



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2894

Introduced 2/14/2018, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

735 ILCS 5/15-1401.1

Amends the Mortgage Foreclosure Article of the Code of Civil Procedure in relation to short sales of property. Provides that, if an offer to purchase either a mortgage or residential property is made by an entity with a tax-exempt filing status under Section 501(c)(3) of the Internal Revenue Code or an entity that controls, is controlled by, or is under common control with an entity with such tax-exempt filing status, no mortgagee may require, as a condition of sale or transfer to any such entity, any affidavit, statement, agreement, or addendum limiting ownership or occupancy of the residential property by the mortgagor and, if obtained, the affidavit, statement, agreement, or addendum does not provide a basis to avoid a sale or transfer nor is it enforceable against the acquiring entity or any real estate broker, mortgagor, or settlement agent named in the affidavit, statement, or addendum. Effective immediately.

LRB100 18008 JLS 33196 b

1 AN ACT concerning civil law.

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

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 15-1401.1 as follows:

6 (735 ILCS 5/15-1401.1)

7 Sec. 15-1401.1. Short sale in foreclosure.

8 (a) As used in ~~For purposes of~~ this Section:7

9 "Short ~~short~~ sale" means the sale of real estate that is
10 subject to a mortgage for an amount that is less than the
11 amount owed to the mortgagee on the outstanding mortgage note.

12 "Residential property" means real property on which there
13 is a dwelling unit with accommodations for 4 or fewer separate
14 households and occupied, or to be occupied, in whole or in
15 part, by the mortgagor; however:

16 (i) "residential property" is limited to the principal
17 residence of a person;

18 (ii) "residential property" does not include an
19 investment property or residence other than a primary
20 residence; and

21 (iii) "residential property" does not include
22 residential property taken in whole or in part as
23 collateral for a commercial loan.

1 (b) In a foreclosure of residential real estate, if (i) the
2 mortgagor presents to the mortgagee a bona fide written offer
3 from a third party to purchase the property that is the subject
4 of the foreclosure proceeding, (ii) the written offer to
5 purchase is for an amount which constitutes a short sale of the
6 property, and (iii) the mortgagor makes a written request to
7 the mortgagee to approve the sale on the terms of the offer to
8 purchase, the mortgagee must respond to the mortgagor within 90
9 days after receipt of the written offer and written request.

10 (c) The mortgagee shall determine whether to accept the
11 mortgagor's short sale offer. Failure to accept the offer shall
12 not impair or abrogate in any way the rights of the mortgagee
13 or affect the status of the foreclosure proceedings. The 90-day
14 period shall not operate as a stay of the proceedings.

15 (d) If an offer to purchase either a mortgage or
16 residential property is made by an entity with a tax-exempt
17 filing status under Section 501(c)(3) of the Internal Revenue
18 Code or an entity that controls, is controlled by, or is under
19 common control with an entity with such tax-exempt filing
20 status, no mortgagee may require, as a condition of sale or
21 transfer to any such entity, any affidavit, statement,
22 agreement, or addendum limiting ownership or occupancy of the
23 residential property by the mortgagor and, if obtained, the
24 affidavit, statement, agreement, or addendum does not provide a
25 basis to avoid a sale or transfer nor is it enforceable against
26 the acquiring entity or any real estate broker, mortgagor, or

1 settlement agent named in the affidavit, statement, or
2 addendum.

3 (Source: P.A. 97-666, eff. 1-13-12.)

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