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1 AMENDMENT TO HOUSE BILL 1108

2 AMENDMENT NO. _____. Amend House Bill 1108 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Findings. The General Assembly finds that
5 additional action is needed to help prevent foreclosures and
6 revitalize the economy in the State of Illinois. Foreclosures
7 are leaving families homeless or in dire financial straits.
8 Many borrowers could receive loan modifications under their
9 existing mortgage, which would help to alleviate this crisis,
10 keep families in their homes, and save Illinois neighborhoods
11 and communities from further damage. Many foreclosures could be
12 prevented with a modest investment in prevention activities,
13 including, outreach to borrowers and court-sponsored mediation
14 to help borrowers and lenders arrive at mutually-agreeable loan
15 modifications. Foreclosed properties contribute to the number
16 of vacant, abandoned, and tax-delinquent properties that
17 threaten communities around the State because those properties

1 diminish property values, enable crime, and create health
2 hazards. Such properties also impose large costs on
3 municipalities and, at the same time, result in decreased
4 revenue for the municipalities. The need exists to address the
5 problems of vacant and abandoned property in a coordinated
6 manner and to foster the development of such property and
7 promote economic growth. Municipalities lack tools necessary
8 to ensure that vacant properties are adequately maintained and
9 secured. Land banks are one of the tools that can be used by
10 communities to facilitate the return of vacant, abandoned, and
11 tax-delinquent properties to productive use. Local governments
12 should be empowered to create land banks to acquire, develop,
13 maintain, and dispose of vacant and abandoned properties that
14 present a threat to communities around the State. Abandoned
15 properties may remain in the foreclosure process for a year or
16 more, which harms both communities and financial institutions
17 with a legal interest in the property. The foreclosure process
18 for abandoned properties should be expedited to help return the
19 properties to productive use.

20 Section 3. Short title. This Act may be cited as the
21 Illinois Land Banking Act.

22 Section 5. Definitions.

23 "Authority" means the land bank authority created pursuant
24 to this Act.

1 "Governmental unit" means a county or municipality.

2 "Intergovernmental agreement" means a contractual
3 agreement between 2 or more governmental agencies, including,
4 but not limited to, an agreement to jointly exercise any power,
5 privilege, or authority that agencies share in common and that
6 each might exercise separately under this Act.

7 Section 10. Authorization. A municipality may create a land
8 bank authority with the powers and restrictions specified in
9 this Act. In creating an authority, the municipality shall
10 provide for all of the following:

11 (1) Articles of incorporation for the authority, that
12 shall be filed with the Secretary of State and shall
13 include, in addition to other required and permissible
14 articles, an article specifying that the purpose of the
15 land bank authority is to stabilize communities by:

16 (A) Acquiring property that is vacant or abandoned
17 and in the foreclosure process or is otherwise
18 nonrevenue-generating or nontax-producing.

19 (B) Facilitating the reclamation, rehabilitation,
20 and reutilization of property that is vacant,
21 abandoned, in process of foreclosure, or is otherwise
22 nonrevenue-generating or nontax-producing.

23 (C) Efficiently holding and managing property that
24 is vacant, abandoned, in process of foreclosure, or is
25 otherwise nonrevenue-generating or nontax-producing

1 pending its reclamation, rehabilitation, and
2 reutilization.

3 (2) The size of the board of directors for the
4 authority, which shall be composed of an odd number of
5 members.

6 (3) The qualifications, methods of selection, and
7 terms of office of the board members.

8 Two or more governmental units may elect to enter into an
9 intergovernmental agreement that creates a single land bank to
10 act on behalf of the governmental units, and the agreement
11 shall be authorized by and be in accordance with the provisions
12 of this Section.

13 Section 15. Board of directors; conflicts of interest. The
14 authority shall be governed by a board of directors. The board
15 shall consist of 3 or more directors. The board of directors
16 shall be composed of an odd number of members. The size of the
17 board may be adjusted in accordance with the land bank's
18 by-laws.

19 Notwithstanding any law to the contrary, any public officer
20 shall be eligible to serve as a board member and the acceptance
21 of the appointment shall neither terminate nor impair such
22 public office. For the purposes of this Section, "public
23 officer" means a person who is elected to a State or local
24 government office.

25 Any State or local government employee shall be eligible to

1 serve as a board member.

2 The board of the authority shall meet from time to time as
3 required, and the presence of a majority of the board of
4 directors shall constitute a quorum. A chairperson shall be
5 elected from among the members, and he or she shall execute all
6 deeds, leases, and contracts of the authority when authorized
7 by the board. The board of the authority shall conduct meetings
8 in accordance with the Open Meetings Act. The board of the
9 authority shall adopt a code of ethics for its directors,
10 officers, and employees. The board of the authority shall
11 establish policies and procedures requiring the disclosure of
12 relationships that may give rise to a conflict of interest.

13 Members of a board shall not be liable personally for the
14 obligations of the land bank, and the rights of creditors shall
15 be solely against the land bank.

