



Rep. Kelly M. Cassidy

Filed: 5/20/2013

09800SB0056ham001

LRB098 02622 DRJ 46088 a

1 AMENDMENT TO SENATE BILL 56

2 AMENDMENT NO. _____. Amend Senate Bill 56 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 changing Sections 9-121, 9-205, 9-207, 15-1202.5, 15-1501,
6 15-1506, 15-1508, 15-1508.5, 15-1701, 15-1703, and 15-1704 and
7 by adding Sections 9-207.5, 15-1224, and 15-1225 as follows:

8 (735 ILCS 5/9-121)

9 Sec. 9-121. Sealing of court file.

10 (a) Definition. As used in this Section, "court file" means
11 the court file created when a forcible entry and detainer
12 action is filed with the court.

13 (b) Discretionary sealing of court file. The court may
14 order that a court file in a forcible entry and detainer action
15 be placed under seal if the court finds that the plaintiff's
16 action is sufficiently without a basis in fact or law, which

1 may include a lack of jurisdiction, that placing the court file
2 under seal is clearly in the interests of justice, and that
3 those interests are not outweighed by the public's interest in
4 knowing about the record.

5 (c) Mandatory sealing of court file. The court file
6 relating to a forcible entry and detainer action brought
7 against a tenant under Section 9-207.5 of this Code or as set
8 forth in subdivision (h)(6) of Section 15-1701 of this Code
9 shall be placed under seal ~~who would have lawful possession of~~
10 ~~the premises but for the foreclosure on the property shall be~~
11 ~~sealed pursuant to Section 15-1701.~~

12 (Source: P.A. 96-1131, eff. 7-20-10.)

13 (735 ILCS 5/9-205) (from Ch. 110, par. 9-205)

14 Sec. 9-205. Notice to terminate tenancy from year to year.
15 Except as provided in Section 9-206 and Section 9-207.5 of this
16 Act, in all cases of tenancy from year to year, 60 days'
17 notice, in writing, shall be sufficient to terminate the
18 tenancy at the end of the year. The notice may be given at any
19 time within 4 months preceding the last 60 days of the year.

20 (Source: P.A. 82-280.)

21 (735 ILCS 5/9-207) (from Ch. 110, par. 9-207)

22 Sec. 9-207. Notice to terminate tenancy for less than a
23 year.

24 (a) Except as provided in Section 9-207.5 of this Code, in

1 ~~In~~ all cases of tenancy from week to week, where the tenant
2 holds over without special agreement, the landlord may
3 terminate the tenancy by 7 days' notice, in writing, and may
4 maintain an action for forcible entry and detainer or
5 ejectment.

6 (b) Except as provided in Section 9-207.5 of this Code, in
7 ~~In~~ all cases of tenancy for any term less than one year, other
8 than tenancy from week to week, where the tenant holds over
9 without special agreement, the landlord may terminate the
10 tenancy by 30 days' notice, in writing, and may maintain an
11 action for forcible entry and detainer or ejectment.

12 (Source: P.A. 82-280.)

13 (735 ILCS 5/9-207.5 new)

14 Sec. 9-207.5. Termination of bona fide leases in
15 residential real estate in foreclosure.

16 (a) A mortgagee, receiver, holder of the certificate of
17 sale, holder of the deed issued pursuant to that certificate,
18 or, if no certificate or deed was issued, the purchaser at a
19 judicial sale under Section 15-1507 of this Code, who assumes
20 control of the residential real estate in foreclosure, as
21 defined in Section 15-1225 of this Code, may terminate a bona
22 fide lease, as defined in Section 15-1224 of this Code, only:
23 (i) at the end of the term of the bona fide lease, by no less
24 than 90 days' written notice or (ii) in the case of a bona fide
25 lease that is for a month-to-month or week-to-week term, by no

1 less than 90 days' written notice.

2 (b) Notwithstanding the provisions of subsection (a) of
3 this Section, an individual who assumes control of residential
4 real estate in foreclosure pursuant to a judicial sale and who
5 will occupy a dwelling unit of the residential real estate in
6 foreclosure as his or her primary residence may terminate the
7 bona fide lease for the dwelling unit subject to the 90-day
8 notice requirement of subsection (a) of this Section.

9 (c) Nothing in this Section or Section 15-1224 of this Code
10 shall abrogate the rights of a mortgagee, receiver, holder of
11 the certificate of sale, holder of the deed issued pursuant to
12 that certificate, or, if no certificate or deed was issued, the
13 purchaser at a judicial sale, who assumes control of the
14 residential real estate in foreclosure to terminate a bona fide
15 lease of a dwelling unit in residential real estate in
16 foreclosure under Section 9-118, 9-119, 9-120, 9-201, 9-202,
17 9-203, 9-204, 9-209, or 9-210 of this Code.

18 (735 ILCS 5/15-1202.5)

19 Sec. 15-1202.5. Dwelling unit. For the purposes of Sections
20 9-207.5, 15-1506, 15-1508, 15-1508.5, 15-1225, 15-1701,
21 15-1703, and 15-1704 only, "dwelling unit" means a room or
22 suite of rooms providing complete, independent living
23 facilities for at least one person, including permanent
24 provisions for sanitation, cooking, eating, sleeping, and
25 other activities routinely associated with daily life.

1 (Source: P.A. 96-111, eff. 10-29-09; 97-575, eff. 8-26-11.)

2 (735 ILCS 5/15-1224 new)

3 Sec. 15-1224. Bona fide lease.

4 (a) For purposes of Sections 9-207.5, 15-1225, 15-1506,
5 15-1508, and 15-1701 of this Code only, the term "bona fide
6 lease" means a lease of a dwelling unit in residential real
7 estate in foreclosure for which:

8 (1) the mortgagor or the child, spouse, or parent of
9 the mortgagor is not the tenant;

10 (2) the lease was the result of an arms-length
11 transaction;

12 (3) the lease requires the receipt of rent that is not
13 substantially less than fair market rent for the property
14 or the rent is reduced or subsidized pursuant to a federal,
15 State, or local subsidy; and

16 (4) either (i) the lease was entered into or renewed on
17 or before the date of the filing of the lis pendens on the
18 residential real estate in foreclosure pursuant to Section
19 2-1901 of this Code or (ii) the lease was entered into or
20 renewed after the date of the filing of the lis pendens on
21 the residential real estate in foreclosure and before the
22 date of the judicial sale of the residential real estate in
23 foreclosure, and the term of the lease is for one year or
24 less.

25 (b) A written lease for a term exceeding one year that is

1 entered into or renewed after the date of the filing of the lis
2 pendens on the residential real estate in foreclosure pursuant
3 to Section 2-1901 of this Code and before the date of the
4 judicial sale of the residential real estate in foreclosure
5 that otherwise meets the requirements of subsection (a) of this
6 Section shall be deemed to be a bona fide lease for a term of
7 one year.

8 (c) An oral lease entered into at any time before the date
9 of the judicial sale of the residential real estate in
10 foreclosure that otherwise meets the requirements of
11 subsection (a) of this Section shall be deemed to be a bona
12 fide lease for a month-to-month term, unless the lessee proves
13 by a preponderance of evidence that the oral lease is for a
14 longer term. In no event shall an oral lease be deemed to be a
15 bona fide lease for a term of more than one year.

16 (d) A written or oral lease entered into on or after the
17 date of the judicial sale of the residential real estate in
18 foreclosure and before the date of the court order confirming
19 the judicial sale that otherwise meets the requirements of
20 subsection (a) of this Section shall be deemed to be a bona
21 fide lease for a month-to-month term.

22 (e) Notwithstanding paragraph (1) of subsection (a) of this
23 Section, a child, spouse, or parent of the mortgagor may prove
24 by a preponderance of evidence that a written or oral lease
25 that otherwise meets the requirements of subsection (a) of this
26 Section is a bona fide lease.

1 (735 ILCS 5/15-1225 new)

2 Sec. 15-1225. Residential real estate in foreclosure. For
3 purposes of Sections 9-207.5, 15-1224, 15-1506, 15-1508, and
4 15-1701 of this Code only, the term "residential real estate in
5 foreclosure" means any real estate, except a single tract of
6 agricultural real estate consisting of more than 40 acres,
7 which is improved with a single family residence or residential
8 condominium units or a multiple dwelling structure containing
9 single family dwelling units for one or more families living
10 independently of one another, for which an action to foreclose
11 the real estate: (1) has commenced and is pending; (2) was
12 pending when the bona fide lease was entered into or renewed;
13 or (3) was commenced after the bona fide lease was entered into
14 or renewed.

