominium units or a multiple dwelling structure containing
2 single family dwelling units for six or fewer families living
3 independently of each other, which residence, or at least one
4 of which condominium or dwelling units, is occupied as a
5 principal residence either (i) if a mortgagor is an individual,
6 by that mortgagor, that mortgagor's spouse or that mortgagor's
7 descendants, or (ii) if a mortgagor is a trustee of a trust or
8 an executor or administrator of an estate, by a beneficiary of
9 that trust or estate or by such beneficiary's spouse or
10 descendants or (iii) if a mortgagor is a corporation, by
11 persons owning collectively at least 50 percent of the shares
12 of voting stock of such corporation or by a spouse or
13 descendants of such persons. The use of a portion of
14 residential real estate for non-residential purposes shall not
15 affect the characterization of such real estate as residential
16 real estate. For purposes of the definition of the term
17 "abandoned residential property" in Section 15-1200.5 of this
18 Article, "abandoned residential property" shall not include
19 the requirement that the real estate be occupied, or if zoned
20 for residential development, improved with a dwelling
21 structure.

22 (Source: P.A. 85-907.)

23 (735 ILCS 5/15-1504) (from Ch. 110, par. 15-1504)

24 Sec. 15-1504. Pleadings and service.

25 (a) Form of Complaint. A foreclosure complaint may be in

1 substantially the following form:

2 (1) Plaintiff files this complaint to foreclose the
3 mortgage (or other conveyance in the nature of a mortgage)
4 (hereinafter called "mortgage") hereinafter described and
5 joins the following person as defendants: (here insert
6 names of all defendants).

7 (2) Attached as Exhibit "A" is a copy of the mortgage
8 and as Exhibit "B" is a copy of the note secured thereby.

9 (3) Information concerning mortgage:

10 (A) Nature of instrument: (here insert whether a
11 mortgage, trust deed or other instrument in the nature
12 of a mortgage, etc.)

13 (B) Date of mortgage:

14 (C) Name of mortgagor:

15 (D) Name of mortgagee:

16 (E) Date and place of recording:

17 (F) Identification of recording: (here insert book
18 and page number or document number)

19 (G) Interest subject to the mortgage: (here insert
20 whether fee simple, estate for years, undivided
21 interest, etc.)

22 (H) Amount of original indebtedness, including
23 subsequent advances made under the mortgage:

24 (I) Both the legal description of the mortgaged
25 real estate and the common address or other information
26 sufficient to identify it with reasonable certainty:

1 (J) Statement as to defaults, including, but not
2 necessarily limited to, date of default, current
3 unpaid principal balance, per diem interest accruing,
4 and any further information concerning the default:

5 (K) Name of present owner of the real estate:

6 (L) Names of other persons who are joined as
7 defendants and whose interest in or lien on the
8 mortgaged real estate is sought to be terminated:

9 (M) Names of defendants claimed to be personally
10 liable for deficiency, if any:

11 (N) Capacity in which plaintiff brings this
12 foreclosure (here indicate whether plaintiff is the
13 legal holder of the indebtedness, a pledgee, an agent,
14 the trustee under a trust deed or otherwise, as
15 appropriate):

16 (O) Facts in support of redemption period shorter
17 than the longer of (i) 7 months from the date the
18 mortgagor or, if more than one, all the mortgagors (I)
19 have been served with summons or by publication or (II)
20 have otherwise submitted to the jurisdiction of the
21 court, or (ii) 3 months from the entry of the judgment
22 of foreclosure, if sought (here indicate whether based
23 upon the real estate not being residential, ~~7~~
24 ~~abandonment,~~ or real estate value less than 90% of
25 amount owed, etc.):

26 (P) Statement that the right of redemption has been

1 waived by all owners of redemption, if applicable:

2 (Q) Facts in support of request for attorneys' fees
3 and of costs and expenses, if applicable:

4 (R) Facts in support of a request for appointment
5 of mortgagee in possession or for appointment of
6 receiver, and identity of such receiver, if sought:

7 (S) Offer to mortgagor in accordance with Section
8 15-1402 to accept title to the real estate in
9 satisfaction of all indebtedness and obligations
10 secured by the mortgage without judicial sale, if
11 sought:

12 (T) Name or names of defendants whose right to
13 possess the mortgaged real estate, after the
14 confirmation of a foreclosure sale, is sought to be
15 terminated and, if not elsewhere stated, the facts in
16 support thereof:

17 REQUEST FOR RELIEF

18 Plaintiff requests:

19 (i) A judgment of foreclosure and sale.

