



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5456

Introduced 2/15/2012, by Rep. Luis Arroyo

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Banking Act and the Illinois Savings and Loan Act of 1985. Provides that upon the conviction of a director or officer of a bank or savings and loan association, or the conviction of a bank or savings and loan association, of the offense of wrongful inducement of abandonment of a residence, the Secretary of the Department of Financial and Professional Regulation shall take control of the financial institution. Amends the Residential Mortgage License Act of 1987. Provides that if a licensee is convicted of wrongful inducement of abandonment, the person's license shall be revoked. Amends the Code of Civil Procedure. Amends provisions setting forth the elements of the offense of wrongful inducement of abandonment (a Class B misdemeanor) by adding language making it a Class A misdemeanor for a mortgagee or a person acting on behalf of a mortgagee to engage in specified prohibited conduct with the intent of inducing a mortgagor or occupant to abandon mortgaged residential real estate or with the intent of obtaining a finding of abandonment of residential real estate. Makes additions to provisions concerning a notice that is required to be sent to mortgagors whose loans are past due. Authorizes a fast-track foreclosure procedure for abandoned residential real estate under specified circumstances. Makes other changes. Effective immediately.

LRB097 14124 AJ0 58814 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning foreclosure.

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

4 Section 5. The Illinois Banking Act is amended by adding
5 Section 48.01 as follows:

6 (205 ILCS 5/48.01 new)

7 Sec. 48.01. Revocation of bank charter. Notwithstanding
8 any other provision of this Act, upon the conviction of a bank
9 or any director or officer of a bank of a violation of
10 subsection (b) of Section 15-1104 of the Code of Civil
11 Procedure, the Commissioner shall revoke the charter of the
12 bank and take possession and control of the bank pursuant to
13 Section 53.

14 Section 10. The Illinois Savings and Loan Act of 1985 is
15 amended by adding Section 7-3.3 and by changing Section 10-15
16 as follows:

17 (205 ILCS 105/7-3.3 new)

18 Sec. 7-3.3. Dissolution for wrongful inducement of
19 abandonment. Notwithstanding any other provision of this Act,
20 upon the conviction of an association or of a director,
21 officer, or controlling person of an association of a violation

1 of subsection (b) of Section 15-1104 of the Code of Civil
2 Procedure, the Secretary shall, pursuant to Article 10 of this
3 Act, file a complaint for the dissolution or involuntary
4 liquidation of the association, and take possession and control
5 of the association pursuant Section 10-30.

6 (205 ILCS 105/10-15)

7 Sec. 10-15. Secretary's proceedings exclusive. Except by
8 the authority of the Secretary, represented by the Attorney
9 General, or the Federal Deposit Insurance Corporation pursuant
10 to the Federal Deposit Insurance Act, no complaint shall be
11 filed or proceedings commenced in any court for the dissolution
12 of, the winding up of the affairs of, or the appointment of a
13 receiver for any association on the grounds that:

14 (1) it is insolvent;

15 (2) its capital is impaired or it is otherwise in an
16 unsound condition;

17 (3) its business is being conducted in an unlawful,
18 fraudulent, or unsafe manner;

19 (4) it is unable to continue operations; ~~or~~

20 (5) its examination has been obstructed or impaired;

21 or-

22 (6) it, or a director, officer, or controlling person
23 of the association, is convicted of a violation of
24 subsection (b) of Section 15-1104 of the Code of Civil
25 Procedure.

1 (Source: P.A. 96-1365, eff. 7-28-10.)

2 Section 15. The Residential Mortgage License Act of 1987 is
3 amended by changing Section 4-1 as follows:

4 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

5 Sec. 4-1. Commissioner of Banks and Real Estate; functions,
6 powers, and duties. The functions, powers, and duties of the
7 Commissioner of Banks and Real Estate shall include the
8 following:

9 (a) to issue or refuse to issue any license as provided
10 by this Act;

11 (b) to revoke or suspend for cause any license issued
12 under this Act;

13 (b-5) to revoke any license issued pursuant to this Act
14 upon the conviction of a licensee for a violation of
15 subsection (b) of Section 15-1104 of the Code of Civil
16 Procedure;

17 (c) to keep records of all licenses issued under this
18 Act;

19 (d) to receive, consider, investigate, and act upon
20 complaints made by any person in connection with any
21 residential mortgage licensee in this State;

22 (e) to consider and act upon any recommendations from
23 the Residential Mortgage Board;

24 (f) to prescribe the forms of and receive:

1 (1) applications for licenses; and

2 (2) all reports and all books and records required
3 to be made by any licensee under this Act, including
4 annual audited financial statements and annual reports
5 of mortgage activity;

6 (g) to adopt rules and regulations necessary and proper
7 for the administration of this Act;

8 (h) to subpoena documents and witnesses and compel
9 their attendance and production, to administer oaths, and
10 to require the production of any books, papers, or other
11 materials relevant to any inquiry authorized by this Act;

12 (h-1) to issue orders against any person, if the
13 Commissioner has reasonable cause to believe that an
14 unsafe, unsound, or unlawful practice has occurred, is
15 occurring, or is about to occur, if any person has
16 violated, is violating, or is about to violate any law,
17 rule, or written agreement with the Commissioner, or for
18 the purpose of administering the provisions of this Act and
19 any rule adopted in accordance with the Act;

20 (h-2) to address any inquiries to any licensee, or the
21 officers thereof, in relation to its activities and
22 conditions, or any other matter connected with its affairs,
23 and it shall be the duty of any licensee or person so
24 addressed, to promptly reply in writing to such inquiries.
25 The Commissioner may also require reports from any licensee
26 at any time the Commissioner may deem desirable;

1 (i) to require information with regard to any license
2 applicant as he or she may deem desirable, with due regard
3 to the paramount interests of the public as to the
4 experience, background, honesty, truthfulness, integrity,
5 and competency of the license applicant as to financial
6 transactions involving primary or subordinate mortgage
7 financing, and where the license applicant is an entity
8 other than an individual, as to the honesty, truthfulness,
9 integrity, and competency of any officer or director of the
10 corporation, association, or other entity, or the members
11 of a partnership;

12 (j) to examine the books and records of every licensee
13 under this Act at intervals as specified in Section 4-2;

14 (k) to enforce provisions of this Act;

15 (l) to levy fees, fines, and charges for services
16 performed in administering this Act; the aggregate of all
17 fees collected by the Commissioner on and after the
18 effective date of this Act shall be paid promptly after
19 receipt of the same, accompanied by a detailed statement
20 thereof, into the Savings and Residential Finance
21 Regulatory Fund; the amounts deposited into that Fund shall
22 be used for the ordinary and contingent expenses of the
23 Office of Banks and Real Estate. Nothing in this Act shall
24 prevent continuing the practice of paying expenses
25 involving salaries, retirement, social security, and
26 State-paid insurance of State officers by appropriation

1 from the General Revenue Fund.