15 (735 ILCS 5/15-1501) (from Ch. 110, par. 15-1501)

16 Sec. 15-1501. Parties.

17 (a) Necessary Parties. For the purposes of Section 2-405 of
18 the Code of Civil Procedure, only (i) the mortgagor and (ii)
19 other persons (but not guarantors) who owe payment of
20 indebtedness or the performance of other obligations secured by
21 the mortgage and against whom personal liability is asserted
22 shall be necessary parties defendant in a foreclosure. The
23 court may proceed to adjudicate their respective interests, but
24 any disposition of the mortgaged real estate shall be subject

1 to (i) the interests of all other persons not made a party or
2 (ii) interests in the mortgaged real estate not otherwise
3 barred or terminated in the foreclosure.

4 (b) Permissible Parties. Any party may join as a party any
5 other person, although such person is not a necessary party,
6 including, without limitation, the following:

7 (1) All persons having a possessory interest in the
8 mortgaged real estate;

9 (2) A mortgagor's spouse who has waived the right of
10 homestead;

11 (3) A trustee holding an interest in the mortgaged real
12 estate or a beneficiary of such trust;

13 (4) The owner or holder of a note secured by a trust
14 deed;

15 (5) Guarantors, provided that in a foreclosure any such
16 guarantor also may be joined as a party in a separate count
17 in an action on such guarantor's guaranty;

18 (6) The State of Illinois or any political subdivision
19 thereof, where a foreclosure involves real estate upon
20 which the State or such subdivision has an interest or
21 claim for lien, in which case "An Act in relation to
22 immunity for the State of Illinois", approved December 10,
23 1971, as amended, shall not be effective;

24 (7) The United States of America or any agency or
25 department thereof where a foreclosure involves real
26 estate upon which the United States of America or such

1 agency or department has an interest or a claim for lien;

2 (8) Any assignee of leases or rents relating to the
3 mortgaged real estate;

4 (9) Any person who may have a lien under the Mechanic's
5 Lien Act; and

6 (10) Any other mortgagee or claimant.

7 (c) Unknown Owners. Any unknown owner may be made a party
8 in accordance with Section 2-413 of the Code of Civil
9 Procedure.

10 (d) Right to Become Party. Any person who has or claims an
11 interest in real estate which is the subject of a foreclosure
12 or an interest in any debt secured by the mortgage shall have
13 an unconditional right to appear and become a party in such
14 foreclosure in accordance with subsection (e) of Section
15 15-1501, provided, that neither such appearance by a lessee
16 whose interest in the real estate is subordinate to the
17 interest being foreclosed, nor the act of making such lessee a
18 party, shall result in the termination of the lessee's lease
19 unless the termination of the lease or lessee's interest in the
20 mortgaged real estate is specifically ordered by the court in
21 the judgment of foreclosure.

22 (e) Time of Intervention.

23 (1) Of Right. A person not a party, other than a
24 nonrecord claimant given notice in accordance with
25 paragraph (2) of subsection (c) of Section 15-1502, who has
26 or claims an interest in the mortgaged real estate may

1 appear and become a party at any time prior to the entry of
2 judgment of foreclosure. A nonrecord claimant given such
3 notice may appear and become a party at any time prior to
4 the earlier of (i) the entry of a judgment of foreclosure
5 or (ii) 30 days after such notice is given.

6 (2) In Court's Discretion. After the right to intervene
7 expires and prior to the sale in accordance with the
8 judgment, the court may permit a person who has or claims
9 an interest in the mortgaged real estate to appear and
10 become a party on such terms as the court may deem just.

11 (3) Later Right. After the sale of the mortgaged real
12 estate in accordance with a judgment of foreclosure and
13 prior to the entry of an order confirming the sale, a
14 person who has or claims an interest in the mortgaged real
15 estate, may appear and become a party, on such terms as the
16 court may deem just, for the sole purpose of claiming an
17 interest in the proceeds of sale. Any such party shall be
18 deemed a party from the commencement of the foreclosure,
19 and the interest of such party in the real estate shall be
20 subject to all orders and judgments entered in the
21 foreclosure.

22 (4) Termination of Interest. Except as provided in
23 Section 15-1501(d), the interest of any person who is
24 allowed to appear and become a party shall be terminated,
25 and the interest of such party in the real estate shall
26 attach to the proceeds of sale.

1 (f) Separate Actions. Any mortgagee or claimant, other than
2 the mortgagee who commences a foreclosure, whose interest in
3 the mortgaged real estate is recorded prior to the filing of a
4 notice of foreclosure in accordance with this Article but who
5 is not made a party to such foreclosure, shall not be barred
6 from filing a separate foreclosure (i) as an intervening
7 defendant or counterclaimant in accordance with subsections
8 (d) and (e) of Section 15-1501 if a judgment of foreclosure has
9 not been entered in the original foreclosure or (ii) in a new
10 foreclosure subsequent to the entry of a judgment of
11 foreclosure in the original foreclosure.

12 (g) Service on the State of Illinois. When making the State
13 of Illinois a party to a foreclosure, summons may be served by
14 sending, by registered or certified mail, a copy of the summons
15 and the complaint to the Attorney General. The complaint shall
16 set forth with particularity the nature of the interest or lien
17 of the State of Illinois. If such interest or lien appears in a
18 recorded instrument, the complaint must state the document
19 number of the instrument and the office wherein it was
20 recorded.

21 (h) Special Representatives. The court is not required to
22 appoint a special representative for a deceased mortgagor for
23 the purpose of defending the action, if there is a living
24 person that holds a 100% interest in the property that is the
25 subject of the action, by virtue of being the deceased
26 mortgagor's surviving joint tenant or surviving tenant by the

1 entirety. In no event may a deficiency judgment be sought or
2 entered in the foreclosure case pursuant to subsection (e) of
3 Section 15-1508 against a deceased mortgagor.

4 (Source: P.A. 88-265.)

5 (735 ILCS 5/15-1506) (from Ch. 110, par. 15-1506)

6 Sec. 15-1506. Judgment.

7 (a) Evidence. In the trial of a foreclosure, the evidence
8 to support the allegations of the complaint shall be taken in
9 open court, except:

10 (1) where an allegation of fact in the complaint is not
11 denied by a party's verified answer or verified
12 counterclaim, or where a party pursuant to subsection (b)
13 of Section 2-610 of the Code of Civil Procedure states, or
14 is deemed to have stated, in its pleading that it has no
15 knowledge of such allegation sufficient to form a belief
16 and attaches the required affidavit, a sworn verification
17 of the complaint or a separate affidavit setting forth such
18 fact is sufficient evidence thereof against such party and
19 no further evidence of such fact shall be required; and

20 (2) where all the allegations of fact in the complaint
21 have been proved by verification of the complaint or
22 affidavit, the court upon motion supported by an affidavit
23 stating the amount which is due the mortgagee, shall enter
24 a judgment of foreclosure as requested in the complaint.

25 (b) Instruments. In all cases the evidence of the

1 indebtedness and the mortgage foreclosed shall be exhibited to
2 the court and appropriately marked, and copies thereof shall be
3 filed with the court.

4 (c) Summary and Default Judgments. Nothing in this Section
5 15-1506 shall prevent a party from obtaining a summary or
6 default judgment authorized by Article II of the Code of Civil
7 Procedure.

8 (d) Notice of Entry of Default. When any judgment in a
9 foreclosure is entered by default, notice of such judgment
10 shall be given in accordance with Section 2-1302 of the Code of
11 Civil Procedure.

12 (e) Matters Required in Judgment. A judgment of foreclosure
13 shall include the last date for redemption and all rulings of
14 the court entered with respect to each request for relief set
15 forth in the complaint. The omission of the date for redemption
16 shall not extend the time for redemption or impair the validity
17 of the judgment.

