

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 9-121, 9-205, 9-207, 15-1202.5, 15-1501,
6 15-1506, 15-1508, 15-1508.5, 15-1701, 15-1703, and 15-1704 and
7 by adding Sections 9-207.5, 15-1224, and 15-1225 as follows:

8 (735 ILCS 5/9-121)

9 Sec. 9-121. Sealing of court file.

10 (a) Definition. As used in this Section, "court file" means
11 the court file created when a forcible entry and detainer
12 action is filed with the court.

13 (b) Discretionary sealing of court file. The court may
14 order that a court file in a forcible entry and detainer action
15 be placed under seal if the court finds that the plaintiff's
16 action is sufficiently without a basis in fact or law, which
17 may include a lack of jurisdiction, that placing the court file
18 under seal is clearly in the interests of justice, and that
19 those interests are not outweighed by the public's interest in
20 knowing about the record.

21 (c) Mandatory sealing of court file. The court file
22 relating to a forcible entry and detainer action brought
23 against a tenant under Section 9-207.5 of this Code or as set

1 forth in subdivision (h)(6) of Section 15-1701 of this Code
2 shall be placed under seal ~~who would have lawful possession of~~
3 ~~the premises but for the foreclosure on the property shall be~~
4 ~~sealed pursuant to Section 15-1701.~~

5 (Source: P.A. 96-1131, eff. 7-20-10.)

6 (735 ILCS 5/9-205) (from Ch. 110, par. 9-205)

7 Sec. 9-205. Notice to terminate tenancy from year to year.
8 Except as provided in Section 9-206 and Section 9-207.5 of this
9 Act, in all cases of tenancy from year to year, 60 days'
10 notice, in writing, shall be sufficient to terminate the
11 tenancy at the end of the year. The notice may be given at any
12 time within 4 months preceding the last 60 days of the year.

13 (Source: P.A. 82-280.)

14 (735 ILCS 5/9-207) (from Ch. 110, par. 9-207)

15 Sec. 9-207. Notice to terminate tenancy for less than a
16 year.

17 (a) Except as provided in Section 9-207.5 of this Code, in
18 ~~in~~ all cases of tenancy from week to week, where the tenant
19 holds over without special agreement, the landlord may
20 terminate the tenancy by 7 days' notice, in writing, and may
21 maintain an action for forcible entry and detainer or
22 ejection.

23 (b) Except as provided in Section 9-207.5 of this Code, in
24 ~~in~~ all cases of tenancy for any term less than one year, other

1 than tenancy from week to week, where the tenant holds over
2 without special agreement, the landlord may terminate the
3 tenancy by 30 days' notice, in writing, and may maintain an
4 action for forcible entry and detainer or ejectment.

5 (Source: P.A. 82-280.)

6 (735 ILCS 5/9-207.5 new)

7 Sec. 9-207.5. Termination of bona fide leases in
8 residential real estate in foreclosure.

9 (a) A mortgagee, receiver, holder of the certificate of
10 sale, holder of the deed issued pursuant to that certificate,
11 or, if no certificate or deed was issued, the purchaser at a
12 judicial sale under Section 15-1507 of this Code, who assumes
13 control of the residential real estate in foreclosure, as
14 defined in Section 15-1225 of this Code, may terminate a bona
15 fide lease, as defined in Section 15-1224 of this Code, only:
16 (i) at the end of the term of the bona fide lease, by no less
17 than 90 days' written notice or (ii) in the case of a bona fide
18 lease that is for a month-to-month or week-to-week term, by no
19 less than 90 days' written notice.

20 (b) Notwithstanding the provisions of subsection (a) of
21 this Section, an individual who assumes control of residential
22 real estate in foreclosure pursuant to a judicial sale and who
23 will occupy a dwelling unit of the residential real estate in
24 foreclosure as his or her primary residence may terminate the
25 bona fide lease for the dwelling unit subject to the 90-day

1 notice requirement of subsection (a) of this Section.

2 (c) Nothing in this Section or Section 15-1224 of this Code
3 shall abrogate the rights of a mortgagee, receiver, holder of
4 the certificate of sale, holder of the deed issued pursuant to
5 that certificate, or, if no certificate or deed was issued, the
6 purchaser at a judicial sale, who assumes control of the
7 residential real estate in foreclosure to terminate a bona fide
8 lease of a dwelling unit in residential real estate in
9 foreclosure under Section 9-118, 9-119, 9-120, 9-201, 9-202,
10 9-203, 9-204, 9-209, or 9-210 of this Code.

11 (735 ILCS 5/15-1202.5)

12 Sec. 15-1202.5. Dwelling unit. For the purposes of Sections
13 9-207.5, 15-1224, 15-1225, 15-1506, 15-1508, 15-1508.5,
14 15-1701, 15-1703, and 15-1704 only, "dwelling unit" means a
15 room or suite of rooms providing complete, independent living
16 facilities for at least one person, including permanent
17 provisions for sanitation, cooking, eating, sleeping, and
18 other activities routinely associated with daily life.

19 (Source: P.A. 96-111, eff. 10-29-09; 97-575, eff. 8-26-11.)

20 (735 ILCS 5/15-1224 new)

21 Sec. 15-1224. Bona fide lease.

22 (a) For purposes of Sections 9-207.5, 15-1225, 15-1506,
23 15-1508, and 15-1701 of this Code only, the term "bona fide
24 lease" means a lease of a dwelling unit in residential real

1 estate in foreclosure for which:

2 (1) the mortgagor or the child, spouse, or parent of
3 the mortgagor is not the tenant;

4 (2) the lease was the result of an arms-length
5 transaction;

6 (3) the lease requires the receipt of rent that is not
7 substantially less than fair market rent for the property
8 or the rent is reduced or subsidized pursuant to a federal,
9 State, or local subsidy; and

10 (4) either (i) the lease was entered into or renewed on
11 or before the date of the filing of the lis pendens on the
12 residential real estate in foreclosure pursuant to Section
13 2-1901 of this Code or (ii) the lease was entered into or
14 renewed after the date of the filing of the lis pendens on
15 the residential real estate in foreclosure and before the
16 date of the judicial sale of the residential real estate in
17 foreclosure, and the term of the lease is for one year or
18 less.

19 (b) A written lease for a term exceeding one year that is
20 entered into or renewed after the date of the filing of the lis
21 pendens on the residential real estate in foreclosure pursuant
22 to Section 2-1901 of this Code and before the date of the
23 judicial sale of the residential real estate in foreclosure
24 that otherwise meets the requirements of subsection (a) of this
25 Section shall be deemed to be a bona fide lease for a term of
26 one year.

