



Rep. Karen A. Yarbrough

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1 AMENDMENT TO SENATE BILL 16

2 AMENDMENT NO. _____. Amend Senate Bill 16 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 adding Section 11-20-17 as follows:

6 (65 ILCS 5/11-20-17 new)

7 Sec. 11-20-17. Mortgagee maintenance requirements for
8 vacant residential property.

9 (a) For the purposes of minimizing the hazards to persons
10 and property resulting from vacant residential property, the
11 corporate authorities of each municipality may adopt an
12 ordinance that is substantially in compliance with this Section
13 requiring a mortgagee to maintain, register, and secure vacant
14 residential property. The corporate authority of a
15 municipality that enacts an ordinance pursuant to this Section
16 shall transmit a copy of that ordinance to the Illinois Housing

1 Development Authority within 30 days after the ordinance's
2 enactment. The Illinois Housing Development Authority shall,
3 within 30 days after the receipt of an ordinance, post on its
4 website a copy of the ordinance or a link to a site where the
5 municipality has the ordinance posted on the municipality's
6 website.

7 (b) For the purpose of this Section, "owner" means the
8 legal or beneficial owner of an improved or unimproved parcel
9 of real estate.

10 (c) For the purpose of this Section, "mortgagee" means: (i)
11 the holder of an indebtedness, the obligee of a non-monetary
12 obligation secured by a mortgage, any assignee of the mortgage,
13 or any person designated or authorized to act on behalf of a
14 holder; (ii) any person or entity that previously initiated a
15 foreclosure of the vacant residential property or obtained a
16 foreclosure judgment against the vacant residential property
17 if the deed to the vacant residential property has not been
18 transferred to the purchaser at the judicial sale; (iii) any
19 person claiming through a mortgagee as successor; and (iv) any
20 person identified as such in a recorded document which has not
21 been released, assigned, or superseded of record.

22 (d) For the purpose of this Section, "mortgage" means any
23 consensual lien created by a written instrument which grants or
24 retains an interest in real estate to secure a debt or other
25 obligation. The term includes, without limitation: (i)
26 mortgages securing reverse mortgage loans; (ii) mortgages

1 securing revolving credit loans; (iii) every deed conveying
2 real estate, although an absolute conveyance in its terms,
3 which shall have been intended only as a security in the nature
4 of a mortgage; and (iv) equitable mortgages. The term does not
5 include: (i) a mechanics or materialman lien; (ii) a judgment;
6 (iii) a receiver's certificate, or (iv) a tax lien.

7 (e) For the purpose of this Section, "vacant residential
8 property" means any real estate, other than a single tract of
9 agricultural real estate consisting of more than 40 acres,
10 improved with a complete structure containing one or more
11 dwelling units or an incomplete structure if the real estate is
12 zoned for residential development, where the structure is empty
13 or otherwise uninhabited and the structure or lot is in need of
14 maintenance, repair, or securing, and with respect to which one
15 or more of the following conditions exist:

16 (1) all lawful business or construction operations
17 have ceased for 6 months;

18 (2) it has been declared unfit for occupancy and
19 ordered to remain vacant and unoccupied by municipal
20 authorities or a court of competent jurisdiction;

21 (3) no construction or legal repairs have commenced for
22 6 months;

23 (4) the doors or windows are smashed through, broken,
24 unhinged, removed, or continuously unlocked;

25 (5) law enforcement officials have received at least
26 one report of trespassers or vandalism or other illegal

1 acts being committed at the property in the last 6 months;

2 (6) gas, electrical, or water service to the entire
3 premises has been terminated.

4 A property shall not be considered vacant, for purposes of
5 this Section, if on the property: (i) there is an unoccupied
6 building that is undergoing construction, renovation, or
7 rehabilitation that is proceeding diligently to completion,
8 and the building is in compliance with all applicable
9 ordinances, codes, regulations, and laws; (ii) there is a
10 building that is occupied on a seasonal basis, but is otherwise
11 secure; (iii) there is a secure building on which there are
12 bona fide rental or sale signs; (iv) there is a building that
13 is secure, but is the subject of a probate action, action to
14 quiet title, or other ownership dispute; or (v) there is
15 otherwise a building that is secure and in substantial
16 compliance with all applicable ordinances, codes, regulations,
17 and laws.

18 (f) For the purpose of this Section, "default" means: (i)
19 with respect to a building containing 4 or fewer dwelling
20 units, when a mortgagor is 60 days past due on that mortgagor's
21 obligation to pay under a mortgage or a note secured by that
22 mortgage; and (ii) with respect to all other buildings, when a
23 mortgagor is 90 days past due on that mortgagor's obligation to
24 pay under a mortgage or a note secured by that mortgage.