20 (ii) An order granting a shortened redemption period,
21 if sought.

22 (iii) A personal judgment for a deficiency, if sought.

23 (iv) An order granting possession, if sought.

24 (v) An order placing the mortgagee in possession or
25 appointing a receiver, if sought.

1 (vi) A judgment for attorneys' fees, costs and
2 expenses, if sought.

3 (b) Required Information. A foreclosure complaint need
4 contain only such statements and requests called for by the
5 form set forth in subsection (a) of Section 15-1504 as may be
6 appropriate for the relief sought. Such complaint may be filed
7 as a counterclaim, may be joined with other counts or may
8 include in the same count additional matters or a request for
9 any additional relief permitted by Article II of the Code of
10 Civil Procedure.

11 (c) Allegations. The statements contained in a complaint in
12 the form set forth in subsection (a) of Section 15-1504 are
13 deemed and construed to include allegations as follows:

14 (1) on the date indicated the obligor of the
15 indebtedness or other obligations secured by the mortgage
16 was justly indebted in the amount of the indicated original
17 indebtedness to the original mortgagee or payee of the
18 mortgage note;

19 (2) that the exhibits attached are true and correct
20 copies of the mortgage and note and are incorporated and
21 made a part of the complaint by express reference;

22 (3) that the mortgagor was at the date indicated an
23 owner of the interest in the real estate described in the
24 complaint and that as of that date made, executed and
25 delivered the mortgage as security for the note or other
26 obligations;

1 (4) that the mortgage was recorded in the county in
2 which the mortgaged real estate is located, on the date
3 indicated, in the book and page or as the document number
4 indicated;

5 (5) that defaults occurred as indicated;

6 (6) that at the time of the filing of the complaint the
7 persons named as present owners are the owners of the
8 indicated interests in and to the real estate described;

9 (7) that the mortgage constitutes a valid, prior and
10 paramount lien upon the indicated interest in the mortgaged
11 real estate, which lien is prior and superior to the right,
12 title, interest, claim or lien of all parties and nonrecord
13 claimants whose interests in the mortgaged real estate are
14 sought to be terminated;

15 (8) that by reason of the defaults alleged, if the
16 indebtedness has not matured by its terms, the same has
17 become due by the exercise, by the plaintiff or other
18 persons having such power, of a right or power to declare
19 immediately due and payable the whole of all indebtedness
20 secured by the mortgage;

21 (9) that any and all notices of default or election to
22 declare the indebtedness due and payable or other notices
23 required to be given have been duly and properly given;

24 (10) that any and all periods of grace or other period
25 of time allowed for the performance of the covenants or
26 conditions claimed to be breached or for the curing of any

1 breaches have expired;

2 (11) that the amounts indicated in the statement in the
3 complaint are correctly stated and if such statement
4 indicates any advances made or to be made by the plaintiff
5 or owner of the mortgage indebtedness, that such advances
6 were, in fact, made or will be required to be made, and
7 under and by virtue of the mortgage the same constitute
8 additional indebtedness secured by the mortgage; and

9 (12) that, upon confirmation of the sale, the holder of
10 the certificate of sale or deed issued pursuant to that
11 certificate or, if no certificate or deed was issued, the
12 purchaser at the sale will be entitled to full possession
13 of the mortgaged real estate against the parties named in
14 clause (T) of paragraph (3) of subsection (a) of Section
15 15-1504 or elsewhere to the same effect; the omission of
16 any party indicates that plaintiff will not seek a
17 possessory order in the order confirming sale unless the
18 request is subsequently made under subsection (h) of
19 Section 15-1701 or by separate action under Article 9 of
20 this Code.

21 (d) Request for Fees and Costs. A statement in the
22 complaint that plaintiff seeks the inclusion of attorneys' fees
23 and of costs and expenses shall be deemed and construed to
24 include allegations that:

25 (1) plaintiff has been compelled to employ and retain
26 attorneys to prepare and file the complaint and to

1 represent and advise the plaintiff in the foreclosure of
2 the mortgage and the plaintiff will thereby become liable
3 for the usual, reasonable and customary fees of the
4 attorneys in that behalf;

5 (2) that the plaintiff has been compelled to advance or
6 will be compelled to advance, various sums of money in
7 payment of costs, fees, expenses and disbursements
8 incurred in connection with the foreclosure, including,
9 without limiting the generality of the foregoing, filing
10 fees, stenographer's fees, witness fees, costs of
11 publication, costs of procuring and preparing documentary
12 evidence and costs of procuring abstracts of title, Torrens
13 certificates, foreclosure minutes and a title insurance
14 policy;