1 (c) An oral lease entered into at any time before the date
2 of the judicial sale of the residential real estate in
3 foreclosure that otherwise meets the requirements of
4 subsection (a) of this Section shall be deemed to be a bona
5 fide lease for a month-to-month term, unless the lessee proves
6 by a preponderance of evidence that the oral lease is for a
7 longer term. In no event shall an oral lease be deemed to be a
8 bona fide lease for a term of more than one year.

9 (d) A written or oral lease entered into on or after the
10 date of the judicial sale of the residential real estate in
11 foreclosure and before the date of the court order confirming
12 the judicial sale that otherwise meets the requirements of
13 subsection (a) of this Section shall be deemed to be a bona
14 fide lease for a month-to-month term.

15 (e) Notwithstanding paragraph (1) of subsection (a) of this
16 Section, a child, spouse, or parent of the mortgagor may prove
17 by a preponderance of evidence that a written or oral lease
18 that otherwise meets the requirements of subsection (a) of this
19 Section is a bona fide lease.

20 (735 ILCS 5/15-1225 new)

21 Sec. 15-1225. Residential real estate in foreclosure. For
22 purposes of Sections 9-207.5, 15-1224, 15-1506, 15-1508, and
23 15-1701 of this Code only, the term "residential real estate in
24 foreclosure" means any real estate, except a single tract of
25 agricultural real estate consisting of more than 40 acres,

1 which is improved with a single family residence or residential
2 condominium units or a multiple dwelling structure containing
3 single family dwelling units for one or more families living
4 independently of one another, for which an action to foreclose
5 the real estate: (1) has commenced and is pending; (2) was
6 pending when the bona fide lease was entered into or renewed;
7 or (3) was commenced after the bona fide lease was entered into
8 or renewed.

9 (735 ILCS 5/15-1501) (from Ch. 110, par. 15-1501)

10 Sec. 15-1501. Parties.

11 (a) Necessary Parties. For the purposes of Section 2-405 of
12 the Code of Civil Procedure, only (i) the mortgagor and (ii)
13 other persons (but not guarantors) who owe payment of
14 indebtedness or the performance of other obligations secured by
15 the mortgage and against whom personal liability is asserted
16 shall be necessary parties defendant in a foreclosure. The
17 court may proceed to adjudicate their respective interests, but
18 any disposition of the mortgaged real estate shall be subject
19 to (i) the interests of all other persons not made a party or
20 (ii) interests in the mortgaged real estate not otherwise
21 barred or terminated in the foreclosure.

22 (b) Permissible Parties. Any party may join as a party any
23 other person, although such person is not a necessary party,
24 including, without limitation, the following:

25 (1) All persons having a possessory interest in the

1 mortgaged real estate;

2 (2) A mortgagor's spouse who has waived the right of
3 homestead;

4 (3) A trustee holding an interest in the mortgaged real
5 estate or a beneficiary of such trust;

6 (4) The owner or holder of a note secured by a trust
7 deed;

8 (5) Guarantors, provided that in a foreclosure any such
9 guarantor also may be joined as a party in a separate count
10 in an action on such guarantor's guaranty;

11 (6) The State of Illinois or any political subdivision
12 thereof, where a foreclosure involves real estate upon
13 which the State or such subdivision has an interest or
14 claim for lien, in which case "An Act in relation to
15 immunity for the State of Illinois", approved December 10,
16 1971, as amended, shall not be effective;

17 (7) The United States of America or any agency or
18 department thereof where a foreclosure involves real
19 estate upon which the United States of America or such
20 agency or department has an interest or a claim for lien;

21 (8) Any assignee of leases or rents relating to the
22 mortgaged real estate;

23 (9) Any person who may have a lien under the Mechanic's
24 Lien Act; and

25 (10) Any other mortgagee or claimant.

26 (c) Unknown Owners. Any unknown owner may be made a party

1 in accordance with Section 2-413 of the Code of Civil
2 Procedure.

3 (d) Right to Become Party. Any person who has or claims an
4 interest in real estate which is the subject of a foreclosure
5 or an interest in any debt secured by the mortgage shall have
6 an unconditional right to appear and become a party in such
7 foreclosure in accordance with subsection (e) of Section
8 15-1501, provided, that neither such appearance by a lessee
9 whose interest in the real estate is subordinate to the
10 interest being foreclosed, nor the act of making such lessee a
11 party, shall result in the termination of the lessee's lease
12 unless the termination of the lease or lessee's interest in the
13 mortgaged real estate is specifically ordered by the court in
14 the judgment of foreclosure.

15 (e) Time of Intervention.

16 (1) Of Right. A person not a party, other than a
17 nonrecord claimant given notice in accordance with
18 paragraph (2) of subsection (c) of Section 15-1502, who has
19 or claims an interest in the mortgaged real estate may
20 appear and become a party at any time prior to the entry of
21 judgment of foreclosure. A nonrecord claimant given such
22 notice may appear and become a party at any time prior to
23 the earlier of (i) the entry of a judgment of foreclosure
24 or (ii) 30 days after such notice is given.

25 (2) In Court's Discretion. After the right to intervene
26 expires and prior to the sale in accordance with the

1 judgment, the court may permit a person who has or claims
2 an interest in the mortgaged real estate to appear and
3 become a party on such terms as the court may deem just.

4 (3) Later Right. After the sale of the mortgaged real
5 estate in accordance with a judgment of foreclosure and
6 prior to the entry of an order confirming the sale, a
7 person who has or claims an interest in the mortgaged real
8 estate, may appear and become a party, on such terms as the
9 court may deem just, for the sole purpose of claiming an
10 interest in the proceeds of sale. Any such party shall be
11 deemed a party from the commencement of the foreclosure,
12 and the interest of such party in the real estate shall be
13 subject to all orders and judgments entered in the
14 foreclosure.

15 (4) Termination of Interest. Except as provided in
16 Section 15-1501(d), the interest of any person who is
17 allowed to appear and become a party shall be terminated,
18 and the interest of such party in the real estate shall
19 attach to the proceeds of sale.

20 (f) Separate Actions. Any mortgagee or claimant, other than
21 the mortgagee who commences a foreclosure, whose interest in
22 the mortgaged real estate is recorded prior to the filing of a
23 notice of foreclosure in accordance with this Article but who
24 is not made a party to such foreclosure, shall not be barred
25 from filing a separate foreclosure (i) as an intervening
26 defendant or counterclaimant in accordance with subsections

1 (d) and (e) of Section 15-1501 if a judgment of foreclosure has
2 not been entered in the original foreclosure or (ii) in a new
3 foreclosure subsequent to the entry of a judgment of
4 foreclosure in the original foreclosure.

