



Sen. Don Harmon

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1 AMENDMENT TO SENATE BILL 1053

2 AMENDMENT NO. _____. Amend Senate Bill 1053 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 9-117 and 15-1701 as follows:

6 (735 ILCS 5/9-117) (from Ch. 110, par. 9-117)

7 Sec. 9-117. Expiration of Judgment. No judgment for
8 possession obtained in an action brought under this Article may
9 be enforced more than 120 ~~90~~ days after judgment is entered,
10 unless upon motion by the plaintiff the court grants an
11 extension of the period of enforcement of the judgment.
12 Plaintiff's notice of motion shall contain the following notice
13 directed to the defendant:

14 "Your landlord, (insert name), obtained an eviction
15 judgment against you on (insert date), but the sheriff did
16 not evict you within the 120 ~~90~~ days that the landlord has

1 to evict after a judgment in court. On the date stated in
2 this notice, your landlord will be asking the court to
3 allow the sheriff to evict you based on that judgment. You
4 must attend the court hearing if you want the court to stop
5 the landlord from having you evicted. To prevent the
6 eviction, you must be able to prove that (1) the landlord
7 and you made an agreement after the judgment (for instance,
8 to pay up back rent or to comply with the lease) and you
9 have lived up to the agreement; or (2) the reason the
10 landlord brought the original eviction case has been
11 resolved or forgiven, and the eviction the landlord now
12 wants the court to grant is based on a new or different
13 reason; or (3) that you have another legal or equitable
14 reason why the court should not grant the landlord's
15 request for your eviction."

16 The court shall grant the motion for the extension of the
17 judgment of possession unless the defendant establishes that
18 the tenancy has been reinstated, that the breach upon which the
19 judgment was issued has been cured or waived, that the
20 plaintiff and defendant entered into a post-judgment agreement
21 whose terms the defendant has performed, or that other legal or
22 equitable grounds exist that bar enforcement of the judgment.
23 This Section does not apply to any action based upon a breach
24 of a contract entered into on or after July 1, 1962, for the
25 purchase of premises in which the court has entered a stay
26 under Section 9-110; nor shall this Section apply to any action

1 to which the provisions of Section 9-111 apply; nor shall this
2 Section affect the rights of Boards of Managers under Section
3 9-104.2.

4 (Source: P.A. 86-1280.)

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

6 Sec. 15-1701. Right to possession.

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

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

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

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

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

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

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

25 (2) Notwithstanding paragraph (1) of subsection (b)
26 and paragraph (1) of subsection (c) of Section 15-1701,

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

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

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

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

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

26 (g) Certain Leases. Leases of the mortgaged real estate

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

8 (h) Proceedings Against Certain Occupants.

9 (1) The mortgagee-in-possession of the mortgaged real
10 estate under Section 15-1703, a receiver appointed under
11 Section 15-1704, a holder of the certificate of sale or
12 deed, or the purchaser may, at any time during the pendency
13 of the foreclosure and up to 90 days after the date of the
14 order confirming the sale, file a supplemental petition for
15 possession against a person not personally named as a party
16 to the foreclosure. The supplemental petition for
17 possession shall name each such occupant against whom
18 possession is sought and state the facts upon which the
19 claim for relief is premised.

20 (2) The petitioner shall serve upon each named occupant
21 the petition, a notice of hearing on the petition, and, if
22 any, a copy of the certificate of sale or deed. The
23 proceeding for the termination of such occupant's
24 possessory interest, including service of the notice of the
25 hearing and the petition, shall in all respects comport
26 with the requirements of Article 9 of this Code, except as

1 otherwise specified in this Section. The hearing shall be
2 no less than 21 days from the date of service of the
3 notice.

4 (3) The supplemental petition shall be heard as part of
5 the foreclosure proceeding and without the payment of
6 additional filing fees. An order for possession obtained
7 under this Section shall name each occupant whose interest
8 has been terminated, shall recite that it is only effective
9 as to the occupant so named and those holding under them,
10 and shall be enforceable for no more than 120 ~~90~~ days after
11 its entry, except that the 120-day ~~90-day~~ period may be
12 extended to the extent and in the manner provided in
13 Section 9-117 of Article 9 and except as provided in item
14 (4) of this subsection (h).

15 (4) In a case of foreclosure where the tenant is
16 current on his or her rent, or where timely written notice
17 of to whom and where the rent is to be paid has not been
18 provided to the tenant, or where the tenant has made
19 good-faith efforts to make rental payments in order to keep
20 current, any order of possession must allow the tenant to
21 retain possession of the property covered in his or her
22 rental agreement (i) for 120 days following the notice of
23 the hearing on the supplemental petition that has been
24 properly served upon the tenant, or (ii) through the
25 duration of his or her lease, whichever is shorter. If the
26 tenant has been given timely written notice of to whom and

1 where the rent is to be paid, this item (4) shall only
2 apply if the tenant continues to pay his or her rent in
3 full during the 120-day period or has made good-faith
4 efforts to pay the rent in full during that period. No
5 mortgagee-in-possession, receiver or holder of a
6 certificate of sale or deed, or purchaser who fails to file
7 a supplemental petition under this subsection during the
8 pendency of a mortgage foreclosure shall file a forcible
9 entry and detainer action against a tenant of the mortgaged
10 real estate until 90 days after a notice of intent to file
11 such action has been properly served upon the tenant.

12 (5) The court records relating to a supplemental
13 petition for possession filed under this subsection (h)
14 against a tenant who is entitled to notice under item (4)
15 of this subsection (h), or relating to a forcible entry and
16 detainer action brought against a tenant who would have
17 lawful possession of the premises but for the foreclosure
18 of a mortgage on the property, shall be ordered sealed and
19 shall not be disclosed to any person, other than a law
20 enforcement officer or any other representative of a
21 governmental entity, except upon further order of the
22 court.

23 (Source: P.A. 95-262, eff. 1-1-08; 95-933, eff. 8-26-08.)

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