25 (g) Liability.

26 (1) A mortgagee's acts or omissions required by any

1 ordinance enacted pursuant to this Section shall not
2 subject the mortgagee to civil or criminal liability unless
3 the act or omission constitutes gross negligence or
4 willful, wanton, or intentional misconduct. This provision
5 shall not waive any requirement to obtain permits or
6 licenses for performing certain work required by an
7 ordinance enacted under this Section, or the penalties
8 provided for failure to do so.

9 (2) If a vacant residential property is registered
10 pursuant to an ordinance enacted under this Section, only
11 the registered mortgagee shall be liable under the
12 ordinance during the registration period. Nothing in this
13 Section shall bar the concurrent enforcement of any law or
14 ordinance against the owner of a property.

15 (h) Registration.

16 (1) A municipality may require that the mortgagee of
17 any residential property that has become vacant and is not
18 registered as vacant by an owner, if applicable, within the
19 later of 30 days after the residential property becomes
20 vacant and unregistered or 60 days after a default, file a
21 registration statement with the municipality. A
22 municipality may charge a reasonable fee for any
23 registration, which fee shall not exceed \$500. The
24 registration shall remain valid for 6 months from the date
25 of registration. The mortgagee shall be required to renew
26 the registration every 6 months as long as the building

1 remains vacant. The mortgagee shall notify, in writing, the
2 municipality within 20 days of any change in the
3 registration information. The registration statement shall
4 be deemed prima facie proof of the statements therein
5 contained in any administrative enforcement proceeding or
6 court proceeding instituted under an ordinance enacted
7 pursuant to this Section by the municipality against the
8 mortgagee with respect to the registered property.

9 (2) In addition to other information required by the
10 municipality, the registration statement shall include the
11 name, street address, and telephone number of a natural
12 person, 18 years of age or older, or business entity
13 registered with the Secretary of State designated by the
14 mortgagee as an authorized agent for receiving notices of
15 code violations and for receiving process in any court
16 proceeding or administrative enforcement proceeding on
17 behalf of the mortgagee in connection with enforcement of
18 an ordinance enacted pursuant to this Section. A mortgagee
19 meeting these criteria may designate itself as agent. By
20 designating an authorized agent under an ordinance enacted
21 pursuant to this Section, a mortgagee consents to receive
22 any and all notices of violations of an ordinance enacted
23 pursuant to this Section concerning the registered
24 building and all process in any court proceeding or
25 administrative enforcement proceeding brought to enforce
26 an ordinance enacted pursuant to this Section with respect

1 to the registered building by service of the notice or
2 process on the authorized agent. Any mortgagee that has
3 designated an authorized agent under the provisions of an
4 ordinance enacted pursuant to this Section shall be deemed
5 to consent to the continuation of the agent's designation
6 for the purposes of an ordinance enacted pursuant to this
7 Section until the mortgagee notifies the municipality of a
8 change of authorized agent or until the mortgagee files a
9 new registration statement. The municipality shall notify
10 in writing the designated agent of all violations and
11 enforcement proceedings brought under an ordinance enacted
12 pursuant to this Section.

13 (i) A municipality may require that the mortgagee of any
14 residential property that has become vacant and which is not
15 otherwise registered as vacant by an owner, if applicable,
16 within the later of 30 days after the residential property
17 becomes vacant and unregistered, if applicable, or 60 days
18 after a default:

19 (1) enclose and secure the vacant residential property
20 so that all doors and windows are closed and secured,
21 using: secure doors; windows without broken or cracked
22 panes; commercial-quality metal security panels, filled
23 with like-kind material as the surrounding wall; or plywood
24 installed and secured in accordance with rules and
25 regulations issued by the municipality. At least one
26 building entrance shall be accessible from the exterior and

1 secured with a door that is locked to allow access only to
2 authorized persons. If 2 or more exit doors exist, a
3 minimum of 2 exit doors shall be available to exit from the
4 interior of the building, with at least one exit door
5 available per 150 linear feet of horizontal travel at
6 ground-floor level;

7 (2) maintain all grass and weeds on the vacant
8 residential property below 10 inches in height and cut and
9 remove all dead or broken trees, tree limbs, or shrubbery;

10 (3) clear or remove snow from the walkway leading to
11 the main entry door, and any public sidewalk on or
12 adjoining the vacant residential property;

13 (4) abate the accumulation of debris, trash, and litter
14 that does not constitute personal property on any portion
15 of the exterior of the vacant residential property;

16 (5) reasonably maintain fences and gates;

17 (6) reasonably maintain the structural integrity of
18 stairs and steps that lead to the main entrance of the
19 building;