18 (f) Special Matters in Judgment. Without limiting the
19 general authority and powers of the court, special matters may
20 be included in the judgment of foreclosure if sought by a party
21 in the complaint or by separate motion. Such matters may
22 include, without limitation:

23 (1) a manner of sale other than public auction;

24 (2) a sale by sealed bid;

25 (3) an official or other person who shall be the
26 officer to conduct the sale other than the one customarily

1 designated by the court;

2 (4) provisions for non-exclusive broker listings or
3 designating a duly licensed real estate broker nominated by
4 one of the parties to exclusively list the real estate for
5 sale;

6 (5) the fees or commissions to be paid out of the sale
7 proceeds to the listing or other duly licensed broker, if
8 any, who shall have procured the accepted bid;

9 (6) the fees to be paid out of the sale proceeds to an
10 auctioneer, if any, who shall have been authorized to
11 conduct a public auction sale;

12 (7) whether and in what manner and with what content
13 signs shall be posted on the real estate;

14 (8) a particular time and place at which such bids
15 shall be received;

16 (9) a particular newspaper or newspapers in which
17 notice of sale shall be published;

18 (10) the format for the advertising of such sale,
19 including the size, content and format of such advertising,
20 and additional advertising of such sale;

21 (11) matters or exceptions to which title in the real
22 estate may be subject at the sale;

23 (12) a requirement that title insurance in a specified
24 form be provided to a purchaser at the sale, and who shall
25 pay for such insurance;

26 (13) whether and to what extent bids with mortgage or

1 other contingencies will be allowed;

2 (14) such other matters as approved by the court to
3 ensure sale of the real estate for the most commercially
4 favorable price for the type of real estate involved.

5 (g) Agreement of the Parties. If all of the parties agree
6 in writing on the minimum price and that the real estate may be
7 sold to the first person who offers in writing to purchase the
8 real estate for such price, and on such other commercially
9 reasonable terms and conditions as the parties may agree, then
10 the court shall order the real estate to be sold on such terms,
11 subject to confirmation of the sale in accordance with Section
12 15-1508.

13 (h) Postponement of Proving Priority. With the approval of
14 the court prior to the entry of the judgment of foreclosure, a
15 party claiming an interest in the proceeds of the sale of the
16 mortgaged real estate may defer proving the priority of such
17 interest until the hearing to confirm the sale.

18 (i) Effect of Judgment and Lien.

19 (1) Upon the entry of the judgment of foreclosure, all
20 rights of a party in the foreclosure against the mortgagor
21 provided for in the judgment of foreclosure or this Article
22 shall be secured by a lien on the mortgaged real estate,
23 which lien shall have the same priority as the claim to
24 which the judgment relates and shall be terminated upon
25 confirmation of a judicial sale in accordance with this
26 Article.

1 (2) Upon the entry of the judgment of foreclosure, the
2 rights in the real estate subject to the judgment of
3 foreclosure of (i) all persons made a party in the
4 foreclosure and (ii) all nonrecord claimants given notice
5 in accordance with paragraph (2) of subsection (c) of
6 Section 15-1502, shall be solely as provided for in the
7 judgment of foreclosure and in this Article.

8 (3) Entry of a judgment of foreclosure does not
9 terminate or otherwise affect a bona fide lease of a
10 dwelling unit in residential real estate in foreclosure,
11 whether or not the lessee has been made a party in the
12 foreclosure.

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

14 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

15 (Text of Section before amendment by P.A. 97-1164)

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

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

20 (b) Hearing. Upon motion and notice in accordance with
21 court rules applicable to motions generally, which motion shall
22 not be made prior to sale, the court shall conduct a hearing to
23 confirm the sale. Unless the court finds that (i) a notice
24 required in accordance with subsection (c) of Section 15-1507
25 was not given, (ii) the terms of sale were unconscionable,

1 (iii) the sale was conducted fraudulently, or (iv) justice was
2 otherwise not done, the court shall then enter an order
3 confirming the sale. The confirmation order shall include a
4 name, address, and telephone number of the holder of the
5 certificate of sale or deed issued pursuant to that certificate
6 or, if no certificate or deed was issued, the purchaser, whom a
7 municipality or county may contact with concerns about the real
8 estate. The confirmation order may also:

9 (1) approve the mortgagee's fees and costs arising
10 between the entry of the judgment of foreclosure and the
11 confirmation hearing, those costs and fees to be allowable
12 to the same extent as provided in the note and mortgage and
13 in Section 15-1504;

14 (2) provide for a personal judgment against any party
15 for a deficiency; and

16 (3) determine the priority of the judgments of parties
17 who deferred proving the priority pursuant to subsection
18 (h) of Section 15-1506, but the court shall not defer
19 confirming the sale pending the determination of such
20 priority.

21 (b-5) Notice with respect to residential real estate. With
22 respect to residential real estate, the notice required under
23 subsection (b) of this Section shall be sent to the mortgagor
24 even if the mortgagor has previously been held in default. In
25 the event the mortgagor has filed an appearance, the notice
26 shall be sent to the address indicated on the appearance. In

1 all other cases, the notice shall be sent to the mortgagor at
2 the common address of the foreclosed property. The notice shall
3 be sent by first class mail. Unless the right to possession has
4 been previously terminated by the court, the notice shall
5 include the following language in 12-point boldface
6 capitalized type:

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

11 (b-10) Notice of confirmation order sent to municipality or
12 county. A copy of the confirmation order required under
13 subsection (b) shall be sent to the municipality in which the
14 foreclosed property is located, or to the county within the
15 boundary of which the foreclosed property is located if the
16 foreclosed property is located in an unincorporated territory.
17 A municipality or county must clearly publish on its website a
18 single address to which such notice shall be sent. If a
19 municipality or county does not maintain a website, then the
20 municipality or county must publicly post in its main office a
21 single address to which such notice shall be sent. In the event
22 that a municipality or county has not complied with the
23 publication requirement in this subsection (b-10), then such
24 notice to the municipality or county shall be provided pursuant
25 to Section 2-211 of the Code of Civil Procedure.

26 (c) Failure to Give Notice. If any sale is held without

1 compliance with subsection (c) of Section 15-1507 of this
2 Article, any party entitled to the notice provided for in
3 paragraph (3) of that subsection (c) who was not so notified
4 may, by motion supported by affidavit made prior to
5 confirmation of such sale, ask the court which entered the
6 judgment to set aside the sale. Any such party shall guarantee
7 or secure by bond a bid equal to the successful bid at the
8 prior sale, unless the party seeking to set aside the sale is
9 the mortgagor, the real estate sold at the sale is residential
10 real estate, and the mortgagor occupies the residential real
11 estate at the time the motion is filed. In that event, no
12 guarantee or bond shall be required of the mortgagor. Any
13 subsequent sale is subject to the same notice requirement as
14 the original sale.

15 (d) Validity of Sale. Except as provided in subsection (c)
16 of Section 15-1508, no sale under this Article shall be held
17 invalid or be set aside because of any defect in the notice
18 thereof or in the publication of the same, or in the
19 proceedings of the officer conducting the sale, except upon
20 good cause shown in a hearing pursuant to subsection (b) of
21 Section 15-1508. At any time after a sale has occurred, any
22 party entitled to notice under paragraph (3) of subsection (c)
23 of Section 15-1507 may recover from the mortgagee any damages
24 caused by the mortgagee's failure to comply with such paragraph
25 (3). Any party who recovers damages in a judicial proceeding
26 brought under this subsection may also recover from the

1 mortgagee the reasonable expenses of litigation, including
2 reasonable attorney's fees.

3 (d-5) Making Home Affordable Program. The court that
4 entered the judgment shall set aside a sale held pursuant to
5 Section 15-1507, upon motion of the mortgagor at any time prior
6 to the confirmation of the sale, if the mortgagor proves by a
7 preponderance of the evidence that (i) the mortgagor has
8 applied for assistance under the Making Home Affordable Program
9 established by the United States Department of the Treasury
10 pursuant to the Emergency Economic Stabilization Act of 2008,
11 as amended by the American Recovery and Reinvestment Act of
12 2009, and (ii) the mortgaged real estate was sold in material
13 violation of the program's requirements for proceeding to a
14 judicial sale. The provisions of this subsection (d-5), except
15 for this sentence, shall become inoperative on January 1, 2014
16 for all actions filed under this Article after December 31,
17 2013, in which the mortgagor did not apply for assistance under
18 the Making Home Affordable Program on or before December 31,
19 2013.

20 (e) Deficiency Judgment. In any order confirming a sale
21 pursuant to the judgment of foreclosure, the court shall also
22 enter a personal judgment for deficiency against any party (i)
23 if otherwise authorized and (ii) to the extent requested in the
24 complaint and proven upon presentation of the report of sale in
25 accordance with Section 15-1508. Except as otherwise provided
26 in this Article, a judgment may be entered for any balance of

1 money that may be found due to the plaintiff, over and above
2 the proceeds of the sale or sales, and enforcement may be had
3 for the collection of such balance, the same as when the
4 judgment is solely for the payment of money. Such judgment may
5 be entered, or enforcement had, only in cases where personal
6 service has been had upon the persons personally liable for the
7 mortgage indebtedness, unless they have entered their
8 appearance in the foreclosure action.

