



Sen. John G. Mulroe

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09700HB1698sam001

LRB097 07917 AJ0 55727 a

1 AMENDMENT TO HOUSE BILL 1698

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1698 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 15-1504, 15-1504.1, 15-1507.1, 15-1508,  
6 15-1603, and 15-1701 and by adding Sections 15-1200.5 and  
7 15-1505.8 as follows:

8 (735 ILCS 5/15-1200.5 new)

9 Sec. 15-1200.5. Abandoned residential property. "Abandoned  
10 residential property" means residential real estate that upon  
11 inspection is not occupied by any mortgagor or bona fide tenant  
12 as a principal residence and as to which at least 2 of the  
13 following circumstances exist:

14 (1) the property has had at least one uncorrected  
15 municipal or county building, housing, or similar code  
16 violation in the preceding year, or has been declared unfit

1       for occupancy and ordered to remain vacant and unoccupied  
2       by a municipal or county authority;

3       (2) construction was initiated on the property and  
4       discontinued prior to completion, and there is no valid  
5       municipal or county construction or building permit posted  
6       on the property;

7       (3) gas, electric, or water utility service to the  
8       property has been terminated;

9       (4) windows or entrances to the property are boarded up  
10      or closed off, or multiple window panes are broken and  
11      unrepaired;

12      (5) doors to the property are smashed through, broken  
13      off, unhinged, or continuously unlocked;

14      (6) rubbish, trash, garbage, debris, graffiti,  
15      neglected weeds, grass, trees, bushes, or other nuisance  
16      greenery, or other hazardous, noxious, or unhealthy  
17      substances or materials, have accumulated on the property;

18      (7) the police or the sheriff's office has received at  
19      least one report of trespassing, vandalism, or other  
20      illegal activity being committed on the property in the  
21      preceding year;

22      (8) pursuant to the terms of the mortgage, the  
23      mortgagee has posted a pre-foreclosure notice of its intent  
24      to enter the property for purposes of maintaining or  
25      repairing it, and upon entering the property following the  
26      posting of the notice and a lack of response by the

1 mortgagor, has found the property unoccupied;

2 (9) the mortgagee or an interested or authorized party  
3 has secured or winterized the property due to the property  
4 being deemed vacant and unprotected or in danger of  
5 freezing;

6 (10) any mortgagor, or his or her personal  
7 representatives or assigns, has issued an oral or written  
8 statement expressing the clear intent of all mortgagors to  
9 abandon the property;

10 (11) any property manager or other person conducting an  
11 inspection of the property has issued an oral or written  
12 statement indicating all mortgagors or bona fide tenants  
13 have moved out and vacated the property;

14 (12) the property is a vacant lot;

15 (13) the property is deteriorating and is either below  
16 or is in imminent danger of falling below minimum municipal  
17 or county government standards for public safety and  
18 sanitation; or

19 (14) any other reasonable indicia of abandonment that  
20 is not otherwise included in this Section.

21 (735 ILCS 5/15-1504) (from Ch. 110, par. 15-1504)

22 Sec. 15-1504. Pleadings and service.

23 (a) Form of Complaint. A foreclosure complaint may be in  
24 substantially the following form:

25 (1) Plaintiff files this complaint to foreclose the

1 mortgage (or other conveyance in the nature of a mortgage)  
2 (hereinafter called "mortgage") hereinafter described and  
3 joins the following person as defendants: (here insert  
4 names of all defendants).

5 (2) Attached as Exhibit "A" is a copy of the mortgage  
6 and as Exhibit "B" is a copy of the note secured thereby.

7 (3) Information concerning mortgage:

8 (A) Nature of instrument: (here insert whether a  
9 mortgage, trust deed or other instrument in the nature  
10 of a mortgage, etc.)

11 (B) Date of mortgage:

12 (C) Name of mortgagor:

13 (D) Name of mortgagee:

14 (E) Date and place of recording:

15 (F) Identification of recording: (here insert book  
16 and page number or document number)

17 (G) Interest subject to the mortgage: (here insert  
18 whether fee simple, estate for years, undivided  
19 interest, etc.)

20 (H) Amount of original indebtedness, including  
21 subsequent advances made under the mortgage:

22 (I) Both the legal description of the mortgaged  
23 real estate and the common address or other information  
24 sufficient to identify it with reasonable certainty:

25 (J) Statement as to defaults, including, but not  
26 necessarily limited to, date of default, current

1           unpaid principal balance, per diem interest accruing,  
2           and any further information concerning the default:

3           (K) Name of present owner of the real estate:

4           (L) Names of other persons who are joined as  
5           defendants and whose interest in or lien on the  
6           mortgaged real estate is sought to be terminated:

7           (M) Names of defendants claimed to be personally  
8           liable for deficiency, if any:

9           (N) Capacity in which plaintiff brings this  
10          foreclosure (here indicate whether plaintiff is the  
11          legal holder of the indebtedness, a pledgee, an agent,  
12          the trustee under a trust deed or otherwise, as  
13          appropriate):

14          (O) Facts in support of redemption period shorter  
15          than the longer of (i) 7 months from the date the  
16          mortgagor or, if more than one, all the mortgagors (I)  
17          have been served with summons or by publication or (II)  
18          have otherwise submitted to the jurisdiction of the  
19          court, or (ii) 3 months from the entry of the judgment  
20          of foreclosure, if sought (here indicate whether based  
21          upon the real estate not being residential, ~~7~~  
22          ~~abandonment,~~ or real estate value less than 90% of  
23          amount owed, etc.):

24          (P) Statement that the right of redemption has been  
25          waived by all owners of redemption, if applicable:

26          (Q) Facts in support of request for attorneys' fees

1 and of costs and expenses, if applicable:

2 (R) Facts in support of a request for appointment  
3 of mortgagee in possession or for appointment of  
4 receiver, and identity of such receiver, if sought:

5 (S) Offer to mortgagor in accordance with Section  
6 15-1402 to accept title to the real estate in  
7 satisfaction of all indebtedness and obligations  
8 secured by the mortgage without judicial sale, if  
9 sought:

10 (T) Name or names of defendants whose right to  
11 possess the mortgaged real estate, after the  
12 confirmation of a foreclosure sale, is sought to be  
13 terminated and, if not elsewhere stated, the facts in  
14 support thereof:

15 REQUEST FOR RELIEF

16 Plaintiff requests:

17 (i) A judgment of foreclosure and sale.

