

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Code of Civil Procedure is amended by changing Section 15-1502.5 as follows:

(735 ILCS 5/15-1502.5)

(Section scheduled to be repealed on July 1, 2013)

Sec. 15-1502.5. Homeowner protection.

(a) As used in this Section:

"Approved counseling agency" means a housing counseling agency approved by the U.S. Department of Housing and Urban Development.

"Approved Housing Counseling" means in-person counseling provided by a counselor employed by an approved counseling agency to all borrowers, or documented telephone counseling where a hardship would be imposed on one or more borrowers. A hardship shall exist in instances in which the borrower is confined to his or her home due to medical conditions, as verified in writing by a physician or the borrower resides 50 miles or more from the nearest approved counseling agency. In instances of telephone counseling, the borrower must supply all necessary documents to the counselor at least 72 hours prior to the scheduled telephone counseling session.

"Delinquent" means past due with respect to a payment on a mortgage secured by residential real estate.

"Department" means the Department of Financial and Professional Regulation.

"Secretary" means the Secretary of Financial and Professional Regulation or other person authorized to act in the Secretary's stead.

"Sustainable loan workout plan" means a plan that the mortgagor and approved counseling agency believe shall enable the mortgagor to stay current on his or her mortgage payments for the foreseeable future when taking into account the mortgagor income and existing and foreseeable debts. A sustainable loan workout plan may include, but is not limited to, (1) a temporary suspension of payments, (2) a lengthened loan term, (3) a lowered or frozen interest rate, (4) a principal write down, (5) a repayment plan to pay the existing loan in full, (6) deferred payments, or (7) refinancing into a new affordable loan.

(b) Except in the circumstance in which a mortgagor has filed a petition for relief under the United States Bankruptcy Code, no mortgagee shall file a complaint to foreclose a mortgage secured by residential real estate until the requirements of this Section have been satisfied.

(c) Notwithstanding any other provision to the contrary, with respect to a particular mortgage secured by residential real estate, the procedures and forbearances described in this

Section apply only once per subject mortgage.

Except for mortgages secured by residential real estate in which any mortgagor has filed for relief under the United States Bankruptcy Code, if a mortgage secured by residential real estate becomes delinquent by more than 30 days the mortgagee shall send via U.S. mail a notice advising the mortgagor that he or she may wish to seek approved housing counseling. Notwithstanding anything to the contrary in this Section, nothing shall preclude the mortgagor and mortgagee from communicating with each other during the initial 30 days of delinquency or reaching agreement on a sustainable loan workout plan, or both.

No foreclosure action under Part 15 of Article XV of the Code of Civil Procedure shall be instituted on a mortgage secured by residential real estate before mailing the notice described in this subsection (c).

The notice required in this subsection (c) shall state the date on which the notice was mailed, shall be headed in bold 14-point type "GRACE PERIOD NOTICE", and shall state the following in 14-point type: "YOUR LOAN IS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED HOUSING COUNSELING. YOU HAVE A GRACE PERIOD OF 30 DAYS FROM THE DATE OF THIS NOTICE TO OBTAIN APPROVED HOUSING COUNSELING. DURING THE GRACE PERIOD, THE LAW PROHIBITS US FROM TAKING ANY LEGAL ACTION AGAINST YOU. YOU MAY BE ENTITLED TO AN ADDITIONAL 30 DAY GRACE PERIOD IF YOU

OBTAIN HOUSING COUNSELING FROM AN APPROVED HOUSING COUNSELING AGENCY. A LIST OF APPROVED COUNSELING AGENCIES MAY BE OBTAINED FROM THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION."

The notice shall also list the Department's current consumer hotline, the Department's website, and the telephone number, fax number, and mailing address of the mortgagee. No language, other than language substantially similar to the language prescribed in this subsection (c), shall be included in the notice. Notwithstanding any other provision to the contrary, the grace period notice required by this subsection (c) may be combined with a counseling notification required under federal law.

The sending of the notice required under this subsection (c) means depositing or causing to be deposited into the United States mail an envelope with first-class postage prepaid that contains the document to be delivered. The envelope shall be addressed to the mortgagor at the common address of the residential real estate securing the mortgage.

(d) Until 30 days after mailing the notice provided for under subsection (c) of this Section, no legal action shall be instituted under Part 15 of Article XV of the Code of Civil Procedure.

(e) If, within the 30-day period provided under subsection (d) of this Section, an approved counseling agency provides written notice to the mortgagee that the mortgagor is seeking

approved counseling services, then no legal action under Part 15 of Article XV of the Code of Civil Procedure shall be instituted for 30 days after the date of that notice. The date that such notice is sent shall be stated in the notice, and shall be sent to the address or fax number contained in the Grace Period Notice required under subsection (c) of this Section. During the 30-day period provided under this subsection (e), the mortgagor or counselor or both may prepare and proffer to the mortgagee a proposed sustainable loan workout plan. The mortgagee will then determine whether to accept the proposed sustainable loan workout plan. If the mortgagee and the mortgagor agree to a sustainable loan workout plan, then no legal action under Part 15 of Article XV of the Code of Civil Procedure shall be instituted for as long as the sustainable loan workout plan is complied with by the mortgagor.

The agreed sustainable loan workout plan and any modifications thereto must be in writing and signed by the mortgagee and the mortgagor.

Upon written notice to the mortgagee, the mortgagor may change approved counseling agencies, but such a change does not entitle the mortgagor to any additional period of forbearance.

(f) If the mortgagor fails to comply with the sustainable loan workout plan, then nothing in this Section shall be construed to impair the legal rights of the mortgagee to enforce the contract.

(g) A counselor employed by a housing counseling agency or the housing counseling agency that in good faith provides counseling shall not be liable to a mortgagee or mortgagor for civil damages, except for willful or wanton misconduct on the part of the counselor in providing the counseling.

(h) There shall be no waiver of any provision of this Section.

(i) It is the General Assembly's intent that compliance with this Section shall not prejudice a mortgagee in ratings of its bad debt collection or calculation standards or policies.

(j) This Section shall not apply, or shall cease to apply, to residential real estate that is not occupied as a principal residence by the mortgagor.

(k) This Section is repealed July 1, 2016 ~~2013~~.

(Source: P.A. 95-1047, eff. 4-6-09; 96-1419, eff. 10-1-10.)

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