15 (3) that under the terms of the mortgage, all such
16 advances, costs, attorneys' fees and other fees, expenses
17 and disbursements are made a lien upon the mortgaged real
18 estate and the plaintiff is entitled to recover all such
19 advances, costs, attorneys' fees, expenses and
20 disbursements, together with interest on all advances at
21 the rate provided in the mortgage, or, if no rate is
22 provided therein, at the statutory judgment rate, from the
23 date on which such advances are made;

24 (4) that in order to protect the lien of the mortgage,
25 it may become necessary for plaintiff to pay taxes and
26 assessments which have been or may be levied upon the

1 mortgaged real estate;

2 (5) that in order to protect and preserve the mortgaged
3 real estate, it may also become necessary for the plaintiff
4 to pay liability (protecting mortgagor and mortgagee),
5 fire and other hazard insurance premiums on the mortgaged
6 real estate, make such repairs to the mortgaged real estate
7 as may reasonably be deemed necessary for the proper
8 preservation thereof, advance for costs to inspect the
9 mortgaged real estate or to appraise it, or both, and
10 advance for premiums for pre-existing private or
11 governmental mortgage insurance to the extent required
12 after a foreclosure is commenced in order to keep such
13 insurance in force; and

14 (6) that under the terms of the mortgage, any money so
15 paid or expended will become an additional indebtedness
16 secured by the mortgage and will bear interest from the
17 date such monies are advanced at the rate provided in the
18 mortgage, or, if no rate is provided, at the statutory
19 judgment rate.

20 (e) Request for Foreclosure. The request for foreclosure is
21 deemed and construed to mean that the plaintiff requests that:

22 (1) an accounting may be taken under the direction of
23 the court of the amounts due and owing to the plaintiff;

24 (2) that the defendants be ordered to pay to the
25 plaintiff before expiration of any redemption period (or,
26 if no redemption period, before a short date fixed by the

1 court) whatever sums may appear to be due upon the taking
2 of such account, together with attorneys' fees and costs of
3 the proceedings (to the extent provided in the mortgage or
4 by law);

5 (3) that in default of such payment in accordance with
6 the judgment, the mortgaged real estate be sold as directed
7 by the court, to satisfy the amount due to the plaintiff as
8 set forth in the judgment, together with the interest
9 thereon at the statutory judgment rate from the date of the
10 judgment;

11 (4) that in the event the plaintiff is a purchaser of
12 the mortgaged real estate at such sale, the plaintiff may
13 offset against the purchase price of such real estate the
14 amounts due under the judgment of foreclosure and order
15 confirming the sale;

16 (5) that in the event of such sale and the failure of
17 any person entitled thereto to redeem prior to such sale
18 pursuant to this Article, the defendants made parties to
19 the foreclosure in accordance with this Article, and all
20 nonrecord claimants given notice of the foreclosure in
21 accordance with this Article, and all persons claiming by,
22 through or under them, and each and any and all of them,
23 may be forever barred and foreclosed of any right, title,
24 interest, claim, lien, or right to redeem in and to the
25 mortgaged real estate; and

26 (6) that if no redemption is made prior to such sale, a

1 deed may be issued to the purchaser thereat according to
2 law and such purchaser be let into possession of the
3 mortgaged real estate in accordance with Part 17 of this
4 Article.

5 (f) Request for Deficiency Judgment. A request for a
6 personal judgment for a deficiency in a foreclosure complaint
7 if the sale of the mortgaged real estate fails to produce a
8 sufficient amount to pay the amount found due, the plaintiff
9 may have a personal judgment against any party in the
10 foreclosure indicated as being personally liable therefor and
11 the enforcement thereof be had as provided by law.

12 (g) Request for Possession or Receiver. A request for
13 possession or appointment of a receiver has the meaning as
14 stated in subsection (b) of Section 15-1706.

15 (h) Answers by Parties. Any party may assert its interest
16 by counterclaim and such counterclaim may at the option of that
17 party stand in lieu of answer to the complaint for foreclosure
18 and all counter complaints previously or thereafter filed in
19 the foreclosure. Any such counterclaim shall be deemed to
20 constitute a statement that the counter claimant does not have
21 sufficient knowledge to form a belief as to the truth or
22 falsity of the allegations of the complaint and all other
23 counterclaims, except to the extent that the counterclaim
24 admits or specifically denies such allegations.