16 Members of the board must file written statements of
17 economic interest in accordance with Section 4A-101 of the
18 Illinois Governmental Ethics Act.

19 The board of the authority shall require that any member of
20 the board with a direct or indirect interest in any matter
21 disclose the member's interest to the board before the board
22 takes any action on that matter.

23 Members of the board of directors of an authority shall
24 serve without compensation.

25 It shall be unlawful for a member of the board, the spouse
26 of a member of the board, or an immediate family member of a

1 member of the board to have or acquire a contract or have or
2 acquire a direct pecuniary interest in a contract with the
3 authority that relates to the authority. Any of these contracts
4 shall be deemed null and void. The limitations shall remain in
5 force for one year after the conclusion of the person's term of
6 office.

7 If a member of the board, the spouse of a member of the
8 board, or an immediate family member of a member of the board
9 is entitled to receive distributable income of a partnership,
10 association, corporation, or other business entity, then it is
11 unlawful for that partnership, association, corporation, or
12 other business entity to have or acquire a contract or a direct
13 pecuniary interest in a contract with the authority that
14 relates to the authority. Any of these contracts shall be
15 deemed null and void. The limitations shall remain in force for
16 one year after the conclusion of the person's term of office.

17 Section 20. Powers. The authority may perform any or all
18 of the powers enumerated in this Section, subject to any
19 conditions, restrictions, or limitations of the governmental
20 unit, including the power to:

21 (a) Acquire property pursuant to Section 25 of this
22 Act.

23 (b) Adopt, amend, and repeal bylaws for the regulation
24 of its affairs and the conduct of its business.

25 (c) Sue and be sued in its own name and plead and be

1 impleaded, including, but not limited to, defending the
2 authority in an action to clear title to property conveyed
3 by the authority.

4 (d) Take any action, provide any notice, or instate any
5 proceeding required to clear or quiet title to property
6 held by the authority in order to establish ownership by
7 and vest title to property in the authority.

8 (e) Be made party to and defend any action or
9 proceeding concerning title claims against property held
10 by the authority.

11 (f) Subject to the written approval of the board of
12 directors and the municipality that created the authority
13 under this Act, borrow money and issue bonds and notes.

14 (g) Enter into contracts and other instruments
15 necessary, incidental, or convenient to the performance of
16 its duties and the exercise of its powers, including, but
17 not limited to, intergovernmental agreements, for the
18 joint exercise of power under this Act.

19 (h) Enter into contracts for the management of, the
20 collection of rent from, and the sale of real property held
21 by an authority.

22 (i) Enter into contracts with other entities, public or
23 private, for the provision of all or a portion of the
24 services necessary for the management and operation of the
25 authority.

26 (j) Solicit and accept gifts, grants, labor, loans, and

1 other aid from any person, the federal government, this
2 State, a political subdivision of this State or any agency
3 of the federal government, or an intergovernmental entity
4 created under the laws of this State or participate in any
5 other way in a program of the federal government, this
6 State, a political subdivision of this State, or an
7 intergovernmental entity created under the laws of this
8 State.

9 (k) Procure insurance against loss in connection with
10 the property, assets, or activities of the authority.

11 (l) Control, hold, manage, maintain, operate, repair,
12 lease as lessor, secure, prevent the waste or deterioration
13 of, demolish, and take all other actions necessary to
14 preserve the value of the property it holds or owns.

15 (m) Remediate environmental contamination on any
16 property held by the authority.

17 (n) Fix, charge, and collect rents, fees, and charges
18 for use of property under the control of the authority or
19 for services provided by the authority.

20 (o) Grant or acquire a license, easement, or option
21 with respect to property as the authority determines is
22 reasonably necessary to achieve the purposes of the Act.

23 (p) Pay any tax or special assessment due on property
24 acquired or owned by the authority.

25 (q) Subject to the Public Funds Investment Act, invest
26 money of the authority, at the discretion of the board of

1 directors of the authority, in instruments, obligations,
2 securities, or property determined proper by the board of
3 directors of the authority, and name and use depositories
4 for its money.

5 (r) Employ its own employees or use employees of the
6 authorizing municipality or employees of the parties to
7 intergovernmental agreements.

8 (s) Employ legal and technical experts, other
9 officers, agents, or employees and pay them from the funds
10 of the authority and determine the qualifications, duties,
11 and compensation of those it employs.

12 (t) The board of directors of an authority may delegate
13 to one or more of its members, officers, agents, or
14 employees any powers or duties it considers proper.

15 (u) Reimburse members of the board of directors of the
16 authority for actual and necessary expenses subject to
17 available appropriations.

18 (v) Contract for goods and services and engage
19 personnel as necessary and engage the services of private
20 consultants, managers, legal counsel, engineers, accounts,
21 and auditors for rendering professional financial
22 assistance and advice payable out of any money available to
23 the authority.

