



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1728

Introduced 2/15/2013, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

735 ILCS 5/15-1502.5	
735 ILCS 5/15-1502.6 new	
735 ILCS 5/15-1504	from Ch. 110, par. 15-1504
735 ILCS 5/15-1507	from Ch. 110, par. 15-1507
765 ILCS 5/28	from Ch. 30, par. 27
765 ILCS 5/30	from Ch. 30, par. 29

Amends the Code of Civil Procedure. Provides that a Section concerning homeowner protections is repealed on January 1, 2014 (instead of July 1, 2013). Adds a new Section concerning homeowner protection which becomes operative on January 1, 2014 and contains substantially the same provisions of the former Section, with additions and deletions. Defines terms. Provides that the notice provided to certain mortgagors in default must contain language advising the mortgagor that a list of approved housing counselors can be found on the website of the Illinois Foreclosure Prevention Network. Adds requirements concerning: foreclosure prevention alternative applications; documents relative to foreclosure proceedings; proceedings in foreclosure actions; and private rights of action. Provides that the Section concerning homeowner protection applies only to residential real estate with no more than 4 dwelling units that is occupied as a principal residence by the mortgagor and that its provisions are severable. Provides that the Department of Financial and Professional Regulation may adopt rules to implement the Section. Provides that for certain types of properties, a mortgage foreclosure complaint must contain statements as to what sustainable loan workout plans or foreclosure prevention alternatives have or will be attempted. Amends the Conveyances Act. In provisions concerning the effect of recording deeds, mortgages, and other instruments, makes the following changes: provides that those provisions also apply to the recording of assignments, mortgage releases, mortgage modifications, land equity loans, liens, lis pendens, and memoranda of judgment; changes the scope to instruments that affect interests in real property; and provides that deeds and title papers are void until recorded (instead of void until recorded as to creditors and subsequent purchasers) with the recorder's office in the county in which the property is located. Effective immediately, except that the new homeowner protection provisions take effect January 1, 2014.

LRB098 09930 HEP 40088 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 15-1502.5, 15-1504, and 15-1507 and by adding
6 Section 15-1502.6 as follows:

7 (735 ILCS 5/15-1502.5)

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

9 Sec. 15-1502.5. Homeowner protection.

10 (a) As used in this Section:

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

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

1 the scheduled telephone counseling session.

2 "Delinquent" means past due with respect to a payment on a
3 mortgage secured by residential real estate.

4 "Department" means the Department of Financial and
5 Professional Regulation.

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

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

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

25 (c) Notwithstanding any other provision to the contrary,
26 with respect to a particular mortgage secured by residential

1 real estate, the procedures and forbearances described in this
2 Section apply only once per subject mortgage.

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

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

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

1 YOU MAY BE ENTITLED TO AN ADDITIONAL 30 DAY GRACE PERIOD IF YOU
2 OBTAIN HOUSING COUNSELING FROM AN APPROVED HOUSING COUNSELING
3 AGENCY. A LIST OF APPROVED COUNSELING AGENCIES MAY BE OBTAINED
4 FROM THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL
5 REGULATION."

6 The notice shall also list the Department's current
7 consumer hotline, the Department's website, and the telephone
8 number, fax number, and mailing address of the mortgagee. No
9 language, other than language substantially similar to the
10 language prescribed in this subsection (c), shall be included
11 in the notice. Notwithstanding any other provision to the
12 contrary, the grace period notice required by this subsection
13 (c) may be combined with a counseling notification required
14 under federal law.

15 The sending of the notice required under this subsection
16 (c) means depositing or causing to be deposited into the United
17 States mail an envelope with first-class postage prepaid that
18 contains the document to be delivered. The envelope shall be
19 addressed to the mortgagor at the common address of the
20 residential real estate securing the mortgage.

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

25 (e) If, within the 30-day period provided under subsection
26 (d) of this Section, an approved counseling agency provides

1 written notice to the mortgagee that the mortgagor is seeking
2 approved counseling services, then no legal action under Part
3 15 of Article XV of the Code of Civil Procedure shall be
4 instituted for 30 days after the date of that notice. The date
5 that such notice is sent shall be stated in the notice, and
6 shall be sent to the address or fax number contained in the
7 Grace Period Notice required under subsection (c) of this
8 Section. During the 30-day period provided under this
9 subsection (e), the mortgagor or counselor or both may prepare
10 and proffer to the mortgagee a proposed sustainable loan
11 workout plan. The mortgagee will then determine whether to
12 accept the proposed sustainable loan workout plan. If the
13 mortgagee and the mortgagor agree to a sustainable loan workout
14 plan, then no legal action under Part 15 of Article XV of the
15 Code of Civil Procedure shall be instituted for as long as the
16 sustainable loan workout plan is complied with by the
17 mortgagor.