2 (m) to appoint examiners, supervisors, experts, and
3 special assistants as needed to effectively and
4 efficiently administer this Act;

5 (n) to conduct hearings for the purpose of:

6 (1) appeals of orders of the Commissioner;

7 (2) suspensions or revocations of licenses, or
8 fining of licensees;

9 (3) investigating:

10 (i) complaints against licensees; or

11 (ii) annual gross delinquency rates; and

12 (4) carrying out the purposes of this Act;

13 (o) to exercise exclusive visitorial power over a
14 licensee unless otherwise authorized by this Act or as
15 vested in the courts, or upon prior consultation with the
16 Commissioner, a foreign residential mortgage regulator
17 with an appropriate supervisory interest in the parent or
18 affiliate of a licensee;

19 (p) to enter into cooperative agreements with state
20 regulatory authorities of other states to provide for
21 examination of corporate offices or branches of those
22 states and to accept reports of such examinations;

23 (q) to assign an examiner or examiners to monitor the
24 affairs of a licensee with whatever frequency the
25 Commissioner determines appropriate and to charge the
26 licensee for reasonable and necessary expenses of the

1 Commissioner, if in the opinion of the Commissioner an
2 emergency exists or appears likely to occur;

3 (r) to impose civil penalties of up to \$50 per day
4 against a licensee for failing to respond to a regulatory
5 request or reporting requirement; and

6 (s) to enter into agreements in connection with the
7 Nationwide Mortgage Licensing System and Registry.

8 (Source: P.A. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10.)

9 Section 20. The Code of Civil Procedure is amended by
10 changing Sections 15-1104, 15-1502.5, 15-1504, 15-1504.1,
11 15-1507.1, 15-1508, 15-1603, 15-1701, and 15-1706 and by adding
12 Sections 15-1200.5 and 15-1505.8 as follows:

13 (735 ILCS 5/15-1104) (from Ch. 110, par. 15-1104)

14 Sec. 15-1104. Wrongful Inducement of Abandonment.

15 (a) Any person who willfully misrepresents to the Court any
16 fact resulting in a finding of abandonment of mortgaged real
17 estate in connection with subsection (b) of Section 15-1603 or
18 subsection (d) of Section 15-1706 of this Article or who
19 threatens to injure the person or property of occupants of
20 mortgaged real estate, or who knowingly gives such occupants
21 false and misleading information, or who harasses or
22 intimidates such occupants, with the intent of inducing such
23 occupants to abandon the mortgaged premises, in order to obtain
24 a finding of abandonment under subsection (b) of Section

1 15-1603 or under subsection (c) or (d) of Section 15-1706 of
2 this Article, shall be guilty of a Class B misdemeanor.

3 (b) Any mortgagee or any person acting on behalf of a
4 mortgagee who, with respect to mortgaged residential real
5 estate:

6 (1) willfully misrepresents to the court any fact
7 concerning the mortgagor or any occupant that results in a
8 finding that the real estate is abandoned residential real
9 estate under this Article;

10 (2) threatens to injure the mortgagor or any occupant
11 or threatens to damage or destroy any personal property of
12 the mortgagor or any occupant;

13 (3) misappropriates, or threatens to misappropriate,
14 any assets or resources of a mortgagor or any occupant by
15 undue influence, breach of a fiduciary relationship,
16 fraud, deception, extortion, or the use of any assets or
17 resources in a manner contrary to law;

18 (4) knowingly gives the mortgagor or any occupant false
19 and misleading information;

20 (5) knowingly engages in conduct with the mortgagor or
21 any occupant which is not necessary to accomplish a purpose
22 that is reasonable under the circumstances; would cause a
23 reasonable person emotional distress; and does cause
24 emotional distress to the mortgagor or any occupant. Unless
25 the presumption is rebutted by a preponderance of the
26 evidence, the following types of conduct shall be presumed

1 to cause emotional distress:

2 (i) creating a disturbance at the mortgaged
3 residential real estate or at the place of employment
4 of the mortgagor or any occupant; or

5 (ii) repeatedly telephoning the mortgagor or any
6 occupant at his or her cellular telephone number or at
7 his or her place of employment or residence;

8 (6) knowingly interferes with the personal liberty of
9 the mortgagor or any occupant by means of committing or
10 threatening physical abuse, harassment, or intimidation so
11 as to compel that person to engage in conduct concerning
12 the mortgaged residential real estate from which she or he
13 has a right to abstain or to refrain from conduct in which
14 she or he has a right to engage;

15 (7) knowingly denies the mortgagor or any occupant of
16 the use of the mortgaged residential real estate or the
17 utilities or other services previously available to that
18 mortgaged residential real estate; or

19 (8) knowingly communicates to another, directly or
20 indirectly by any means, a threat to perform without lawful
21 authority any of the following acts:

22 (i) commit a felony or Class A misdemeanor that
23 harms the person or property of the mortgagor or any
24 occupant;

25 (ii) accuse the mortgagor or an occupant of a
26 criminal offense; or

1 (ii) take action without lawful authority as a
2 public official against the mortgagor or any occupant,
3 or withhold official action, or cause such action or
4 withholding;

5 with the intent of inducing the mortgagor or any occupant to
6 abandon the mortgaged residential real estate for any reason or
7 with the intent of obtaining a finding of abandonment under
8 subsection (b) of Section 15-1603 or subsection (c) or (d) of
9 Section 15-1706 or obtaining a finding of abandoned residential
10 real estate under this Article is guilty of a Class A
11 misdemeanor.

12 (Source: P.A. 84-1462.)

13 (735 ILCS 5/15-1200.5 new)

14 Sec. 15-1200.5. Abandoned residential real estate.
15 "Abandoned residential real estate" means residential real
16 estate with respect to which the court has found the following:

17 (a) the mortgaged real estate is not actually occupied; and
18 (b) the mortgagee has presented credible evidence (through
19 copies of printed documents or correspondence that were sent to
20 the mortgagor that are admitted into evidence, or through other
21 means) that the mortgagee did not coerce the mortgagor to
22 abandon the residential real estate; and

23 (c) at least one of the following applies:

24 (1) more than 3 attempts to contact the mortgagor have
25 been made, at least one by certified mail and one by

1 telephone, if there is a working telephone number for the
2 mortgagor; and at least 2 of the following supporting facts
3 are true:

4 (A) construction was initiated on the real estate
5 and was discontinued prior to completion, leaving the
6 building unsuitable for occupancy, and no construction
7 has taken place for at least 4 months;

8 (B) the real estate has had more than one
9 uncorrected municipal code or other applicable zoning
10 ordinance violation during the past 12 months, or is
11 unfit for occupancy and has been ordered to remain
12 vacant and unoccupied by the municipal authorities or
13 other authorities with jurisdiction over the real
14 estate;

15 (C) gas, electric, or water service to the entire
16 premises has been terminated;

17 (D) windows or entrances to the premises are
18 boarded up or closed off or multiple window panes are
19 broken and unrepaired;

20 (E) doors to the premises are smashed through,
21 broken off, unhinged, or continuously unlocked;

22 (F) the police or sheriff's office received at
23 least 2 reports of a trespasser on the premises or of
24 vandalism or other illegal acts being committed on the
25 premises in the past 4 months;

26 (2) two or more attempts to contact the mortgagor have

1 been made and there exist written statements of the
2 mortgagor or the mortgagor's personal representatives or
3 assigns, including documents of conveyance, which indicate
4 a clear intent to abandon the premises; or

5 (3) two or more attempts to contact the mortgagor have
6 been made and the real estate is a vacant lot.