25 (Source: P.A. 91-357, eff. 7-29-99.)

1 (735 ILCS 5/15-1504.3)

2 (Section scheduled to be repealed on March 2, 2016)

3 Sec. 15-1504.3 ~~15-1507.1~~. Filing ~~Judicial sale~~ fee for
4 Abandoned Residential Property Municipality Relief Fund.

5 (a) With respect to residential real estate, at the time of
6 the filing of a foreclosure complaint, the plaintiff shall pay
7 to the clerk of the court in which the foreclosure complaint is
8 filed a fee of \$250 ~~Upon and at the sale of residential real~~
9 ~~estate under Section 15-1507, the purchaser shall pay to the~~
10 ~~person conducting the sale pursuant to Section 15-1507 a fee~~
11 ~~for deposit into the Abandoned Residential Property~~
12 ~~Municipality Relief Fund, a special fund created in the State~~
13 ~~treasury. The fee shall be calculated at the rate of \$1 for~~
14 ~~each \$1,000 or fraction thereof of the amount paid by the~~
15 ~~purchaser to the person conducting the sale, as reflected in~~
16 ~~the receipt of sale issued to the purchaser, provided that in~~
17 ~~no event shall the fee exceed \$300. No fee shall be paid by the~~
18 ~~mortgagee acquiring the residential real estate pursuant to its~~
19 ~~credit bid at the sale or by any mortgagee, judgment creditor,~~
20 ~~or other lienor acquiring the residential real estate whose~~
21 ~~rights in and to the residential real estate arose prior to the~~
22 ~~sale. Upon confirmation of the sale under Section 15-1508, the~~
23 ~~person conducting the sale shall remit the fee to the clerk of~~
24 ~~the court in which the foreclosure case is pending. The clerk~~
25 shall remit the fee to the State Treasurer as provided in this
26 Section, to be expended for the purposes set forth in Section

1 7.31 of the Illinois Housing Development Act.

2 (b) All fees paid by plaintiffs to the clerk of the court
3 ~~purchasers~~ as provided in this Section shall be disbursed
4 within 60 days after receipt by the clerk of the court as
5 follows: (i) 98% to the State Treasurer for deposit into the
6 Abandoned Residential Property Municipality Relief Fund, and
7 (ii) 2% to the clerk of the court for administrative expenses
8 related to implementation of this Section.

9 (c) Not later than March 1 of each year, the clerk of the
10 court shall submit to the Illinois Housing Development
11 Authority a report of the funds collected and remitted pursuant
12 to this Section during the preceding year ~~pursuant to this~~
13 ~~Section.~~

14 (d) Subsections (a) and (b) of this Section shall become
15 inoperative on January 1, 2016. This Section is repealed on
16 March 2, 2016.

17 (Source: P.A. 96-1419, eff. 10-1-10.)

18 (735 ILCS 5/15-1505.8 new)

19 Sec. 15-1505.8. Expedited judgment and sale procedure for
20 abandoned residential property.

21 (a) Upon motion and notice, the mortgagee may elect to
22 utilize the expedited judgment and sale procedure for abandoned
23 residential property stated in this Section to obtain a
24 judgment of foreclosure pursuant to Section 15-1506. The motion
25 to expedite the judgment and sale may be combined with or made

1 part of the motion requesting a judgment of foreclosure. The
2 notice of the motion to expedite the judgment and sale shall be
3 sent by first-class mail to the last known address of the
4 mortgagor, and the notice required by paragraph (1) of
5 subsection (1) of this Section shall be posted at the property
6 address.

7 (b) The motion requesting an expedited judgment of
8 foreclosure and sale may be filed by the mortgagee at the time
9 the foreclosure complaint is filed or any time thereafter, and
10 shall set forth the facts demonstrating that the mortgaged real
11 estate is abandoned residential real estate under Section
12 15-1200.5 and shall be supported by affidavit.

13 (c) If a motion for an expedited judgment and sale is filed
14 at the time the foreclosure complaint is filed or before the
15 period to answer the foreclosure complaint has expired, the
16 motion shall be heard by the court no earlier than before the
17 period to answer the foreclosure complaint has expired and no
18 later than 15 days after the period to answer the foreclosure
19 complaint has expired.

20 (d) If a motion for an expedited judgment and sale is filed
21 after the period to answer the foreclosure complaint has
22 expired, the motion shall be heard no later than 15 days after
23 the motion is filed.