18 The agreed sustainable loan workout plan and any
19 modifications thereto must be in writing and signed by the
20 mortgagee and the mortgagor.

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

24 (f) If the mortgagor fails to comply with the sustainable
25 loan workout plan, then nothing in this Section shall be
26 construed to impair the legal rights of the mortgagee to

1 enforce the contract.

2 (g) A counselor employed by a housing counseling agency or
3 the housing counseling agency that in good faith provides
4 counseling shall not be liable to a mortgagee or mortgagor for
5 civil damages, except for willful or wanton misconduct on the
6 part of the counselor in providing the counseling.

7 (h) There shall be no waiver of any provision of this
8 Section.

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

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

15 (k) This Section is repealed January 1, 2014 ~~July 1, 2013~~.

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

17 (735 ILCS 5/15-1502.6 new)

18 Sec. 15-1502.6. Homeowner protection.

19 (a) As used in this Section:

20 "Approved counseling agency" means a housing counseling
21 agency approved by the U.S. Department of Housing and Urban
22 Development.

23 "Approved Housing Counseling" means in-person counseling
24 provided by a counselor employed by an approved counseling
25 agency to all borrowers, or documented telephone counseling

1 where meeting in person would cause a hardship to be imposed on
2 one or more borrowers. A hardship shall exist in instances in
3 which the borrower is confined to his or her home due to
4 medical conditions, as verified in writing by a physician, or
5 the borrower resides 50 miles or more from the nearest approved
6 counseling agency. In instances of telephone counseling, the
7 borrower must supply all necessary documents to the counselor
8 at least 72 hours prior to the scheduled telephone counseling
9 session.

10 "Delinquent" means past due with respect to a payment on a
11 mortgage secured by residential real estate.

12 "Department" means the Department of Financial and
13 Professional Regulation.

14 "First lien" means the most senior mortgage or deed of
15 trust on the property that is the subject of the notice of
16 foreclosure or notice of sale.

17 "Foreclosure prevention alternative" means a first lien
18 loan modification or another available loss mitigation option,
19 including but not limited to a: (1) short sale; (2) short
20 refinance; (3) deed in lieu of foreclosure; (4) cash-for-keys
21 negotiation; or (5) special forbearance.

22 "Secretary" means the Secretary of Financial and
23 Professional Regulation or other person authorized to act in
24 the Secretary's stead.

25 "Sustainable loan workout plan" means a plan that the
26 mortgagor and approved counseling agency believe shall enable

1 the mortgagor to stay current on his or her mortgage payments
2 for the foreseeable future when taking into account the
3 mortgagor's income and existing and foreseeable debts. A
4 sustainable loan workout plan may include, but is not limited
5 to, (1) a temporary suspension of payments, (2) a lengthened
6 loan term, (3) a lowered or frozen interest rate, (4) a
7 principal write down, (5) a repayment plan to pay the existing
8 loan in full, (6) deferred payments, or (7) refinancing into a
9 new affordable loan.

10 "Written notice", "written acknowledgment", or "written
11 offer" means depositing or causing to be deposited into the
12 United States mail an envelope, with first-class postage
13 prepaid, that contains the document to be delivered. The
14 envelope shall be addressed to the mortgagor at the common
15 address of the residential real estate securing the mortgage.
16 The date of written notice, written acknowledgment, or written
17 offer shall be the same as the day it is mailed.

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

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

1 If a mortgage secured by residential real estate becomes
2 delinquent by more than 30 days, the mortgagee shall send
3 written notice advising the mortgagor that he or she may wish
4 to seek approved housing counseling. Notwithstanding anything
5 to the contrary in this Section, nothing shall preclude the
6 mortgagor and mortgagee from communicating with each other
7 during the initial 30 days of delinquency or reaching agreement
8 on a sustainable loan workout plan, or both.

