



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1259

Introduced 2/8/2011, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

735 ILCS 5/15-1401.1 new

Amends the Code of Civil Procedure. Defines "short sale" as the sale of real estate that is subject to a mortgage for an amount that is less than the amount owed to the mortgagee on the outstanding mortgage loan. Provides that in a foreclosure of residential property, if the mortgagor presents to the mortgagee, which is a banking organization or corporation, a bona fide written offer from a third party to purchase the property in foreclosure which is for an amount that constitutes a short sale, and the mortgagor requests that the mortgagee approve the short sale, then the mortgagee must respond within 30 days and must agree to the short sale unless there is a reasonable justification to not do so. Provides that the fact that the proceeds of the short sale would be insufficient to satisfy the mortgage note does not constitute a reasonable justification. Provides that if the mortgagee approves the short sale, the mortgagee agrees as part of the closing of the short sale: to termination of the mortgagor's interest in the property and acceptance the sale proceeds in full satisfaction of the outstanding mortgage loan; to relieve from personal liability all persons who may owe payment or the performance of other obligations secured by the mortgage, including guarantors; and to waive all rights to a personal judgment for deficiency against the mortgagor and all other persons liable under the mortgage.

LRB097 00223 AJ0 40238 b

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Code of Civil Procedure is amended by adding
5 Section 15-1401.1 as follows:

6 (735 ILCS 5/15-1401.1 new)

7 Sec. 15-1401.1. Short sale in foreclosure. (a) For
8 purposes of this Section, "short sale" means the sale of real
9 estate that is subject to a mortgage for an amount that is less
10 than the amount owed to the mortgagee on the outstanding
11 mortgage note.

12 (b) In a foreclosure of residential property, if (i) the
13 mortgagor presents to the mortgagee, which is a banking
14 organization or corporation, a bona fide written offer from a
15 third party to purchase the property that is the subject of the
16 foreclosure proceeding, (ii) the written offer to purchase is
17 for an amount which constitutes a short sale of the property,
18 and (iii) the mortgagor makes a written request to the
19 mortgagee to approve the sale on the terms of the offer to
20 purchase, the mortgagee must respond to the mortgagor within 30
21 days after receipt of the written offer and written request and
22 must agree to approve the sale on the terms of the offer to
23 purchase, unless the mortgagee has a reasonable justification

1 for not approving the short sale. The fact that the proceeds
2 from the short sale would be insufficient to satisfy the
3 mortgagor's financial obligations under the mortgage and
4 mortgage note does not constitute a reasonable justification
5 for purposes of this Section. If the mortgagee approves the
6 sale on the terms of the offer to purchase, the mortgagee
7 agrees as part of the closing of the short sale: to termination
8 of the mortgagor's interest in the mortgaged real estate and
9 acceptance of the proceeds of the sale in full satisfaction of
10 the outstanding mortgage loan; to relieve from personal
11 liability all persons who may owe payment or the performance of
12 other obligations secured by the mortgage, including
13 guarantors of such indebtedness or obligations; and to waive
14 any and all rights to a personal judgment for deficiency
15 against the mortgagor and against all other persons liable for
16 the indebtedness or other obligations secured by the mortgage.