24 (e) The hearing shall be given priority by the court and
25 shall be scheduled to be heard within the applicable time
26 period set forth in subsection (c) or (d) of this Section.

1 (f) Subject to subsection (g), at the hearing on the motion
2 requesting an expedited judgment and sale, if the court finds
3 that the mortgaged real estate is abandoned residential
4 property, the court shall grant the motion and immediately
5 proceed to a trial of the foreclosure. A judgment of
6 foreclosure under this Section shall include the matters
7 identified in Section 15-1506.

8 (g) The court may not grant the motion requesting an
9 expedited judgment and sale if: (i) the mortgagor appears in
10 the action in any manner before or at the hearing and objects
11 to a finding of abandonment; (ii) a person other than the
12 mortgagor appears at the hearing and presents evidence
13 establishing to the satisfaction of the court that the
14 mortgagor is working with, or making an attempt to work with,
15 the mortgagee to modify the mortgage; or (iii) a person other
16 than the mortgagor appears at the hearing and presents evidence
17 establishing to the satisfaction of the court that the
18 mortgagor or a lawful occupant has not abandoned the mortgaged
19 real estate.

20 (h) The court shall vacate an order issued pursuant to
21 subsection (f) of this Section if the mortgagor or a lawful
22 occupant appears in the action at any time prior to the court
23 issuing an order confirming the sale pursuant to subsection
24 (b-3) of Section 15-1508 and presents evidence establishing to
25 the satisfaction of the court that the mortgagor or lawful
26 occupant has not abandoned the mortgaged real estate.

1 (i) The reinstatement period and redemption period for the
2 abandoned residential property shall end in accordance with
3 paragraph (4) of subsection (b) of Section 15-1603, and the
4 abandoned residential property shall be sold at the earliest
5 practicable time at a sale as provided in this Article.

6 (j) The mortgagee or its agent may enter, secure, and
7 maintain abandoned residential property subject to subsection
8 (e-5) of Section 21-3 of the Criminal Code of 1961.

9 (k) Personal property.

10 (1) Upon confirmation of the sale held pursuant to
11 Section 15-1507, any personal property remaining in or upon
12 the abandoned residential property shall be deemed to have
13 been abandoned by the owner of such personal property and
14 may be disposed of or donated by the holder of the
15 certificate of sale (or, if none, by the purchaser at the
16 sale). In the event of donation of any such personal
17 property, the holder of the certificate of sale (or, if
18 none, the purchaser at the sale) may transfer such donated
19 property with a bill of sale. No mortgagee or its
20 successors or assigns, holder of a certificate of sale, or
21 purchaser at the sale shall be liable for any such disposal
22 or donation of personal property.

23 (2) Notwithstanding paragraph (1) of this subsection
24 (k), in the event a lawful occupant is in possession of the
25 mortgaged real estate who has not been made a party to the
26 foreclosure and had his or her interests terminated

1 therein, any personal property of the lawful occupant shall
2 not be deemed to have been abandoned, nor shall the rights
3 of the lawful occupant to any personal property be
4 affected.

5 (1) Notices to be posted at property address.

6 (1) The notice set out in this paragraph (1) of this
7 subsection (1) shall be conspicuously posted at the
8 property address at least 14 days before the hearing on the
9 motion requesting an expedited judgment and sale and shall
10 be in boldface, in at least 12 font type, and in
11 substantially the following form:

12 "NOTICE TO ANY TENANT OR OTHER LAWFUL
13 OCCUPANT OF THIS PROPERTY

14 A lawsuit has been filed to foreclose on this property, and the
15 party asking to foreclose on this property has asked a judge to
16 find that THIS PROPERTY IS ABANDONED.

17 The judge will be holding a hearing to decide whether this
18 property is ABANDONED.

19 IF YOU LAWFULLY OCCUPY ANY PART OF THIS PROPERTY, YOU MAY
20 CHOOSE TO GO TO THIS HEARING and explain to the judge how you
21 are a lawful occupant of this property.

1 You also can ask any other person to go to this hearing for
 2 you, and this person does not have to be attorney. If you do
 3 have another person who is not an attorney go to this hearing
 4 for you, that person will not be authorized to represent you
 5 but could help explain to the judge how you are a lawful
 6 occupant of this property.

7 If the judge is satisfied that you are a LAWFUL OCCUPANT of
 8 this property, the court will find that this property is NOT
 9 ABANDONED.

10 This hearing will be held in the courthouse at the following
 11 address, date, and time:

12 Court name:

13 Court address:

14 Court room number where hearing will be held:

15 (There should be a person in this room called a CLERK who can
 16 help you. Make sure you know THIS PROPERTY'S ADDRESS.)