20 (7) winterize the vacant residential property, which
21 shall mean cleaning all toilets and completely draining all
22 plumbing and heating systems;

23 (8) maintain and secure the exterior of the building;

24 (9) post a sign affixed to the building indicating the
25 information required by the municipality. A sign shall be
26 legible and no smaller than 8.5 inches by 11 inches and

1 placed in such a location so as to be visible from the
2 nearest public street or sidewalk, whichever is nearer; and
3 if there is any alley adjacent to the property, a sign
4 shall also be posted so as to be visible from the alley;

5 (10) maintain the building in a secure and closed
6 condition and maintain any required sign until the vacant
7 residential property is reoccupied or demolished with all
8 permits required by the municipality. If during the
9 registration period and following the initial boarding and
10 securing of the building in compliance with an ordinance
11 enacted pursuant to this Section the municipality notifies
12 the mortgagee in writing that the vacant residential
13 property was found unsecured or open or it has been
14 judicially or administratively found to be unsecured or
15 open on 2 separate occasions at least 30 days apart, the
16 municipality may require that the vacant residential
17 property shall thereafter be secured only with
18 commercial-quality metal security panels or a method
19 deemed equivalent by the municipality;

20 (11) inspect the vacant residential property on a
21 monthly basis. A mortgagee may elect to inspect any vacant
22 residential property on a more frequent basis; and

23 (12) exterminate vermin and pests on the exterior of
24 the property.

25 (j) A municipality may require that, beginning 45 days
26 after a default, a mortgagee determine, on a monthly basis, if

1 the building on the real estate subject to its mortgage is
2 vacant. A municipality may provide that this determination may
3 be made by communication with the mortgagor, a visual
4 inspection of the real estate, or other means reasonably
5 calculated to determine if the building is vacant.

6 (k) A municipality adopting an ordinance pursuant to this
7 Section may impose a fine of not more than \$1,000 and not less
8 than \$500 for each offense. Every day that a violation
9 continues shall constitute a separate and distinct offense. The
10 following shall be affirmative defenses under any ordinance
11 adopted pursuant to this Section:

12 (1) that at the time of the violation the building was
13 occupied by any number of persons lawfully or unlawfully;

14 (2) that the owner or another mortgagee has registered
15 the building with the municipality and that registration is
16 current at the time of the violation;

17 (3) that the mortgagee is barred from taking any action
18 required by an ordinance enacted under this Section by an
19 automatic stay pursuant to a bankruptcy proceeding,
20 provided that the mortgagee tenders evidence of that
21 proceeding including the bankruptcy case number;

22 (4) that the mortgagee has cured all violations within
23 30 days after receiving written notice of such violations.
24 Notice sent by U.S. mail shall be deemed received 7 days
25 after mailing. An affidavit shall be conclusive proof of
26 mailing;

1 (5) that at the time of the violation, the mortgage was
2 not in default;

3 (6) that at the time of the violation, the mortgagee
4 was not the holder of the senior lien on the real estate;

5 (7) that a receiver is appointed for the property by a
6 court of competent jurisdiction;

7 (8) that the mortgagee has diligently applied for a
8 permit required to comply with any obligation under an
9 ordinance enacted pursuant to this Section, and a permit
10 has not yet been issued;

11 (9) that in a foreclosure of the property, the owner or
12 mortgagor took any of the following actions:

13 (i) filed any pleading which asserts a claim
14 against the mortgagee or a defense;

15 (ii) filed any motion which asserts a defense or
16 claim against the mortgagee;

17 (iii) filed any discovery request for response by
18 the mortgagee; or

19 (iv) filed a request for mediation.

20 (1) Termination of ordinance requirements.

21 (1) Upon the occurrence of any of the following, the
22 requirements of any ordinance enacted pursuant to this
23 Section shall terminate with respect to a mortgagee:

24 (i) a recorded assignment of the mortgagee's
25 mortgage; or

26 (ii) a recorded satisfaction or release of the

1 mortgagee's mortgage.

2 (2) Upon the occurrence of any of the following, the
3 requirements of any ordinance enacted pursuant to this
4 Section shall terminate with respect to a vacant
5 residential property:

6 (i) a recorded conveyance of title to the
7 underlying real estate, pursuant to foreclosure
8 proceedings or otherwise;

9 (ii) the building ceases to be vacant; or

10 (iii) the building is demolished with all permits
11 required by the municipality.