7 (735 ILCS 5/15-1502.5)

8 (Section scheduled to be repealed on July 1, 2013)

9 Sec. 15-1502.5. Homeowner protection.

10 (a) As used in this Section:

11 "Approved counseling agency" means a housing counseling
12 agency approved by the U.S. Department of Housing and Urban
13 Development.

14 "Approved Housing Counseling" means in-person counseling
15 provided by a counselor employed by an approved counseling
16 agency to all borrowers, or documented telephone counseling
17 where a hardship would be imposed on one or more borrowers. A
18 hardship shall exist in instances in which the borrower is
19 confined to his or her home due to medical conditions, as
20 verified in writing by a physician or the borrower resides 50
21 miles or more from the nearest approved counseling agency. In
22 instances of telephone counseling, the borrower must supply all
23 necessary documents to the counselor at least 72 hours prior to
24 the scheduled telephone counseling session.

25 "Delinquent" means past due with respect to a payment on a

1 mortgage secured by residential real estate.

2 "Department" means the Department of Financial and
3 Professional Regulation.

4 "Secretary" means the Secretary of Financial and
5 Professional Regulation or other person authorized to act in
6 the Secretary's stead.

7 "Sustainable loan workout plan" means a plan that the
8 mortgagor and approved counseling agency believe shall enable
9 the mortgagor to stay current on his or her mortgage payments
10 for the foreseeable future when taking into account the
11 mortgagor income and existing and foreseeable debts. A
12 sustainable loan workout plan may include, but is not limited
13 to, (1) a temporary suspension of payments, (2) a lengthened
14 loan term, (3) a lowered or frozen interest rate, (4) a
15 principal write down, (5) a repayment plan to pay the existing
16 loan in full, (6) deferred payments, or (7) refinancing into a
17 new affordable loan.

18 (b) Except in the circumstance in which a mortgagor has
19 filed a petition for relief under the United States Bankruptcy
20 Code, no mortgagee shall file a complaint to foreclose a
21 mortgage secured by residential real estate until the
22 requirements of this Section have been satisfied.

23 (c) Notwithstanding any other provision to the contrary,
24 with respect to a particular mortgage secured by residential
25 real estate, the procedures and forbearances described in this
26 Section apply only once per subject mortgage.

1 Except for mortgages secured by residential real estate in
2 which any mortgagor has filed for relief under the United
3 States Bankruptcy Code, if a mortgage secured by residential
4 real estate becomes delinquent by more than 30 days the
5 mortgagee shall send via U.S. mail a notice advising the
6 mortgagor that he or she may wish to seek approved housing
7 counseling. Notwithstanding anything to the contrary in this
8 Section, nothing shall preclude the mortgagor and mortgagee
9 from communicating with each other during the initial 30 days
10 of delinquency or reaching agreement on a sustainable loan
11 workout plan, or both.

12 No foreclosure action under Part 15 of Article XV of the
13 Code of Civil Procedure shall be instituted on a mortgage
14 secured by residential real estate before mailing the notice
15 described in this subsection (c).

16 The notice required in this subsection (c) shall state the
17 date on which the notice was mailed, shall be headed in bold
18 14-point type "GRACE PERIOD AND ILLEGAL COERCION NOTICE", and
19 shall state the following in 14-point type: "YOUR LOAN IS MORE
20 THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL
21 DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED
22 HOUSING COUNSELING. YOU HAVE A GRACE PERIOD OF 30 DAYS FROM THE
23 DATE OF THIS NOTICE TO OBTAIN APPROVED HOUSING COUNSELING.
24 DURING THE GRACE PERIOD, THE LAW PROHIBITS US FROM TAKING ANY
25 LEGAL ACTION AGAINST YOU. YOU MAY BE ENTITLED TO AN ADDITIONAL
26 30 DAY GRACE PERIOD IF YOU OBTAIN HOUSING COUNSELING FROM AN

1 APPROVED HOUSING COUNSELING AGENCY. A LIST OF APPROVED
2 COUNSELING AGENCIES MAY BE OBTAINED FROM THE ILLINOIS
3 DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION."

4 "YOU SHOULD BE AWARE THAT YOU HAVE PROTECTION FROM SOMEONE
5 ACTING ILLEGALLY TO FORCE YOU TO ABANDON YOUR PROPERTY. THE LAW
6 MAKES IT A CRIME FOR SOMEONE TO ACT OUTSIDE OF THE APPROVED
7 LEGAL FORECLOSURE PROCEDURES TO FORCE YOU TO ABANDON YOUR
8 PROPERTY. MORE INFORMATION ABOUT YOUR RIGHT TO BE PROTECTED
9 FROM ACTIONS THAT ILLEGALLY FORCE YOU TO ABANDON YOUR HOME IS
10 AVAILABLE FROM THE STATE OF ILLINOIS ON A WEBSITE
11 (www.idfpr.com/Consumers.asp) AND IN WRITTEN MATERIALS. IF YOU
12 FEEL THAT YOU ARE BEING ILLEGALLY FORCED TO ABANDON YOUR HOME,
13 YOU MAY REPORT THIS TO THE STATE OF ILLINOIS BY CALLING THIS
14 TOLL-FREE HOTLINE: 1-888-473-4858 (THE ILLINOIS DEPARTMENT OF
15 FINANCIAL AND PROFESSIONAL REGULATION)."

16 The notice shall also list the Department's current
17 consumer hotline, the Department's website, and the telephone
18 number, fax number, and mailing address of the mortgagee. No
19 language, other than language substantially similar to the
20 language prescribed in this subsection (c), shall be included
21 in the notice. Notwithstanding any other provision to the
22 contrary, the grace period notice required by this subsection
23 (c) may be combined with a counseling notification required
24 under federal law.

25 In order to educate mortgagors about their rights to be
26 protected from actions that attempt to illegally coerce

1 mortgagors to abandon their homes, the Department shall make
2 available information on the Department's website and furnish
3 educational materials to appropriate persons or entities. The
4 Department, upon reasonable inquiry, may forward an apparent
5 violation of Section 15-1104 of the Code of Civil Procedure to
6 the appropriate law enforcement agency or to the State's
7 Attorney's office for the county in which the real estate is
8 located.

9 The sending of the notice required under this subsection
10 (c) means depositing or causing to be deposited into the United
11 States mail an envelope with first-class postage prepaid that
12 contains the document to be delivered. The envelope shall be
13 addressed to the mortgagor at the common address of the
14 residential real estate securing the mortgage.

15 (d) Until 30 days after mailing the notice provided for
16 under subsection (c) of this Section, no legal action shall be
17 instituted under Part 15 of Article XV of the Code of Civil
18 Procedure.

19 (e) If, within the 30-day period provided under subsection
20 (d) of this Section, an approved counseling agency provides
21 written notice to the mortgagee that the mortgagor is seeking
22 approved counseling services, then no legal action under Part
23 15 of Article XV of the Code of Civil Procedure shall be
24 instituted for 30 days after the date of that notice. The date
25 that such notice is sent shall be stated in the notice, and
26 shall be sent to the address or fax number contained in the

1 Grace Period Notice required under subsection (c) of this
2 Section. During the 30-day period provided under this
3 subsection (e), the mortgagee or counselor or both may prepare
4 and proffer to the mortgagee a proposed sustainable loan
5 workout plan. The mortgagee will then determine whether to
6 accept the proposed sustainable loan workout plan. If the
7 mortgagee and the mortgagor agree to a sustainable loan workout
8 plan, then no legal action under Part 15 of Article XV of the
9 Code of Civil Procedure shall be instituted for as long as the
10 sustainable loan workout plan is complied with by the
11 mortgagor.