17 Date of hearing:

18 Time of hearing:

19 MORE INFORMATION

20 Name of lawsuit

21 Number of lawsuit

1 Address of this property

2 IMPORTANT

3 This is NOT a notice to vacate the premises. You may wish to
4 contact a lawyer or your local legal aid or housing counseling
5 agency to discuss any rights that you may have.

6 WARNING

7 INTENTIONAL REMOVAL OF THIS NOTICE BEFORE THE DATE AND TIME
8 STATED IN THIS NOTICE IS A CLASS B MISDEMEANOR, PUNISHABLE BY
9 UP TO 180 DAYS IN JAIL AND A FINE OF UP TO \$1500, UNDER ILLINOIS
10 LAW. 720 ILCS 5/21-3(a).

11 NO TRESPASSING

12 KNOWINGLY ENTERING THIS PROPERTY WITHOUT LAWFUL AUTHORITY IS A
13 CLASS B MISDEMEANOR, PUNISHABLE BY UP TO 180 DAYS IN JAIL AND A
14 FINE OF UP TO \$1500, UNDER ILLINOIS LAW. 720 ILCS 5/21-3(a)."

15 (2) The notice set out in this paragraph (2) of this
16 subsection (1) shall be conspicuously posted at the
17 property address at least 14 days before the hearing to
18 confirm the sale of the abandoned residential property and
19 shall be in boldface, in at least 12 font type, and in
20 substantially the following form:

1 "NOTICE TO ANY TENANT OR OTHER LAWFUL
2 OCCUPANT OF THIS PROPERTY

3 A lawsuit has been filed to foreclose on this property, and the
4 judge has found that THIS PROPERTY IS ABANDONED. As a result,
5 THIS PROPERTY HAS BEEN OR WILL BE SOLD.

6 HOWEVER, there still must be a hearing for the judge to approve
7 the sale. The judge will NOT APPROVE this sale if the judge
8 finds that any person lawfully occupies any part of this
9 property.

10 IF YOU LAWFULLY OCCUPY ANY PART OF THIS PROPERTY, YOU MAY
11 CHOOSE TO GO TO THIS HEARING and explain to the judge how you
12 are a lawful occupant of this property. You also may appear
13 BEFORE this hearing and explain to the judge how you are a
14 lawful occupant of this property.

15 If the judge is satisfied that you are a LAWFUL OCCUPANT of
16 this property, the court will find that this property is NOT
17 ABANDONED, and there will be no sale of the property at this
18 time.

19 This hearing will be held in the courthouse at the following
20 address, date, and time:

1 Court name:

2 Court address:

3 Court room number where hearing will be held:

4 (There should be a person in this room called a CLERK who can
5 help you. Make sure you know THIS PROPERTY'S ADDRESS.)

6 Date of hearing:

7 Time of hearing:

8 MORE INFORMATION

9 Name of lawsuit

10 Number of lawsuit

11 Address of this property

12 IMPORTANT

13 This is NOT a notice to vacate the premises. You may wish to
14 contact a lawyer or your local legal aid or housing counseling
15 agency to discuss any rights that you may have.

16 WARNING

17 INTENTIONAL REMOVAL OF THIS NOTICE BEFORE THE DATE AND TIME
18 STATED IN THIS NOTICE IS A CLASS B MISDEMEANOR, PUNISHABLE BY
19 UP TO 180 DAYS IN JAIL AND A FINE OF UP TO \$1500, UNDER ILLINOIS

1 LAW. 720 ILCS 5/21-3(a).

2 NO TRESPASSING

3 KNOWINGLY ENTERING THIS PROPERTY WITHOUT LAWFUL AUTHORITY IS A
4 CLASS B MISDEMEANOR, PUNISHABLE BY UP TO 180 DAYS IN JAIL AND A
5 FINE OF UP TO \$1500, UNDER ILLINOIS LAW. 720 ILCS 5/21-3(a)."

6 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

7 Sec. 15-1508. Report of Sale and Confirmation of Sale.

8 (a) Report. The person conducting the sale shall promptly
9 make a report to the court, which report shall include a copy
10 of all receipts and, if any, certificate of sale.