12 (m) No municipality may impose requirements for the
13 maintenance, registration, or securing of vacant residential
14 property upon any financial institution that has no interest in
15 the property other than that of a mortgagee, except pursuant to
16 an ordinance that: (1) substantially complies with this
17 Section; and (2) has been posted on the website of the Illinois
18 Housing Development Authority pursuant to subsection (a) of
19 this Section. For purposes of this subsection (m), "financial
20 institution" means a bank, savings bank, savings and loan
21 association, or credit union.

22 Section 10. The Code of Civil Procedure is amended by
23 changing Sections 15-1503, 15-1506, 15-1508, and 15-1603 as
24 follows:

1 (735 ILCS 5/15-1503) (from Ch. 110, par. 15-1503)

2 Sec. 15-1503. Notice of Foreclosure.

3 (a) A notice of foreclosure, whether the foreclosure is
4 initiated by complaint or counterclaim, made in accordance with
5 this Section and recorded in the county in which the mortgaged
6 real estate is located shall be constructive notice of the
7 pendency of the foreclosure to every person claiming an
8 interest in or lien on the mortgaged real estate, whose
9 interest or lien has not been recorded prior to the recording
10 of such notice of foreclosure. Such notice of foreclosure must
11 be executed by any party or any party's attorney and shall
12 include (i) the names of all plaintiffs and the case number,
13 (ii) the court in which the action was brought, (iii) the names
14 of title holders of record, (iv) a legal description of the
15 real estate sufficient to identify it with reasonable
16 certainty, (v) a common address or description of the location
17 of the real estate and (vi) identification of the mortgage
18 sought to be foreclosed. An incorrect common address or
19 description of the location, or an immaterial error in the
20 identification of a plaintiff or title holder of record, shall
21 not invalidate the lis pendens effect of the notice under this
22 Section. A notice which complies with this Section shall be
23 deemed to comply with Section 2-1901 of the Code of Civil
24 Procedure and shall have the same effect as a notice filed
25 pursuant to that Section; however, a notice which complies with
26 Section 2-1901 shall not be constructive notice unless it also

1 complies with the requirements of this Section.

2 (b) With respect to residential real estate, a copy of the
3 notice of foreclosure described in subsection (a) of Section
4 15-1503 shall be sent by first class mail, postage prepaid, to
5 the municipality within the boundary of which the mortgaged
6 real estate is located, or to the county within the boundary of
7 which the mortgaged real estate is located if the mortgaged
8 real estate is located in an unincorporated territory. A
9 municipality or county must clearly publish on its website a
10 single address to which such notice shall be sent. If a
11 municipality or county does not maintain a website, then the
12 municipality or county must publicly post in its main office a
13 single address to which such notice shall be sent. In the event
14 that a municipality or county has not complied with the
15 publication requirement in this subsection (b), then the copy
16 of the ~~such~~ notice to the municipality or county shall be ~~be~~
17 sent by first class mail, postage prepaid, to the chairperson
18 of the county board or county clerk in the case of a county, to
19 the mayor or city clerk in the case of a city, to the president
20 of the board of trustees or village clerk in the case of a
21 village, or to the president or town clerk in the case of a
22 town provided pursuant to Section 2-211 of the Code of Civil
23 Procedure. Additionally, if the real estate is located in a
24 city with a population of more than 2,000,000, regardless of
25 whether that city has complied with the publication requirement
26 in this subsection (b), the party must, within 10 days after

1 filing the complaint or counterclaim: (i) send by first class
2 mail, postage prepaid, a copy of the notice of foreclosure to
3 the alderman for the ward in which the real estate is located
4 and (ii) file an affidavit with the court attesting to the fact
5 that the notice was sent to the alderman for the ward in which
6 the real estate is located. The failure to send a copy of the
7 notice to the alderman or to file an affidavit as required
8 results in the dismissal without prejudice of the complaint or
9 counterclaim on a motion of a party or the court. If, after the
10 complaint or counterclaim has been dismissed without
11 prejudice, the party refiles the complaint or counterclaim,
12 then the party must again comply with the requirements that the
13 party send by first class mail, postage prepaid, the notice to
14 the alderman for the ward in which the real estate is located
15 and file an affidavit attesting to the fact that the notice was
16 sent.

17 (Source: P.A. 96-856, eff. 3-1-10.)

18 (735 ILCS 5/15-1506) (from Ch. 110, par. 15-1506)

19 Sec. 15-1506. Judgment. (a) Evidence. In the trial of a
20 foreclosure, the evidence to support the allegations of the
21 complaint shall be taken in open court, except:

22 (1) where an allegation of fact in the complaint is not
23 denied by a party's verified answer or verified counterclaim,
24 or where a party pursuant to subsection (b) of Section 2-610 of
25 the Code of Civil Procedure states, or is deemed to have

1 stated, in its pleading that it has no knowledge of such
2 allegation sufficient to form a belief and attaches the
3 required affidavit, a sworn verification of the complaint or a
4 separate affidavit setting forth such fact is sufficient
5 evidence thereof against such party and no further evidence of
6 such fact shall be required; and

7 (2) where all the allegations of fact in the complaint have
8 been proved by verification of the complaint or affidavit, the
9 court upon motion supported by an affidavit stating the amount
10 which is due the mortgagee, shall enter a judgment of
11 foreclosure as requested in the complaint.