9 (f) Satisfaction. Upon confirmation of the sale, the
10 judgment stands satisfied to the extent of the sale price less
11 expenses and costs. If the order confirming the sale includes a
12 deficiency judgment, the judgment shall become a lien in the
13 manner of any other judgment for the payment of money.

14 (g) The order confirming the sale shall include,
15 notwithstanding any previous orders awarding possession during
16 the pendency of the foreclosure, an award to the purchaser of
17 possession of the mortgaged real estate, as of the date 30 days
18 after the entry of the order, against the parties to the
19 foreclosure whose interests have been terminated.

20 An order of possession authorizing the removal of a person
21 from possession of the mortgaged real estate shall be entered
22 and enforced only against those persons personally named as
23 individuals in the complaint or the petition under subsection
24 (h) of Section 15-1701. No order of possession issued under
25 this Section shall be entered against a lessee with a bona fide
26 lease of a dwelling unit in residential real estate in

1 foreclosure, whether or not the lessee has been made a party in
2 the foreclosure. An ~~and in the order of possession and~~ shall
3 not be entered and enforced against any person who is only
4 generically described as an unknown owner or nonrecord claimant
5 or by another generic designation in the complaint.

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

19 (h) With respect to mortgaged real estate containing 5 or
20 more dwelling units, the order confirming the sale shall also
21 provide that (i) the mortgagor shall transfer to the purchaser
22 the security deposits, if any, that the mortgagor received to
23 secure payment of rent or to compensate for damage to the
24 mortgaged real estate from any current occupant of a dwelling
25 unit of the mortgaged real estate, as well as any statutory
26 interest that has not been paid to the occupant, and (ii) the

1 mortgagor shall provide an accounting of the security deposits
2 that are transferred, including the name and address of each
3 occupant for whom the mortgagor holds the deposit and the
4 amount of the deposit and any statutory interest.

5 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;
6 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.
7 8-26-11; 97-1159, eff. 1-29-13.)

8 (Text of Section after amendment by P.A. 97-1164)

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

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

13 (b) Hearing. Upon motion and notice in accordance with
14 court rules applicable to motions generally, which motion shall
15 not be made prior to sale, the court shall conduct a hearing to
16 confirm the sale. Unless the court finds that (i) a notice
17 required in accordance with subsection (c) of Section 15-1507
18 was not given, (ii) the terms of sale were unconscionable,
19 (iii) the sale was conducted fraudulently, or (iv) justice was
20 otherwise not done, the court shall then enter an order
21 confirming the sale. The confirmation order shall include a
22 name, address, and telephone number of the holder of the
23 certificate of sale or deed issued pursuant to that certificate
24 or, if no certificate or deed was issued, the purchaser, whom a
25 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 a copy of the order 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 a copy of the order shall be sent. In
5 the event that a municipality or county has not complied with
6 the publication requirement in this subsection (b-10), then a
7 copy of the order shall be sent by first class mail, postage
8 prepaid, to the chairperson of the county board or county clerk
9 in the case of a county, to the mayor or city clerk in the case
10 of a city, to the president of the board of trustees or village
11 clerk in the case of a village, or to the president or town
12 clerk in the case of a town.

13 (b-15) Notice of confirmation order sent to known insurers.
14 With respect to residential real estate, the party filing the
15 complaint shall send a copy of the confirmation order required
16 under subsection (b) by first class mail, postage prepaid, to
17 the last known property insurer of the foreclosed property.
18 Failure to send or receive a copy of the order shall not impair
19 or abrogate in any way the rights of the mortgagee or purchaser
20 or affect the status of the foreclosure proceedings.

21 (c) Failure to Give Notice. If any sale is held without
22 compliance with subsection (c) of Section 15-1507 of this
23 Article, any party entitled to the notice provided for in
24 paragraph (3) of that subsection (c) who was not so notified
25 may, by motion supported by affidavit made prior to
26 confirmation of such sale, ask the court which entered the

1 judgment to set aside the sale. Any such party shall guarantee
2 or secure by bond a bid equal to the successful bid at the
3 prior sale, unless the party seeking to set aside the sale is
4 the mortgagor, the real estate sold at the sale is residential
5 real estate, and the mortgagor occupies the residential real
6 estate at the time the motion is filed. In that event, no
7 guarantee or bond shall be required of the mortgagor. Any
8 subsequent sale is subject to the same notice requirement as
9 the original sale.

10 (d) Validity of Sale. Except as provided in subsection (c)
11 of Section 15-1508, no sale under this Article shall be held
12 invalid or be set aside because of any defect in the notice
13 thereof or in the publication of the same, or in the
14 proceedings of the officer conducting the sale, except upon
15 good cause shown in a hearing pursuant to subsection (b) of
16 Section 15-1508. At any time after a sale has occurred, any
17 party entitled to notice under paragraph (3) of subsection (c)
18 of Section 15-1507 may recover from the mortgagee any damages
19 caused by the mortgagee's failure to comply with such paragraph
20 (3). Any party who recovers damages in a judicial proceeding
21 brought under this subsection may also recover from the
22 mortgagee the reasonable expenses of litigation, including
23 reasonable attorney's fees.

24 (d-5) Making Home Affordable Program. The court that
25 entered the judgment shall set aside a sale held pursuant to
26 Section 15-1507, upon motion of the mortgagor at any time prior

1 to the confirmation of the sale, if the mortgagor proves by a
2 preponderance of the evidence that (i) the mortgagor has
3 applied for assistance under the Making Home Affordable Program
4 established by the United States Department of the Treasury
5 pursuant to the Emergency Economic Stabilization Act of 2008,
6 as amended by the American Recovery and Reinvestment Act of
7 2009, and (ii) the mortgaged real estate was sold in material
8 violation of the program's requirements for proceeding to a
9 judicial sale. The provisions of this subsection (d-5), except
10 for this sentence, shall become inoperative on January 1, 2014
11 for all actions filed under this Article after December 31,
12 2013, in which the mortgagor did not apply for assistance under
13 the Making Home Affordable Program on or before December 31,
14 2013.

15 (e) Deficiency Judgment. In any order confirming a sale
16 pursuant to the judgment of foreclosure, the court shall also
17 enter a personal judgment for deficiency against any party (i)
18 if otherwise authorized and (ii) to the extent requested in the
19 complaint and proven upon presentation of the report of sale in
20 accordance with Section 15-1508. Except as otherwise provided
21 in this Article, a judgment may be entered for any balance of
22 money that may be found due to the plaintiff, over and above
23 the proceeds of the sale or sales, and enforcement may be had
24 for the collection of such balance, the same as when the
25 judgment is solely for the payment of money. Such judgment may
26 be entered, or enforcement had, only in cases where personal

1 service has been had upon the persons personally liable for the
2 mortgage indebtedness, unless they have entered their
3 appearance in the foreclosure action.

4 (f) Satisfaction. Upon confirmation of the sale, the
5 judgment stands satisfied to the extent of the sale price less
6 expenses and costs. If the order confirming the sale includes a
7 deficiency judgment, the judgment shall become a lien in the
8 manner of any other judgment for the payment of money.

9 (g) The order confirming the sale shall include,
10 notwithstanding any previous orders awarding possession during
11 the pendency of the foreclosure, an award to the purchaser of
12 possession of the mortgaged real estate, as of the date 30 days
13 after the entry of the order, against the parties to the
14 foreclosure whose interests have been terminated.

15 An order of possession authorizing the removal of a person
16 from possession of the mortgaged real estate shall be entered
17 and enforced only against those persons personally named as
18 individuals in the complaint or the petition under subsection
19 (h) of Section 15-1701. No order of possession issued under
20 this Section shall be entered against a lessee with a bona fide
21 lease of a dwelling unit in residential real estate in
22 foreclosure, whether or not the lessee has been made a party in
23 the foreclosure. An ~~and in the~~ order ~~of possession and~~ shall
24 not be entered and enforced against any person who is only
25 generically described as an unknown owner or nonrecord claimant
26 or by another generic designation in the complaint.