12 The agreed sustainable loan workout plan and any
13 modifications thereto must be in writing and signed by the
14 mortgagee and the mortgagor.

15 Upon written notice to the mortgagee, the mortgagor may
16 change approved counseling agencies, but such a change does not
17 entitle the mortgagor to any additional period of forbearance.

18 (f) If the mortgagor fails to comply with the sustainable
19 loan workout plan, then nothing in this Section shall be
20 construed to impair the legal rights of the mortgagee to
21 enforce the contract.

22 (g) A counselor employed by a housing counseling agency or
23 the housing counseling agency that in good faith provides
24 counseling shall not be liable to a mortgagee or mortgagor for
25 civil damages, except for willful or wanton misconduct on the
26 part of the counselor in providing the counseling.

1 (h) There shall be no waiver of any provision of this
2 Section.

3 (i) It is the General Assembly's intent that compliance
4 with this Section shall not prejudice a mortgagee in ratings of
5 its bad debt collection or calculation standards or policies.

6 (j) This Section shall not apply, or shall cease to apply,
7 to residential real estate that is not occupied as a principal
8 residence by the mortgagor.

9 (k) This Section is repealed July 1, 2013.

10 (Source: P.A. 95-1047, eff. 4-6-09; 96-1419, eff. 10-1-10.)

11 (735 ILCS 5/15-1504) (from Ch. 110, par. 15-1504)

12 Sec. 15-1504. Pleadings and service.

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

15 (1) Plaintiff files this complaint to foreclose the
16 mortgage (or other conveyance in the nature of a mortgage)
17 (hereinafter called "mortgage") hereinafter described and
18 joins the following person as defendants: (here insert
19 names of all defendants).

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

22 (3) Information concerning mortgage:

23 (A) Nature of instrument: (here insert whether a
24 mortgage, trust deed or other instrument in the nature
25 of a mortgage, etc.)

- 1 (B) Date of mortgage:
- 2 (C) Name of mortgagor:
- 3 (D) Name of mortgagee:
- 4 (E) Date and place of recording:
- 5 (F) Identification of recording: (here insert book
6 and page number or document number)
- 7 (G) Interest subject to the mortgage: (here insert
8 whether fee simple, estate for years, undivided
9 interest, etc.)
- 10 (H) Amount of original indebtedness, including
11 subsequent advances made under the mortgage:
- 12 (I) Both the legal description of the mortgaged
13 real estate and the common address or other information
14 sufficient to identify it with reasonable certainty:
- 15 (J) Statement as to defaults, including, but not
16 necessarily limited to, date of default, current
17 unpaid principal balance, per diem interest accruing,
18 and any further information concerning the default:
- 19 (K) Name of present owner of the real estate:
- 20 (L) Names of other persons who are joined as
21 defendants and whose interest in or lien on the
22 mortgaged real estate is sought to be terminated:
- 23 (M) Names of defendants claimed to be personally
24 liable for deficiency, if any:
- 25 (N) Capacity in which plaintiff brings this
26 foreclosure (here indicate whether plaintiff is the

1 legal holder of the indebtedness, a pledgee, an agent,
2 the trustee under a trust deed or otherwise, as
3 appropriate):

4 (O) Facts in support of redemption period shorter
5 than the longer of (i) 7 months from the date the
6 mortgagor or, if more than one, all the mortgagors (I)
7 have been served with summons or by publication or (II)
8 have otherwise submitted to the jurisdiction of the
9 court, ~~or~~ (ii) 3 months from the entry of the judgment
10 of foreclosure, if sought (here indicate whether based
11 upon the real estate not being residential, ~~or~~
12 ~~abandonment~~, or real estate value less than 90% of
13 amount owed, etc.), or (iii) 30 days after the entry of
14 the judgment of foreclosure in which the court found
15 that the real estate is abandoned residential real
16 estate as defined by Section 15-1200.5:

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

19 (Q) Facts in support of request for attorneys' fees
20 and of costs and expenses, if applicable:

21 (R) Facts in support of a request for appointment
22 of mortgagee in possession or for appointment of
23 receiver, and identity of such receiver, if sought:

24 (S) Offer to mortgagor in accordance with Section
25 15-1402 to accept title to the real estate in
26 satisfaction of all indebtedness and obligations

1 secured by the mortgage without judicial sale, if
2 sought:

3 (T) Name or names of defendants whose right to
4 possess the mortgaged real estate, after the
5 confirmation of a foreclosure sale, is sought to be
6 terminated and, if not elsewhere stated, the facts in
7 support thereof:

8 REQUEST FOR RELIEF

9 Plaintiff requests:

10 (i) A judgment of foreclosure and sale.

11 (ii) An order granting a shortened redemption period,
12 if sought.

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

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

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

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

19 (b) Required Information. A foreclosure complaint need
20 contain only such statements and requests called for by the
21 form set forth in subsection (a) of Section 15-1504 as may be
22 appropriate for the relief sought. Such complaint may be filed
23 as a counterclaim, may be joined with other counts or may
24 include in the same count additional matters or a request for
25 any additional relief permitted by Article II of the Code of

1 Civil Procedure.

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

5 (1) on the date indicated the obligor of the
6 indebtedness or other obligations secured by the mortgage
7 was justly indebted in the amount of the indicated original
8 indebtedness to the original mortgagee or payee of the
9 mortgage note;

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

13 (3) that the mortgagor was at the date indicated an
14 owner of the interest in the real estate described in the
15 complaint and that as of that date made, executed and
16 delivered the mortgage as security for the note or other
17 obligations;

18 (4) that the mortgage was recorded in the county in
19 which the mortgaged real estate is located, on the date
20 indicated, in the book and page or as the document number
21 indicated;

22 (5) that defaults occurred as indicated;

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

26 (7) that the mortgage constitutes a valid, prior and

1 paramount lien upon the indicated interest in the mortgaged
2 real estate, which lien is prior and superior to the right,
3 title, interest, claim or lien of all parties and nonrecord
4 claimants whose interests in the mortgaged real estate are
5 sought to be terminated;

6 (8) that by reason of the defaults alleged, if the
7 indebtedness has not matured by its terms, the same has
8 become due by the exercise, by the plaintiff or other
9 persons having such power, of a right or power to declare
10 immediately due and payable the whole of all indebtedness
11 secured by the mortgage;

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

15 (10) that any and all periods of grace or other period
16 of time allowed for the performance of the covenants or
17 conditions claimed to be breached or for the curing of any
18 breaches have expired;

19 (11) that the amounts indicated in the statement in the
20 complaint are correctly stated and if such statement
21 indicates any advances made or to be made by the plaintiff
22 or owner of the mortgage indebtedness, that such advances
23 were, in fact, made or will be required to be made, and
24 under and by virtue of the mortgage the same constitute
25 additional indebtedness secured by the mortgage; and

26 (12) that, upon confirmation of the sale, 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 at the sale will be entitled to full possession
4 of the mortgaged real estate against the parties named in
5 clause (T) of paragraph (3) of subsection (a) of Section
6 15-1504 or elsewhere to the same effect; the omission of
7 any party indicates that plaintiff will not seek a
8 possessory order in the order confirming sale unless the
9 request is subsequently made under subsection (h) of
10 Section 15-1701 or by separate action under Article 9 of
11 this Code.