12 (b) Instruments. In all cases the evidence of the
13 indebtedness and the mortgage foreclosed shall be exhibited to
14 the court and appropriately marked, and copies thereof shall be
15 filed with the court.

16 (c) Summary and Default Judgments.

17 (1) Nothing in this Section 15-1506 shall prevent a
18 party from obtaining a summary or default judgment
19 authorized by Article II of the Code of Civil Procedure.

20 (2) Judgment on abandoned real estate. A mortgagee may
21 elect to file a motion seeking a finding of abandonment
22 pursuant to paragraph (4) of subsection (b) of Section
23 15-1603 and concurrently file a motion for summary or
24 default judgment, and both motions shall be given priority
25 and must be set before the court by the circuit clerk
26 within 15 days after filing, so long as one of the

1 following have occurred:

2 (i) 30 days have transpired since service of the
3 summons on the mortgagor, or, if there is more than one
4 mortgagor, 30 days have transpired since service on all
5 mortgagors, and the mortgagor has not filed any answer
6 or appearance;

7 (ii) 30 days have transpired since the date of
8 first publication, if service of process is by
9 publication, and the mortgagor has not filed any answer
10 or appearance; or

11 (iii) 30 days have transpired since all mortgagors
12 have otherwise submitted to the jurisdiction of the
13 court, and the mortgagor has not filed any answer or
14 appearance.

15 The Court shall proceed to determine if the real estate
16 is abandoned pursuant to the requirements of paragraph (4)
17 of subsection (b) of Section 15-1603 and shall proceed on
18 any motion for default or summary judgment pursuant to the
19 requirements in Article II of the Code of Civil Procedure.
20 If the court finds that the real estate is abandoned,
21 pursuant to Section 15-1603, and also grants the
22 mortgagee's motion for default or summary judgment then the
23 court, if requested, shall immediately enter a judgment of
24 foreclosure as requested in the complaint which shall
25 include the matters identified in Section 15-1506.

26 (d) Notice of Entry of Default. When any judgment in a

1 foreclosure is entered by default, notice of such judgment
2 shall be given in accordance with Section 2-1302 of the Code of
3 Civil Procedure.

4 (e) Matters Required in Judgment. A judgment of foreclosure
5 shall include the last date for redemption and all rulings of
6 the court entered with respect to each request for relief set
7 forth in the complaint. The omission of the date for redemption
8 shall not extend the time for redemption or impair the validity
9 of the judgment.

10 (f) Special Matters in Judgment. Without limiting the
11 general authority and powers of the court, special matters may
12 be included in the judgment of foreclosure if sought by a party
13 in the complaint or by separate motion. Such matters may
14 include, without limitation:

15 (1) a manner of sale other than public auction;

16 (2) a sale by sealed bid;

17 (3) an official or other person who shall be the officer to
18 conduct the sale other than the one customarily designated by
19 the court;

20 (4) provisions for non-exclusive broker listings or
21 designating a duly licensed real estate broker nominated by one
22 of the parties to exclusively list the real estate for sale;

23 (5) the fees or commissions to be paid out of the sale
24 proceeds to the listing or other duly licensed broker, if any,
25 who shall have procured the accepted bid;

26 (6) the fees to be paid out of the sale proceeds to an

1 auctioneer, if any, who shall have been authorized to conduct a
2 public auction sale;

3 (7) whether and in what manner and with what content signs
4 shall be posted on the real estate;

5 (8) a particular time and place at which such bids shall be
6 received;

7 (9) a particular newspaper or newspapers in which notice of
8 sale shall be published;

9 (10) the format for the advertising of such sale, including
10 the size, content and format of such advertising, and
11 additional advertising of such sale;

12 (11) matters or exceptions to which title in the real
13 estate may be subject at the sale;

14 (12) a requirement that title insurance in a specified form
15 be provided to a purchaser at the sale, and who shall pay for
16 such insurance;

17 (13) whether and to what extent bids with mortgage or other
18 contingencies will be allowed;

19 (14) such other matters as approved by the court to ensure
20 sale of the real estate for the most commercially favorable
21 price for the type of real estate involved.