18 (ii) An order granting a shortened redemption period,  
19 if sought.

20 (iii) A personal judgment for a deficiency, if sought.

21 (iv) An order granting possession, if sought.

22 (v) An order placing the mortgagee in possession or  
23 appointing a receiver, if sought.

24 (vi) A judgment for attorneys' fees, costs and  
25 expenses, if sought.

1           (b) Required Information. A foreclosure complaint need  
2 contain only such statements and requests called for by the  
3 form set forth in subsection (a) of Section 15-1504 as may be  
4 appropriate for the relief sought. Such complaint may be filed  
5 as a counterclaim, may be joined with other counts or may  
6 include in the same count additional matters or a request for  
7 any additional relief permitted by Article II of the Code of  
8 Civil Procedure.

9           (c) Allegations. The statements contained in a complaint in  
10 the form set forth in subsection (a) of Section 15-1504 are  
11 deemed and construed to include allegations as follows:

12           (1) on the date indicated the obligor of the  
13 indebtedness or other obligations secured by the mortgage  
14 was justly indebted in the amount of the indicated original  
15 indebtedness to the original mortgagee or payee of the  
16 mortgage note;

17           (2) that the exhibits attached are true and correct  
18 copies of the mortgage and note and are incorporated and  
19 made a part of the complaint by express reference;

20           (3) that the mortgagor was at the date indicated an  
21 owner of the interest in the real estate described in the  
22 complaint and that as of that date made, executed and  
23 delivered the mortgage as security for the note or other  
24 obligations;

25           (4) that the mortgage was recorded in the county in  
26 which the mortgaged real estate is located, on the date

1 indicated, in the book and page or as the document number  
2 indicated;

3 (5) that defaults occurred as indicated;

4 (6) that at the time of the filing of the complaint the  
5 persons named as present owners are the owners of the  
6 indicated interests in and to the real estate described;

7 (7) that the mortgage constitutes a valid, prior and  
8 paramount lien upon the indicated interest in the mortgaged  
9 real estate, which lien is prior and superior to the right,  
10 title, interest, claim or lien of all parties and nonrecord  
11 claimants whose interests in the mortgaged real estate are  
12 sought to be terminated;

13 (8) that by reason of the defaults alleged, if the  
14 indebtedness has not matured by its terms, the same has  
15 become due by the exercise, by the plaintiff or other  
16 persons having such power, of a right or power to declare  
17 immediately due and payable the whole of all indebtedness  
18 secured by the mortgage;

19 (9) that any and all notices of default or election to  
20 declare the indebtedness due and payable or other notices  
21 required to be given have been duly and properly given;

22 (10) that any and all periods of grace or other period  
23 of time allowed for the performance of the covenants or  
24 conditions claimed to be breached or for the curing of any  
25 breaches have expired;

26 (11) that the amounts indicated in the statement in the



1 complaint are correctly stated and if such statement  
2 indicates any advances made or to be made by the plaintiff  
3 or owner of the mortgage indebtedness, that such advances  
4 were, in fact, made or will be required to be made, and  
5 under and by virtue of the mortgage the same constitute  
6 additional indebtedness secured by the mortgage; and

7 (12) that, upon confirmation of the sale, the holder of  
8 the certificate of sale or deed issued pursuant to that  
9 certificate or, if no certificate or deed was issued, the  
10 purchaser at the sale will be entitled to full possession  
11 of the mortgaged real estate against the parties named in  
12 clause (T) of paragraph (3) of subsection (a) of Section  
13 15-1504 or elsewhere to the same effect; the omission of  
14 any party indicates that plaintiff will not seek a  
15 possessory order in the order confirming sale unless the  
16 request is subsequently made under subsection (h) of  
17 Section 15-1701 or by separate action under Article 9 of  
18 this Code.

19 (d) Request for Fees and Costs. A statement in the  
20 complaint that plaintiff seeks the inclusion of attorneys' fees  
21 and of costs and expenses shall be deemed and construed to  
22 include allegations that:

23 (1) plaintiff has been compelled to employ and retain  
24 attorneys to prepare and file the complaint and to  
25 represent and advise the plaintiff in the foreclosure of  
26 the mortgage and the plaintiff will thereby become liable

1 for the usual, reasonable and customary fees of the  
2 attorneys in that behalf;

3 (2) that the plaintiff has been compelled to advance or  
4 will be compelled to advance, various sums of money in  
5 payment of costs, fees, expenses and disbursements  
6 incurred in connection with the foreclosure, including,  
7 without limiting the generality of the foregoing, filing  
8 fees, stenographer's fees, witness fees, costs of  
9 publication, costs of procuring and preparing documentary  
10 evidence and costs of procuring abstracts of title, Torrens  
11 certificates, foreclosure minutes and a title insurance  
12 policy;

13 (3) that under the terms of the mortgage, all such  
14 advances, costs, attorneys' fees and other fees, expenses  
15 and disbursements are made a lien upon the mortgaged real  
16 estate and the plaintiff is entitled to recover all such  
17 advances, costs, attorneys' fees, expenses and  
18 disbursements, together with interest on all advances at  
19 the rate provided in the mortgage, or, if no rate is  
20 provided therein, at the statutory judgment rate, from the  
21 date on which such advances are made;

22 (4) that in order to protect the lien of the mortgage,  
23 it may become necessary for plaintiff to pay taxes and  
24 assessments which have been or may be levied upon the  
25 mortgaged real estate;

26 (5) that in order to protect and preserve the mortgaged

1 real estate, it may also become necessary for the plaintiff  
2 to pay liability (protecting mortgagor and mortgagee),  
3 fire and other hazard insurance premiums on the mortgaged  
4 real estate, make such repairs to the mortgaged real estate  
5 as may reasonably be deemed necessary for the proper  
6 preservation thereof, advance for costs to inspect the  
7 mortgaged real estate or to appraise it, or both, and  
8 advance for premiums for pre-existing private or  
9 governmental mortgage insurance to the extent required  
10 after a foreclosure is commenced in order to keep such  
11 insurance in force; and

12 (6) that under the terms of the mortgage, any money so  
13 paid or expended will become an additional indebtedness  
14 secured by the mortgage and will bear interest from the  
15 date such monies are advanced at the rate provided in the  
16 mortgage, or, if no rate is provided, at the statutory  
17 judgment rate.