5 (g) Service on the State of Illinois. When making the State
6 of Illinois a party to a foreclosure, summons may be served by
7 sending, by registered or certified mail, a copy of the summons
8 and the complaint to the Attorney General. The complaint shall
9 set forth with particularity the nature of the interest or lien
10 of the State of Illinois. If such interest or lien appears in a
11 recorded instrument, the complaint must state the document
12 number of the instrument and the office wherein it was
13 recorded.

14 (h) Special Representatives. The court is not required to
15 appoint a special representative for a deceased mortgagor for
16 the purpose of defending the action, if there is a living
17 person that holds a 100% interest in the property that is the
18 subject of the action, by virtue of being the deceased
19 mortgagor's surviving joint tenant or surviving tenant by the
20 entirety. In no event may a deficiency judgment be sought or
21 entered in the foreclosure case pursuant to subsection (e) of
22 Section 15-1508 against a deceased mortgagor.

23 (Source: P.A. 88-265.)

24 (735 ILCS 5/15-1506) (from Ch. 110, par. 15-1506)

25 Sec. 15-1506. Judgment.

1 (a) Evidence. In the trial of a foreclosure, the evidence
2 to support the allegations of the complaint shall be taken in
3 open court, except:

4 (1) where an allegation of fact in the complaint is not
5 denied by a party's verified answer or verified
6 counterclaim, or where a party pursuant to subsection (b)
7 of Section 2-610 of the Code of Civil Procedure states, or
8 is deemed to have stated, in its pleading that it has no
9 knowledge of such allegation sufficient to form a belief
10 and attaches the required affidavit, a sworn verification
11 of the complaint or a separate affidavit setting forth such
12 fact is sufficient evidence thereof against such party and
13 no further evidence of such fact shall be required; and

14 (2) where all the allegations of fact in the complaint
15 have been proved by verification of the complaint or
16 affidavit, the court upon motion supported by an affidavit
17 stating the amount which is due the mortgagee, shall enter
18 a judgment of foreclosure as requested in the complaint.

19 (b) Instruments. In all cases the evidence of the
20 indebtedness and the mortgage foreclosed shall be exhibited to
21 the court and appropriately marked, and copies thereof shall be
22 filed with the court.

23 (c) Summary and Default Judgments. Nothing in this Section
24 15-1506 shall prevent a party from obtaining a summary or
25 default judgment authorized by Article II of the Code of Civil
26 Procedure.

1 (d) Notice of Entry of Default. When any judgment in a
2 foreclosure is entered by default, notice of such judgment
3 shall be given in accordance with Section 2-1302 of the Code of
4 Civil Procedure.

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

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

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

17 (2) a sale by sealed bid;

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

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

25 (5) the fees or commissions to be paid out of the sale
26 proceeds to the listing or other duly licensed broker, if

1 any, who shall have procured the accepted bid;

2 (6) the fees to be paid out of the sale proceeds to an
3 auctioneer, if any, who shall have been authorized to
4 conduct a public auction sale;

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

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

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

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

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

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

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

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

24 (g) Agreement of the Parties. If all of the parties agree
25 in writing on the minimum price and that the real estate may be
26 sold to the first person who offers in writing to purchase the

1 real estate for such price, and on such other commercially
2 reasonable terms and conditions as the parties may agree, then
3 the court shall order the real estate to be sold on such terms,
4 subject to confirmation of the sale in accordance with Section
5 15-1508.

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

11 (i) Effect of Judgment and Lien.

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

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

1 (3) Entry of a judgment of foreclosure does not
2 terminate or otherwise affect a bona fide lease of a
3 dwelling unit in residential real estate in foreclosure,
4 whether or not the lessee has been made a party in the
5 foreclosure.

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

7 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

8 (Text of Section before amendment by P.A. 97-1164)

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

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

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

1 estate. The confirmation order may also:

2 (1) approve the mortgagee's fees and costs arising
3 between the entry of the judgment of foreclosure and the
4 confirmation hearing, those costs and fees to be allowable
5 to the same extent as provided in the note and mortgage and
6 in Section 15-1504;

7 (2) provide for a personal judgment against any party
8 for a deficiency; and

9 (3) determine the priority of the judgments of parties
10 who deferred proving the priority pursuant to subsection
11 (h) of Section 15-1506, but the court shall not defer
12 confirming the sale pending the determination of such
13 priority.

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

26 IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO

1 REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF
2 POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE
3 ILLINOIS MORTGAGE FORECLOSURE LAW.

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

19 (c) Failure to Give Notice. If any sale is held without
20 compliance with subsection (c) of Section 15-1507 of this
21 Article, any party entitled to the notice provided for in
22 paragraph (3) of that subsection (c) who was not so notified
23 may, by motion supported by affidavit made prior to
24 confirmation of such sale, ask the court which entered the
25 judgment to set aside the sale. Any such party shall guarantee
26 or secure by bond a bid equal to the successful bid at the

1 prior sale, unless the party seeking to set aside the sale is
2 the mortgagor, the real estate sold at the sale is residential
3 real estate, and the mortgagor occupies the residential real
4 estate at the time the motion is filed. In that event, no
5 guarantee or bond shall be required of the mortgagor. Any
6 subsequent sale is subject to the same notice requirement as
7 the original sale.

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

22 (d-5) Making Home Affordable Program. The court that
23 entered the judgment shall set aside a sale held pursuant to
24 Section 15-1507, upon motion of the mortgagor at any time prior
25 to the confirmation of the sale, if the mortgagor proves by a
26 preponderance of the evidence that (i) the mortgagor has

1 applied for assistance under the Making Home Affordable Program
2 established by the United States Department of the Treasury
3 pursuant to the Emergency Economic Stabilization Act of 2008,
4 as amended by the American Recovery and Reinvestment Act of
5 2009, and (ii) the mortgaged real estate was sold in material
6 violation of the program's requirements for proceeding to a
7 judicial sale. The provisions of this subsection (d-5), except
8 for this sentence, shall become inoperative on January 1, 2014
9 for all actions filed under this Article after December 31,
10 2013, in which the mortgagor did not apply for assistance under
11 the Making Home Affordable Program on or before December 31,
12 2013.

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

1 appearance in the foreclosure action.