22 (g) Agreement of the Parties. If all of the parties agree
23 in writing on the minimum price and that the real estate may be
24 sold to the first person who offers in writing to purchase the
25 real estate for such price, and on such other commercially
26 reasonable terms and conditions as the parties may agree, then

1 the court shall order the real estate to be sold on such terms,
2 subject to confirmation of the sale in accordance with Section
3 15-1508.

4 (h) Postponement of Proving Priority. With the approval of
5 the court prior to the entry of the judgment of foreclosure, a
6 party claiming an interest in the proceeds of the sale of the
7 mortgaged real estate may defer proving the priority of such
8 interest until the hearing to confirm the sale.

9 (i) Effect of Judgment and Lien. (1) Upon the entry of the
10 judgment of foreclosure, all rights of a party in the
11 foreclosure against the mortgagor provided for in the judgment
12 of foreclosure or this Article shall be secured by a lien on
13 the mortgaged real estate, which lien shall have the same
14 priority as the claim to which the judgment relates and shall
15 be terminated upon confirmation of a judicial sale in
16 accordance with this Article.

17 (2) Upon the entry of the judgment of foreclosure, the
18 rights in the real estate subject to the judgment of
19 foreclosure of (i) all persons made a party in the foreclosure
20 and (ii) all nonrecord claimants given notice in accordance
21 with paragraph (2) of subsection (c) of Section 15-1502, shall
22 be solely as provided for in the judgment of foreclosure and in
23 this Article.

24 (Source: P.A. 85-907.)

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

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

5 (b) Hearing. Upon motion and notice in accordance with
6 court rules applicable to motions generally, which motion shall
7 not be made prior to sale, the court shall conduct a hearing to
8 confirm the sale. Unless the court finds that (i) a notice
9 required in accordance with subsection (c) of Section 15-1507
10 or a notice to an alderman required in accordance with
11 subsection (b) of Section 15-1503 was not given, (ii) the terms
12 of sale were unconscionable, (iii) the sale was conducted
13 fraudulently, or (iv) justice was otherwise not done, the court
14 shall then enter an order confirming the sale. The confirmation
15 order shall include a name, address, and telephone number of
16 the holder of the certificate of sale or deed issued pursuant
17 to that certificate or, if no certificate or deed was issued,
18 the purchaser, whom a municipality or county may contact with
19 concerns about the real estate. The confirmation order may
20 also:

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

26 (2) provide for a personal judgment against any party

1 for a deficiency; ~~and~~

2 (3) determine the priority of the judgments of parties
3 who deferred proving the priority pursuant to subsection
4 (h) of Section 15-1506, but the court shall not defer
5 confirming the sale pending the determination of such
6 priority; ~~and.~~

7 (4) provide that if the court has entered a finding of
8 abandonment pursuant to paragraph (4) of subsection (b) of
9 Section 15-1603, then any personal property remaining in or
10 upon the abandoned mortgaged real estate shall be deemed to
11 have been abandoned by the owner of such personal property
12 and may be disposed of or donated by the holder of the
13 certificate of sale (or, if none, by the purchaser at the
14 sale). In the event of the donation of any such personal
15 property, the holder of the certificate of sale (or, if
16 none, the purchaser at the sale) may transfer the donated
17 property with a bill of sale. No mortgagee or its successor
18 or assign, holder of a certificate of sale, or purchaser at
19 the sale shall be liable for any such disposal or donation
20 of personal property.

21 (b-5) Notice with respect to residential real estate. With
22 respect to residential real estate, the notice required under
23 subsection (b) of this Section shall be sent to the mortgagor
24 even if the mortgagor has previously been held in default. In
25 the event the mortgagor has filed an appearance, the notice
26 shall be sent to the address indicated on the appearance. In

1 all other cases, the notice shall be sent to the mortgagor at
2 the common address of the foreclosed property. The notice shall
3 be sent by first class mail. Unless the right to possession has
4 been previously terminated by the court, the notice shall
5 include the following language in 12-point boldface
6 capitalized type:

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

11 (b-6) Notice with respect to real estate that has been
12 declared abandoned. With respect to real estate that has been
13 declared abandoned, the notice required in accordance with
14 subsection (b) of this Section shall be sent to the mortgagor
15 even if the mortgagor has previously been held in default. The
16 notice shall be sent to the address indicated on the affidavit
17 of return of service. In all other cases, the notice shall be
18 sent to the mortgagor at the common address of the foreclosed
19 real estate. The notice shall be sent by first class mail. The
20 notice shall include the following language in 12-point
21 boldface capitalized type:

22 THE MORTGAGEE HAS ASKED THE COURT TO DECLARE THAT THE OWNER HAS
23 ABANDONED ALL OF HIS OR HER PERSONAL PROPERTY LOCATED AT THE
24 FORECLOSED REAL ESTATE. IF THAT MOTION IS GRANTED, THE PERSONAL
25 PROPERTY CAN BE DISPOSED OF AND REMOVED BY THE MORTGAGEE. THE
26 COURT WILL RULE ON THIS ISSUE AT THE TIME, DATE, AND LOCATION

OF THE ATTACHED MOTION.