1 Notwithstanding the preceding paragraph, the failure to
2 personally name, include, or seek an award of possession of the
3 mortgaged real estate against a person in the confirmation
4 order shall not abrogate any right that the purchaser may have
5 to possession of the mortgaged real estate and to maintain a
6 proceeding against that person for possession under Article IX
7 ~~9~~ of this Code or, if applicable, under subsection (h) of
8 Section 15-1701; and possession against a person who (1) has
9 not been personally named as a party to the foreclosure and (2)
10 has not been provided an opportunity to be heard in the
11 foreclosure proceeding may be sought only by maintaining a
12 proceeding under Article IX ~~9~~ of this Code or, if applicable,
13 under subsection (h) of Section 15-1701.

14 (h) With respect to mortgaged real estate containing 5 or
15 more dwelling units, the order confirming the sale shall also
16 provide that (i) the mortgagor shall transfer to the purchaser
17 the security deposits, if any, that the mortgagor received to
18 secure payment of rent or to compensate for damage to the
19 mortgaged real estate from any current occupant of a dwelling
20 unit of the mortgaged real estate, as well as any statutory
21 interest that has not been paid to the occupant, and (ii) the
22 mortgagor shall provide an accounting of the security deposits
23 that are transferred, including the name and address of each
24 occupant for whom the mortgagor holds the deposit and the
25 amount of the deposit and any statutory interest.

26 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;

1 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.
2 8-26-11; 97-1159, eff. 1-29-13; 97-1164, eff. 6-1-13; revised
3 2-22-13.)

4 (735 ILCS 5/15-1508.5)

5 Sec. 15-1508.5. Notice by holder or purchaser to known
6 occupants of dwelling units of mortgaged real estate.

7 (a) The holder of the certificate of sale or deed issued
8 pursuant to that certificate or, if no certificate or deed was
9 issued, the purchaser, shall:

10 (1) following the judicial sale under Section 15-1507,
11 but no later than 21 days after the confirmation of sale
12 under Section 15-1508, make a good faith effort to
13 ascertain the identities and addresses of all occupants of
14 dwelling units of the mortgaged real estate; and

15 (2) following the order confirming sale under Section
16 15-1508, but no later than 21 days after the order
17 confirming sale, notify all known occupants of dwelling
18 units of the mortgaged real estate that the holder or
19 purchaser has acquired the mortgaged real estate. The
20 notice shall be in writing and shall:

21 (i) identify the occupant being served by the name
22 known to the holder or purchaser;

23 (ii) inform the occupant that the mortgaged real
24 estate at which the dwelling unit is located is the
25 subject of a foreclosure and that control of the

1 mortgaged real estate has changed;

2 (iii) provide the name, address, and telephone
3 number of an individual or entity whom the occupants
4 may contact with concerns about the mortgaged real
5 estate or to request repairs of that property;

6 (iv) include the following language, or language
7 that is substantially similar: "This is NOT a notice to
8 vacate the premises. You may wish to contact a lawyer
9 or your local legal aid or housing counseling agency to
10 discuss any rights that you may have."; ~~and~~

11 (v) include the name of the case, the case number,
12 and the court where the order confirming the sale has
13 been entered; and -

14 (vi) provide instructions on the method of payment
15 of future rent, if applicable.

16 (b) The written notice required by subsection (a) of this
17 Section shall be served by delivering a copy thereof to the
18 known occupant, or by leaving the same with some person of the
19 age of 13 years or upwards who is residing on or in possession
20 of the premises, or by sending a copy of the notice to the
21 known occupant by first-class mail, addressed to the occupant
22 by the name known to the holder or purchaser.

23 (c) In the event that the holder or purchaser ascertains
24 the identity and address of an occupant of a dwelling unit of
25 the mortgaged real estate more than 21 days after the
26 confirmation of sale under Section 15-1508, the holder or

1 purchaser shall provide the notice required by subparagraph (2)
2 of subsection (a) within 7 days of ascertaining the identity
3 and address of the occupant.

4 (d)(i) A holder or purchaser who fails to comply with
5 subsections (a), (b), and (c) may not collect any rent due and
6 owing from a known occupant, or terminate a known occupant's
7 tenancy for non-payment of such rent, until the holder or
8 purchaser has served the notice described in paragraph (2) of
9 subsection (a) of this Section upon the known occupant. After
10 providing such notice, the holder or purchaser may collect any
11 and all rent otherwise due and owing the holder or purchaser
12 from the known occupant and may terminate the known occupant's
13 tenancy for non-payment of such rent if the holder or purchaser
14 otherwise has such right to terminate.

15 (ii) An occupant who previously paid rent for the current
16 rental period to the mortgagor, or other entity with the
17 authority to operate, manage, and conserve the mortgaged real
18 estate at the time of payment, shall not be held liable for
19 that rent by the holder or purchaser, and the occupant's
20 tenancy shall not be terminated for non-payment of rent for
21 that rental period.

22 (e) Within 21 days of the confirmation of sale under
23 Section 15-1508, the holder or purchaser shall post a written
24 notice on the primary entrance of each dwelling unit subject to
25 the foreclosure action. This notice shall:

26 (i) inform occupant that the dwelling unit is the

1 subject of a foreclosure action and that control of the
2 mortgaged real estate has changed;

3 (ii) include the following language: "This is NOT a
4 notice to vacate the premises."; ~~and~~

5 (iii) provide the name, address, and telephone number
6 of the individual or entity whom occupants may contact with
7 concerns about the mortgaged real estate or to request
8 repairs of the property; and-

9 (iv) provide instructions on the method of payment of
10 future rent, if applicable.

11 (f)(i) The provisions of subsection (d) of this Section
12 shall be the exclusive remedy for the failure of a holder or
13 purchaser to provide notice to a known occupant under this
14 Section.

15 (ii) This Section shall not abrogate any right that a
16 holder or purchaser may have to possession of the mortgaged
17 real estate and to maintain a proceeding against an occupant of
18 a dwelling unit for possession under Article IX ~~9~~ of this Code
19 or subsection (h) of Section 15-1701.

20 (iii) In the event that the holder or purchaser is a
21 mortgagee in possession of the mortgaged real estate pursuant
22 to Section 15-1703 at the time of the confirmation of sale and
23 has complied with requirements of subsection (a-5) of Section
24 15-1703, the holder or purchaser is excused from the
25 requirements of subsections (a) and (e) of this Section.

26 (iv) A holder or purchaser is not required to provide the

1 notice required by this Section to a mortgagor or party against
2 whom an order of possession has been entered authorizing the
3 removal of the mortgagor or party pursuant to subsection (g) of
4 Section 15-1508.

5 (Source: P.A. 96-111, eff. 10-29-09.)

6 (735 ILCS 5/15-1701) (from Ch. 110, par. 15-1701)

7 Sec. 15-1701. Right to possession.

8 (a) General. The provisions of this Article shall govern
9 the right to possession of the mortgaged real estate during
10 foreclosure. Possession under this Article includes physical
11 possession of the mortgaged real estate to the same extent to
12 which the mortgagor, absent the foreclosure, would have been
13 entitled to physical possession. For the purposes of Part 17,
14 real estate is residential real estate only if it is
15 residential real estate at the time the foreclosure is
16 commenced.

17 (b) Pre-Judgment. Prior to the entry of a judgment of
18 foreclosure:

19 (1) In the case of residential real estate, the
20 mortgagor shall be entitled to possession of the real
21 estate except if (i) the mortgagee shall object and show
22 good cause, (ii) the mortgagee is so authorized by the
23 terms of the mortgage or other written instrument, and
24 (iii) the court is satisfied that there is a reasonable
25 probability that the mortgagee will prevail on a final

1 hearing of the cause, the court shall upon request place
2 the mortgagee in possession. If the residential real estate
3 consists of more than one dwelling unit, then for the
4 purpose of this Part residential real estate shall mean
5 only that dwelling unit or units occupied by persons
6 described in clauses (i), (ii) and (iii) of Section
7 15-1219.

8 (2) In all other cases, if (i) the mortgagee is so
9 authorized by the terms of the mortgage or other written
10 instrument, and (ii) the court is satisfied that there is a
11 reasonable probability that the mortgagee will prevail on a
12 final hearing of the cause, the mortgagee shall upon
13 request be placed in possession of the real estate, except
14 that if the mortgagor shall object and show good cause, the
15 court shall allow the mortgagor to remain in possession.