18 (e) Request for Foreclosure. The request for foreclosure is  
19 deemed and construed to mean that the plaintiff requests that:

20 (1) an accounting may be taken under the direction of  
21 the court of the amounts due and owing to the plaintiff;

22 (2) that the defendants be ordered to pay to the  
23 plaintiff before expiration of any redemption period (or,  
24 if no redemption period, before a short date fixed by the  
25 court) whatever sums may appear to be due upon the taking  
26 of such account, together with attorneys' fees and costs of

1 the proceedings (to the extent provided in the mortgage or  
2 by law);

3 (3) that in default of such payment in accordance with  
4 the judgment, the mortgaged real estate be sold as directed  
5 by the court, to satisfy the amount due to the plaintiff as  
6 set forth in the judgment, together with the interest  
7 thereon at the statutory judgment rate from the date of the  
8 judgment;

9 (4) that in the event the plaintiff is a purchaser of  
10 the mortgaged real estate at such sale, the plaintiff may  
11 offset against the purchase price of such real estate the  
12 amounts due under the judgment of foreclosure and order  
13 confirming the sale;

14 (5) that in the event of such sale and the failure of  
15 any person entitled thereto to redeem prior to such sale  
16 pursuant to this Article, the defendants made parties to  
17 the foreclosure in accordance with this Article, and all  
18 nonrecord claimants given notice of the foreclosure in  
19 accordance with this Article, and all persons claiming by,  
20 through or under them, and each and any and all of them,  
21 may be forever barred and foreclosed of any right, title,  
22 interest, claim, lien, or right to redeem in and to the  
23 mortgaged real estate; and

24 (6) that if no redemption is made prior to such sale, a  
25 deed may be issued to the purchaser thereat according to  
26 law and such purchaser be let into possession of the

1 mortgaged real estate in accordance with Part 17 of this  
2 Article.

3 (f) Request for Deficiency Judgment. A request for a  
4 personal judgment for a deficiency in a foreclosure complaint  
5 if the sale of the mortgaged real estate fails to produce a  
6 sufficient amount to pay the amount found due, the plaintiff  
7 may have a personal judgment against any party in the  
8 foreclosure indicated as being personally liable therefor and  
9 the enforcement thereof be had as provided by law.

10 (g) Request for Possession or Receiver. A request for  
11 possession or appointment of a receiver has the meaning as  
12 stated in subsection (b) of Section 15-1706.

13 (h) Answers by Parties. Any party may assert its interest  
14 by counterclaim and such counterclaim may at the option of that  
15 party stand in lieu of answer to the complaint for foreclosure  
16 and all counter complaints previously or thereafter filed in  
17 the foreclosure. Any such counterclaim shall be deemed to  
18 constitute a statement that the counter claimant does not have  
19 sufficient knowledge to form a belief as to the truth or  
20 falsity of the allegations of the complaint and all other  
21 counterclaims, except to the extent that the counterclaim  
22 admits or specifically denies such allegations.

23 (Source: P.A. 91-357, eff. 7-29-99.)

24 (735 ILCS 5/15-1504.1)

25 Sec. 15-1504.1. Filing fee for Abandoned Residential

1 Property Municipality Relief Foreclosure Prevention Program  
2 Fund.

3 (a) With respect to residential real estate, at the time of  
4 the filing of a foreclosure complaint, the plaintiff shall pay  
5 to the clerk of the court in which the foreclosure complaint is  
6 filed a fee of \$50 for deposit into the Abandoned Residential  
7 Property Municipality Relief Foreclosure Prevention Program  
8 Fund, a special fund created in the State treasury. The clerk  
9 shall remit the fee to the State Treasurer as provided in this  
10 Section to be expended for the purposes set forth in Section  
11 7.31 ~~7.30~~ of the Illinois Housing Development Act. All fees  
12 paid by plaintiffs to the clerk of the court as provided in  
13 this Section shall be disbursed within 60 days after receipt by  
14 the clerk of the court as follows: (i) 98% to the State  
15 Treasurer for deposit into the Abandoned Residential Property  
16 Municipality Relief Foreclosure Prevention Counseling Program  
17 Fund, and (ii) 2% to the clerk of the court for administrative  
18 expenses related to implementation of this Section.

19 (b) Not later than March 1 of each year, the clerk of the  
20 court shall submit to the Illinois Housing Development  
21 Authority a report of the funds collected and remitted pursuant  
22 to this Section during the preceding year.

23 (c) Subsection (a) shall become inoperative on January 1,  
24 2016. This Section is repealed on March 2, 2016.

25 (Source: P.A. 96-1419, eff. 10-1-10; revised 9-16-10.)

1 (735 ILCS 5/15-1505.8 new)

2 Sec. 15-1505.8. Expedited judgment and sale procedure for  
3 abandoned residential property.

4 (a) Upon motion and notice, the mortgagee may elect to  
5 utilize the expedited judgment and sale procedure for abandoned  
6 residential property set forth in this Section to obtain a  
7 judgment of foreclosure pursuant to Section 15-1506. The motion  
8 may be combined with or made part of the motion requesting a  
9 judgment of foreclosure. If service upon the mortgagor was  
10 obtained by publication, then notice of the motion to the  
11 mortgagor shall be posted at the property address.

12 (b) The motion requesting an expedited judgment of  
13 foreclosure and sale may be filed by the mortgagee at the time  
14 the foreclosure complaint is filed or any time thereafter and  
15 shall be accompanied by an affidavit setting forth facts  
16 sufficient for the court to find that the mortgaged real estate  
17 is abandoned residential property.

18 (c) Motion for an expedited judgment and sale.

19 (1) If a motion for an expedited judgment and sale is  
20 filed at the time the foreclosure complaint is filed, the  
21 motion shall be heard by the court no later than:

22 (A) 45 days after the date of service of the  
23 summons on the mortgagor or, if more than one, no later  
24 than 45 days after the date of service on the last  
25 served mortgagor;

26 (B) 45 days after the date of first publication, if

1 service of process is by publication; or

2 (C) 45 days after the mortgagors have otherwise  
3 submitted to the jurisdiction of the court.

4 (2) If a motion for an expedited judgment and sale is  
5 filed after the foreclosure complaint is filed, the motion  
6 shall be heard no later than 15 days after the motion is  
7 filed, provided that at least:

8 (A) 30 days have transpired since service of the  
9 summons on the mortgagor, or, if there is more than one  
10 mortgagor, 30 days have transpired since service on all  
11 mortgagors; or

12 (B) 30 days have transpired since the date of first  
13 publication, if service of process is by publication;  
14 or

15 (C) 30 days have transpired since all mortgagors  
16 have otherwise submitted to the jurisdiction of the  
17 court.