(b-10) Notice of confirmation order sent to municipality or county. With respect to residential real estate, a copy of the confirmation order required under subsection (b) shall be sent by first class mail, postage prepaid, to the municipality in which the foreclosed property is located, or to the county within the boundary of which the foreclosed property is located if the foreclosed property is located in an unincorporated territory. A municipality or county must clearly publish on its website a single address to which such order ~~notice~~ shall be sent. If a municipality or county does not maintain a website, then the municipality or county must publicly post in its main office a single address to which such order ~~notice~~ shall be sent. In the event that a municipality or county has not complied with the publication requirement in this subsection (b-10), then the copy of the order for ~~such notice to~~ the municipality or county shall be sent by first class mail to the chairperson of the county board or county clerk in the case of a county, to the mayor or city clerk in the case of a city, to the president of the board of trustees or village clerk in the case of a village, or the president or town clerk in the case of a town. Additionally, if the real estate is located in a city with a population of more than 2,000,000, regardless of whether that city has complied with the publication requirements of this subsection (b-10), the party filing the complaint or counterclaim must, within 10 days after the entry

1 of the confirmation order: (i) send by first class mail,
2 postage prepaid, a copy of the confirmation order to the
3 alderman for the ward in which the real estate is located and
4 (ii) file an affidavit attesting to the fact that a copy of the
5 confirmation order was sent to the alderman for the ward in
6 which the real estate is located ~~provided pursuant to Section~~
7 ~~2-211 of the Code of Civil Procedure.~~

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

23 (d) Validity of Sale. Except as provided in subsection (c)
24 of Section 15-1508, no sale under this Article shall be held
25 invalid or be set aside because of any defect in the notice
26 thereof or in the publication of the same, or in the

1 proceedings of the officer conducting the sale, except upon
2 good cause shown in a hearing pursuant to subsection (b) of
3 Section 15-1508. At any time after a sale has occurred, any
4 party entitled to notice under paragraph (3) of subsection (c)
5 of Section 15-1507 may recover from the mortgagee any damages
6 caused by the mortgagee's failure to comply with such paragraph
7 (3). Any party who recovers damages in a judicial proceeding
8 brought under this subsection may also recover from the
9 mortgagee the reasonable expenses of litigation, including
10 reasonable attorney's fees.

11 (d-5) Making Home Affordable Program. The court that
12 entered the judgment shall set aside a sale held pursuant to
13 Section 15-1507, upon motion of the mortgagor at any time prior
14 to the confirmation of the sale, if the mortgagor proves by a
15 preponderance of the evidence that (i) the mortgagor has
16 applied for assistance under the Making Home Affordable Program
17 established by the United States Department of the Treasury
18 pursuant to the Emergency Economic Stabilization Act of 2008
19 (Public Law 110-343, Div. A.), as amended by the American
20 Recovery and Reinvestment Act of 2009 (Public Law 111-5), and
21 (ii) the mortgaged real estate was sold in material violation
22 of the program's requirements for proceeding to a judicial
23 sale. The provisions of this subsection (d-5), except for this
24 sentence, shall become inoperative on January 1, 2013 for all
25 actions filed under this Article after December 31, 2012, in
26 which the mortgagor did not apply for assistance under the

1 Making Home Affordable Program on or before December 31, 2012.

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

17 (f) Satisfaction. Upon confirmation of the sale, the
18 judgment stands satisfied to the extent of the sale price less
19 expenses and costs. If the order confirming the sale includes a
20 deficiency judgment, the judgment shall become a lien in the
21 manner of any other judgment for the payment of money.

22 (g) The order confirming the sale shall include,
23 notwithstanding any previous orders awarding possession during
24 the pendency of the foreclosure, an award to the purchaser of
25 possession of the mortgaged real estate, as of the date 30 days
26 after the entry of the order, against the parties to the

1 foreclosure whose interests have been terminated. If the court
2 has determined that the real estate is abandoned pursuant to
3 paragraph (4) of subsection (b) of Section 2-1603 and the
4 parties whose interests have been terminated have not appeared
5 at the hearing to confirm the sale, the purchaser shall be
6 awarded possession of the mortgaged real estate immediately.