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

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

13 An order of possession authorizing the removal of a person
14 from possession of the mortgaged real estate shall be entered
15 and enforced only against those persons personally named as
16 individuals in the complaint or the petition under subsection
17 (h) of Section 15-1701. No order of possession issued under
18 this Section shall be entered against a lessee with a bona fide
19 lease of a dwelling unit in residential real estate in
20 foreclosure, whether or not the lessee has been made a party in
21 the foreclosure. An ~~and in the order of possession and~~ shall
22 not be entered and enforced against any person who is only
23 generically described as an unknown owner or nonrecord claimant
24 or by another generic designation in the complaint.

25 Notwithstanding the preceding paragraph, the failure to
26 personally name, include, or seek an award of possession of the

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

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

24 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;
25 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.
26 8-26-11; 97-1159, eff. 1-29-13.)

1 (Text of Section after amendment by P.A. 97-1164)

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

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

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

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

25 (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.

7 (b-3) Hearing to confirm sale of abandoned residential
8 property. Upon motion and notice by first-class mail to the
9 last known address of the mortgagor, which motion shall be made
10 prior to the sale and heard by the court at the earliest
11 practicable time after conclusion of the sale, and upon the
12 posting at the property address of the notice required by
13 paragraph (2) of subsection (1) of Section 15-1505.8, the court
14 shall enter an order confirming the sale of the abandoned
15 residential property, unless the court finds that a reason set
16 forth in items (i) through (iv) of subsection (b) of this
17 Section exists for not approving the sale, or an order is
18 entered pursuant to subsection (h) of Section 15-1505.8. The
19 confirmation order also may address the matters identified in
20 items (1) through (3) of subsection (b) of this Section. The
21 notice required under subsection (b-5) of this Section shall
22 not be required.

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

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

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

13 (b-10) Notice of confirmation order sent to municipality or
14 county. A copy of the confirmation order required under
15 subsection (b) shall be sent to the municipality in which the
16 foreclosed property is located, or to the county within the
17 boundary of which the foreclosed property is located if the
18 foreclosed property is located in an unincorporated territory.
19 A municipality or county must clearly publish on its website a
20 single address to which a copy of the order shall be sent. If a
21 municipality or county does not maintain a website, then the
22 municipality or county must publicly post in its main office a
23 single address to which a copy of the order shall be sent. In
24 the event that a municipality or county has not complied with
25 the publication requirement in this subsection (b-10), then a
26 copy of the order shall be sent by first class mail, postage

1 prepaid, to the chairperson of the county board or county clerk
2 in the case of a county, to the mayor or city clerk in the case
3 of a city, to the president of the board of trustees or village
4 clerk in the case of a village, or to the president or town
5 clerk in the case of a town.

6 (b-15) Notice of confirmation order sent to known insurers.
7 With respect to residential real estate, the party filing the
8 complaint shall send a copy of the confirmation order required
9 under subsection (b) by first class mail, postage prepaid, to
10 the last known property insurer of the foreclosed property.
11 Failure to send or receive a copy of the order shall not impair
12 or abrogate in any way the rights of the mortgagee or purchaser
13 or affect the status of the foreclosure proceedings.

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

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

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

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

1 violation of the program's requirements for proceeding to a
2 judicial sale. The provisions of this subsection (d-5), except
3 for this sentence, shall become inoperative on January 1, 2014
4 for all actions filed under this Article after December 31,
5 2013, in which the mortgagor did not apply for assistance under
6 the Making Home Affordable Program on or before December 31,
7 2013.

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

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

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

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

8 An order of possession authorizing the removal of a person
9 from possession of the mortgaged real estate shall be entered
10 and enforced only against those persons personally named as
11 individuals in the complaint or the petition under subsection
12 (h) of Section 15-1701. No order of possession issued under
13 this Section shall be entered against a lessee with a bona fide
14 lease of a dwelling unit in residential real estate in
15 foreclosure, whether or not the lessee has been made a party in
16 the foreclosure. An ~~and in the~~ order ~~of possession and~~ shall
17 not be entered and enforced against any person who is only
18 generically described as an unknown owner or nonrecord claimant
19 or by another generic designation in the complaint.

20 Notwithstanding the preceding paragraph, the failure to
21 personally name, include, or seek an award of possession of the
22 mortgaged real estate against a person in the confirmation
23 order shall not abrogate any right that the purchaser may have
24 to possession of the mortgaged real estate and to maintain a
25 proceeding against that person for possession under Article IX
26 of this Code or, if applicable, under subsection (h) of

1 Section 15-1701; and possession against a person who (1) has
2 not been personally named as a party to the foreclosure and (2)
3 has not been provided an opportunity to be heard in the
4 foreclosure proceeding may be sought only by maintaining a
5 proceeding under Article IX ~~9~~ of this Code or, if applicable,
6 under subsection (h) of Section 15-1701.

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

19 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;
20 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.
21 8-26-11; 97-1159, eff. 1-29-13; 97-1164, eff. 6-1-13; revised
22 2-22-13.)

23 (735 ILCS 5/15-1508.5)

24 Sec. 15-1508.5. Notice by holder or purchaser to known
25 occupants of dwelling units of mortgaged real estate.

1 (a) The holder of the certificate of sale or deed issued
2 pursuant to that certificate or, if no certificate or deed was
3 issued, the purchaser, shall:

4 (1) following the judicial sale under Section 15-1507,
5 but no later than 21 days after the confirmation of sale
6 under Section 15-1508, make a good faith effort to
7 ascertain the identities and addresses of all occupants of
8 dwelling units of the mortgaged real estate; and

9 (2) following the order confirming sale under Section
10 15-1508, but no later than 21 days after the order
11 confirming sale, notify all known occupants of dwelling
12 units of the mortgaged real estate that the holder or
13 purchaser has acquired the mortgaged real estate. The
14 notice shall be in writing and shall:

15 (i) identify the occupant being served by the name
16 known to the holder or purchaser;

17 (ii) inform the occupant that the mortgaged real
18 estate at which the dwelling unit is located is the
19 subject of a foreclosure and that control of the
20 mortgaged real estate has changed;

21 (iii) provide the name, address, and telephone
22 number of an individual or entity whom the occupants
23 may contact with concerns about the mortgaged real
24 estate or to request repairs of that property;

25 (iv) include the following language, or language
26 that is substantially similar: "This is NOT a notice to

1 vacate the premises. You may wish to contact a lawyer
2 or your local legal aid or housing counseling agency to
3 discuss any rights that you may have."; ~~and~~

4 (v) include the name of the case, the case number,
5 and the court where the order confirming the sale has
6 been entered; and -

7 (vi) provide instructions on the method of payment
8 of future rent, if applicable.