18 (d) The hearing shall be given priority by the court and  
19 shall be scheduled to be heard within the applicable time  
20 period set forth in subsection (c).

21 (e) The affidavit shall be signed by and based upon the  
22 information and belief of the mortgagee, an agent of the  
23 mortgagee, the sheriff of the county or local law enforcement  
24 agency of the municipality in which the property is located, or  
25 a building inspector or other municipal or county official for  
26 the municipality or county in which the property is located.



1 The affidavit shall state that the property is not occupied by  
2 any mortgagor or bona fide tenant as a principal residence and  
3 there exists at least 2 of the criteria set forth in Section  
4 15-1200.5, which shall be stated in the affidavit. Photographic  
5 or other documentary evidence that demonstrates supporting  
6 facts set forth in the affidavit shall be attached to the  
7 affidavit. An affidavit that meets the foregoing criteria shall  
8 be prima facie evidence that the property which is the subject  
9 of the foreclosure complaint is abandoned residential  
10 property.

11 (f) At the hearing on the motion requesting an expedited  
12 judgment and sale, and upon a finding by the court that the  
13 mortgaged real estate is abandoned residential property, the  
14 court shall immediately proceed to enter a judgment of  
15 foreclosure as requested in the complaint. The judgment of  
16 foreclosure shall include the matters identified in Section  
17 15-1506.

18 (g) The reinstatement period and redemption period for the  
19 abandoned residential property shall end in accordance with  
20 paragraph (4) of subsection (b) of Section 15-1603, and the  
21 property shall be sold at the earliest practicable time at a  
22 sale as provided in this Article.

23 (h) Mortgagee responsibility.

24 (1) A mortgagee or its agent may enter an abandoned  
25 residential property that is the subject of a foreclosure  
26 complaint for the purpose of maintaining or securing the

1 property, provided that entry is not barred by an automatic  
2 stay issued by a bankruptcy court. A mortgagee and its  
3 agents shall not be held liable for any claim of  
4 negligence, civil trespass, or criminal trespass based  
5 upon entering the abandoned residential property or  
6 maintaining or securing the abandoned residential  
7 property.

8 (2) The mortgagee shall be responsible for repairs or  
9 other maintenance to the abandoned residential property if  
10 it purchases the property at the foreclosure sale held  
11 pursuant to Section 15-1507 and the sale is confirmed by  
12 the court pursuant to Section 15-1508.

13 (i) Upon confirmation of the sale held pursuant to Section  
14 15-1507, any personal property remaining in or upon the  
15 abandoned residential property shall be deemed to have been  
16 abandoned by the owner of such personal property and may be  
17 disposed of or donated by the holder of the certificate of sale  
18 or, if none, by the purchaser at the sale. In the event of  
19 donation of any such personal property, the holder of the  
20 certificate of sale or, if none, the purchaser at the sale may  
21 transfer such donated property with a bill of sale. No  
22 mortgagee or its successors or assigns, holder of a certificate  
23 of sale, or purchaser at the sale, or its attorneys or agents,  
24 shall be liable for any such disposal or donation of personal  
25 property.

26 (j) No mortgagee shall be held liable for seeking a

1 judicial determination of abandonment, if the mortgagee, upon  
2 information and belief at the time the motion requesting an  
3 expedited judgment of foreclosure and sale is filed with the  
4 court, makes a good faith assertion through its affidavit that  
5 evidence exists supporting the fact the mortgaged real estate  
6 is abandoned residential property.

7 (735 ILCS 5/15-1507.1)

8 (Section scheduled to be repealed on March 2, 2016)

9 Sec. 15-1507.1. Judicial sale fee for Foreclosure  
10 Prevention Program ~~Abandoned Residential Property Municipality~~  
11 ~~Relief~~ Fund.

12 (a) Upon and at the sale of residential real estate under  
13 Section 15-1507, the purchaser shall pay to the person  
14 conducting the sale pursuant to Section 15-1507 a fee for  
15 deposit into the Foreclosure Prevention Program ~~Abandoned~~  
16 ~~Residential Property Municipality Relief~~ Fund, a special fund  
17 created in the State treasury. The fee shall be calculated at  
18 the rate of \$1 for each \$1,000 or fraction thereof of the  
19 amount paid by the purchaser to the person conducting the sale,  
20 as reflected in the receipt of sale issued to the purchaser,  
21 provided that in no event shall the fee exceed \$300. No fee  
22 shall be paid by the mortgagee acquiring the residential real  
23 estate pursuant to its credit bid at the sale or by any  
24 mortgagee, judgment creditor, or other lienor acquiring the  
25 residential real estate whose rights in and to the residential

1 real estate arose prior to the sale. Upon confirmation of the  
2 sale under Section 15-1508, the person conducting the sale  
3 shall remit the fee to the clerk of the court in which the  
4 foreclosure case is pending. The clerk shall remit the fee to  
5 the State Treasurer as provided in this Section, to be expended  
6 for the purposes set forth in Section 7.30 ~~7.31~~ of the Illinois  
7 Housing Development Act.

8 (b) All fees paid by purchasers as provided in this Section  
9 shall be disbursed within 60 days after receipt by the clerk of  
10 the court as follows: (i) 98% to the State Treasurer for  
11 deposit into the Foreclosure Prevention Program ~~Abandoned~~  
12 ~~Residential Property Municipality Relief~~ Fund, and (ii) 2% to  
13 the clerk of the court for administrative expenses related to  
14 implementation of this Section.

15 (c) Not later than March 1 of each year, the clerk of the  
16 court shall submit to the Illinois Housing Development  
17 Authority a report of the funds collected and remitted during  
18 the preceding year pursuant to this Section.

19 (d) (Blank.) ~~Subsections (a) and (b) of this Section shall~~  
20 ~~become inoperative on January 1, 2016. This Section is repealed~~  
21 ~~on March 2, 2016.~~

22 (Source: P.A. 96-1419, eff. 10-1-10.)

23 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

24 Sec. 15-1508. Report of Sale and Confirmation of Sale.

25 (a) Report. The person conducting the sale shall promptly

1 make a report to the court, which report shall include a copy  
2 of all receipts and, if any, certificate of sale.