11 (b) Hearing. Upon motion and notice in accordance with
12 court rules applicable to motions generally, which motion shall
13 not be made prior to sale, the court shall conduct a hearing to
14 confirm the sale. Unless the court finds that (i) a notice
15 required in accordance with subsection (c) of Section 15-1507
16 was not given, (ii) the terms of sale were unconscionable,
17 (iii) the sale was conducted fraudulently, or (iv) justice was
18 otherwise not done, the court shall then enter an order
19 confirming the sale. The confirmation order shall include a
20 name, address, and telephone number of the holder of the
21 certificate of sale or deed issued pursuant to that certificate
22 or, if no certificate or deed was issued, the purchaser, whom a
23 municipality or county may contact with concerns about the real

1 estate. The confirmation order may also:

2 (1) approve the mortgagee's fees and costs arising
3 between the entry of the judgment of foreclosure and the
4 confirmation hearing, those costs and fees to be allowable
5 to the same extent as provided in the note and mortgage and
6 in Section 15-1504;

7 (2) provide for a personal judgment against any party
8 for a deficiency; and

9 (3) determine the priority of the judgments of parties
10 who deferred proving the priority pursuant to subsection
11 (h) of Section 15-1506, but the court shall not defer
12 confirming the sale pending the determination of such
13 priority.

14 (b-3) Hearing to confirm sale of abandoned residential
15 property. Upon motion and notice by first-class mail to the
16 last known address of the mortgagor, which motion shall be made
17 prior to the sale and heard by the court at the earliest
18 practicable time after conclusion of the sale, and upon the
19 posting at the property address of the notice required by
20 paragraph (2) of subsection (1) of Section 15-1505.8, the court
21 shall enter an order confirming the sale of the abandoned
22 residential property, unless the court finds that a reason set
23 forth in items (i) through (iv) of subsection (b) of this
24 Section exists for not approving the sale, or an order is
25 entered pursuant to subsection (h) of Section 15-1505.8. The
26 confirmation order also may address the matters identified in

1 items (1) through (3) of subsection (b) of this Section. The
2 notice required under subsection (b-5) of this Section shall
3 not be required.

4 (b-5) Notice with respect to residential real estate. With
5 respect to residential real estate, the notice required under
6 subsection (b) of this Section shall be sent to the mortgagor
7 even if the mortgagor has previously been held in default. In
8 the event the mortgagor has filed an appearance, the notice
9 shall be sent to the address indicated on the appearance. In
10 all other cases, the notice shall be sent to the mortgagor at
11 the common address of the foreclosed property. The notice shall
12 be sent by first class mail. Unless the right to possession has
13 been previously terminated by the court, the notice shall
14 include the following language in 12-point boldface
15 capitalized type:

16 IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO
17 REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF
18 POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE
19 ILLINOIS MORTGAGE FORECLOSURE LAW.

20 (b-10) Notice of confirmation order sent to municipality or
21 county. A copy of the confirmation order required under
22 subsection (b) shall be sent to the municipality in which the
23 foreclosed property is located, or to the county within the
24 boundary of which the foreclosed property is located if the
25 foreclosed property is located in an unincorporated territory.
26 A municipality or county must clearly publish on its website a

1 single address to which such notice shall be sent. If a
2 municipality or county does not maintain a website, then the
3 municipality or county must publicly post in its main office a
4 single address to which such notice shall be sent. In the event
5 that a municipality or county has not complied with the
6 publication requirement in this subsection (b-10), then such
7 notice to the municipality or county shall be provided pursuant
8 to Section 2-211 of the Code of Civil Procedure.

9 (c) Failure to Give Notice. If any sale is held without
10 compliance with subsection (c) of Section 15-1507 of this
11 Article, any party entitled to the notice provided for in
12 paragraph (3) of that subsection (c) who was not so notified
13 may, by motion supported by affidavit made prior to
14 confirmation of such sale, ask the court which entered the
15 judgment to set aside the sale. Any such party shall guarantee
16 or secure by bond a bid equal to the successful bid at the
17 prior sale, unless the party seeking to set aside the sale is
18 the mortgagor, the real estate sold at the sale is residential
19 real estate, and the mortgagor occupies the residential real
20 estate at the time the motion is filed. In that event, no
21 guarantee or bond shall be required of the mortgagor. Any
22 subsequent sale is subject to the same notice requirement as
23 the original sale.