9 (b) The written notice required by subsection (a) of this
10 Section shall be served by delivering a copy thereof to the
11 known occupant, or by leaving the same with some person of the
12 age of 13 years or upwards who is residing on or in possession
13 of the premises, or by sending a copy of the notice to the
14 known occupant by first-class mail, addressed to the occupant
15 by the name known to the holder or purchaser.

16 (c) In the event that the holder or purchaser ascertains
17 the identity and address of an occupant of a dwelling unit of
18 the mortgaged real estate more than 21 days after the
19 confirmation of sale under Section 15-1508, the holder or
20 purchaser shall provide the notice required by subparagraph (2)
21 of subsection (a) within 7 days of ascertaining the identity
22 and address of the occupant.

23 (d) (i) A holder or purchaser who fails to comply with
24 subsections (a), (b), and (c) may not collect any rent due and
25 owing from a known occupant, or terminate a known occupant's
26 tenancy for non-payment of such rent, until the holder or

1 purchaser has served the notice described in paragraph (2) of
2 subsection (a) of this Section upon the known occupant. After
3 providing such notice, the holder or purchaser may collect any
4 and all rent otherwise due and owing the holder or purchaser
5 from the known occupant and may terminate the known occupant's
6 tenancy for non-payment of such rent if the holder or purchaser
7 otherwise has such right to terminate.

8 (ii) An occupant who previously paid rent for the current
9 rental period to the mortgagor, or other entity with the
10 authority to operate, manage, and conserve the mortgaged real
11 estate at the time of payment, shall not be held liable for
12 that rent by the holder or purchaser, and the occupant's
13 tenancy shall not be terminated for non-payment of rent for
14 that rental period.

15 (e) Within 21 days of the confirmation of sale under
16 Section 15-1508, the holder or purchaser shall post a written
17 notice on the primary entrance of each dwelling unit subject to
18 the foreclosure action. This notice shall:

19 (i) inform occupant that the dwelling unit is the
20 subject of a foreclosure action and that control of the
21 mortgaged real estate has changed;

22 (ii) include the following language: "This is NOT a
23 notice to vacate the premises."; ~~and~~

24 (iii) provide the name, address, and telephone number
25 of the individual or entity whom occupants may contact with
26 concerns about the mortgaged real estate or to request

1 repairs of the property; ~~and-~~

2 (iv) provide instructions on the method of payment of
3 future rent, if applicable.

4 (f)(i) The provisions of subsection (d) of this Section
5 shall be the exclusive remedy for the failure of a holder or
6 purchaser to provide notice to a known occupant under this
7 Section.

8 (ii) This Section shall not abrogate any right that a
9 holder or purchaser may have to possession of the mortgaged
10 real estate and to maintain a proceeding against an occupant of
11 a dwelling unit for possession under Article IX ~~9~~ of this Code
12 or subsection (h) of Section 15-1701.

13 (iii) In the event that the holder or purchaser is a
14 mortgagee in possession of the mortgaged real estate pursuant
15 to Section 15-1703 at the time of the confirmation of sale and
16 has complied with requirements of subsection (a-5) of Section
17 15-1703, the holder or purchaser is excused from the
18 requirements of subsections (a) and (e) of this Section.

19 (iv) A holder or purchaser is not required to provide the
20 notice required by this Section to a mortgagor or party against
21 whom an order of possession has been entered authorizing the
22 removal of the mortgagor or party pursuant to subsection (g) of
23 Section 15-1508.

24 (Source: P.A. 96-111, eff. 10-29-09.)

25 (735 ILCS 5/15-1701) (from Ch. 110, par. 15-1701)

1 Sec. 15-1701. Right to possession.

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

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

13 (1) In the case of residential real estate, the
14 mortgagor shall be entitled to possession of the real
15 estate except if (i) the mortgagee shall object and show
16 good cause, (ii) the mortgagee is so authorized by the
17 terms of the mortgage or other written instrument, and
18 (iii) the court is satisfied that there is a reasonable
19 probability that the mortgagee will prevail on a final
20 hearing of the cause, the court shall upon request place
21 the mortgagee in possession. If the residential real estate
22 consists of more than one dwelling unit, then for the
23 purpose of this Part residential real estate shall mean
24 only that dwelling unit or units occupied by persons
25 described in clauses (i), (ii) and (iii) of Section
26 15-1219.

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

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

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

19 (2) Notwithstanding paragraph (1) of subsection (b)
20 and paragraph (1) of subsection (c) of Section 15-1701,
21 upon request of the mortgagee, a mortgagor of residential
22 real estate shall not be allowed to remain in possession
23 between the expiration of the redemption period and through
24 the 30th day after sale confirmation unless (i) the
25 mortgagor pays to the mortgagee or such holder or
26 purchaser, whichever is applicable, monthly the lesser of

1 the interest due under the mortgage calculated at the
2 mortgage rate of interest applicable as if no default had
3 occurred or the fair rental value of the real estate, or
4 (ii) the mortgagor otherwise shows good cause. Any amounts
5 paid by the mortgagor pursuant to this subsection shall be
6 credited against the amounts due from the mortgagor.

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

1 proceed against any such occupant under Article IX 9 of this
2 Code until after 30 days after the order confirming the sale is
3 entered.

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

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

21 (g) Certain Leases. Leases of the mortgaged real estate
22 entered into by a mortgagee in possession or a receiver and
23 approved by the court in a foreclosure shall be binding on all
24 parties, including the mortgagor after redemption, the
25 purchaser at a sale pursuant to a judgment of foreclosure and
26 any person acquiring an interest in the mortgaged real estate

1 after entry of a judgment of foreclosure in accordance with
2 Sections 15-1402 and 15-1403.

3 (h) Proceedings Against Certain Occupants.

4 (1) The mortgagee-in-possession of the mortgaged real
5 estate under Section 15-1703, a receiver appointed under
6 Section 15-1704, a holder of the certificate of sale or
7 deed, or the purchaser may, at any time during the pendency
8 of the foreclosure and up to 90 days after the date of the
9 order confirming the sale, file a supplemental petition for
10 possession against a person not personally named as a party
11 to the foreclosure. This subsection (h) does not apply to
12 any lessee with a bona fide lease of a dwelling unit in
13 residential real estate in foreclosure.

14 (2) The supplemental petition for possession shall
15 name each such occupant against whom possession is sought
16 and state the facts upon which the claim for relief is
17 premised.

18 (3) ~~(2)~~ The petitioner shall serve upon each named
19 occupant the petition, a notice of hearing on the petition,
20 and, if any, a copy of the certificate of sale or deed. The
21 proceeding for the termination of such occupant's
22 possessory interest, including service of the notice of the
23 hearing and the petition, shall in all respects comport
24 with the requirements of Article IX ~~9~~ of this Code, except
25 as otherwise specified in this Section. The hearing shall
26 be no less than 21 days from the date of service of the

1 notice.