3 (b) Hearing. Upon motion and notice in accordance with  
4 court rules applicable to motions generally, which motion shall  
5 not be made prior to sale, the court shall conduct a hearing to  
6 confirm the sale. Unless the court finds that (i) a notice  
7 required in accordance with subsection (c) of Section 15-1507  
8 was not given, (ii) the terms of sale were unconscionable,  
9 (iii) the sale was conducted fraudulently, or (iv) ~~that~~ justice  
10 was otherwise not done, the court shall then enter an order  
11 confirming the sale. The confirmation order shall include a  
12 name, address, and telephone number of the holder of the  
13 certificate of sale or deed issued pursuant to that certificate  
14 or, if no certificate or deed was issued, the purchaser, whom a  
15 municipality or county may contact with concerns about the real  
16 estate. The confirmation order may also:

17 (1) approve the mortgagee's fees and costs arising  
18 between the entry of the judgment of foreclosure and the  
19 confirmation hearing, those costs and fees to be allowable  
20 to the same extent as provided in the note and mortgage and  
21 in Section 15-1504;

22 (2) provide for a personal judgment against any party  
23 for a deficiency; and

24 (3) determine the priority of the judgments of parties  
25 who deferred proving the priority pursuant to subsection  
26 (h) of Section 15-1506, but the court shall not defer

1 confirming the sale pending the determination of such  
2 priority.

3 (b-3) Hearing to confirm sale of abandoned residential  
4 property. Upon motion and notice, which motion shall be made  
5 prior to the sale and heard by the court upon conclusion of the  
6 sale, the court shall enter an order confirming the sale of the  
7 abandoned residential property, unless the court finds that a  
8 reason set forth in items (i) through (iv) of subsection (b) of  
9 this Section exists for not approving the sale. The  
10 confirmation order also may address the matters identified in  
11 items (1) through (3) of subsection (b) of this Section.  
12 Notwithstanding anything to the contrary in subsection (g) of  
13 this Section, the order confirming the sale of the abandoned  
14 residential property shall award to the purchaser possession of  
15 the property as of the date of the entry of the order  
16 confirming the sale.

17 (b-5) Notice with respect to residential real estate. With  
18 respect to residential real estate, the notice required under  
19 subsection (b) of this Section shall be sent to the mortgagor  
20 even if the mortgagor has previously been held in default. In  
21 the event the mortgagor has filed an appearance, the notice  
22 shall be sent to the address indicated on the appearance. In  
23 all other cases, the notice shall be sent to the mortgagor at  
24 the common address of the foreclosed property. The notice shall  
25 be sent by first class mail. Unless the right to possession has  
26 been previously terminated by the court, the notice shall

1 include the following language in 12-point boldface  
2 capitalized type:

3 IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO  
4 REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF  
5 POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE  
6 ILLINOIS MORTGAGE FORECLOSURE LAW.

7 (b-10) Notice of confirmation order sent to municipality or  
8 county. A copy of the confirmation order required under  
9 subsection (b) shall be sent to the municipality in which the  
10 foreclosed property is located, or to the county within the  
11 boundary of which the foreclosed property is located if the  
12 foreclosed property is located in an unincorporated territory.  
13 A municipality or county must clearly publish on its website a  
14 single address to which such notice shall be sent. If a  
15 municipality or county does not maintain a website, then the  
16 municipality or county must publicly post in its main office a  
17 single address to which such notice shall be sent. In the event  
18 that a municipality or county has not complied with the  
19 publication requirement in this subsection (b-10), then such  
20 notice to the municipality or county shall be provided pursuant  
21 to Section 2-211 of the Code of Civil Procedure.

22 (c) Failure to Give Notice. If any sale is held without  
23 compliance with subsection (c) of Section 15-1507 of this  
24 Article, any party entitled to the notice provided for in  
25 paragraph (3) of that subsection (c) who was not so notified  
26 may, by motion supported by affidavit made prior to

1 confirmation of such sale, ask the court which entered the  
2 judgment to set aside the sale. Any such party shall guarantee  
3 or secure by bond a bid equal to the successful bid at the  
4 prior sale, unless the party seeking to set aside the sale is  
5 the mortgagor, the real estate sold at the sale is residential  
6 real estate, and the mortgagor occupies the residential real  
7 estate at the time the motion is filed. In that event, no  
8 guarantee or bond shall be required of the mortgagor. Any  
9 subsequent sale is subject to the same notice requirement as  
10 the original sale.

11 (d) Validity of Sale. Except as provided in subsection (c)  
12 of Section 15-1508, no sale under this Article shall be held  
13 invalid or be set aside because of any defect in the notice  
14 thereof or in the publication of the same, or in the  
15 proceedings of the officer conducting the sale, except upon  
16 good cause shown in a hearing pursuant to subsection (b) of  
17 Section 15-1508. At any time after a sale has occurred, any  
18 party entitled to notice under paragraph (3) of subsection (c)  
19 of Section 15-1507 may recover from the mortgagee any damages  
20 caused by the mortgagee's failure to comply with such paragraph  
21 (3). Any party who recovers damages in a judicial proceeding  
22 brought under this subsection may also recover from the  
23 mortgagee the reasonable expenses of litigation, including  
24 reasonable attorney's fees.

25 (d-5) Making Home Affordable Program. The court that  
26 entered the judgment shall set aside a sale held pursuant to



1 Section 15-1507, upon motion of the mortgagor at any time prior  
2 to the confirmation of the sale, if the mortgagor proves by a  
3 preponderance of the evidence that (i) the mortgagor has  
4 applied for assistance under the Making Home Affordable Program  
5 established by the United States Department of the Treasury  
6 pursuant to the Emergency Economic Stabilization Act of 2008,  
7 as amended by the American Recovery and Reinvestment Act of  
8 2009, and (ii) the mortgaged real estate was sold in material  
9 violation of the program's requirements for proceeding to a  
10 judicial sale. The provisions of this subsection (d-5), except  
11 for this sentence, shall become inoperative on January 1, 2013  
12 for all actions filed under this Article after December 31,  
13 2012, in which the mortgagor did not apply for assistance under  
14 the Making Home Affordable Program on or before December 31,  
15 2012.

16 (e) Deficiency Judgment. In any order confirming a sale  
17 pursuant to the judgment of foreclosure, the court shall also  
18 enter a personal judgment for deficiency against any party (i)  
19 if otherwise authorized and (ii) to the extent requested in the  
20 complaint and proven upon presentation of the report of sale in  
21 accordance with Section 15-1508. Except as otherwise provided  
22 in this Article, a judgment may be entered for any balance of  
23 money that may be found due to the plaintiff, over and above  
24 the proceeds of the sale or sales, and enforcement may be had  
25 for the collection of such balance, the same as when the  
26 judgment is solely for the payment of money. Such judgment may

1 be entered, or enforcement had, only in cases where personal  
2 service has been had upon the persons personally liable for the  
3 mortgage indebtedness, unless they have entered their  
4 appearance in the foreclosure action.