24 (w) Prepare the reports or plans the authority
25 considers necessary to assist it in the exercise of its
26 powers under this Act and to monitor and evaluate progress

1 under this Act.

2 (x) Extinguish taxes pursuant to Section 35 of this
3 Act.

4 (y) Convey, sell, transfer, exchange, lease as lessor,
5 or otherwise dispose of property, rights, or interests in
6 property to which the authority holds a legal interest to
7 any public or private person for value determined by the
8 authority.

9 An authority shall not exercise the power of eminent
10 domain.

11 The powers granted by this Act are in addition to the
12 powers granted by any other law, statute, or charter.

13 Section 25. Acquisition of property. The authority may
14 acquire real property or rights or interests in real property
15 by gift, devise, transfer, exchange, foreclosure, purchase,
16 purchase contracts, lease purchase agreements, installment
17 sales contracts, land contracts, or otherwise on terms and
18 conditions and in a manner the authority considers proper.

19 The authority may hold and own in its name any property
20 acquired by it or conveyed to it by this State, a foreclosing
21 governmental unit, a unit of local government, an
22 intergovernmental entity created under the laws of this State,
23 or any other public or private person, including, but not
24 limited to, property without clear title.

25 The authority may only acquire property within the

1 jurisdiction of one of the municipalities granting the
2 authority power under this Act or within the jurisdiction of a
3 governmental entity pursuant to an intergovernmental agreement
4 with that governmental entity. A property outside the corporate
5 limits of a municipality is not considered within the
6 jurisdiction of the municipality until annexation is completed
7 pursuant to Section 7-1-1 of the Illinois Municipal Code.

8 All deeds, mortgages, contracts, leases, purchases, or
9 other agreements regarding property of an authority, including
10 agreements to acquire or dispose of real property, shall be
11 approved by and executed in the name of the authority.

12 The authority shall have the right to purchase properties
13 at tax sales conducted in accordance with Division 3.5 of the
14 Property Tax Code.

15 (1) The authority may tender a bid at a tax sale that
16 is a credit bid, consisting of the obligation of the
17 authority to satisfy the component parts of the bid by
18 payments to the respective political subdivisions.

19 (2) A bid by the authority at a tax sale for the
20 minimum amount shall take priority over all other bids for
21 the same property.

22 Section 30. Financing of land bank operations. A land bank
23 may receive funding through grants and loans from the
24 governmental unit that created the land bank, from other
25 municipalities, from the State of Illinois, from the federal

1 government, and from other public and private sources.

2 A land bank may receive and retain payments for services
3 rendered, for rents and leasehold payments received, for
4 consideration for disposition of real and personal property,
5 for proceeds of insurance coverage for losses incurred, for
6 income from investments, and for any other asset and activity
7 lawfully permitted to a land bank under this Act

8 A municipality may authorize the remittance of a portion of
9 the real property taxes collected on real property conveyed by
10 a land bank authority. Up to 50% of those taxes may be remitted
11 to the land bank authority for up to 5 years after the land
12 bank has completed the conveyance of the property.

13 A land bank shall have power to issue bonds for any of its
14 corporate purposes, the principal and interest of which are
15 payable from its revenues generally. Any of the bonds may be
16 secured by a pledge of any revenues, including grants or
17 contributions, or by a mortgage of any property of the land
18 bank.

19 Bonds issued by the land bank shall be authorized by
20 resolution of the board and shall be limited obligations of the
21 land bank; the principal and interest, costs of issuance, and
22 other costs incidental thereto shall be payable solely from the
23 income and revenue derived from the sale, lease, or other
24 disposition of the assets of the land bank. In the discretion
25 of the land bank, the bonds may be additionally secured by
26 mortgage or other security device covering all or part of the

1 project from which the revenues so pledged may be derived. Any
2 refunding bonds issued shall be payable from any source
3 described in this Section or from the investment of any of the
4 proceeds of the refunding bonds and shall not constitute an
5 indebtedness or pledge of the general credit of any
6 governmental unit or municipality within the meaning of any
7 constitutional or statutory limitation of indebtedness, and
8 each bond shall state that requirement.

9 Section 35. Taxes. When real property is acquired by the
10 authority, and that real property is encumbered by a lien or
11 claim for real property taxes owed to the governmental unit or
12 units that created the land bank, the land bank shall have the
13 power, by resolution of the board, to discharge and extinguish
14 any and all liens and claims. Whenever any real property is
15 acquired by a land bank, and that real property is encumbered
16 by a lien or claim for real property taxes owed to the school
17 district, or to a municipality other than the governmental unit
18 or units that created the land bank, the land bank shall have
19 the power, by resolution of the board, to discharge and
20 extinguish any and all such liens or claims if and only if the
21 school district, or municipality other than the governmental
22 unit or units that created the land bank, and the land bank,
23 have entered into an agreement authorizing such discharge and
24 extinguishment. To the extent necessary and appropriate, the
25 land bank shall file in appropriate public records evidence of

1 the extinguishment and dissolution of the liens or claims.