2 (4) ~~(3)~~ The supplemental petition shall be heard as
3 part of the foreclosure proceeding and without the payment
4 of additional filing fees. An order for possession obtained
5 under this Section shall name each occupant whose interest
6 has been terminated, shall recite that it is only effective
7 as to the occupant so named and those holding under them,
8 and shall be enforceable for no more than 120 days after
9 its entry, except that the 120-day period may be extended
10 to the extent and in the manner provided in Section 9-117
11 of Article IX ~~9~~ and except as provided in item (5) ~~(4)~~ of
12 this subsection (h).

13 (5) ~~(4)~~ In a case of foreclosure where the occupant is
14 current on his or her rent, or where timely written notice
15 of to whom and where the rent is to be paid has not been
16 provided to the occupant, or where the occupant has made
17 good-faith efforts to make rental payments in order to keep
18 current, any order of possession must allow the occupant to
19 retain possession of the property covered in his or her
20 rental agreement (i) for 120 days following the notice of
21 the hearing on the supplemental petition that has been
22 properly served upon the occupant, or (ii) through the
23 duration of his or her lease, whichever is shorter,
24 provided that if the duration of his or her lease is less
25 than 30 days from the date of the order, the order shall
26 allow the occupant to retain possession for 30 days from

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

19 (6) ~~(5)~~ The court records relating to a supplemental
20 petition for possession filed under this subsection (h)
21 against an occupant who is entitled to notice under item
22 (5) ~~(4)~~ of this subsection (h), or relating to a forcible
23 entry and detainer action brought against an occupant who
24 would have lawful possession of the premises but for the
25 foreclosure of a mortgage on the property, shall be ordered
26 sealed and shall not be disclosed to any person, other than

1 a law enforcement officer or any other representative of a
2 governmental entity, except upon further order of the
3 court.

4 (i) Termination of bona fide leases. The holder of the
5 certificate of sale, the holder of the deed issued pursuant to
6 that certificate, or, if no certificate or deed was issued, the
7 purchaser at the sale shall not terminate a bona fide lease of
8 a dwelling unit in residential real estate in foreclosure
9 except pursuant to Article IX of this Code.

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

12 (735 ILCS 5/15-1703) (from Ch. 110, par. 15-1703)

13 Sec. 15-1703. Mortgagee in Possession.

14 (a) Powers and Duties. A mortgagee placed in possession of
15 the real estate pursuant to Section 15-1701 or Section 15-1702
16 shall have:

17 (1) such power and authority with respect to the real
18 estate and other property subject to the mortgage,
19 including the right to receive the rents, issues and
20 profits thereof, as may have been conferred upon the
21 mortgagee by the terms of the mortgage or other written
22 instrument authorizing the taking of possession;

23 (2) all other rights and privileges of a mortgagee in
24 possession under law not inconsistent herewith; and

25 (3) the same powers, duties and liabilities as a

1 receiver appointed for the real estate in accordance with
2 this Article. If an order placing a mortgagee in possession
3 is modified, revoked or set aside, the mortgagee shall not
4 be liable for any damages to the extent such damages arise
5 solely out of the fact that the mortgagor was removed from
6 possession or that the mortgagee was placed in possession.

7 (a-5) Notice to occupants.

8 (1) Following the order placing the mortgagee in
9 possession of the mortgaged real estate, but no later than
10 21 days after the entry of such order, the mortgagee in
11 possession shall make a good faith effort to ascertain the
12 identities and addresses of all occupants of dwelling units
13 of the mortgaged real estate.

14 (2) Following the order placing the mortgagee in
15 possession of the mortgaged real estate, but no later than
16 21 days after the entry of such order, the mortgagee in
17 possession shall notify all known occupants of dwelling
18 units of the mortgaged real estate that the mortgagee has
19 taken possession of the mortgaged real estate. The notice
20 shall be in writing and shall:

21 (i) identify the occupant being served by the name
22 known to the mortgagee in possession;

23 (ii) inform the occupant that the mortgaged real
24 estate at which the dwelling unit is located is the
25 subject of a foreclosure action and that control of the
26 mortgaged real estate has changed;

1 (iii) provide the name, address, and telephone
2 number of the individual or entity whom occupants may
3 contact with concerns about the mortgaged real estate
4 or to request repairs of that property;

5 (iv) include the following language, or language
6 that is substantially similar: "This is NOT a notice to
7 vacate the premises. You may wish to contact a lawyer
8 or your local legal aid or housing counseling agency to
9 discuss any rights that you may have."; ~~and~~

10 (v) include the name of the case, the case number,
11 and the court where the foreclosure action is pending;
12 and -

13 (vi) provide instructions on the method of payment
14 of future rent, if applicable.

15 (3) The written notice required by item (2) of this
16 subsection (a-5) shall be served by delivering a copy
17 thereof to the known occupant, or by leaving the same with
18 some person of the age of 13 years or upwards, who is
19 residing on or in possession of the premises; or by sending
20 a copy of the notice to the known occupant by first-class
21 mail, addressed to the occupant by the name known to the
22 mortgagee in possession.

23 (4) In the event that a mortgagee in possession
24 ascertains the identity and address of an occupant of a
25 dwelling unit of the mortgaged real estate more than 21
26 days after being placed in possession of the mortgaged real

1 estate pursuant to Section 15-1703, the mortgagee in
2 possession shall provide the notice required by item (2) of
3 this subsection (a-5) within 7 days of ascertaining the
4 identity and address of the occupant.

5 (5) (i) A mortgagee in possession who fails to comply
6 with items (1), (2), (3), and (4) of this subsection (a-5)
7 may not collect any rent due and owing from a known
8 occupant, or terminate a known occupant's tenancy for
9 non-payment of such rent, until the mortgagee in possession
10 has served the notice described in item (2) of this
11 subsection (a-5) upon the known occupant. After providing
12 such notice, the mortgagee in possession may collect any
13 and all rent otherwise due and owing the mortgagee in
14 possession from the known occupant and may terminate the
15 known occupant's tenancy for non-payment of such rent if
16 the mortgagee in possession otherwise has such right to
17 terminate.

18 (ii) An occupant who previously paid rent for the
19 current rental period to the mortgagor, or other entity
20 with the authority to operate, manage, and conserve the
21 mortgaged real estate at the time of payment, shall not be
22 held liable for that rent by the mortgagee in possession,
23 and the occupant's tenancy shall not be terminated for
24 non-payment of rent for that rental period.

