



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5367

by Rep. André Thapedi

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-31-2

from Ch. 24, par. 11-31-2

Amends the Unsafe Property Division of the Illinois Municipal Code. Provides that if the holder of a receiver's certificate, note, or lien incurs or expends any sums enforcing the certificate, note, or a lien, whether by foreclosure or otherwise, the holder of the receiver's certificate, note, or lien is entitled to recover the reasonable fees and expenses incurred or expended in enforcing the receiver's certificate, note, or lien, including, but not limited to, attorney's fees, title searches or examinations, process server fees, publication charges, sheriff's sale costs, and court filing fees. Provides that the amount of fees and costs shall be added to the indebtedness secured by the receiver's certificate, note, or lien. Effective immediately.

LRB101 18767 AWJ 68222 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 11-31-2 as follows:

6 (65 ILCS 5/11-31-2) (from Ch. 24, par. 11-31-2)

7 Sec. 11-31-2. (a) If the appropriate official of any
8 municipality determines, upon due investigation, that any
9 building or structure therein fails to conform to the minimum
10 standards of health and safety as set forth in the applicable
11 ordinances of such municipality, and the owner or owners of
12 such building or structure fails, after due notice, to cause
13 such property so to conform, the municipality may make
14 application to the circuit court for an injunction requiring
15 compliance with such ordinances or for such other order as the
16 court may deem necessary or appropriate to secure such
17 compliance.

18 If the appropriate official of any municipality
19 determines, upon due investigation, that any building or
20 structure located within the area affected by a conservation
21 plan, adopted by the municipality pursuant to the Urban
22 Community Conservation Act, fails to conform to the standards
23 and provisions of such plan, and the owner or owners of such

1 building or structure fails, after due notice, to cause such
2 property so to conform, the municipality has the power to make
3 application to the circuit court for an injunction requiring
4 compliance with such plan or for such other order as the court
5 may deem necessary or appropriate to secure such compliance.

6 The hearing upon such suit shall be expedited by the court
7 and shall be given precedence over all other actions.

8 If, upon application hereunder, the court orders the
9 appointment of a receiver to cause such building or structure
10 to conform, such receiver may use the rents and issues of such
11 property toward maintenance, repair and rehabilitation of the
12 property prior to and despite any assignment of rents; and the
13 court may further authorize the receiver to recover the cost of
14 such maintenance, repair and rehabilitation by the issuance and
15 sale of notes or receiver's certificates bearing such interest
16 as the court may fix, and such notes or certificates, after
17 their initial issuance and transfer by the receiver, shall be
18 freely transferable and when sold or transferred by the
19 receiver in return for a valuable consideration in money,
20 material, labor or services, shall be a first lien upon the
21 real estate and the rents and issues thereof, and shall be
22 superior to all prior assignments of rents and all prior
23 existing liens and encumbrances, except taxes; provided, that
24 within 90 days of such sale or transfer for value by the
25 receiver of such note or certificate, the holder thereof shall
26 file notice of lien in the office of the recorder in the county

1 in which the real estate is located, or in the office of the
2 registrar of titles of such county if the real estate affected
3 is registered under the Registered Titles (Torrens) Act. The
4 notice of the lien filed shall set forth (1) a description of
5 the real estate affected sufficient for the identification
6 thereof, (2) the face amount of the receiver's note or
7 certificate, together with the interest payable thereon, and
8 (3) the date when the receiver's note or certificate was sold
9 or transferred for value by the receiver. Upon payment to the
10 holder of the receiver's note or certificate of the face amount
11 thereof together with any interest thereon to such date of
12 payment, and upon the filing of record of a sworn statement of
13 such payment, the lien of such certificate shall be released.
14 Unless the lien is enforced pursuant to subsection (b), the
15 lien may be enforced by proceedings to foreclose as in the case
16 of mortgages or mechanics' liens, and such action to foreclose
17 such lien may be commenced at any time after the date of
18 default. For the purposes of this subsection (a), the date of
19 default shall be deemed to occur 90 days from the date of
20 issuance of the receiver's certificate if at that time the
21 certificate remains unpaid in whole or in part.

