



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

### SB2534

Introduced 11/29/2011, by Sen. A. J. Wilhelmi

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/15-1200.5 new	
735 ILCS 5/15-1504	from Ch. 110, par. 15-1504
735 ILCS 5/15-1505.8 new	
735 ILCS 5/15-1508	from Ch. 110, par. 15-1508
735 ILCS 5/15-1603	from Ch. 110, par. 15-1603
735 ILCS 5/15-1701	from Ch. 110, par. 15-1701

Amends the Code of Civil Procedure. Adds to the mortgage foreclosure provisions a definition of "abandoned residential property". Provides requirement and procedures for an expedited judgment and sale of abandoned residential property. Provides that the period of redemption ends for abandoned residential property on the date of the judgment confirming the judicial sale. Makes other changes. Effective immediately.

LRB097 14747 AJ0 59760 b

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  
5 changing Sections 15-1504, 15-1508, 15-1603, and 15-1701 and by  
6 adding Sections 15-1200.5 and 15-1505.8 as follows:

7 (735 ILCS 5/15-1200.5 new)

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

14 (1) the property has had at least one uncorrected  
15 municipal or county building, housing, or similar code  
16 violation in the preceding year or has been declared unfit  
17 for occupancy and ordered to remain vacant and unoccupied  
18 by municipal or county authorities;

19 (2) construction was initiated on the property and  
20 discontinued prior to completion and there is no valid  
21 municipal or county construction or building permit posted  
22 on the property;

23 (3) gas, electric, or water utility service to the

1 property has been terminated;

2 (4) windows or entrances to the property are boarded up  
3 or closed off or multiple window panes are broken and  
4 unrepaired;

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

7 (6) rubbish, trash, garbage, debris, graffiti,  
8 neglected weeds, grass, trees, bushes, or other nuisance  
9 greenery, or other hazardous, noxious, or unhealthy  
10 substances or materials, have accumulated on the property;

11 (7) the police or sheriff's office has received at  
12 least one report of trespassing, vandalism, or other  
13 illegal activity being committed on the property in the  
14 preceding year;

15 (8) pursuant to the terms of the mortgage, the  
16 mortgagee has posted a pre-foreclosure notice of the  
17 mortgagee's intent to enter the property for purposes of  
18 maintaining or repairing it and, upon entering the property  
19 following the posting of the notice and a lack of response  
20 by the mortgagor, has found the property unoccupied;

21 (9) the mortgagee or other interested or authorized  
22 party has secured or winterized the property due to the  
23 property being deemed vacant and unprotected or in danger  
24 of freezing;

25 (10) any mortgagor or any mortgagor's personal  
26 representatives or assigns have issued an oral or written

1 statement expressing the clear intent of all mortgagors to  
2 abandon the property;

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

7 (12) the property is a vacant lot;

8 (13) the property is deteriorating and is either below  
9 or is in imminent danger of falling below minimum municipal  
10 or county government standards for public safety and  
11 sanitation; or

12 (14) any other reasonable indicia of abandonment.

13 (735 ILCS 5/15-1504) (from Ch. 110, par. 15-1504)

14 Sec. 15-1504. Pleadings and service.

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

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

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

24 (3) Information concerning mortgage:

25 (A) Nature of instrument: (here insert whether a

1 mortgage, trust deed or other instrument in the nature  
2 of a mortgage, etc.)

3 (B) Date of mortgage:

4 (C) Name of mortgagor:

5 (D) Name of mortgagee:

6 (E) Date and place of recording:

7 (F) Identification of recording: (here insert book  
8 and page number or document number)

9 (G) Interest subject to the mortgage: (here insert  
10 whether fee simple, estate for years, undivided  
11 interest, etc.)

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

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

17 (J) Statement as to defaults, including, but not  
18 necessarily limited to, date of default, current  
19 unpaid principal balance, per diem interest accruing,  
20 and any further information concerning the default:

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

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

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

1 (N) Capacity in which plaintiff brings this  
2 foreclosure (here indicate whether plaintiff is the  
3 legal holder of the indebtedness, a pledgee, an agent,  
4 the trustee under a trust deed or otherwise, as  
5 appropriate):

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

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

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

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

23 (S) Offer to mortgagor in accordance with Section  
24 15-1402 to accept title to the real estate in  
25 satisfaction of all indebtedness and obligations  
26 secured by the mortgage without judicial sale, if

1 sought:

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

7 REQUEST FOR RELIEF

8 Plaintiff requests:

9 (i) A judgment of foreclosure and sale.