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

13 The notice required in this subsection (c) shall state the
14 date on which the notice was mailed, shall be headed in bold
15 14-point type "GRACE PERIOD NOTICE", and shall state the
16 following in 14-point type: "YOUR LOAN IS MORE THAN 30 DAYS
17 PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY
18 BE IN YOUR BEST INTEREST TO SEEK APPROVED HOUSING COUNSELING.
19 YOU HAVE A GRACE PERIOD OF 30 DAYS FROM THE DATE OF THIS NOTICE
20 TO OBTAIN APPROVED HOUSING COUNSELING. DURING THE GRACE PERIOD,
21 THE LAW PROHIBITS US FROM TAKING ANY LEGAL ACTION AGAINST YOU.
22 YOU MAY BE ENTITLED TO AN ADDITIONAL 30 DAY GRACE PERIOD IF YOU
23 OBTAIN HOUSING COUNSELING FROM AN APPROVED HOUSING COUNSELING
24 AGENCY. A LIST OF APPROVED COUNSELING AGENCIES MAY BE OBTAINED
25 FROM THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL
26 REGULATION OR THE ILLINOIS FORECLOSURE PREVENTION NETWORK

1 WEBSITE, HTTP://KEEPYOURHOMEILLINOIS.ORG."

2 The notice shall also list the Department's current
3 consumer hotline, the Department's website, and the telephone
4 number, fax number, and mailing address of the mortgagee. No
5 language, other than language substantially similar to the
6 language prescribed in this subsection (c), shall be included
7 in the notice. Notwithstanding any other provision to the
8 contrary, the grace period notice required by this subsection
9 (c) may be combined with a counseling notification required
10 under federal law.

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

15 (e) If, within the 30-day period provided under subsection
16 (d) of this Section, an approved counseling agency provides
17 written notice to the mortgagee that the mortgagor is seeking
18 approved counseling services, then no legal action under Part
19 15 of Article XV of the Code of Civil Procedure shall be
20 instituted for 30 days after the date of that notice. The date
21 that such notice is sent shall be stated in the notice, and
22 shall be sent to the address or fax number contained in the
23 Grace Period Notice required under subsection (c) of this
24 Section. During the 30-day period provided under this
25 subsection (e), the mortgagor or counselor or both may prepare
26 and proffer to the mortgagee a proposed sustainable loan

1 workout plan. The mortgagee shall then determine whether to
2 accept the proposed sustainable loan workout plan. If the
3 mortgagee and the mortgagor agree to a sustainable loan workout
4 plan, then no legal action under Part 15 of Article XV of the
5 Code of Civil Procedure shall be instituted for as long as the
6 sustainable loan workout plan is complied with by the
7 mortgagor.

8 The agreed sustainable loan workout plan and any
9 modifications thereto must be in writing and signed by the
10 mortgagee and the mortgagor.

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

14 (f) If the mortgagor fails to comply with the sustainable
15 loan workout plan, then nothing in this Section shall be
16 construed to impair the legal rights of the mortgagee to
17 enforce the contract.

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

23 (h) There shall be no waiver of any provision of this
24 Section.

25 (i) It is the General Assembly's intent that compliance
26 with this Section shall not prejudice a mortgagee in ratings of

1 its bad debt collection or calculation standards or policies.

2 (j) With respect to foreclosure prevention alternative
3 applications, the following apply:

4 (1) When a mortgagor submits a complete foreclosure
5 prevention alternative application, or any document in
6 connection with a foreclosure prevention alternative
7 application, the mortgagee shall provide written
8 acknowledgment of the receipt of the documentation within 5
9 business days of receipt.

10 (2) For purposes of this Section, an application is
11 complete when a mortgagor has supplied the mortgagee with
12 all documents required by the mortgagee within the
13 reasonable timeframe specified by the mortgage servicer.

14 (3) The mortgagee may not charge an application,
15 processing, or other fee in connection with a foreclosure
16 prevention alternative application.

17 (4) The mortgagee may not collect any late fees for
18 periods during which a foreclosure prevention alternative
19 is under consideration or a denial is being appealed.