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

16 (1) plaintiff has been compelled to employ and retain
17 attorneys to prepare and file the complaint and to
18 represent and advise the plaintiff in the foreclosure of
19 the mortgage and the plaintiff will thereby become liable
20 for the usual, reasonable and customary fees of the
21 attorneys in that behalf;

22 (2) that the plaintiff has been compelled to advance or
23 will be compelled to advance, various sums of money in
24 payment of costs, fees, expenses and disbursements
25 incurred in connection with the foreclosure, including,
26 without limiting the generality of the foregoing, filing

1 fees, stenographer's fees, witness fees, costs of
2 publication, costs of procuring and preparing documentary
3 evidence and costs of procuring abstracts of title, Torrens
4 certificates, foreclosure minutes and a title insurance
5 policy;

6 (3) that under the terms of the mortgage, all such
7 advances, costs, attorneys' fees and other fees, expenses
8 and disbursements are made a lien upon the mortgaged real
9 estate and the plaintiff is entitled to recover all such
10 advances, costs, attorneys' fees, expenses and
11 disbursements, together with interest on all advances at
12 the rate provided in the mortgage, or, if no rate is
13 provided therein, at the statutory judgment rate, from the
14 date on which such advances are made;

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

19 (5) that in order to protect and preserve the mortgaged
20 real estate, it may also become necessary for the plaintiff
21 to pay liability (protecting mortgagor and mortgagee),
22 fire and other hazard insurance premiums on the mortgaged
23 real estate, make such repairs to the mortgaged real estate
24 as may reasonably be deemed necessary for the proper
25 preservation thereof, advance for costs to inspect the
26 mortgaged real estate or to appraise it, or both, and

1 advance for premiums for pre-existing private or
2 governmental mortgage insurance to the extent required
3 after a foreclosure is commenced in order to keep such
4 insurance in force; and

5 (6) that under the terms of the mortgage, any money so
6 paid or expended will become an additional indebtedness
7 secured by the mortgage and will bear interest from the
8 date such monies are advanced at the rate provided in the
9 mortgage, or, if no rate is provided, at the statutory
10 judgment rate.

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

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

15 (2) that the defendants be ordered to pay to the
16 plaintiff before expiration of any redemption period (or,
17 if no redemption period, before a short date fixed by the
18 court) whatever sums may appear to be due upon the taking
19 of such account, together with attorneys' fees and costs of
20 the proceedings (to the extent provided in the mortgage or
21 by law);

22 (3) that in default of such payment in accordance with
23 the judgment, the mortgaged real estate be sold as directed
24 by the court, to satisfy the amount due to the plaintiff as
25 set forth in the judgment, together with the interest
26 thereon at the statutory judgment rate from the date of the

1 judgment;

2 (4) that in the event the plaintiff is a purchaser of
3 the mortgaged real estate at such sale, the plaintiff may
4 offset against the purchase price of such real estate the
5 amounts due under the judgment of foreclosure and order
6 confirming the sale;

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

17 (6) that if no redemption is made prior to such sale, a
18 deed may be issued to the purchaser thereat according to
19 law and such purchaser be let into possession of the
20 mortgaged real estate in accordance with Part 17 of this
21 Article.

22 (f) Request for Deficiency Judgment. A request for a
23 personal judgment for a deficiency in a foreclosure complaint
24 if the sale of the mortgaged real estate fails to produce a
25 sufficient amount to pay the amount found due, the plaintiff
26 may have a personal judgment against any party in the

1 foreclosure indicated as being personally liable therefor and
2 the enforcement thereof be had as provided by law.

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

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

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

17 (735 ILCS 5/15-1505.8 new)

18 Sec. 15-1505.8. Fast-track judgment and sale procedure for
19 abandoned residential real estate.

20 (a) Upon motion and notice, the mortgagee may elect to
21 utilize the fast-track judgment and sale procedure for
22 abandoned residential real estate that is set forth in this
23 Section to obtain a judgment of foreclosure pursuant to Section
24 15-1506. The motion may be combined with or made part of the
25 motion requesting a judgment of foreclosure. If service upon

1 the mortgagor was obtained by publication, then notice of the
2 motion to the mortgagor shall be posted at the real estate
3 address.

4 (b) A motion requesting a fast-track judgment of
5 foreclosure and sale may be filed by the mortgagee at the time
6 the foreclosure complaint is filed or any time thereafter.

7 (c) Motion for a fast-track judgment and sale.

8 (1) If a motion for a fast-track judgment and sale is
9 filed at the time the foreclosure complaint is filed, the
10 motion shall be heard by the court no later than:

11 (A) 45 days after the date of service of the
12 summons on the mortgagor or, if more than one, no later
13 than 45 days after the date of service on the last
14 served mortgagor;

15 (B) 45 days after the date of first publication, if
16 service of process is by publication; or

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

19 (2) If a motion for a fast-track judgment and sale is
20 filed after the foreclosure complaint is filed, the motion
21 shall be heard no later than 15 days after the motion is
22 filed, provided that at least:

23 (A) 30 days have transpired since service of the
24 summons on the mortgagor, or, if there is more than one
25 mortgagor, 30 days have transpired since service on all
26 mortgagors;

1 (B) 30 days have transpired since the date of first
2 publication, if service of process is by publication;
3 or

4 (C) 30 days have transpired since all mortgagors
5 have otherwise submitted to the jurisdiction of the
6 court.

7 (d) The hearing shall be given priority by the court and
8 shall be scheduled to be heard pursuant to the applicable time
9 period set forth in subsection (c).

10 (e) The court may find that the mortgaged real estate is
11 abandoned residential real estate if evidence is presented to
12 support that finding. The court shall not find that the
13 mortgaged real estate is abandoned residential real estate if
14 an appearance has been filed in the proceedings and an
15 objection has been filed to the request for a finding that the
16 real estate is abandoned residential real estate, or if the
17 owner provides evidence that the owner is working with, or
18 making an attempt to work with, the mortgagee to modify the
19 mortgage.

20 (f) At the hearing on the motion requesting a fast-track
21 judgment and sale, and upon a finding by the court that the
22 mortgaged real estate is abandoned residential real estate, the
23 court shall immediately proceed to enter a judgment of
24 foreclosure as requested in the complaint. The judgment of
25 foreclosure shall include the matters identified in Section
26 15-1506.

1 (g) The reinstatement period and redemption period for the
2 abandoned residential real estate shall end in accordance with
3 paragraph (4) of subsection (b) of Section 15-1603, and the
4 real estate shall be sold at the earliest practicable time at a
5 sale as provided in this Article.

6 (h) Mortgagee responsibility.

7 (1) A mortgagee or its agent may enter abandoned
8 residential real estate that is the subject of a
9 foreclosure complaint for the purpose of maintaining or
10 securing the real estate, provided that entry is not barred
11 by an automatic stay issued by a bankruptcy court. A
12 mortgagee and its agents shall not be held liable for any
13 claim of negligence, civil trespass, or criminal trespass
14 based upon entering the abandoned residential real estate
15 or maintaining or securing the abandoned residential real
16 estate.