5 (f) Satisfaction. Upon confirmation of the sale, the  
6 judgment stands satisfied to the extent of the sale price less  
7 expenses and costs. If the order confirming the sale includes a  
8 deficiency judgment, the judgment shall become a lien in the  
9 manner of any other judgment for the payment of money.

10 (g) The order confirming the sale shall include,  
11 notwithstanding any previous orders awarding possession during  
12 the pendency of the foreclosure, an award to the purchaser of  
13 possession of the mortgaged real estate, as of the date 30 days  
14 after the entry of the order, against the parties to the  
15 foreclosure whose interests have been terminated.

16 An order of possession authorizing the removal of a person  
17 from possession of the mortgaged real estate shall be entered  
18 and enforced only against those persons personally named as  
19 individuals in the complaint or the petition under subsection  
20 (h) of Section 15-1701 and in the order of possession and shall  
21 not be entered and enforced against any person who is only  
22 generically described as an unknown owner or nonrecord claimant  
23 or by another generic designation in the complaint.

24 Notwithstanding the preceding paragraph, the failure to  
25 personally name, include, or seek an award of possession of the  
26 mortgaged real estate against a person in the confirmation

1 order shall not abrogate any right that the purchaser may have  
2 to possession of the mortgaged real estate and to maintain a  
3 proceeding against that person for possession under Article 9  
4 of this Code or subsection (h) of Section 15-1701; and  
5 possession against a person who (1) has not been personally  
6 named as a party to the foreclosure and (2) has not been  
7 provided an opportunity to be heard in the foreclosure  
8 proceeding may be sought only by maintaining a proceeding under  
9 Article 9 of this Code or subsection (h) of Section 15-1701.

10 (Source: P.A. 95-826, eff. 8-14-08; 96-265, eff. 8-11-09;  
11 96-856, eff. 3-1-10; 96-1245, eff. 7-23-10; revised 9-16-10.)

12 (735 ILCS 5/15-1603) (from Ch. 110, par. 15-1603)

13 Sec. 15-1603. Redemption.

14 (a) Owner of Redemption. Except as provided in subsection  
15 (b) of Section 15-1402, only an owner of redemption may redeem  
16 from the foreclosure, and such owner of redemption may redeem  
17 only during the redemption period specified in subsection (b)  
18 of Section 15-1603 and only if the right of redemption has not  
19 been validly waived.

20 (b) Redemption Period.

21 (1) In the foreclosure of a mortgage of real estate  
22 which is residential real estate at the time the  
23 foreclosure is commenced, the redemption period shall end  
24 on the later of (i) the date 7 months from the date the  
25 mortgagor or, if more than one, all the mortgagors (A) have

1           been served with summons or by publication or (B) have  
2           otherwise submitted to the jurisdiction of the court, or  
3           (ii) the date 3 months from the date of entry of a judgment  
4           of foreclosure.

5           (2) In all other foreclosures, the redemption period  
6           shall end on the later of (i) the date 6 months from the  
7           date the mortgagor or, if more than one, all the mortgagors  
8           (A) have been served with summons or by publication or (B)  
9           have otherwise submitted to the jurisdiction of the court,  
10          or (ii) the date 3 months from the date of entry of a  
11          judgment of foreclosure.

12          (3) Notwithstanding paragraphs (1) and (2), the  
13          redemption period shall end at the later of the expiration  
14          of any reinstatement period provided for in Section 15-1602  
15          or the date 60 days after the date the judgment of  
16          foreclosure is entered, if the court finds that (i) the  
17          value of the mortgaged real estate as of the date of the  
18          judgment is less than 90% of the amount specified pursuant  
19          to subsection (d) of Section 15-1603 and (ii) the mortgagee  
20          waives any and all rights to a personal judgment for a  
21          deficiency against the mortgagor and against all other  
22          persons liable for the indebtedness or other obligations  
23          secured by the mortgage.

24          (4) Notwithstanding paragraphs (1) and (2), the  
25          redemption period shall end on ~~the date 30 days after~~ the  
26          date the judgment of foreclosure is entered if the court

1 finds that the mortgaged real estate is abandoned  
2 residential property ~~has been abandoned~~. In cases where the  
3 redemption period is shortened on account of abandonment,  
4 the reinstatement period shall not extend beyond the date  
5 the judgment is entered ~~redemption period as shortened~~.

6 (c) Extension of Redemption Period.

7 (1) Once expired, the right of redemption provided for  
8 in Sections 15-1603 or 15-1604 shall not be revived. The  
9 period within which the right of redemption provided for in  
10 Sections 15-1603 or 15-1604 may be exercised runs  
11 independently of any action by any person to enforce the  
12 judgment of foreclosure or effect a sale pursuant thereto.  
13 Neither the initiation of any legal proceeding nor the  
14 order of any court staying the enforcement of a judgment of  
15 foreclosure or the sale pursuant to a judgment or the  
16 confirmation of the sale, shall have the effect of tolling  
17 the running of the redemption period.

18 (2) If a court has the authority to stay, and does  
19 stay, the running of the redemption period, or if the  
20 redemption period is extended by any statute of the United  
21 States, the redemption period shall be extended until the  
22 expiration of the same number of days after the expiration  
23 of the stay order as the number of days remaining in the  
24 redemption period at the time the stay order became  
25 effective, or, if later, until the expiration of 30 days  
26 after the stay order terminates. If the stay order

1 terminates more than 30 days prior to the expiration of the  
2 redemption period, the redemption period shall not be  
3 extended.

4 (d) Amount Required to Redeem. The amount required to  
5 redeem shall be the sum of:

6 (1) The amount specified in the judgment of  
7 foreclosure, which shall consist of (i) all principal and  
8 accrued interest secured by the mortgage and due as of the  
9 date of the judgment, (ii) all costs allowed by law, (iii)  
10 costs and expenses approved by the court, (iv) to the  
11 extent provided for in the mortgage and approved by the  
12 court, additional costs, expenses and reasonable  
13 attorneys' fees incurred by the mortgagee, (v) all amounts  
14 paid pursuant to Section 15-1505 and (vi) per diem interest  
15 from the date of judgment to the date of redemption  
16 calculated at the mortgage rate of interest applicable as  
17 if no default had occurred; and

18 (2) The amount of other expenses authorized by the  
19 court which the mortgagee reasonably incurs between the  
20 date of judgment and the date of redemption, which shall be  
21 the amount certified by the mortgagee in accordance with  
22 subsection (e) of Section 15-1603.