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

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

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

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

16 (735 ILCS 5/15-1603) (from Ch. 110, par. 15-1603)

17 Sec. 15-1603. Redemption.

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

24 (b) Redemption Period.

25 (1) In the foreclosure of a mortgage of real estate

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

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

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

1 secured by the mortgage.

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

11 (A) The court may find that the mortgaged real
12 estate is abandoned if the mortgagee proves, by a
13 preponderance of the evidence, with the mortgagee's
14 proof being offered by personal testimony or
15 affidavit, that the mortgaged real estate has been
16 abandoned. To determine that the real estate has been
17 abandoned, the court must find the following:

18 (i) the mortgaged real estate is not actually
19 occupied; and

20 (ii) at least one of the following applies:

21 (aa) the mortgagee has made at least 3
22 attempts to contact the mortgagor, which shall
23 include any attempts to contact the mortgagor
24 as required by law, and at least 2 of the
25 following supporting facts are true:

26 (I) construction was initiated on

1 the real estate and was discontinued prior
2 to completion, leaving the building
3 unsuitable for occupancy, and no
4 construction has taken place for at least 6
5 months;

6 (II) the real estate has had at
7 least one uncorrected municipal code
8 violation over the past year, or has been
9 unfit for occupancy and ordered to remain
10 vacant and unoccupied by the municipal
11 authorities;

12 (III) gas, electric, or water
13 service to the entire premises has been
14 terminated;

15 (IV) windows or entrances to the
16 premises are boarded up or closed off, or
17 multiple window panes are broken and
18 unrepaired;

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

22 (VI) the police or sheriff's
23 office received at least one report of a
24 trespasser on the premises, vandalism, or
25 other illegal acts being committed on the
26 premises in the past 6 months;

1 (VII) the mortgagee or other
2 interested or authorized party has secured
3 or winterized the premises due to the real
4 estate being declared vacant in a
5 proceeding initiated under an ordinance
6 enacted pursuant to Section 11-17-20 of
7 the Illinois Municipal Code;

8 (VIII) the mortgagee or other
9 interested or authorized party has secured
10 or winterized the premises upon the
11 request of the local police, fire, or code
12 enforcement authorities due to the local
13 authorities declaring the premises to be
14 an imminent danger to the health, safety,
15 and welfare of the public;

16 (IX) the mortgagee or other
17 interested or authorized party has, after
18 conducting a reasonable inquiry and
19 investigation, secured or winterized the
20 premises due to the premises being vacant
21 and open, unprotected, or in reasonable
22 danger of damage due to exposure to the
23 elements, vandalism, or freezing;

24 (bb) 3 or more attempts to contact the
25 mortgagor have been made and there exist
26 written statements of the mortgagor or the

1 mortgagor's personal representative or assign,
2 including documents of conveyance, which
3 indicate a clear intent to abandon the
4 mortgaged real estate; or

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

8 (B) Notwithstanding the provisions of this
9 subsection, if an appearance by the mortgagor or other
10 occupant is made at or before the hearing on a motion
11 brought pursuant to this subsection, the mortgaged
12 real estate shall not be deemed abandoned and the court
13 shall deny the motion to shorten the redemption period.

14 (c) Extension of Redemption Period.

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

26 (2) If a court has the authority to stay, and does

1 stay, the running of the redemption period, or if the
2 redemption period is extended by any statute of the United
3 States, the redemption period shall be extended until the
4 expiration of the same number of days after the expiration
5 of the stay order as the number of days remaining in the
6 redemption period at the time the stay order became
7 effective, or, if later, until the expiration of 30 days
8 after the stay order terminates. If the stay order
9 terminates more than 30 days prior to the expiration of the
10 redemption period, the redemption period shall not be
11 extended.

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

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

26 (2) The amount of other expenses authorized by the

1 court which the mortgagee reasonably incurs between the
2 date of judgment and the date of redemption, which shall be
3 the amount certified by the mortgagee in accordance with
4 subsection (e) of Section 15-1603.

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

1 Section 15-1603.

2 (f) Procedure for Redemption.

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

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

21 (3) Upon payment to the clerk, whether or not the owner
22 of redemption files an objection at the time of payment,
23 the clerk shall give a receipt of payment to the person
24 redeeming from the foreclosure, and shall file a copy of
25 that receipt in the foreclosure record. Upon receipt of the
26 amounts specified to be paid to the mortgagee pursuant to

1 this Section, the mortgagee shall promptly furnish the
2 mortgagor with a release of the mortgage or satisfaction of
3 the judgment, as appropriate, and the evidence of all
4 indebtedness secured by the mortgage shall be cancelled.

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

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

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

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