16 (c) Judgment Through 30 Days After Sale Confirmation. After
17 the entry of a judgment of foreclosure and through the 30th day
18 after a foreclosure sale is confirmed:

19 (1) Subsection (b) of Section 15-1701 shall be
20 applicable, regardless of the provisions of the mortgage or
21 other instrument, except that after a sale pursuant to the
22 judgment the holder of the certificate of sale (or, if
23 none, the purchaser at the sale) shall have the mortgagee's
24 right to be placed in possession, with all rights and
25 duties of a mortgagee in possession under this Article.

26 (2) Notwithstanding paragraph (1) of subsection (b)

1 and paragraph (1) of subsection (c) of Section 15-1701,
2 upon request of the mortgagee, a mortgagor of residential
3 real estate shall not be allowed to remain in possession
4 between the expiration of the redemption period and through
5 the 30th day after sale confirmation unless (i) the
6 mortgagor pays to the mortgagee or such holder or
7 purchaser, whichever is applicable, monthly the lesser of
8 the interest due under the mortgage calculated at the
9 mortgage rate of interest applicable as if no default had
10 occurred or the fair rental value of the real estate, or
11 (ii) the mortgagor otherwise shows good cause. Any amounts
12 paid by the mortgagor pursuant to this subsection shall be
13 credited against the amounts due from the mortgagor.

14 (d) After 30 Days After Sale Confirmation. The holder of
15 the certificate of sale or deed issued pursuant to that
16 certificate or, if no certificate or deed was issued, the
17 purchaser, except to the extent the holder or purchaser may
18 consent otherwise, shall be entitled to possession of the
19 mortgaged real estate, as of the date 30 days after the order
20 confirming the sale is entered, against those parties to the
21 foreclosure whose interests the court has ordered terminated,
22 without further notice to any party, further order of the
23 court, or resort to proceedings under any other statute other
24 than this Article. This right to possession shall be limited by
25 the provisions governing entering and enforcing orders of
26 possession under subsection (g) of Section 15-1508. If the

1 holder or purchaser determines that there are occupants of the
2 mortgaged real estate who have not been made parties to the
3 foreclosure and had their interests terminated therein, the
4 holder or purchaser may bring a proceeding under subsection (h)
5 of this Section, if applicable, or under Article IX 9 of this
6 Code to terminate the rights of possession of any such
7 occupants. The holder or purchaser shall not be entitled to
8 proceed against any such occupant under Article IX 9 of this
9 Code until after 30 days after the order confirming the sale is
10 entered.

11 (e) Termination of Leases. A lease of all or any part of
12 the mortgaged real estate shall not be terminated automatically
13 solely by virtue of the entry into possession by (i) a
14 mortgagee or receiver prior to the entry of an order confirming
15 the sale, (ii) the holder of the certificate of sale, (iii) the
16 holder of the deed issued pursuant to that certificate, or (iv)
17 if no certificate or deed was issued, the purchaser at the
18 sale.

19 (f) Other Statutes; Instruments. The provisions of this
20 Article providing for possession of mortgaged real estate shall
21 supersede any other inconsistent statutory provisions. In
22 particular, and without limitation, whenever a receiver is
23 sought to be appointed in any action in which a foreclosure is
24 also pending, a receiver shall be appointed only in accordance
25 with this Article. Except as may be authorized by this Article,
26 no mortgage or other instrument may modify or supersede the

1 provisions of this Article.

2 (g) Certain Leases. Leases of the mortgaged real estate
3 entered into by a mortgagee in possession or a receiver and
4 approved by the court in a foreclosure shall be binding on all
5 parties, including the mortgagor after redemption, the
6 purchaser at a sale pursuant to a judgment of foreclosure and
7 any person acquiring an interest in the mortgaged real estate
8 after entry of a judgment of foreclosure in accordance with
9 Sections 15-1402 and 15-1403.

10 (h) Proceedings Against Certain Occupants.

11 (1) The mortgagee-in-possession of the mortgaged real
12 estate under Section 15-1703, a receiver appointed under
13 Section 15-1704, a holder of the certificate of sale or
14 deed, or the purchaser may, at any time during the pendency
15 of the foreclosure and up to 90 days after the date of the
16 order confirming the sale, file a supplemental petition for
17 possession against a person not personally named as a party
18 to the foreclosure. This subsection (h) does not apply to
19 any lessee with a bona fide lease of a dwelling unit in
20 residential real estate in foreclosure.

21 (2) The supplemental petition for possession shall
22 name each such occupant against whom possession is sought
23 and state the facts upon which the claim for relief is
24 premised.

25 (3) ~~(2)~~ The petitioner shall serve upon each named
26 occupant the petition, a notice of hearing on the petition,

1 and, if any, a copy of the certificate of sale or deed. The
2 proceeding for the termination of such occupant's
3 possessory interest, including service of the notice of the
4 hearing and the petition, shall in all respects comport
5 with the requirements of Article IX ~~9~~ of this Code, except
6 as otherwise specified in this Section. The hearing shall
7 be no less than 21 days from the date of service of the
8 notice.

9 (4) ~~(3)~~ The supplemental petition shall be heard as
10 part of the foreclosure proceeding and without the payment
11 of additional filing fees. An order for possession obtained
12 under this Section shall name each occupant whose interest
13 has been terminated, shall recite that it is only effective
14 as to the occupant so named and those holding under them,
15 and shall be enforceable for no more than 120 days after
16 its entry, except that the 120-day period may be extended
17 to the extent and in the manner provided in Section 9-117
18 of Article IX ~~9~~ and except as provided in item (5) ~~(4)~~ of
19 this subsection (h).

20 (5) ~~(4)~~ In a case of foreclosure where the occupant is
21 current on his or her rent, or where timely written notice
22 of to whom and where the rent is to be paid has not been
23 provided to the occupant, or where the occupant has made
24 good-faith efforts to make rental payments in order to keep
25 current, any order of possession must allow the occupant to
26 retain possession of the property covered in his or her

1 rental agreement (i) for 120 days following the notice of
2 the hearing on the supplemental petition that has been
3 properly served upon the occupant, or (ii) through the
4 duration of his or her lease, whichever is shorter,
5 provided that if the duration of his or her lease is less
6 than 30 days from the date of the order, the order shall
7 allow the occupant to retain possession for 30 days from
8 the date of the order. A mortgagee in possession, receiver,
9 holder of a certificate of sale or deed, or purchaser at
10 the judicial sale, who asserts that the occupant is not
11 current in rent, shall file an affidavit to that effect in
12 the supplemental petition proceeding. If the occupant has
13 been given timely written notice of to whom and where the
14 rent is to be paid, this item (5) ~~(4)~~ shall only apply if
15 the occupant continues to pay his or her rent in full
16 during the 120-day period or has made good-faith efforts to
17 pay the rent in full during that period. ~~No~~
18 ~~mortgagee in possession, receiver or holder of a~~
19 ~~certificate of sale or deed, or purchaser who fails to file~~
20 ~~a supplemental petition under this subsection during the~~
21 ~~pendency of a mortgage foreclosure shall file a forcible~~
22 ~~entry and detainer action against an occupant of the~~
23 ~~mortgaged real estate until 90 days after a notice of~~
24 ~~intent to file such action has been properly served upon~~
25 ~~the occupant.~~

26 (6) ~~(5)~~ The court records relating to a supplemental

1 petition for possession filed under this subsection (h)
2 against an occupant who is entitled to notice under item
3 (5) ~~(4)~~ of this subsection (h), or relating to a forcible
4 entry and detainer action brought against an occupant who
5 would have lawful possession of the premises but for the
6 foreclosure of a mortgage on the property, shall be ordered
7 sealed and shall not be disclosed to any person, other than
8 a law enforcement officer or any other representative of a
9 governmental entity, except upon further order of the
10 court.

11 (i) Termination of bona fide leases. The holder of the
12 certificate of sale, the holder of the deed issued pursuant to
13 that certificate, or, if no certificate or deed was issued, the
14 purchaser at the sale shall not terminate a bona fide lease of
15 a dwelling unit in residential real estate in foreclosure
16 except pursuant to Article IX of this Code.

17 (Source: P.A. 95-262, eff. 1-1-08; 95-933, eff. 8-26-08; 96-60,
18 eff. 7-23-09; 96-111, eff. 10-29-09; 96-1000, eff. 7-2-10.)