2 All moneys received by an authority as payment of taxes,
3 penalties, or interest, or from the redemption or sale of
4 property subject to a tax lien of any taxing unit shall be
5 returned to the appropriate local tax collecting unit in which
6 the property is located.

7 Property of an authority is public property devoted to an
8 essential public and governmental function and purpose. Income
9 of the authority is considered to be for a public and
10 governmental purpose. The property of the authority and its
11 income and operation are exempt from all taxes and special
12 assessments of this State and all units of local government.
13 Bonds or notes issued by the authority, and the interest on and
14 income from those bonds and notes, are exempt from all taxation
15 of this State or a unit of local government.

16 Section 40. Proceeds. Except as otherwise provided in this
17 Act, as required by other law, as required under the provisions
18 of a deed, or as an authority otherwise agrees, any proceeds
19 received by the authority may be retained by the authority for
20 the purposes of this Act.

21 Section 45. Record maintenance. The authority shall
22 maintain a written inventory of all property held by the
23 authority. The property shall be inventoried and classified by
24 the authority according to title status and suitability for

1 use. The inventory shall be available for public inspection
2 during regular business hours.

3 For each property held, the authority shall establish and
4 maintain itemized records and accounts reflecting all
5 transactions, expenditures, and revenues relating to all
6 property held by the authority.

7 Section 50. Dissolution. The articles of incorporation
8 shall specify the procedure under which a land bank authority
9 may be dissolved. Upon dissolution of the land bank all real
10 property, personal property, and other assets of the land bank
11 shall become the assets of the governmental unit or units that
12 created the land bank. In the event that 2 or more governmental
13 units create a land bank authority, the withdrawal of one or
14 more governmental units shall not result in the dissolution of
15 the land bank unless the intergovernmental agreement so
16 provides, and there is no governmental unit that desires to
17 continue the existence of the land bank.

18 Section 55. The Illinois Municipal Code is amended by
19 changing Section 11-20-15 and by adding Sections 11-20-15.1 and
20 11-20-17 as follows:

21 (65 ILCS 5/11-20-15)

22 Sec. 11-20-15. Lien for removal costs.

23 (a) If the municipality incurs a removal cost under Section

1 11-20-7, 11-20-8, 11-20-12, ~~or~~ 11-20-13, or 11-20-17 with
2 respect to any underlying parcel, then that cost is a lien upon
3 that underlying parcel. This lien is superior to all other
4 liens and encumbrances, except tax liens and as otherwise
5 provided in subsection (c) of this Section.

6 (b) To perfect a lien under this Section, the municipality
7 must, within one year after the removal cost is incurred, file
8 notice of lien in the office of the recorder in the county in
9 which the underlying parcel is located or, if the underlying
10 parcel is registered under the Torrens system, in the office of
11 the Registrar of Titles of that county. The notice must consist
12 of a sworn statement setting out:

13 (1) a description of the underlying parcel that
14 sufficiently identifies the parcel;

15 (2) the amount of the removal cost; and

16 (3) the date or dates when the removal cost was
17 incurred by the municipality.

18 If, for any one parcel, the municipality engaged in any
19 removal activity on more than one occasion during the course of
20 one year, then the municipality may combine any or all of the
21 costs of each of those activities into a single notice of lien.

22 (c) A lien under this Section is not valid as to: (i) any
23 purchaser whose rights in and to the underlying parcel arose
24 after the removal activity but before the filing of the notice
25 of lien; or (ii) any mortgagee, judgment creditor, or other
26 lienor whose rights in and to the underlying parcel arose

1 before the filing of the notice of lien.

2 (d) The removal cost is not a lien on the underlying parcel
3 unless a notice is personally served on, or sent by certified
4 mail to, the person to whom was sent the tax bill for the
5 general taxes on the property for the taxable year immediately
6 preceding the removal activities. The notice must be delivered
7 or sent after the removal activities have been performed, and
8 it must: (i) state the substance of this Section and the
9 substance of any ordinance of the municipality implementing
10 this Section; (ii) identify the underlying parcel, by common
11 description; and (iii) describe the removal activity.

12 (e) A lien under this Section may be enforced by
13 proceedings to foreclose as in case of mortgages or mechanics'
14 liens. An action to foreclose a lien under this Section must be
15 commenced within 2 years after the date of filing notice of
16 lien.

17 (f) Any person who performs a removal activity by the
18 authority of the municipality may, in his or her own name, file
19 a lien and foreclose on that lien in the same manner as a
20 municipality under this Section.

21 (g) A failure to file a foreclosure action does not, in any
22 way, affect the validity of the lien against the underlying
23 parcel.

24 (h) Upon payment of the lien cost by the owner of the
25 underlying parcel after notice of lien has been filed, the
26 municipality (or its agent under subsection (f)) shall release

1 the lien, and the release may be filed of record by the owner
2 at his or her sole expense as in the case of filing notice of
3 lien.