23 (e) Notice of Intent to Redeem. An owner of redemption who  
24 intends to redeem shall give written notice of such intent to  
25 redeem to the mortgagee's attorney of record specifying the  
26 date designated for redemption and the current address of the

1 owner of redemption for purposes of receiving notice. Such  
2 owner of redemption shall file with the clerk of the court a  
3 certification of the giving of such notice. The notice of  
4 intent to redeem must be received by the mortgagee's attorney  
5 at least 15 days (other than Saturday, Sunday or court holiday)  
6 prior to the date designated for redemption. The mortgagee  
7 shall thereupon file with the clerk of the court and shall give  
8 written notice to the owner of redemption at least three days  
9 (other than Saturday, Sunday or court holiday) before the date  
10 designated for redemption a certification, accompanied by  
11 copies of paid receipts or appropriate affidavits, of any  
12 expenses authorized in paragraph (2) of subsection (d) of  
13 Section 15-1603. If the mortgagee fails to serve such  
14 certification within the time specified herein, then the owner  
15 of redemption intending to redeem may redeem on the date  
16 designated for redemption in the notice of intent to redeem,  
17 and the mortgagee shall not be entitled to payment of any  
18 expenses authorized in paragraph (2) of subsection (d) of  
19 Section 15-1603.

20 (f) Procedure for Redemption.

21 (1) An owner of redemption may redeem the real estate  
22 from the foreclosure by paying the amount specified in  
23 subsection (d) of Section 15-1603 to the mortgagee or the  
24 mortgagee's attorney of record on or before the date  
25 designated for redemption pursuant to subsection (e) of  
26 Section 15-1603.

1           (2) If the mortgagee refuses to accept payment or if  
2           the owner of redemption redeeming from the foreclosure  
3           objects to the reasonableness of the additional expenses  
4           authorized in paragraph (2) of subsection (d) of Section  
5           15-1603 and certified in accordance with subsection (e) of  
6           Section 15-1603, the owner of redemption shall pay the  
7           certified amount to the clerk of the court on or before the  
8           date designated for redemption, together with a written  
9           statement specifying the expenses to which objection is  
10          made. In such case the clerk shall pay to the mortgagee the  
11          amount tendered minus the amount to which the objection  
12          pertains.

13          (3) Upon payment to the clerk, whether or not the owner  
14          of redemption files an objection at the time of payment,  
15          the clerk shall give a receipt of payment to the person  
16          redeeming from the foreclosure, and shall file a copy of  
17          that receipt in the foreclosure record. Upon receipt of the  
18          amounts specified to be paid to the mortgagee pursuant to  
19          this Section, the mortgagee shall promptly furnish the  
20          mortgagor with a release of the mortgage or satisfaction of  
21          the judgment, as appropriate, and the evidence of all  
22          indebtedness secured by the mortgage shall be cancelled.

23          (g) Procedure Upon Objection. If an objection is filed by  
24          an owner of redemption in accordance with paragraph (2) of  
25          subsection (f) of Section 15-1603, the clerk shall hold the  
26          amount to which the objection pertains until the court orders



1 distribution of those funds. The court shall hold a hearing  
2 promptly to determine the distribution of any funds held by the  
3 clerk pursuant to such objection. Each party shall pay its own  
4 costs and expenses in connection with any objection, including  
5 attorneys' fees, subject to Section 2-611 of the Code of Civil  
6 Procedure.

7 (h) Failure to Redeem. Unless the real estate being  
8 foreclosed is redeemed from the foreclosure, it shall be sold  
9 as provided in this Article.

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

11 (735 ILCS 5/15-1701) (from Ch. 110, par. 15-1701)

12 Sec. 15-1701. Right to possession.

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

22 (a-5) Abandoned residential property. Notwithstanding  
23 anything to the contrary in this Section, the holder of the  
24 certificate of sale or deed issued pursuant to that certificate  
25 or, if no certificate or deed was issued, the purchaser, of

1 abandoned residential property shall be entitled to possession  
2 of the property as of the date the order confirming the sale of  
3 the abandoned residential property is entered.

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

6 (1) In the case of residential real estate, the  
7 mortgagor shall be entitled to possession of the real  
8 estate except if (i) the mortgagee shall object and show  
9 good cause, (ii) the mortgagee is so authorized by the  
10 terms of the mortgage or other written instrument, and  
11 (iii) the court is satisfied that there is a reasonable  
12 probability that the mortgagee will prevail on a final  
13 hearing of the cause, the court shall upon request place  
14 the mortgagee in possession. If the residential real estate  
15 consists of more than one dwelling unit, then for the  
16 purpose of this Part residential real estate shall mean  
17 only that dwelling unit or units occupied by persons  
18 described in clauses (i), (ii) and (iii) of Section  
19 15-1219.

20 (2) In all other cases, if (i) the mortgagee is so  
21 authorized by the terms of the mortgage or other written  
22 instrument, and (ii) the court is satisfied that there is a  
23 reasonable probability that the mortgagee will prevail on a  
24 final hearing of the cause, the mortgagee shall upon  
25 request be placed in possession of the real estate, except  
26 that if the mortgagor shall object and show good cause, the

1 court shall allow the mortgagor to remain in possession.

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

5 (1) Subsection (b) of Section 15-1701 shall be  
6 applicable, regardless of the provisions of the mortgage or  
7 other instrument, except that after a sale pursuant to the  
8 judgment the holder of the certificate of sale (or, if  
9 none, the purchaser at the sale) shall have the mortgagee's  
10 right to be placed in possession, with all rights and  
11 duties of a mortgagee in possession under this Article.

12 (2) Notwithstanding paragraph (1) of subsection (b)  
13 and paragraph (1) of subsection (c) of Section 15-1701,  
14 upon request of the mortgagee, a mortgagor of residential  
15 real estate shall not be allowed to remain in possession  
16 between the expiration of the redemption period and through  
17 the 30th day after sale confirmation unless (i) the  
18 mortgagor pays to the mortgagee or such holder or  
19 purchaser, whichever is applicable, monthly the lesser of  
20 the interest due under the mortgage calculated at the  
21 mortgage rate of interest applicable as if no default had  
22 occurred or the fair rental value of the real estate, or  
23 (ii) the mortgagor otherwise shows good cause. Any amounts  
24 paid by the mortgagor pursuant to this subsection shall be  
25 credited against the amounts due from the mortgagor.