19 (735 ILCS 5/15-1703) (from Ch. 110, par. 15-1703)

20 Sec. 15-1703. Mortgagee in Possession.

21 (a) Powers and Duties. A mortgagee placed in possession of
22 the real estate pursuant to Section 15-1701 or Section 15-1702
23 shall have:

24 (1) such power and authority with respect to the real
25 estate and other property subject to the mortgage,

1 including the right to receive the rents, issues and
2 profits thereof, as may have been conferred upon the
3 mortgagee by the terms of the mortgage or other written
4 instrument authorizing the taking of possession;

5 (2) all other rights and privileges of a mortgagee in
6 possession under law not inconsistent herewith; and

7 (3) the same powers, duties and liabilities as a
8 receiver appointed for the real estate in accordance with
9 this Article. If an order placing a mortgagee in possession
10 is modified, revoked or set aside, the mortgagee shall not
11 be liable for any damages to the extent such damages arise
12 solely out of the fact that the mortgagor was removed from
13 possession or that the mortgagee was placed in possession.

14 (a-5) Notice to occupants.

15 (1) Following the order placing the mortgagee in
16 possession of the mortgaged real estate, but no later than
17 21 days after the entry of such order, the mortgagee in
18 possession shall make a good faith effort to ascertain the
19 identities and addresses of all occupants of dwelling units
20 of the mortgaged real estate.

21 (2) Following the order placing the mortgagee in
22 possession of the mortgaged real estate, but no later than
23 21 days after the entry of such order, the mortgagee in
24 possession shall notify all known occupants of dwelling
25 units of the mortgaged real estate that the mortgagee has
26 taken possession of the mortgaged real estate. The notice

1 shall be in writing and shall:

2 (i) identify the occupant being served by the name
3 known to the mortgagee in possession;

4 (ii) inform the occupant that the mortgaged real
5 estate at which the dwelling unit is located is the
6 subject of a foreclosure action and that control of the
7 mortgaged real estate has changed;

8 (iii) provide the name, address, and telephone
9 number of the individual or entity whom occupants may
10 contact with concerns about the mortgaged real estate
11 or to request repairs of that property;

12 (iv) include the following language, or language
13 that is substantially similar: "This is NOT a notice to
14 vacate the premises. You may wish to contact a lawyer
15 or your local legal aid or housing counseling agency to
16 discuss any rights that you may have."; ~~and~~

17 (v) include the name of the case, the case number,
18 and the court where the foreclosure action is pending;
19 and -

20 (vi) provide instructions on the method of payment
21 of future rent, if applicable.

22 (3) The written notice required by item (2) of this
23 subsection (a-5) shall be served by delivering a copy
24 thereof to the known occupant, or by leaving the same with
25 some person of the age of 13 years or upwards, who is
26 residing on or in possession of the premises; or by sending

1 a copy of the notice to the known occupant by first-class
2 mail, addressed to the occupant by the name known to the
3 mortgagee in possession.

4 (4) In the event that a mortgagee in possession
5 ascertains the identity and address of an occupant of a
6 dwelling unit of the mortgaged real estate more than 21
7 days after being placed in possession of the mortgaged real
8 estate pursuant to Section 15-1703, the mortgagee in
9 possession shall provide the notice required by item (2) of
10 this subsection (a-5) within 7 days of ascertaining the
11 identity and address of the occupant.

12 (5) (i) A mortgagee in possession who fails to comply
13 with items (1), (2), (3), and (4) of this subsection (a-5)
14 may not collect any rent due and owing from a known
15 occupant, or terminate a known occupant's tenancy for
16 non-payment of such rent, until the mortgagee in possession
17 has served the notice described in item (2) of this
18 subsection (a-5) upon the known occupant. After providing
19 such notice, the mortgagee in possession may collect any
20 and all rent otherwise due and owing the mortgagee in
21 possession from the known occupant and may terminate the
22 known occupant's tenancy for non-payment of such rent if
23 the mortgagee in possession otherwise has such right to
24 terminate.

25 (ii) An occupant who previously paid rent for the
26 current rental period to the mortgagor, or other entity

1 with the authority to operate, manage, and conserve the
2 mortgaged real estate at the time of payment, shall not be
3 held liable for that rent by the mortgagee in possession,
4 and the occupant's tenancy shall not be terminated for
5 non-payment of rent for that rental period.

6 (6) Within 21 days of the order placing the mortgagee
7 in possession of the mortgaged real estate, the mortgagee
8 in possession shall post a written notice on the primary
9 entrance of each dwelling unit subject to the foreclosure
10 action that informs the occupants that the mortgagee in
11 possession is now operating and managing the mortgaged real
12 estate. This notice shall:

13 (i) inform occupant that the dwelling unit is the
14 subject of a foreclosure action and that control of the
15 mortgaged real estate has changed;

16 (ii) include the following language: "This is NOT a
17 notice to vacate the premises."; ~~and~~

18 (iii) provide the name, address, and telephone
19 number of the individual or entity whom occupants may
20 contact with concerns about the mortgaged real estate
21 or to request repairs of the property; and -

22 (iv) provide instructions on the method of payment
23 of future rent, if applicable.

24 (7) (i) The provisions of item (5) of this subsection
25 (a-5) shall be the exclusive remedy for the failure of a
26 mortgagee in possession to provide notice to a known

1 occupant under this Section.

2 (ii) This Section shall not abrogate any right that a
3 mortgagee in possession may have to possession of the
4 mortgaged real estate and to maintain a proceeding against
5 an occupant of a dwelling unit for possession under Article
6 IX ~~9~~ of this Code or subsection (h) of Section 15-1701.

7 (b) Fees and Expenses. A mortgagee in possession shall not
8 be entitled to any fees for so acting, but shall be entitled to
9 reimbursement for reasonable costs, expenses and third party
10 management fees incurred in connection with such possession.

11 (Source: P.A. 96-111, eff. 10-29-09.)

12 (735 ILCS 5/15-1704) (from Ch. 110, par. 15-1704)

13 Sec. 15-1704. Receivers.

14 (a) Receiver. Notwithstanding the provisions of
15 subsections (b), (c) and (d) of Section 15-1701, and except as
16 provided in Section 15-1702, upon request of any party and a
17 showing of good cause, the court shall appoint a receiver for
18 the mortgaged real estate.

19 (b) Powers. A receiver appointed pursuant to this Article
20 shall have possession of the mortgaged real estate and other
21 property subject to the mortgage during the foreclosure, shall
22 have full power and authority to operate, manage and conserve
23 such property, and shall have all the usual powers of receivers
24 in like cases. Without limiting the foregoing, a receiver shall
25 have the power and authority to:

1 (1) secure tenants and execute leases for the real
2 estate, the duration and terms of which are reasonable and
3 customary for the type of use involved, and such leases
4 shall have the same priority as if made by the owner of the
5 real estate; but, unless approved by the Court, the
6 receiver shall not execute oil, gas or other mineral
7 leases, or (even if otherwise allowed by law) leases
8 extending beyond the time of the receiver's possession;
9 provided, however, with respect to residential real estate
10 leased by the receiver, nothing in this Section shall
11 affect the legal rights of any lessee with respect to the
12 safety and habitability of the residential real estate;

13 (2) collect the rents, issues and profits from the
14 mortgaged real estate;

15 (3) insure the mortgaged real estate against loss by
16 fire or other casualty;

17 (4) employ counsel, custodians, janitors and other
18 help; and

19 (5) pay taxes which may have been or may be levied
20 against the mortgaged real estate.

21 (c) Duties. A receiver appointed pursuant to this Article
22 must manage the mortgaged real estate as would a prudent
23 person, taking into account the effect of the receiver's
24 management on the interest of the mortgagor. A receiver may,
25 without an order of the court, delegate managerial functions to
26 a person in the business of managing real estate of the kind

1 involved who is financially responsible, not related to the
2 mortgagee or receiver and prudently selected. However, the
3 receiver shall remain responsible to the mortgagor or other
4 persons for the acts or omissions of such management agent.
5 When fees are paid to such a management agent, the receiver's
6 fees may be adjusted to the extent the court deems appropriate.
7 In managing the mortgaged real estate and other property
8 subject to the mortgage, a receiver or receiver's delegate, to
9 the extent the receiver receives sufficient receipts from the
10 mortgaged real estate, such other property or other sources,
11 except to the extent ordered otherwise by the court:

12 (1) shall maintain the existing casualty and liability
13 insurance required in accordance with the mortgage or
14 applicable to the real estate and other property subject to
15 the mortgage at the time the receiver took possession;

16 (2) shall use reasonable efforts to maintain the real
17 estate and other property subject to the mortgage in at
18 least as good condition as existed at the time the receiver
19 took possession, excepting reasonable wear and tear and
20 damage by any casualty;

21 (2.5) shall accept all rental payments from an occupant
22 of the mortgaged property, and any payments from a third
23 party or any rental assistance program in support of an
24 occupant's housing;

25 (3) shall apply receipts to payment of ordinary
26 operating expenses, including royalties, rents and other

1 expenses of management;

2 (4) shall pay any shared or common expense assessments
3 due to any association of owners of interests in real
4 estate to the extent that such assessments are or may
5 become a lien against the mortgaged real estate;

6 (5) may pay the amounts due under any mortgage if the
7 mortgagee thereof is not a party in the foreclosure;

8 (6) may carry such additional casualty and liability
9 insurance as is reasonably available and reasonable as to
10 amounts and risks covered;

11 (7) may make other repairs and improvements necessary
12 to comply with building, housing, and other similar codes
13 or with existing contractual obligations affecting the
14 mortgaged real estate;

15 (8) may hold receipts as reserves reasonably required
16 for the foregoing purposes; and

17 (9) may take such other actions as may be reasonably
18 necessary to conserve the mortgaged real estate and other
19 property subject to the mortgage, or as otherwise
20 authorized by the court.