4 (i) For the purposes of this Section:

5 "Lien cost" means the removal cost and the filing costs for
6 any notice of lien under subsection (b).

7 "Removal activity" means any activity for which a removal
8 cost was incurred.

9 "Removal cost" means a removal cost as defined under
10 Section 11-20-7, 11-20-8, 11-20-12, ~~or~~ 11-20-13, or 11-20-17.

11 "Underlying parcel" means a parcel of private property upon
12 which a removal activity was performed.

13 "Year" means a 365-day period.

14 (j) This Section applies only to liens filed after August
15 14, 2009 (the effective date of Public Act 96-462).

16 (k) This Section shall not apply to a lien filed pursuant
17 to Section 11-20-15.1.

18 (Source: P.A. 96-462, eff. 8-14-09; 96-856, eff. 3-1-10;
19 96-1000, eff. 7-2-10.)

20 (65 ILCS 5/11-20-15.1)

21 Sec. 11-20-15.1. Lien for costs of removal, securing, and
22 enclosing on abandoned residential property.

23 (a) If the municipality elects to incur a removal cost
24 pursuant to subsection (d) of Section 11-20-7, subsection (d)
25 of Section 11-20-8, subsection (d) of Section 11-20-12, ~~or~~

1 subsection (e) of Section 11-20-13, or subsection (g) of
2 11-20-17, or a securing or enclosing cost pursuant to Section
3 11-31-1.01 with respect to an abandoned residential property,
4 then that cost is a lien upon the underlying parcel of that
5 abandoned residential property. This lien is superior to all
6 other liens and encumbrances, except tax liens and as otherwise
7 provided in this Section.

8 (b) To perfect a lien under this Section, the municipality
9 must, within one year after the cost is incurred for the
10 activity, file notice of the lien in the office of the recorder
11 in the county in which the abandoned residential property is
12 located or, if the abandoned residential property is registered
13 under the Torrens system, in the office of the Registrar of
14 Titles of that county, a sworn statement setting out:

15 (1) a description of the abandoned residential
16 property that sufficiently identifies the parcel;

17 (2) the amount of the cost of the activity;

18 (3) the date or dates when the cost for the activity
19 was incurred by the municipality; and

20 (4) a statement that the lien has been filed pursuant
21 to subsection (d) of Section 11-20-7, subsection (d) of
22 Section 11-20-8, subsection (d) of Section 11-20-12,
23 subsection (e) of Section 11-20-13, subsection (g) of
24 11-20-17, or Section 11-31-1.01, as applicable.

25 If, for any abandoned residential property, the
26 municipality engaged in any activity on more than one occasion

1 during the course of one year, then the municipality may
2 combine any or all of the costs of each of those activities
3 into a single notice of lien.

4 (c) To enforce a lien pursuant to this Section, the
5 municipality must maintain contemporaneous records that
6 include, at a minimum: (i) a dated statement of finding by the
7 municipality that the property for which the work is to be
8 performed has become abandoned residential property, which
9 shall include (1) the date when the property was first known or
10 observed to be unoccupied by any lawful occupant or occupants,
11 (2) a description of the actions taken by the municipality to
12 contact the legal owner or owners of the property identified on
13 the recorded mortgage, or, if known, any agent of the owner or
14 owners, including the dates such actions were taken, and (3) a
15 statement that no contacts were made with the legal owner or
16 owners or their agents as a result of such actions, (ii) a
17 dated certification by an authorized official of the
18 municipality of the necessity and specific nature of the work
19 to be performed, (iii) a copy of the agreement with the person
20 or entity performing the work that includes the legal name of
21 the person or entity, the rate or rates to be charged for
22 performing the work, and an estimate of the total cost of the
23 work to be performed, (iv) detailed invoices and payment
24 vouchers for all payments made by the municipality for such
25 work, and (v) a statement as to whether the work was engaged
26 through a competitive bidding process, and if so, a copy of all

1 proposals submitted by the bidders for such work.

2 (d) A lien under this Section shall be enforceable
3 exclusively at the hearing for confirmation of sale of the
4 abandoned residential property that is held pursuant to
5 subsection (b) of Section 15-1508 of the Code of Civil
6 Procedure and shall be limited to a claim of interest in the
7 proceeds of the sale and subject to the requirements of this
8 Section. Any mortgagee who holds a mortgage on the property, or
9 any beneficiary or trustee who holds a deed of trust on the
10 property, may contest the lien or the amount of the lien at any
11 time during the foreclosure proceeding upon motion and notice
12 in accordance with court rules applicable to motions generally.
13 Grounds for forfeiture of the lien or the superior status of
14 the lien granted by subsection (a) of this Section shall
15 include, but not be limited to, a finding by the court that:
16 (i) the municipality has not complied with subsection (b) or
17 (c) of this Section, (ii) the scope of the work was not
18 reasonable under the circumstances, (iii) the work exceeded the
19 authorization for the work to be performed under subsection (a)
20 of Section 11-20-7, subsection (a) of Section 11-20-8,
21 subsection (a) of Section 11-20-12, subsection (a) of Section
22 11-20-13, or subsection (a) of Section 11-31-1.01, as
23 applicable, or (iv) the cost of the services rendered or
24 materials provided was not commercially reasonable. Forfeiture
25 of the superior status of the lien otherwise granted by this
26 Section shall not constitute a forfeiture of the lien as a

1 subordinate lien.