17 (2) The mortgagee shall be responsible for repairs or
18 other maintenance of the abandoned residential real estate
19 if it purchases the real estate at the foreclosure sale
20 held pursuant to Section 15-1507 and until the sale is
21 confirmed by the court pursuant to Section 15-1508.

22 (i) Upon confirmation of the sale held pursuant to Section
23 15-1508, any personal property remaining in or upon the
24 abandoned residential real estate shall be deemed to have been
25 abandoned by the owner of such personal property and may be
26 disposed of or donated by the holder of the certificate of sale

1 or, if none, by the purchaser at the sale. In the event of
2 donation of any such personal property, the holder of the
3 certificate of sale or, if none, the purchaser at the sale may
4 transfer the donated personal property with a bill of sale. No
5 mortgagee or its successors or assigns, holder of a certificate
6 of sale, or purchaser at the sale shall be liable for any such
7 disposal or donation of personal property.

8 (j) No mortgagee shall be held liable for seeking a
9 judicial determination of abandonment if the mortgagee, upon
10 information and belief at the time the motion requesting a
11 fast-track judgment of foreclosure and sale is filed with the
12 court, makes a good faith assertion through its affidavit that
13 evidence exists supporting the conclusion that the mortgaged
14 real estate is abandoned residential real estate.

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

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

17 (a) Report. The person conducting the sale shall promptly
18 make a report to the court, which report shall include a copy
19 of all receipts and, if any, certificate of sale.

20 (b) Hearing. Upon motion and notice in accordance with
21 court rules applicable to motions generally, which motion shall
22 not be made prior to sale, the court shall conduct a hearing to
23 confirm the sale. Unless the court finds that (i) a notice
24 required in accordance with subsection (c) of Section 15-1507
25 was not given, (ii) the terms of sale were unconscionable,

1 (iii) the sale was conducted fraudulently, or (iv) justice was
2 otherwise not done, the court shall then enter an order
3 confirming the sale. The confirmation order shall include a
4 name, address, and telephone number of the holder of the
5 certificate of sale or deed issued pursuant to that certificate
6 or, if no certificate or deed was issued, the purchaser, whom a
7 municipality or county may contact with concerns about the real
8 estate. The confirmation order may also:

9 (1) approve the mortgagee's fees and costs arising
10 between the entry of the judgment of foreclosure and the
11 confirmation hearing, those costs and fees to be allowable
12 to the same extent as provided in the note and mortgage and
13 in Section 15-1504;

14 (2) provide for a personal judgment against any party
15 for a deficiency; and

16 (3) determine the priority of the judgments of parties
17 who deferred proving the priority pursuant to subsection
18 (h) of Section 15-1506, but the court shall not defer
19 confirming the sale pending the determination of such
20 priority.

21 (b-3) Hearing to confirm sale of abandoned residential real
22 estate. Upon motion and notice, which motion shall be made
23 prior to the sale and heard by the court upon conclusion of the
24 sale, the court shall enter an order confirming the sale of the
25 abandoned residential real estate, unless the court finds that
26 a reason set forth in items (i) through (iv) of subsection (b)

1 of this Section 15-1508 exists for not approving the sale. The
2 confirmation order also may address the matters identified in
3 item (1), (2), or (3) of subsection (b) of this Section
4 15-1508. Notwithstanding anything to the contrary in
5 subsection (g) of this Section 15-1508, the order confirming
6 the sale of the abandoned residential real estate shall award
7 to the purchaser possession of the real estate as of the date
8 of the entry of the order confirming the sale.

9 (b-5) Notice with respect to residential real estate. With
10 respect to residential real estate, the notice required under
11 subsection (b) of this Section shall be sent to the mortgagor
12 even if the mortgagor has previously been held in default. In
13 the event the mortgagor has filed an appearance, the notice
14 shall be sent to the address indicated on the appearance. In
15 all other cases, the notice shall be sent to the mortgagor at
16 the common address of the foreclosed property. The notice shall
17 be sent by first class mail. Unless the right to possession has
18 been previously terminated by the court, the notice shall
19 include the following language in 12-point boldface
20 capitalized type:

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

25 (b-10) Notice of confirmation order sent to municipality or
26 county. A copy of the confirmation order required under

1 subsection (b) shall be sent to the municipality in which the
2 foreclosed property is located, or to the county within the
3 boundary of which the foreclosed property is located if the
4 foreclosed property is located in an unincorporated territory.
5 A municipality or county must clearly publish on its website a
6 single address to which such notice shall be sent. If a
7 municipality or county does not maintain a website, then the
8 municipality or county must publicly post in its main office a
9 single address to which such notice shall be sent. In the event
10 that a municipality or county has not complied with the
11 publication requirement in this subsection (b-10), then such
12 notice to the municipality or county shall be provided pursuant
13 to Section 2-211 of the Code of Civil Procedure.

14 (c) Failure to Give Notice. If any sale is held without
15 compliance with subsection (c) of Section 15-1507 of this
16 Article, any party entitled to the notice provided for in
17 paragraph (3) of that subsection (c) who was not so notified
18 may, by motion supported by affidavit made prior to
19 confirmation of such sale, ask the court which entered the
20 judgment to set aside the sale. Any such party shall guarantee
21 or secure by bond a bid equal to the successful bid at the
22 prior sale, unless the party seeking to set aside the sale is
23 the mortgagor, the real estate sold at the sale is residential
24 real estate, and the mortgagor occupies the residential real
25 estate at the time the motion is filed. In that event, no
26 guarantee or bond shall be required of the mortgagor. Any

1 subsequent sale is subject to the same notice requirement as
2 the original sale.

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

17 (d-5) Making Home Affordable Program. The court that
18 entered the judgment shall set aside a sale held pursuant to
19 Section 15-1507, upon motion of the mortgagor at any time prior
20 to the confirmation of the sale, if the mortgagor proves by a
21 preponderance of the evidence that (i) the mortgagor has
22 applied for assistance under the Making Home Affordable Program
23 established by the United States Department of the Treasury
24 pursuant to the Emergency Economic Stabilization Act of 2008,
25 as amended by the American Recovery and Reinvestment Act of
26 2009, and (ii) the mortgaged real estate was sold in material

1 violation of the program's requirements for proceeding to a
2 judicial sale. The provisions of this subsection (d-5), except
3 for this sentence, shall become inoperative on January 1, 2013
4 for all actions filed under this Article after December 31,
5 2012, in which the mortgagor did not apply for assistance under
6 the Making Home Affordable Program on or before December 31,
7 2012.

8 (e) Deficiency Judgment. In any order confirming a sale
9 pursuant to the judgment of foreclosure, the court shall also
10 enter a personal judgment for deficiency against any party (i)
11 if otherwise authorized and (ii) to the extent requested in the
12 complaint and proven upon presentation of the report of sale in
13 accordance with Section 15-1508. Except as otherwise provided
14 in this Article, a judgment may be entered for any balance of
15 money that may be found due to the plaintiff, over and above
16 the proceeds of the sale or sales, and enforcement may be had
17 for the collection of such balance, the same as when the
18 judgment is solely for the payment of money. Such judgment may
19 be entered, or enforcement had, only in cases where personal
20 service has been had upon the persons personally liable for the
21 mortgage indebtedness, unless they have entered their
22 appearance in the foreclosure action.