21 (d) Allocation of Receipts. Receipts received from
22 operation of the real estate and other property subject to the
23 mortgage by the receiver shall be applied in the following
24 order of priority.

25 (1) to reimbursement of the receiver for all reasonable
26 costs and expenses incurred by the receiver or the

1 receiver's delegates;

2 (2) to payment of insurance premiums authorized in
3 paragraph (1) of subsection (c) of Section 15-1704;

4 (3) to payment of the receiver's delegates of any
5 reasonable management fees for managing real estate of the
6 type involved;

7 (4) to payment of receiver's fees allowed by the court;

8 (5) to payment of expenses authorized in paragraphs
9 (2), (3) and (4) of subsection (c) of Section 15-1704;

10 (6) to payment of amounts authorized in paragraph (5)
11 of subsection (c) of Section 15-1704;

12 (7) to payment of expenses authorized in paragraphs (6)
13 and (7) of subsection (c) of Section 15-1704; and

14 (8) the balance, if any, shall be held or disbursed as
15 ordered by the court.

16 (e) Non-Liability for Allocations. A receiver shall in no
17 event be liable to any person for the allocation of, or failure
18 to allocate, receipts to possible expenditures within the same
19 priority category.

20 (f) Notice to occupants.

21 (1) Following an order appointing a receiver pursuant
22 to Section 15-1704, but no later than 21 days after the
23 entry of such order, the appointed receiver shall make a
24 good faith effort to ascertain the identities and addresses
25 of all occupants of dwelling units of the mortgaged real
26 estate.

1 (2) Following an order appointing a receiver pursuant
2 to Section 15-1704, but no later than 21 days after the
3 entry of such order, the appointed receiver shall notify
4 all known occupants of dwelling units of the mortgaged real
5 estate that the receiver has been appointed receiver of the
6 mortgaged real estate. Such notice shall be in writing and
7 shall:

8 (i) identify the occupant being served by the name
9 known to the receiver;

10 (ii) inform the occupant that the mortgaged real
11 estate at which the dwelling unit is located is the
12 subject of a foreclosure action and that control of the
13 mortgaged real estate has changed;

14 (iii) provide the name, address, and telephone
15 number of the individual or entity whom occupants may
16 contact with concerns about the mortgaged real estate
17 or to request repairs of that property;

18 (iv) include the following language, or language
19 that is substantially similar: "This is NOT a notice to
20 vacate the premises. You may wish to contact a lawyer
21 or your local legal aid or housing counseling agency to
22 discuss any rights that you may have."; ~~and~~

23 (v) include the name of the case, the case number,
24 and the court where the foreclosure action is pending;
25 and -

26 (vi) provide instructions on the method of payment

1 of future rent, if applicable.

2 (3) The written notice required by item (2) of this
3 subsection (f) shall be served by delivering a copy thereof
4 to the known occupant, or by leaving the same with some
5 person of the age of 13 years or upwards, who is residing
6 on or in possession of the premises; or by sending a copy
7 of the notice to the known occupant by first-class mail,
8 addressed to the occupant by the name known to the
9 receiver.

10 (4) In the event that a receiver ascertains the
11 identity and address of an occupant of a dwelling unit of
12 the mortgaged real estate more than 21 days after
13 appointment pursuant to Section 15-1704, the receiver
14 shall provide the notice required by item (2) of this
15 subsection (f) within 7 days of ascertaining the identity
16 and address of the occupant.

17 (5) (i) A receiver who fails to comply with items (1),
18 (2), (3), and (4) of this subsection (f) may not collect
19 any rent due and owing from a known occupant, or terminate
20 a known occupant's tenancy for non-payment of such rent,
21 until the receiver has served the notice described in item
22 (2) of this subsection (f) upon the known occupant. After
23 providing such notice, the receiver may collect any and all
24 rent otherwise due and owing the receiver from the known
25 occupant and may terminate the known occupant's tenancy for
26 non-payment of such rent if the receiver otherwise has such

1 right to terminate.

2 (ii) An occupant who previously paid rent for the
3 current rental period to the mortgagor, or other entity
4 with the authority to operate, manage, and conserve the
5 mortgaged real estate at the time of payment, shall not be
6 held liable for that rent by the receiver, and the
7 occupant's tenancy shall not be terminated for non-payment
8 of rent for that rental period.

9 (6) Within 21 days of appointment, the receiver shall
10 post a written notice on the primary entrance of each
11 dwelling unit subject to the foreclosure action that
12 informs occupants that the receiver has been appointed to
13 operate and manage the property. This notice shall:

14 (i) inform occupant that the dwelling unit is the
15 subject of a foreclosure action and that control of the
16 mortgaged real estate has changed;

17 (ii) include the following language: "This is NOT a
18 notice to vacate the premises."; ~~and~~

19 (iii) provide the name, address, and telephone
20 number of the individual or entity whom occupants may
21 contact with concerns about the mortgaged real estate
22 or to request repairs of the property; and -

23 (iv) provide instructions on the method of payment
24 of future rent, if applicable.

25 (7) (i) The provisions of item (5) of this subsection
26 (f) shall be the exclusive remedy for the failure of a

1 receiver to provide notice to a known occupant under this
2 Section.

3 (ii) This Section shall not abrogate any right that a
4 receiver may have to possession of the mortgaged real
5 estate and to maintain a proceeding against an occupant of
6 a dwelling unit for possession under Article IX ~~9~~ of this
7 Code or subsection (h) of Section 15-1701.

8 (g) Increase of rents. Notwithstanding any other provision
9 of this Article, a receiver shall not charge an occupant of the
10 mortgaged real estate a rental amount above that which the
11 occupant had been paying for use and occupancy of the mortgaged
12 real estate prior to the appointment of a receiver without
13 leave of court. The court may allow an increase of rent if,
14 upon motion by the receiver, the court finds by a preponderance
15 of the evidence, that the increase of rent is necessary to
16 operate, manage, and conserve the mortgaged real estate
17 pursuant to this Section. A list of the current rents for each
18 unit in the mortgaged real estate, and a list of the proposed
19 rent increase for each of those units, must be attached to a
20 motion for a rent increase under this subsection (g). All
21 occupants of the mortgaged real estate who may be affected by
22 the motion for a rent increase, if not otherwise entitled to
23 notice, shall be notified in writing of the nature of the
24 motion, the date and time of the motion, and the court where
25 the motion will be heard. Such notice shall be by personal
26 service or first-class mail. In the event that the receiver and

1 an occupant of a dwelling unit agree to a rent increase for
2 that dwelling unit, the receiver is excused from the
3 requirements of this subsection (g) as to that dwelling unit.
4 Nothing in this subsection (g) shall alter the terms of any
5 lease agreement.

6 (h) Removal. The court may remove a receiver upon a showing
7 of good cause, in which case a new receiver may be appointed in
8 accordance with subsection (b) of Section 15-1702 and
9 subsection (a) of Section 15-1704.

10 (Source: P.A. 96-111, eff. 10-29-09.)

11 Section 95. No acceleration or delay. Where this Act makes
12 changes in a statute that is represented in this Act by text
13 that is not yet or no longer in effect (for example, a Section
14 represented by multiple versions), the use of that text does
15 not accelerate or delay the taking effect of (i) the changes
16 made by this Act or (ii) provisions derived from any other
17 Public Act.

18 Section 99. Effective date. This Act takes effect 90 days
19 after becoming law."