26 (d) After 30 Days After Sale Confirmation. The holder of

1 the certificate of sale or deed issued pursuant to that  
2 certificate or, if no certificate or deed was issued, the  
3 purchaser, except to the extent the holder or purchaser may  
4 consent otherwise, shall be entitled to possession of the  
5 mortgaged real estate, as of the date 30 days after the order  
6 confirming the sale is entered, against those parties to the  
7 foreclosure whose interests the court has ordered terminated,  
8 without further notice to any party, further order of the  
9 court, or resort to proceedings under any other statute other  
10 than this Article. This right to possession shall be limited by  
11 the provisions governing entering and enforcing orders of  
12 possession under subsection (g) of Section 15-1508. If the  
13 holder or purchaser determines that there are occupants of the  
14 mortgaged real estate who have not been made parties to the  
15 foreclosure and had their interests terminated therein, the  
16 holder or purchaser may bring a proceeding under subsection (h)  
17 of this Section or under Article 9 of this Code to terminate  
18 the rights of possession of any such occupants. The holder or  
19 purchaser shall not be entitled to proceed against any such  
20 occupant under Article 9 of this Code until after 30 days after  
21 the order confirming the sale is entered.

22 (e) Termination of Leases. A lease of all or any part of  
23 the mortgaged real estate shall not be terminated automatically  
24 solely by virtue of the entry into possession by (i) a  
25 mortgagee or receiver prior to the entry of an order confirming  
26 the sale, (ii) the holder of the certificate of sale, (iii) the

1 holder of the deed issued pursuant to that certificate, or (iv)  
2 if no certificate or deed was issued, the purchaser at the  
3 sale.

4 (f) Other Statutes; Instruments. The provisions of this  
5 Article providing for possession of mortgaged real estate shall  
6 supersede any other inconsistent statutory provisions. In  
7 particular, and without limitation, whenever a receiver is  
8 sought to be appointed in any action in which a foreclosure is  
9 also pending, a receiver shall be appointed only in accordance  
10 with this Article. Except as may be authorized by this Article,  
11 no mortgage or other instrument may modify or supersede the  
12 provisions of this Article.

13 (g) Certain Leases. Leases of the mortgaged real estate  
14 entered into by a mortgagee in possession or a receiver and  
15 approved by the court in a foreclosure shall be binding on all  
16 parties, including the mortgagor after redemption, the  
17 purchaser at a sale pursuant to a judgment of foreclosure and  
18 any person acquiring an interest in the mortgaged real estate  
19 after entry of a judgment of foreclosure in accordance with  
20 Sections 15-1402 and 15-1403.

21 (h) Proceedings Against Certain Occupants.

22 (1) The mortgagee-in-possession of the mortgaged real  
23 estate under Section 15-1703, a receiver appointed under  
24 Section 15-1704, a holder of the certificate of sale or  
25 deed, or the purchaser may, at any time during the pendency  
26 of the foreclosure and up to 90 days after the date of the

1 order confirming the sale, file a supplemental petition for  
2 possession against a person not personally named as a party  
3 to the foreclosure. The supplemental petition for  
4 possession shall name each such occupant against whom  
5 possession is sought and state the facts upon which the  
6 claim for relief is premised.

7 (2) The petitioner shall serve upon each named occupant  
8 the petition, a notice of hearing on the petition, and, if  
9 any, a copy of the certificate of sale or deed. The  
10 proceeding for the termination of such occupant's  
11 possessory interest, including service of the notice of the  
12 hearing and the petition, shall in all respects comport  
13 with the requirements of Article 9 of this Code, except as  
14 otherwise specified in this Section. The hearing shall be  
15 no less than 21 days from the date of service of the  
16 notice.

17 (3) The supplemental petition shall be heard as part of  
18 the foreclosure proceeding and without the payment of  
19 additional filing fees. An order for possession obtained  
20 under this Section shall name each occupant whose interest  
21 has been terminated, shall recite that it is only effective  
22 as to the occupant so named and those holding under them,  
23 and shall be enforceable for no more than 120 days after  
24 its entry, except that the 120-day period may be extended  
25 to the extent and in the manner provided in Section 9-117  
26 of Article 9 and except as provided in item (4) of this

1 subsection (h).

2 (4) In a case of foreclosure where the occupant is  
3 current on his or her rent, or where timely written notice  
4 of to whom and where the rent is to be paid has not been  
5 provided to the occupant, or where the occupant has made  
6 good-faith efforts to make rental payments in order to keep  
7 current, any order of possession must allow the occupant to  
8 retain possession of the property covered in his or her  
9 rental agreement (i) for 120 days following the notice of  
10 the hearing on the supplemental petition that has been  
11 properly served upon the occupant, or (ii) through the  
12 duration of his or her lease, whichever is shorter,  
13 provided that if the duration of his or her lease is less  
14 than 30 days from the date of the order, the order shall  
15 allow the occupant to retain possession for 30 days from  
16 the date of the order. A mortgagee in possession, receiver,  
17 holder of a certificate of sale or deed, or purchaser at  
18 the judicial sale, who asserts that the occupant is not  
19 current in rent, shall file an affidavit to that effect in  
20 the supplemental petition proceeding. If the occupant has  
21 been given timely written notice of to whom and where the  
22 rent is to be paid, this item (4) shall only apply if the  
23 occupant continues to pay his or her rent in full during  
24 the 120-day period or has made good-faith efforts to pay  
25 the rent in full during that period. No  
26 mortgagee-in-possession, receiver or holder of a

1 certificate of sale or deed, or purchaser who fails to file  
2 a supplemental petition under this subsection during the  
3 pendency of a mortgage foreclosure shall file a forcible  
4 entry and detainer action against an occupant of the  
5 mortgaged real estate until 90 days after a notice of  
6 intent to file such action has been properly served upon  
7 the occupant.

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

19 (Source: P.A. 95-262, eff. 1-1-08; 95-933, eff. 8-26-08; 96-60,  
20 eff. 7-23-09; 96-111, eff. 10-29-09; 96-1000, eff. 7-2-10.)

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