24 (d) Validity of Sale. Except as provided in subsection (c)
25 of Section 15-1508, no sale under this Article shall be held
26 invalid or be set aside because of any defect in the notice

1 thereof or in the publication of the same, or in the
2 proceedings of the officer conducting the sale, except upon
3 good cause shown in a hearing pursuant to subsection (b) of
4 Section 15-1508. At any time after a sale has occurred, any
5 party entitled to notice under paragraph (3) of subsection (c)
6 of Section 15-1507 may recover from the mortgagee any damages
7 caused by the mortgagee's failure to comply with such paragraph
8 (3). Any party who recovers damages in a judicial proceeding
9 brought under this subsection may also recover from the
10 mortgagee the reasonable expenses of litigation, including
11 reasonable attorney's fees.

12 (d-5) Making Home Affordable Program. The court that
13 entered the judgment shall set aside a sale held pursuant to
14 Section 15-1507, upon motion of the mortgagor at any time prior
15 to the confirmation of the sale, if the mortgagor proves by a
16 preponderance of the evidence that (i) the mortgagor has
17 applied for assistance under the Making Home Affordable Program
18 established by the United States Department of the Treasury
19 pursuant to the Emergency Economic Stabilization Act of 2008,
20 as amended by the American Recovery and Reinvestment Act of
21 2009, and (ii) the mortgaged real estate was sold in material
22 violation of the program's requirements for proceeding to a
23 judicial sale. The provisions of this subsection (d-5), except
24 for this sentence, shall become inoperative on January 1, 2013
25 for all actions filed under this Article after December 31,
26 2012, in which the mortgagor did not apply for assistance under

1 the Making Home Affordable Program on or before December 31,
2 2012.

3 (e) Deficiency Judgment. In any order confirming a sale
4 pursuant to the judgment of foreclosure, the court shall also
5 enter a personal judgment for deficiency against any party (i)
6 if otherwise authorized and (ii) to the extent requested in the
7 complaint and proven upon presentation of the report of sale in
8 accordance with Section 15-1508. Except as otherwise provided
9 in this Article, a judgment may be entered for any balance of
10 money that may be found due to the plaintiff, over and above
11 the proceeds of the sale or sales, and enforcement may be had
12 for the collection of such balance, the same as when the
13 judgment is solely for the payment of money. Such judgment may
14 be entered, or enforcement had, only in cases where personal
15 service has been had upon the persons personally liable for the
16 mortgage indebtedness, unless they have entered their
17 appearance in the foreclosure action.

18 (f) Satisfaction. Upon confirmation of the sale, the
19 judgment stands satisfied to the extent of the sale price less
20 expenses and costs. If the order confirming the sale includes a
21 deficiency judgment, the judgment shall become a lien in the
22 manner of any other judgment for the payment of money.

23 (g) The order confirming the sale shall include,
24 notwithstanding any previous orders awarding possession during
25 the pendency of the foreclosure, an award to the purchaser of
26 possession of the mortgaged real estate, as of the date 30 days

1 after the entry of the order, against the parties to the
2 foreclosure whose interests have been terminated.

3 An order of possession authorizing the removal of a person
4 from possession of the mortgaged real estate shall be entered
5 and enforced only against those persons personally named as
6 individuals in the complaint or the petition under subsection
7 (h) of Section 15-1701 and in the order of possession and shall
8 not be entered and enforced against any person who is only
9 generically described as an unknown owner or nonrecord claimant
10 or by another generic designation in the complaint.

11 Notwithstanding the preceding paragraph, the failure to
12 personally name, include, or seek an award of possession of the
13 mortgaged real estate against a person in the confirmation
14 order shall not abrogate any right that the purchaser may have
15 to possession of the mortgaged real estate and to maintain a
16 proceeding against that person for possession under Article 9
17 of this Code or subsection (h) of Section 15-1701; and
18 possession against a person who (1) has not been personally
19 named as a party to the foreclosure and (2) has not been
20 provided an opportunity to be heard in the foreclosure
21 proceeding may be sought only by maintaining a proceeding under
22 Article 9 of this Code or subsection (h) of Section 15-1701.

23 (h) With respect to mortgaged real estate containing 5 or
24 more dwelling units, the order confirming the sale shall also
25 provide that (i) the mortgagor shall transfer to the purchaser
26 the security deposits, if any, that the mortgagor received to

1 secure payment of rent or to compensate for damage to the
2 mortgaged real estate from any current occupant of a dwelling
3 unit of the mortgaged real estate, as well as any statutory
4 interest that has not been paid to the occupant, and (ii) the
5 mortgagor shall provide an accounting of the security deposits
6 that are transferred, including the name and address of each
7 occupant for whom the mortgagor holds the deposit and the
8 amount of the deposit and any statutory interest.

9 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;
10 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.
11 8-26-11.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law."