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

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

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

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

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

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

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

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

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

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

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

21 (5) that defaults occurred as indicated;

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

25 (7) that the mortgage constitutes a valid, prior and  
26 paramount lien upon the indicated interest in the mortgaged



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

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

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

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

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

25 (12) that, upon confirmation of the sale, the holder of  
26 the certificate of sale or deed issued pursuant to that

1 certificate or, if no certificate or deed was issued, the  
2 purchaser at the sale will be entitled to full possession  
3 of the mortgaged real estate against the parties named in  
4 clause (T) of paragraph (3) of subsection (a) of Section  
5 15-1504 or elsewhere to the same effect; the omission of  
6 any party indicates that plaintiff will not seek a  
7 possessory order in the order confirming sale unless the  
8 request is subsequently made under subsection (h) of  
9 Section 15-1701 or by separate action under Article 9 of  
10 this Code.

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

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

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

1 publication, costs of procuring and preparing documentary  
2 evidence and costs of procuring abstracts of title, Torrens  
3 certificates, foreclosure minutes and a title insurance  
4 policy;

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

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

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

1 governmental mortgage insurance to the extent required  
2 after a foreclosure is commenced in order to keep such  
3 insurance in force; and

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

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

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

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

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

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

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

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

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

1 the enforcement thereof be had as provided by law.

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

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

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

16 (735 ILCS 5/15-1505.8 new)

17 Sec. 15-1505.8. Expedited judgment and sale procedure for  
18 abandoned residential property.

19 (a) Upon motion and notice, the mortgagee may elect to  
20 utilize the expedited judgment and sale procedure for abandoned  
21 residential property stated in this Section to obtain a  
22 judgment of foreclosure pursuant to Section 15-1506. The motion  
23 may be combined with or made part of the motion requesting a  
24 judgment of foreclosure. If service upon the mortgagor was  
25 obtained by publication, then notice of the motion to the

1 mortgagor shall be posted at the property address.

2 (b) The motion requesting an expedited judgment of  
3 foreclosure and sale may be filed by the mortgagee at the time  
4 the foreclosure complaint is filed or any time thereafter and  
5 shall be accompanied by an affidavit setting forth facts  
6 sufficient for the court to find that the mortgaged real estate  
7 is abandoned residential property.

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

11 (1) 45 days after the date of service of the summons on  
12 the mortgagor or, if there is more than one mortgagor, no  
13 later than 45 days after the date of service on the last  
14 served mortgagor; or

15 (2) 45 days after the date of first publication, if  
16 service of process is by publication; or

17 (3) 45 days after the mortgagors have otherwise  
18 submitted to the jurisdiction of the court.

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

23 (1) 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; or

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

3           (3) 30 days have transpired since all mortgagors have  
4           otherwise submitted to the jurisdiction of the court.

5           (e) The hearing shall be given priority by the court and  
6           shall be scheduled to be heard within the applicable time  
7           period set forth in subsection (c) or (d) of this Section.

8           (f) The affidavit shall be signed by and be based upon the  
9           information and belief of the mortgagee, an agent of the  
10           mortgagee, the sheriff of the county or local law enforcement  
11           agency of the municipality in which the property is located, or  
12           a building inspector or other municipal or county official for  
13           the municipality or county in which the property is located.  
14           The affidavit shall state that the property is not occupied by  
15           any mortgagor or bona fide tenant as a principal residence and  
16           there exists at least 2 of the conditions or circumstances  
17           listed in Section 15-1200.5, which shall be stated in the  
18           affidavit. Photographic or other documentary evidence that  
19           demonstrates supporting facts set forth in the affidavit shall  
20           be attached to the affidavit. An affidavit that meets 2 of the  
21           specified conditions or circumstances shall be prima facie  
22           evidence that the property which is the subject of the  
23           foreclosure complaint is abandoned residential property.

24           (g) The court may not find that the mortgaged real estate  
25           is abandoned residential property if an appearance has been  
26           made and an objection has been filed to the finding that the



1 property is abandoned residential property or if the owner  
2 provides evidence that the owner is working with, or making an  
3 attempt to work with, the mortgagee to modify the mortgage.

4 (h) At the hearing on the motion requesting an expedited  
5 judgment and sale, and upon a finding by the court that the  
6 mortgaged real estate is abandoned residential property, the  
7 court shall immediately proceed to enter a judgment of  
8 foreclosure as requested in the complaint. The judgment of  
9 foreclosure shall include the matters identified in Section  
10 15-1506.

11 (i) The reinstatement period and redemption period for the  
12 abandoned residential property shall end in accordance with  
13 paragraph (b) (4) of Section 15-1603 and the property shall be  
14 sold at the earliest practicable time at a sale as provided in  
15 this Article.

16 (j) A mortgagee or its agent may enter an abandoned  
17 residential property that is the subject of a foreclosure  
18 complaint for the purpose of maintaining or securing the  
19 property, provided that entry is not barred by an automatic  
20 stay issued by a bankruptcy court. A mortgagee and its agents  
21 shall not be held liable for any claim of negligence, civil  
22 trespass, or criminal trespass based upon entering the  
23 abandoned residential property or maintaining or securing the  
24 abandoned residential property.