25 (6) Within 21 days of the order placing the mortgagee
26 in possession of the mortgaged real estate, the mortgagee

1 in possession shall post a written notice on the primary
2 entrance of each dwelling unit subject to the foreclosure
3 action that informs the occupants that the mortgagee in
4 possession is now operating and managing the mortgaged real
5 estate. This notice shall:

6 (i) inform occupant that the dwelling unit is the
7 subject of a foreclosure action and that control of the
8 mortgaged real estate has changed;

9 (ii) include the following language: "This is NOT a
10 notice to vacate the premises."; ~~and~~

11 (iii) provide the name, address, and telephone
12 number of the individual or entity whom occupants may
13 contact with concerns about the mortgaged real estate
14 or to request repairs of the property; and -

15 (iv) provide instructions on the method of payment
16 of future rent, if applicable.

17 (7) (i) The provisions of item (5) of this subsection
18 (a-5) shall be the exclusive remedy for the failure of a
19 mortgagee in possession to provide notice to a known
20 occupant under this Section.

21 (ii) This Section shall not abrogate any right that a
22 mortgagee in possession may have to possession of the
23 mortgaged real estate and to maintain a proceeding against
24 an occupant of a dwelling unit for possession under Article
25 IX ~~9~~ of this Code or subsection (h) of Section 15-1701.

26 (b) Fees and Expenses. A mortgagee in possession shall not

1 be entitled to any fees for so acting, but shall be entitled to
2 reimbursement for reasonable costs, expenses and third party
3 management fees incurred in connection with such possession.

4 (Source: P.A. 96-111, eff. 10-29-09.)

5 (735 ILCS 5/15-1704) (from Ch. 110, par. 15-1704)

6 Sec. 15-1704. Receivers.

7 (a) Receiver. Notwithstanding the provisions of
8 subsections (b), (c) and (d) of Section 15-1701, and except as
9 provided in Section 15-1702, upon request of any party and a
10 showing of good cause, the court shall appoint a receiver for
11 the mortgaged real estate.

12 (b) Powers. A receiver appointed pursuant to this Article
13 shall have possession of the mortgaged real estate and other
14 property subject to the mortgage during the foreclosure, shall
15 have full power and authority to operate, manage and conserve
16 such property, and shall have all the usual powers of receivers
17 in like cases. Without limiting the foregoing, a receiver shall
18 have the power and authority to:

19 (1) secure tenants and execute leases for the real
20 estate, the duration and terms of which are reasonable and
21 customary for the type of use involved, and such leases
22 shall have the same priority as if made by the owner of the
23 real estate; but, unless approved by the Court, the
24 receiver shall not execute oil, gas or other mineral
25 leases, or (even if otherwise allowed by law) leases

1 extending beyond the time of the receiver's possession;
2 provided, however, with respect to residential real estate
3 leased by the receiver, nothing in this Section shall
4 affect the legal rights of any lessee with respect to the
5 safety and habitability of the residential real estate;

6 (2) collect the rents, issues and profits from the
7 mortgaged real estate;

8 (3) insure the mortgaged real estate against loss by
9 fire or other casualty;

10 (4) employ counsel, custodians, janitors and other
11 help; and

12 (5) pay taxes which may have been or may be levied
13 against the mortgaged real estate.

14 (c) Duties. A receiver appointed pursuant to this Article
15 must manage the mortgaged real estate as would a prudent
16 person, taking into account the effect of the receiver's
17 management on the interest of the mortgagor. A receiver may,
18 without an order of the court, delegate managerial functions to
19 a person in the business of managing real estate of the kind
20 involved who is financially responsible, not related to the
21 mortgagee or receiver and prudently selected. However, the
22 receiver shall remain responsible to the mortgagor or other
23 persons for the acts or omissions of such management agent.
24 When fees are paid to such a management agent, the receiver's
25 fees may be adjusted to the extent the court deems appropriate.
26 In managing the mortgaged real estate and other property

1 subject to the mortgage, a receiver or receiver's delegate, to
2 the extent the receiver receives sufficient receipts from the
3 mortgaged real estate, such other property or other sources,
4 except to the extent ordered otherwise by the court:

5 (1) shall maintain the existing casualty and liability
6 insurance required in accordance with the mortgage or
7 applicable to the real estate and other property subject to
8 the mortgage at the time the receiver took possession;

9 (2) shall use reasonable efforts to maintain the real
10 estate and other property subject to the mortgage in at
11 least as good condition as existed at the time the receiver
12 took possession, excepting reasonable wear and tear and
13 damage by any casualty;

14 (2.5) shall accept all rental payments from an occupant
15 of the mortgaged property, and any payments from a third
16 party or any rental assistance program in support of an
17 occupant's housing;

18 (3) shall apply receipts to payment of ordinary
19 operating expenses, including royalties, rents and other
20 expenses of management;

21 (4) shall pay any shared or common expense assessments
22 due to any association of owners of interests in real
23 estate to the extent that such assessments are or may
24 become a lien against the mortgaged real estate;

25 (5) may pay the amounts due under any mortgage if the
26 mortgagee thereof is not a party in the foreclosure;

1 (6) may carry such additional casualty and liability
2 insurance as is reasonably available and reasonable as to
3 amounts and risks covered;

4 (7) may make other repairs and improvements necessary
5 to comply with building, housing, and other similar codes
6 or with existing contractual obligations affecting the
7 mortgaged real estate;

8 (8) may hold receipts as reserves reasonably required
9 for the foregoing purposes; and

10 (9) may take such other actions as may be reasonably
11 necessary to conserve the mortgaged real estate and other
12 property subject to the mortgage, or as otherwise
13 authorized by the court.

14 (d) Allocation of Receipts. Receipts received from
15 operation of the real estate and other property subject to the
16 mortgage by the receiver shall be applied in the following
17 order of priority.

18 (1) to reimbursement of the receiver for all reasonable
19 costs and expenses incurred by the receiver or the
20 receiver's delegates;

21 (2) to payment of insurance premiums authorized in
22 paragraph (1) of subsection (c) of Section 15-1704;

23 (3) to payment of the receiver's delegates of any
24 reasonable management fees for managing real estate of the
25 type involved;

26 (4) to payment of receiver's fees allowed by the court;

1 (5) to payment of expenses authorized in paragraphs
2 (2), (3) and (4) of subsection (c) of Section 15-1704;

3 (6) to payment of amounts authorized in paragraph (5)
4 of subsection (c) of Section 15-1704;

5 (7) to payment of expenses authorized in paragraphs (6)
6 and (7) of subsection (c) of Section 15-1704; and

7 (8) the balance, if any, shall be held or disbursed as
8 ordered by the court.