22 In the event a receiver appointed under this subsection (a)
23 completes a feasibility study which study finds that the
24 property cannot be economically brought into compliance with
25 the minimum standards of health and safety as set forth in the
26 applicable ordinances of the municipality, the receiver may

1 petition the court for reimbursement for the cost of the
2 feasibility study from the receivership feasibility study and
3 fee fund. The court shall review the petition and authorize
4 reimbursement from the fund to the receiver if the court finds
5 that the findings in the feasibility report are reasonable,
6 that the fee for the feasibility report is reasonable, and that
7 the receiver is unable to obtain reimbursement other than by
8 foreclosure of a lien on the property. If the court grants the
9 petition for reimbursement from the fund and, upon receiving
10 certification from the court of the amount to be paid, the
11 county treasurer shall order that amount paid from the fund to
12 the receiver. If the court grants the petition for
13 reimbursement from the fund, the court shall also authorize and
14 direct the receiver to issue a certificate of lien against
15 title. The recorded lien shall be a first lien upon the real
16 estate and shall be superior to all prior liens and
17 encumbrances except real estate taxes. The court shall also
18 order the receiver to reimburse the fund to the extent that the
19 receiver is reimbursed upon foreclosure of the receiver's lien
20 upon sale of the property.

21 In any proceedings hereunder in which the court orders the
22 appointment of a receiver, the court may further authorize the
23 receiver to enter into such agreements and to do such acts as
24 may be required to obtain first mortgage insurance on the
25 receiver's notes or certificates from an agency of the Federal
26 Government.

1 (b) In any case where a municipality has obtained a lien
2 pursuant to subsection (a), the municipality may enforce such
3 lien pursuant to this subsection (b) in the same proceeding in
4 which the lien is authorized.

5 A municipality desiring to enforce a lien under this
6 subsection (b) shall petition the court to retain jurisdiction
7 for foreclosure proceedings under this subsection. Notice of
8 the petition shall be served, by certified or registered mail,
9 on all persons who were served notice under subsection (a). The
10 court shall conduct a hearing on the petition not less than 15
11 days after such notice is served. If the court determines that
12 the requirements of this subsection (b) have been satisfied, it
13 shall grant the petition and retain jurisdiction over the
14 matter until the foreclosure proceeding is completed. If the
15 court denies the petition, the municipality may enforce the
16 lien in a separate action as provided in subsection (a).

17 All persons designated in Section 15-1501 of the Code of
18 Civil Procedure as necessary parties in a mortgage foreclosure
19 action shall be joined as parties prior to issuance of an order
20 of foreclosure. Persons designated in Section 15-1501 of the
21 Code of Civil Procedure as permissible parties may also be
22 joined as parties in the action.

23 The provisions of Article XV of the Code of Civil Procedure
24 applicable to mortgage foreclosures shall apply to the
25 foreclosure of a lien pursuant to this subsection (b), except
26 to the extent that such provisions are inconsistent with this

1 subsection. However, for purposes of foreclosures of liens
2 pursuant to this subsection, the redemption period described in
3 subsection (b) of Section 15-1603 of the Code of Civil
4 Procedure shall end 60 days after the date of entry of the
5 order of foreclosure.

6 If the holder of a receiver's certificate, note, or lien
7 under this Section incurs or expends any sums enforcing the
8 certificate, note, or a lien, whether by foreclosure or
9 otherwise, the holder of the receiver's certificate, note, or
10 lien is entitled to recover the reasonable fees and expenses
11 incurred or expended in enforcing the receiver's certificate,
12 note, or lien, including, but not limited to, attorney's fees,
13 title searches or examinations, process server fees,
14 publication charges, sheriff's sale costs, and court filing
15 fees. The amount of fees and costs shall be added to the
16 indebtedness secured by the receiver's certificate, note, or
17 lien.

18 (Source: P.A. 91-554, eff. 8-14-99.)

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