2 (e) Upon payment of the amount of a lien filed under this
3 Section by the mortgagee, servicer, owner, or any other person,
4 the municipality shall release the lien, and the release may be
5 filed of record by the person making such payment at the
6 person's sole expense as in the case of filing notice of lien.

7 (f) Notwithstanding any other provision of this Section, a
8 municipality may not file a lien pursuant to this Section for
9 activities performed pursuant to Section 11-20-7, Section
10 11-20-8, Section 11-20-12, Section 11-20-13, or Section
11 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned
12 residential property has provided notice to the municipality
13 that the mortgagee or servicer has performed or will perform
14 the remedial actions specified in the notice that the
15 municipality otherwise might perform pursuant to subsection
16 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
17 subsection (d) of Section 11-20-12, subsection (e) of Section
18 11-20-13, or Section 11-31-1.01, provided that the remedial
19 actions specified in the notice have been performed or are
20 performed or initiated in good faith within 30 days of such
21 notice; or (ii) the municipality has provided notice to the
22 mortgagee or servicer of a problem with the property requiring
23 the remedial actions specified in the notice that the
24 municipality otherwise would perform pursuant to subsection
25 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
26 subsection (d) of Section 11-20-12, subsection (e) of Section

1 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer
2 has performed or performs or initiates in good faith the
3 remedial actions specified in the notice within 30 days of such
4 notice.

5 (g) This Section and subsection (d) of Section 11-20-7,
6 subsection (d) of Section 11-20-8, subsection (d) of Section
7 11-20-12, subsection (e) of Section 11-20-13, subsection (g) of
8 11-20-17, or Section 11-31-1.01 shall apply only to activities
9 performed, costs incurred, and liens filed after the effective
10 date of this amendatory Act of the 96th General Assembly.

11 (h) For the purposes of this Section and subsection (d) of
12 Section 11-20-7, subsection (d) of Section 11-20-8, subsection
13 (d) of Section 11-20-12, subsection (e) of Section 11-20-13,
14 subsection (g) of 11-20-17, or Section 11-31-1.01:

15 "Abandoned residential property" means any type of
16 permanent residential dwelling unit, including detached single
17 family structures, and townhouses, condominium units and
18 multifamily rental apartments covering the entire property,
19 and manufactured homes treated under Illinois law as real
20 estate and not as personal property, that has been unoccupied
21 by any lawful occupant or occupants for at least 90 days, and
22 for which after such 90 day period, the municipality has made
23 good faith efforts to contact the legal owner or owners of the
24 property identified on the recorded mortgage, or, if known, any
25 agent of the owner or owners, and no contact has been made. A
26 property for which the municipality has been given notice of

1 the order of confirmation of sale pursuant to subsection (b-10)
2 of Section 15-1508 of the Code of Civil Procedure shall not be
3 deemed to be an abandoned residential property for the purposes
4 of subsection (d) of Section 11-20-7, subsection (d) of Section
5 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of
6 Section 11-20-13, subsection (g) of 11-20-17, and Section
7 11-31-1.01 of this Code.

8 "MERS program" means the nationwide Mortgage Electronic
9 Registration System approved by Fannie Mae, Freddie Mac, and
10 Ginnie Mae that has been created by the mortgage banking
11 industry with the mission of registering every mortgage loan in
12 the United States to lawfully make information concerning each
13 residential mortgage loan and the property securing it
14 available by Internet access to mortgage originators,
15 servicers, warehouse lenders, wholesale lenders, retail
16 lenders, document custodians, settlement agents, title
17 companies, insurers, investors, county recorders, units of
18 local government, and consumers.

19 (i) Any entity or person who performs a removal, securing,
20 or enclosing activity pursuant to the authority of a
21 municipality under subsection (d) of Section 11-20-7,
22 subsection (d) of Section 11-20-8, subsection (d) of Section
23 11-20-12, subsection (e) of Section 11-20-13, subsection (g) of
24 Section 11-20-17, or Section 11-31-1.01, may, in its, his, or
25 her own name, file a lien pursuant to subsection (b) of this
26 Section and appear in a foreclosure action on that lien

1 pursuant to subsection (d) of this Section in the place of the
2 municipality, provided that the municipality shall remain
3 subject to subsection (c) of this Section, and such party shall
4 be subject to all of the provisions in this Section as if such
5 party were the municipality.

6 (i-5) All amounts received by the municipality for costs
7 incurred pursuant to this Section for which the municipality
8 has been reimbursed under Section 7.31 of the Illinois Housing
9 Development Act shall be remitted to the State Treasurer for
10 deposit into the Abandoned Residential Property Municipality
11 Relief Fund.