9 (e) Non-Liability for Allocations. A receiver shall in no
10 event be liable to any person for the allocation of, or failure
11 to allocate, receipts to possible expenditures within the same
12 priority category.

13 (f) Notice to occupants.

14 (1) Following an order appointing a receiver pursuant
15 to Section 15-1704, but no later than 21 days after the
16 entry of such order, the appointed receiver shall make a
17 good faith effort to ascertain the identities and addresses
18 of all occupants of dwelling units of the mortgaged real
19 estate.

20 (2) Following an order appointing a receiver pursuant
21 to Section 15-1704, but no later than 21 days after the
22 entry of such order, the appointed receiver shall notify
23 all known occupants of dwelling units of the mortgaged real
24 estate that the receiver has been appointed receiver of the
25 mortgaged real estate. Such notice shall be in writing and
26 shall:

1 (i) identify the occupant being served by the name
2 known to the receiver;

3 (ii) inform the occupant that the mortgaged real
4 estate at which the dwelling unit is located is the
5 subject of a foreclosure action and that control of the
6 mortgaged real estate has changed;

7 (iii) provide the name, address, and telephone
8 number of the individual or entity whom occupants may
9 contact with concerns about the mortgaged real estate
10 or to request repairs of that property;

11 (iv) include the following language, or language
12 that is substantially similar: "This is NOT a notice to
13 vacate the premises. You may wish to contact a lawyer
14 or your local legal aid or housing counseling agency to
15 discuss any rights that you may have."; ~~and~~

16 (v) include the name of the case, the case number,
17 and the court where the foreclosure action is pending;
18 and -

19 (vi) provide instructions on the method of payment
20 of future rent, if applicable.

21 (3) The written notice required by item (2) of this
22 subsection (f) shall be served by delivering a copy thereof
23 to the known occupant, or by leaving the same with some
24 person of the age of 13 years or upwards, who is residing
25 on or in possession of the premises; or by sending a copy
26 of the notice to the known occupant by first-class mail,

1 addressed to the occupant by the name known to the
2 receiver.

3 (4) In the event that a receiver ascertains the
4 identity and address of an occupant of a dwelling unit of
5 the mortgaged real estate more than 21 days after
6 appointment pursuant to Section 15-1704, the receiver
7 shall provide the notice required by item (2) of this
8 subsection (f) within 7 days of ascertaining the identity
9 and address of the occupant.

10 (5) (i) A receiver who fails to comply with items (1),
11 (2), (3), and (4) of this subsection (f) may not collect
12 any rent due and owing from a known occupant, or terminate
13 a known occupant's tenancy for non-payment of such rent,
14 until the receiver has served the notice described in item
15 (2) of this subsection (f) upon the known occupant. After
16 providing such notice, the receiver may collect any and all
17 rent otherwise due and owing the receiver from the known
18 occupant and may terminate the known occupant's tenancy for
19 non-payment of such rent if the receiver otherwise has such
20 right to terminate.

21 (ii) An occupant who previously paid rent for the
22 current rental period to the mortgagor, or other entity
23 with the authority to operate, manage, and conserve the
24 mortgaged real estate at the time of payment, shall not be
25 held liable for that rent by the receiver, and the
26 occupant's tenancy shall not be terminated for non-payment

1 of rent for that rental period.

2 (6) Within 21 days of appointment, the receiver shall
3 post a written notice on the primary entrance of each
4 dwelling unit subject to the foreclosure action that
5 informs occupants that the receiver has been appointed to
6 operate and manage the property. This notice shall:

7 (i) inform occupant that the dwelling unit is the
8 subject of a foreclosure action and that control of the
9 mortgaged real estate has changed;

10 (ii) include the following language: "This is NOT a
11 notice to vacate the premises."; ~~and~~

12 (iii) provide the name, address, and telephone
13 number of the individual or entity whom occupants may
14 contact with concerns about the mortgaged real estate
15 or to request repairs of the property; and -

16 (iv) provide instructions on the method of payment
17 of future rent, if applicable.

18 (7) (i) The provisions of item (5) of this subsection
19 (f) shall be the exclusive remedy for the failure of a
20 receiver to provide notice to a known occupant under this
21 Section.

22 (ii) This Section shall not abrogate any right that a
23 receiver may have to possession of the mortgaged real
24 estate and to maintain a proceeding against an occupant of
25 a dwelling unit for possession under Article IX ~~9~~ of this
26 Code or subsection (h) of Section 15-1701.

1 (g) Increase of rents. Notwithstanding any other provision
2 of this Article, a receiver shall not charge an occupant of the
3 mortgaged real estate a rental amount above that which the
4 occupant had been paying for use and occupancy of the mortgaged
5 real estate prior to the appointment of a receiver without
6 leave of court. The court may allow an increase of rent if,
7 upon motion by the receiver, the court finds by a preponderance
8 of the evidence, that the increase of rent is necessary to
9 operate, manage, and conserve the mortgaged real estate
10 pursuant to this Section. A list of the current rents for each
11 unit in the mortgaged real estate, and a list of the proposed
12 rent increase for each of those units, must be attached to a
13 motion for a rent increase under this subsection (g). All
14 occupants of the mortgaged real estate who may be affected by
15 the motion for a rent increase, if not otherwise entitled to
16 notice, shall be notified in writing of the nature of the
17 motion, the date and time of the motion, and the court where
18 the motion will be heard. Such notice shall be by personal
19 service or first-class mail. In the event that the receiver and
20 an occupant of a dwelling unit agree to a rent increase for
21 that dwelling unit, the receiver is excused from the
22 requirements of this subsection (g) as to that dwelling unit.
23 Nothing in this subsection (g) shall alter the terms of any
24 lease agreement.

25 (h) Removal. The court may remove a receiver upon a showing
26 of good cause, in which case a new receiver may be appointed in

1 accordance with subsection (b) of Section 15-1702 and
2 subsection (a) of Section 15-1704.

3 (Source: P.A. 96-111, eff. 10-29-09.)

4 Section 95. No acceleration or delay. Where this Act makes
5 changes in a statute that is represented in this Act by text
6 that is not yet or no longer in effect (for example, a Section
7 represented by multiple versions), the use of that text does
8 not accelerate or delay the taking effect of (i) the changes
9 made by this Act or (ii) provisions derived from any other
10 Public Act.

11 Section 99. Effective date. This Act takes effect 90 days
12 after becoming law.