25 (k) The mortgagee shall be responsible for repairs or other  
26 maintenance to the abandoned residential property if it

1 purchases the property at the foreclosure sale held pursuant to  
2 Section 15-1507 and the sale is confirmed by the court pursuant  
3 to Section 15-1508.

4 (l) Upon confirmation of the sale held pursuant to Section  
5 15-1507, any personal property remaining in or upon the  
6 abandoned residential property shall be deemed to have been  
7 abandoned by the owner of such personal property and may be  
8 disposed of or donated by the holder of the certificate of sale  
9 (or, if none, by the purchaser at the sale). In the event of  
10 donation of any such personal property, the holder of the  
11 certificate of sale (or, if none, the purchaser at the sale)  
12 may transfer such donated property with a bill of sale. No  
13 mortgagee or its successors or assigns, holder of a certificate  
14 of sale, or purchaser at the sale shall be liable for any such  
15 disposal or donation of personal property.

16 (m) No mortgagee shall be held liable for seeking a  
17 judicial determination of abandonment, if the mortgagee, upon  
18 information and belief at the time the motion requesting an  
19 expedited judgment of foreclosure and sale is filed with the  
20 court, makes a good faith assertion in its affidavit that  
21 evidence exists supporting the fact the mortgaged real estate  
22 is abandoned residential property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

22 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;  
23 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.  
24 8-26-11.)

25 (735 ILCS 5/15-1603) (from Ch. 110, par. 15-1603)

1           Sec. 15-1603. Redemption.

2           (a) Owner of Redemption. Except as provided in subsection  
3           (b) of Section 15-1402, only an owner of redemption may redeem  
4           from the foreclosure, and such owner of redemption may redeem  
5           only during the redemption period specified in subsection (b)  
6           of Section 15-1603 and only if the right of redemption has not  
7           been validly waived.

8           (b) Redemption Period.

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

18          (2) In all other foreclosures, the redemption period  
19          shall end on the later of (i) the date 6 months from the  
20          date the mortgagor or, if more than one, all the mortgagors  
21          (A) have been served with summons or by publication or (B)  
22          have otherwise submitted to the jurisdiction of the court,  
23          or (ii) the date 3 months from the date of entry of a  
24          judgment of foreclosure.

25          (3) Notwithstanding paragraphs (1) and (2), the  
26          redemption period shall end at the later of the expiration

1 of any reinstatement period provided for in Section 15-1602  
2 or the date 60 days after the date the judgment of  
3 foreclosure is entered, if the court finds that (i) the  
4 value of the mortgaged real estate as of the date of the  
5 judgment is less than 90% of the amount specified pursuant  
6 to subsection (d) of Section 15-1603 and (ii) the mortgagee  
7 waives any and all rights to a personal judgment for a  
8 deficiency against the mortgagor and against all other  
9 persons liable for the indebtedness or other obligations  
10 secured by the mortgage.

11 (4) Notwithstanding paragraphs (1) and (2), the  
12 redemption period shall end on ~~the date 30 days after~~ the  
13 date the judgment of foreclosure is entered if the court  
14 finds that the mortgaged real estate is abandoned  
15 residential property ~~has been abandoned~~. In cases where the  
16 redemption period is shortened on account of abandonment,  
17 the reinstatement period shall not extend beyond the date  
18 the judgment is entered ~~redemption period as shortened~~.

19 (c) Extension of Redemption Period.

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

1 order of any court staying the enforcement of a judgment of  
2 foreclosure or the sale pursuant to a judgment or the  
3 confirmation of the sale, shall have the effect of tolling  
4 the running of the redemption period.

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

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

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

1           paid pursuant to Section 15-1505 and (vi) per diem interest  
2           from the date of judgment to the date of redemption  
3           calculated at the mortgage rate of interest applicable as  
4           if no default had occurred; and

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

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

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

7 (f) Procedure for Redemption.

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

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

26 (3) Upon payment to the clerk, whether or not the owner

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

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

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

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

24 (735 ILCS 5/15-1701) (from Ch. 110, par. 15-1701)

25 Sec. 15-1701. Right to possession.

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

10 (a-5) Abandoned residential property. Notwithstanding  
11 anything to the contrary in this Section, the holder of the  
12 certificate of sale or deed issued pursuant to that certificate  
13 or, if no certificate or deed was issued, the purchaser, of  
14 abandoned residential property shall be entitled to possession  
15 of the property as of the date the order confirming the sale of  
16 the abandoned residential property is 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           Section 99. Effective date. This Act takes effect upon  
9           becoming law.