12 (j) If prior to subsection (d) of Section 11-20-7,
13 subsection (d) of Section 11-20-8, subsection (d) of Section
14 11-20-12, ~~and~~ subsection (e) of Section 11-20-13, and
15 subsection (g) of Section 11-20-17, becoming inoperative a lien
16 is filed pursuant to any of those subsections, then the lien
17 shall remain in full force and effect after the subsections
18 have become inoperative, subject to all of the provisions of
19 this Section. If prior to the repeal of Section 11-31-1.01 a
20 lien is filed pursuant to Section 11-31-1.01, then the lien
21 shall remain in full force and effect after the repeal of
22 Section 11-31-1.01, subject to all of the provisions of this
23 Section.

24 (Source: P.A. 96-856, eff. 3-1-10; 96-1419, eff. 10-1-10.)

1 Sec. 11-20-17. Vacant and abandoned property ordinances.

2 (a) For the purposes of minimizing the hazards to persons
3 and property resulting from vacant and abandoned property, the
4 corporate authority of each municipality may prescribe rules,
5 regulations, or ordinances for the maintenance of vacant and
6 abandoned property. The corporate authorities of a
7 municipality may impose registration fees for vacant and
8 abandoned property and fines for failure to comply with the
9 rules, regulations, or ordinances enacted pursuant to this
10 Section.

11 (b) Pursuant to such rules, regulations, or ordinances,
12 municipalities may hold responsible for failure to maintain or
13 secure a vacant and abandoned property (i) any owner of the
14 property, (ii) any beneficiary or trustee who holds a deed of
15 trust on the property, or (iii) any mortgagee who holds a
16 mortgage on the property.

17 (c) A beneficiary, trustee, or mortgagee seeking to comply
18 with rules, regulations, or ordinances regarding the
19 maintenance or security of vacant property may enter that
20 property to remedy any potential violation of a rule,
21 regulation, or ordinance to maintain or secure vacant property,
22 provided such entry is not barred by an automatic stay issued
23 by a bankruptcy court.

24 (d) Beneficiaries, trustees, mortgagees, and their agents
25 and assignees shall be held harmless from and against all
26 claims of negligence, civil trespass, and criminal trespass in

1 connection with compliance activity under the rules,
2 regulations, and ordinances for the maintenance or security of
3 vacant property, provided that the person authorizing or
4 engaging in the compliance activity has (i) made a good faith
5 effort to identify any owner and occupant of the property, and
6 (ii) made a good faith effort to contact any owner and occupant
7 in a manner reasonably calculated to give the owner and
8 occupant notice that the compliance activity is imminent.

9 (e) For the purpose of this Section, "owner" means the
10 legal or beneficial owner of an improved or unimproved parcel
11 of real estate.

12 (f) For the purpose of this Section, "mortgagee" means (i)
13 the holder of an indebtedness, obligee of a non-monetary
14 obligation secured by a mortgage, any assignee of the mortgage,
15 or any person designated or authorized to act on behalf of such
16 holder, (ii) any person or entity who previously initiated a
17 foreclosure on the vacant property or obtained a foreclosure
18 judgment against the vacant property if the deed to vacant
19 property has not been transferred to the purchaser at the
20 judicial sale, or (iii) any person claiming through a mortgagee
21 as successor.

22 (g) For the purpose of this section, "vacant property"
23 means any property having complete or incomplete structures
24 that are empty or otherwise uninhabited.

25 (h) For the purpose of this Section, "removal cost" means
26 the total value of fees and fines imposed pursuant to rules,

1 regulations, or ordinances regarding maintenance, security, or
2 demolition of vacant property.

3 (i) To enforce fees and fines pursuant to this Section, a
4 municipality may: (i) elect to obtain a lien upon the
5 underlying property for the removal cost in accordance with
6 Section 11-20-15; (ii) in the case of an abandoned residential
7 property as defined in Section 11-20-15.1, elect to obtain a
8 lien for the removal cost pursuant to Section 11-20-15.1, in
9 which case the provisions of Section 11-20-15.1 shall be the
10 exclusive remedy for the removal cost; or (iii) elect to obtain
11 a lien for the removal cost by exercising any enforcement
12 actions available under its police powers.

13 Section 60. The Code of Civil Procedure is amended by
14 changing Sections 15-1512 and by adding Section 15-1510.5 as
15 follows:

16 (735 ILCS 5/15-1510.5 new)

17 Sec. 15-1510.5. Mortgage Foreclosure Prevention Fee.

18 (a) Definitions.

19 "Civil legal services provider" means a not-for-profit
20 corporation that (1) employs one or more attorneys who are
21 licensed to practice law in the State of Illinois and who
22 directly provide civil legal services or (2) is established
23 for the purpose of providing civil legal services by an
24 organized panel of pro bono attorneys.