23 (f) Satisfaction. Upon confirmation of the sale, the
24 judgment stands satisfied to the extent of the sale price less
25 expenses and costs. If the order confirming the sale includes a
26 deficiency judgment, the judgment shall become a lien in the

1 manner of any other judgment for the payment of money.

2 (g) The order confirming the sale shall include,
3 notwithstanding any previous orders awarding possession during
4 the pendency of the foreclosure, an award to the purchaser of
5 possession of the mortgaged real estate, as of the date 30 days
6 after the entry of the order, against the parties to the
7 foreclosure whose interests have been terminated.

8 An order of possession authorizing the removal of a person
9 from possession of the mortgaged real estate shall be entered
10 and enforced only against those persons personally named as
11 individuals in the complaint or the petition under subsection
12 (h) of Section 15-1701 and in the order of possession and shall
13 not be entered and enforced against any person who is only
14 generically described as an unknown owner or nonrecord claimant
15 or by another generic designation in the complaint.

16 Notwithstanding the preceding paragraph, the failure to
17 personally name, include, or seek an award of possession of the
18 mortgaged real estate against a person in the confirmation
19 order shall not abrogate any right that the purchaser may have
20 to possession of the mortgaged real estate and to maintain a
21 proceeding against that person for possession under Article 9
22 of this Code or subsection (h) of Section 15-1701; and
23 possession against a person who (1) has not been personally
24 named as a party to the foreclosure and (2) has not been
25 provided an opportunity to be heard in the foreclosure
26 proceeding may be sought only by maintaining a proceeding under

1 Article 9 of this Code or subsection (h) of Section 15-1701.

2 (h) With respect to mortgaged real estate containing 5 or
3 more dwelling units, the order confirming the sale shall also
4 provide that (i) the mortgagor shall transfer to the purchaser
5 the security deposits, if any, that the mortgagor received to
6 secure payment of rent or to compensate for damage to the
7 mortgaged real estate from any current occupant of a dwelling
8 unit of the mortgaged real estate, as well as any statutory
9 interest that has not been paid to the occupant, and (ii) the
10 mortgagor shall provide an accounting of the security deposits
11 that are transferred, including the name and address of each
12 occupant for whom the mortgagor holds the deposit and the
13 amount of the deposit and any statutory interest.

14 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;
15 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.
16 8-26-11.)

17 (735 ILCS 5/15-1603) (from Ch. 110, par. 15-1603)

18 Sec. 15-1603. Redemption.

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

25 (b) Redemption Period.

1 (1) In the foreclosure of a mortgage of real estate
2 which is residential real estate at the time the
3 foreclosure is commenced, the redemption period shall end
4 on the later of (i) the date 7 months from the date the
5 mortgagor or, if more than one, all the mortgagors (A) have
6 been served with summons or by publication or (B) have
7 otherwise submitted to the jurisdiction of the court, or
8 (ii) the date 3 months from the date of entry of a judgment
9 of foreclosure.

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

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

1 persons liable for the indebtedness or other obligations
2 secured by the mortgage.

3 (4) Notwithstanding paragraphs (1) and (2), the
4 redemption period shall end on the date 30 days after the
5 date the judgment of foreclosure is entered if the court
6 finds that the mortgaged real estate has been abandoned. In
7 cases where the redemption period is shortened on account
8 of abandonment, the reinstatement period shall not extend
9 beyond the redemption period as shortened.

10 (5) Notwithstanding paragraphs (1) and (2), the
11 redemption period shall end on the date 5 days after the
12 date the judgment of foreclosure is entered if the court
13 finds that the mortgaged real estate is abandoned
14 residential real estate. In cases where the redemption
15 period is shortened on account of the abandonment of
16 residential real estate, the reinstatement period shall
17 not extend beyond the redemption period as shortened.

18 (c) Extension of Redemption Period.

19 (1) Once expired, the right of redemption provided for
20 in Sections 15-1603 or 15-1604 shall not be revived. The
21 period within which the right of redemption provided for in
22 Sections 15-1603 or 15-1604 may be exercised runs
23 independently of any action by any person to enforce the
24 judgment of foreclosure or effect a sale pursuant thereto.
25 Neither the initiation of any legal proceeding nor the
26 order of any court staying the enforcement of a judgment of

1 foreclosure or the sale pursuant to a judgment or the
2 confirmation of the sale, shall have the effect of tolling
3 the running of the redemption period.

4 (2) If a court has the authority to stay, and does
5 stay, the running of the redemption period, or if the
6 redemption period is extended by any statute of the United
7 States, the redemption period shall be extended until the
8 expiration of the same number of days after the expiration
9 of the stay order as the number of days remaining in the
10 redemption period at the time the stay order became
11 effective, or, if later, until the expiration of 30 days
12 after the stay order terminates. If the stay order
13 terminates more than 30 days prior to the expiration of the
14 redemption period, the redemption period shall not be
15 extended.

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

18 (1) The amount specified in the judgment of
19 foreclosure, which shall consist of (i) all principal and
20 accrued interest secured by the mortgage and due as of the
21 date of the judgment, (ii) all costs allowed by law, (iii)
22 costs and expenses approved by the court, (iv) to the
23 extent provided for in the mortgage and approved by the
24 court, additional costs, expenses and reasonable
25 attorneys' fees incurred by the mortgagee, (v) all amounts
26 paid pursuant to Section 15-1505 and (vi) per diem interest

1 from the date of judgment to the date of redemption
2 calculated at the mortgage rate of interest applicable as
3 if no default had occurred; and

4 (2) The amount of other expenses authorized by the
5 court which the mortgagee reasonably incurs between the
6 date of judgment and the date of redemption, which shall be
7 the amount certified by the mortgagee in accordance with
8 subsection (e) of Section 15-1603.

9 (e) Notice of Intent to Redeem. An owner of redemption who
10 intends to redeem shall give written notice of such intent to
11 redeem to the mortgagee's attorney of record specifying the
12 date designated for redemption and the current address of the
13 owner of redemption for purposes of receiving notice. Such
14 owner of redemption shall file with the clerk of the court a
15 certification of the giving of such notice. The notice of
16 intent to redeem must be received by the mortgagee's attorney
17 at least 15 days (other than Saturday, Sunday or court holiday)
18 prior to the date designated for redemption. The mortgagee
19 shall thereupon file with the clerk of the court and shall give
20 written notice to the owner of redemption at least three days
21 (other than Saturday, Sunday or court holiday) before the date
22 designated for redemption a certification, accompanied by
23 copies of paid receipts or appropriate affidavits, of any
24 expenses authorized in paragraph (2) of subsection (d) of
25 Section 15-1603. If the mortgagee fails to serve such
26 certification within the time specified herein, then the owner

1 of redemption intending to redeem may redeem on the date
2 designated for redemption in the notice of intent to redeem,
3 and the mortgagee shall not be entitled to payment of any
4 expenses authorized in paragraph (2) of subsection (d) of
5 Section 15-1603.

6 (f) Procedure for Redemption.

7 (1) An owner of redemption may redeem the real estate
8 from the foreclosure by paying the amount specified in
9 subsection (d) of Section 15-1603 to the mortgagee or the
10 mortgagee's attorney of record on or before the date
11 designated for redemption pursuant to subsection (e) of
12 Section 15-1603.