1 "Community-based outreach" means in-person contact
2 with mortgagors in foreclosure intended to inform such
3 mortgagors about the foreclosure process and the
4 mortgagors' rights and options for assistance in the
5 process, including the availability of mortgage
6 foreclosure housing counseling and mortgage foreclosure
7 legal services.

8 "Comprehensive court-sponsored foreclosure mediation
9 programs" means programs, administered at least in part by
10 an Illinois Circuit Court, that offer mediation in actions
11 for foreclosure. Programs shall provide mortgagors access
12 to housing counseling and legal services and include
13 community-based outreach.

14 "Governmental agency" means any State, county, or
15 local government body in Illinois, and any agency or
16 instrumentality thereof, corporate or otherwise.

17 "HUD-approved housing counseling agency" means a
18 mortgage foreclosure housing counseling agency that is
19 approved by the United States Department of Housing and
20 Urban Development, or any successor agency.

21 "Mortgage foreclosure housing counseling" means
22 housing counseling provided by a mortgage foreclosure
23 counselor that works for a HUD-approved housing counseling
24 agency.

25 "Mortgage foreclosure legal services" means legal
26 services to mortgagors with an interest in a property

1 subject to a mortgage foreclosure proceeding under Article
2 XV of the Code of Civil Procedure provided by a civil legal
3 service attorney that works for a civil legal services
4 provider.

5 "Mortgage Foreclosure Prevention Fund" means a special
6 fund used expressly to support mortgage foreclosure
7 prevention programs.

8 (b) There shall be a \$500 Mortgage Foreclosure Prevention
9 Fee collected from the proceeds resulting from a judicial sale
10 of residential real estate conducted pursuant to a foreclosure
11 judgment under this Article. The fee shall be remitted to the
12 Department of Revenue by the purchaser at the time of sale and
13 the Department shall deposit these amounts into the Mortgage
14 Foreclosure Prevention Fund. Amounts in the Fund may be
15 expended only for eligible activities described in this
16 Section.

17 Eligible foreclosure mitigation activities are mortgage
18 foreclosure housing counseling, mortgage foreclosure legal
19 services, community-based outreach, and administration of
20 comprehensive court-sponsored foreclosure mediation programs.

21 Eligible entities are HUD-approved housing counseling
22 agencies, civil legal services providers, not-for-profit
23 corporations, and governmental agencies.

24 (c) All of the moneys in the Fund collected in counties
25 with a population greater than 3,000,000 shall be used to make
26 grants to eligible entities for eligible foreclosure

1 mitigation activities to be carried out in coordination with
2 comprehensive court-sponsored foreclosure mediation programs
3 serving residents of the county in which the funds were
4 collected. At least 75% of those moneys shall be used to make
5 grants to eligible entities for mortgage foreclosure housing
6 counseling or mortgage foreclosure legal services.

7 (d) Moneys in the Fund collected in counties with a
8 population less than 3,000,000 shall be used to make grants to
9 eligible entities for eligible foreclosure mitigation
10 activities serving residents of the county in which the funds
11 were collected. At least 75% of those moneys shall be used to
12 make grants to eligible entities for mortgage foreclosure
13 housing counseling or mortgage foreclosure legal services.

14 (e) All grants shall be made by the Illinois Housing
15 Development Authority (IDHA). IHDA may prescribe reasonable
16 rules for the administration of this Section.

17 (735 ILCS 5/15-1512) (from Ch. 110, par. 15-1512)

18 Sec. 15-1512. Application of Proceeds of Sale and Surplus.
19 The proceeds resulting from a sale of real estate under this
20 Article shall be applied in the following order:

21 (a) the reasonable expenses of sale;

22 (b) the reasonable expenses of securing possession before
23 sale, holding, maintaining, and preparing the real estate for
24 sale, including payment of taxes and other governmental
25 charges, premiums on hazard and liability insurance,

1 receiver's and management fees, the Mortgage Foreclosure
2 Prevention Fee, and, to the extent provided for in the mortgage
3 or other recorded agreement and not prohibited by law,
4 reasonable attorneys' fees, payments made pursuant to Section
5 15-1505 and other legal expenses incurred by the mortgagee;

6 (c) if the sale was pursuant to judicial foreclosure,
7 satisfaction of claims in the order of priority adjudicated in
8 the judgment of foreclosure or order confirming the sale; and

9 (d) remittance of any surplus to be held by the person
10 appointed by the court to conduct the sale until further order
11 of the court. If there is a surplus, such person conducting the
12 sale shall send written notice to all parties to the proceeding
13 advising them of the amount of the surplus, and that the
14 surplus shall be held until a party obtains a court order for
15 its distribution or until, in the absence of an order, the
16 surplus is forfeited to the State.

17 (Source: P.A. 86-974.)

18 Section 65. The State Finance Act is amended by adding
19 Section 5.786 as follows:

20 (30 ILCS 105/5.786 new)

21 Sec. 5.786. The Mortgage Foreclosure Prevention Fund.

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