13 (2) If the mortgagee refuses to accept payment or if
14 the owner of redemption redeeming from the foreclosure
15 objects to the reasonableness of the additional expenses
16 authorized in paragraph (2) of subsection (d) of Section
17 15-1603 and certified in accordance with subsection (e) of
18 Section 15-1603, the owner of redemption shall pay the
19 certified amount to the clerk of the court on or before the
20 date designated for redemption, together with a written
21 statement specifying the expenses to which objection is
22 made. In such case the clerk shall pay to the mortgagee the
23 amount tendered minus the amount to which the objection
24 pertains.

25 (3) Upon payment to the clerk, whether or not the owner
26 of redemption files an objection at the time of payment,

1 the clerk shall give a receipt of payment to the person
2 redeeming from the foreclosure, and shall file a copy of
3 that receipt in the foreclosure record. Upon receipt of the
4 amounts specified to be paid to the mortgagee pursuant to
5 this Section, the mortgagee shall promptly furnish the
6 mortgagor with a release of the mortgage or satisfaction of
7 the judgment, as appropriate, and the evidence of all
8 indebtedness secured by the mortgage shall be cancelled.

9 (g) Procedure Upon Objection. If an objection is filed by
10 an owner of redemption in accordance with paragraph (2) of
11 subsection (f) of Section 15-1603, the clerk shall hold the
12 amount to which the objection pertains until the court orders
13 distribution of those funds. The court shall hold a hearing
14 promptly to determine the distribution of any funds held by the
15 clerk pursuant to such objection. Each party shall pay its own
16 costs and expenses in connection with any objection, including
17 attorneys' fees, subject to Section 2-611 of the Code of Civil
18 Procedure.

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

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

23 (735 ILCS 5/15-1701) (from Ch. 110, par. 15-1701)

24 Sec. 15-1701. Right to possession.

25 (a) General. The provisions of this Article shall govern

1 the right to possession of the mortgaged real estate during
2 foreclosure. Possession under this Article includes physical
3 possession of the mortgaged real estate to the same extent to
4 which the mortgagor, absent the foreclosure, would have been
5 entitled to physical possession. For the purposes of Part 17,
6 real estate is residential real estate only if it is
7 residential real estate at the time the foreclosure is
8 commenced.

9 (a-5) Abandoned residential real estate. Notwithstanding
10 anything to the contrary in this Section, the holder of the
11 certificate of sale or deed issued pursuant to that certificate
12 or, if no certificate or deed was issued, the purchaser, of
13 abandoned residential real estate shall be entitled to
14 possession of the real estate as of the date the order
15 confirming the sale of the abandoned residential real estate is
16 entered.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (h) Proceedings Against Certain Occupants.

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

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

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

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

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

1 than 30 days from the date of the order, the order shall
2 allow the occupant to retain possession for 30 days from
3 the date of the order. A mortgagee in possession, receiver,
4 holder of a certificate of sale or deed, or purchaser at
5 the judicial sale, who asserts that the occupant is not
6 current in rent, shall file an affidavit to that effect in
7 the supplemental petition proceeding. If the occupant has
8 been given timely written notice of to whom and where the
9 rent is to be paid, this item (4) shall only apply if the
10 occupant continues to pay his or her rent in full during
11 the 120-day period or has made good-faith efforts to pay
12 the rent in full during that period. No
13 mortgagee-in-possession, receiver or holder of a
14 certificate of sale or deed, or purchaser who fails to file
15 a supplemental petition under this subsection during the
16 pendency of a mortgage foreclosure shall file a forcible
17 entry and detainer action against an occupant of the
18 mortgaged real estate until 90 days after a notice of
19 intent to file such action has been properly served upon
20 the occupant.

21 (5) The court records relating to a supplemental
22 petition for possession filed under this subsection (h)
23 against an occupant who is entitled to notice under item
24 (4) of this subsection (h), or relating to a forcible entry
25 and detainer action brought against an occupant who would
26 have lawful possession of the premises but for the

1 foreclosure of a mortgage on the property, shall be ordered
2 sealed and shall not be disclosed to any person, other than
3 a law enforcement officer or any other representative of a
4 governmental entity, except upon further order of the
5 court.

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

8 (735 ILCS 5/15-1706) (from Ch. 110, par. 15-1706)

9 Sec. 15-1706. Possession.

10 (a) Request. A request that the mortgagee be placed in
11 possession or that a receiver be appointed may be made by
12 motion, whether or not such request is included in the
13 complaint or other pleading. Any such request shall be
14 supported by affidavit or other sworn pleading.

15 (b) Meaning of Request. A request in a motion or in the
16 complaint or other pleading that the mortgagee be placed in
17 possession or that a receiver be appointed shall be construed
18 to mean a mortgagee placed in possession or a receiver
19 appointed in accordance with, and with powers and duties
20 specified by, Part 17 of this Article.

21 (c) Hearing.

22 (1) After reasonable notice has been given to all other
23 parties, the court shall promptly hold a hearing and
24 promptly rule on a request that a mortgagee be placed in
25 possession or that a receiver be appointed, except that, if

1 no objection to the request is made prior to the time
2 specified for the hearing, the court shall rule without a
3 hearing.

4 (2) If the court finds that the real estate is
5 abandoned residential real estate pursuant to Section
6 15-1200.5, after 5 days' notice has been given to all other
7 parties, the court shall promptly hold a hearing within 10
8 days after the filing of the request and promptly rule on a
9 request that a mortgagee be placed in possession, except
10 that, if no objection to the request is made prior to the
11 time specified for the hearing, the court shall rule
12 without a hearing.

13 (d) Reasonable Notice. For the purposes of subsection (c)
14 of Section 15-1706, notice shall be reasonable if given as much
15 in advance of the hearing as notice of motions generally is
16 required to be given under applicable court rules, and if
17 served in the same manner as motions generally are served;
18 except, if the mortgagor has not been served with the
19 complaint, the mortgagor must be served in the same manner as
20 required for service of process. Notwithstanding anything in
21 the foregoing sentence to the contrary, except with respect to
22 the mortgagor of residential real estate which has not been
23 abandoned, the court may rule without service on a party, if
24 the party is in default or if the party making the request
25 shows good cause by affidavit or other sworn evidence. If the
26 mortgagor is not served prior to the hearing, he shall be given

1 notice of the hearing to the same extent as applicable court
2 rules may provide for post-hearing notice of emergency and ex
3 parte motions.

4 (Source: P.A. 84-1462.)

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

1	INDEX	
2	Statutes amended in order of appearance	
3	205 ILCS 5/48.01 new	
4	205 ILCS 105/7-3.3 new	
5	205 ILCS 105/10-15	
6	205 ILCS 635/4-1	from Ch. 17, par. 2324-1
7	735 ILCS 5/15-1104	from Ch. 110, par. 15-1104
8	735 ILCS 5/15-1200.5 new	
9	735 ILCS 5/15-1502.5	
10	735 ILCS 5/15-1504	from Ch. 110, par. 15-1504
11	735 ILCS 5/15-1505.8 new	
12	735 ILCS 5/15-1508	from Ch. 110, par. 15-1508
13	735 ILCS 5/15-1603	from Ch. 110, par. 15-1603
14	735 ILCS 5/15-1701	from Ch. 110, par. 15-1701
15	735 ILCS 5/15-1706	from Ch. 110, par. 15-1706