20 (5) In its initial written acknowledgment of receipt of
21 the complete loan modification application, or any
22 document in connection with a foreclosure prevention
23 alternative application, the mortgagee shall include the
24 following information:

25 (i) a description of the foreclosure prevention
26 alternative evaluation process, including an estimate

1 of when a decision on the foreclosure prevention
2 alternative will be made after a complete application
3 has been submitted by the mortgagor and the length of
4 time the mortgagor will have to consider an offer of a
5 foreclosure prevention alternative;

6 (ii) any deadlines, including deadlines to submit
7 missing documentation, that would affect the
8 processing of a foreclosure prevention alternative
9 application;

10 (iii) any expiration dates for submitted
11 documents; and

12 (iv) any deficiency in the mortgagor's first lien
13 loan modification application or an acknowledgment of
14 receipt of a complete foreclosure prevention
15 alternative application or both.

16 (6) A mortgagee shall have no more than 30 days after
17 receipt of a complete foreclosure prevention alternative
18 application to provide the mortgagor with a written
19 acceptance or denial of the complete foreclosure
20 prevention alternative application, or, if applicable, to
21 provide the mortgagor with a written acceptance or denial
22 of an appeal.

23 (7) When a mortgagor accepts an offered foreclosure
24 prevention alternative, the mortgagee shall provide the
25 mortgagor with a copy of the fully executed foreclosure
26 prevention alternative agreement within 7 days following

1 receipt of the executed copy from the mortgagor.

2 (8) If a mortgagor submits a complete application for a
3 foreclosure prevention alternative offered by or through
4 the mortgagor's mortgage servicer, a mortgage servicer,
5 trustee, beneficiary, or authorized agent may not file a
6 foreclosure complaint, seek a foreclosure judgment, or
7 conduct or seek to confirm a judicial sale.

8 (9) If a foreclosure prevention alternative is
9 approved in writing, a mortgage servicer, mortgagee,
10 trustee, beneficiary, or authorized agent may not record a
11 notice of foreclosure or a notice of sale or conduct a
12 judicial sale as long as the mortgagor is in compliance
13 with the terms of the foreclosure prevention alternative.

14 (10) A mortgagee, beneficiary, or authorized agent
15 shall record a rescission of a notice of foreclosure or
16 cancel a pending judicial sale, if applicable, upon the
17 mortgagor executing a permanent foreclosure prevention
18 alternative.

19 (11) If the mortgagor's application for a foreclosure
20 prevention alternative is denied, the mortgagor shall have
21 at least 30 days from the date of the written denial to
22 appeal the denial and to provide evidence that the mortgage
23 servicer's determination was in error.

24 (12) Following the denial of a foreclosure prevention
25 alternative, the mortgagee shall send a written notice to
26 the mortgagor identifying the reasons for the denial,

1 including the following:

2 (i) the amount of time from the date of the denial
3 letter in which the mortgagor may request an appeal of
4 the denial of the foreclosure prevention alternative
5 and instructions regarding how to appeal the denial;

6 (ii) if the denial was based on investor
7 disallowance, the specific reasons for the investor
8 disallowance;

9 (iii) if the denial is the result of a net present
10 value calculation, the monthly gross income and
11 property value used to calculate the net present value
12 and a statement that the mortgagor may obtain all of
13 the inputs used in the net present value calculation
14 upon written request to the mortgage servicer;

15 (iv) if applicable, a finding that the mortgagor
16 was previously offered a foreclosure prevention
17 alternative and defaulted on, or otherwise breached,
18 the mortgagor's obligations under the foreclosure
19 prevention alternative agreement;

20 (v) if applicable, a description of other
21 foreclosure prevention alternatives for which the
22 mortgagor may be eligible, and a list of the steps the
23 mortgagor must take in order to be considered for those
24 options; and

25 (vi) if the mortgagee has already approved the
26 mortgagor for another foreclosure prevention

1 alternative, information necessary to complete the
2 approved foreclosure prevention alternative.

3 (13) A mortgage servicer, mortgagee, trustee,
4 beneficiary, or authorized agent may not record or file a
5 foreclosure complaint, seek a foreclosure judgment, or
6 conduct or seek to confirm a judicial sale until:

7 (i) the mortgagee provides written notice of a
8 determination that the mortgagor is not eligible for a
9 foreclosure prevention alternative and any appeal
10 period has expired;

11 (ii) the mortgagor does not accept an offered
12 foreclosure prevention alternative within 14 days of
13 the written offer;

14 (iii) the mortgagor accepts a foreclosure
15 prevention alternative, but defaults on or otherwise
16 breaches the mortgagor's obligations under the
17 foreclosure prevention alternative; or

18 (iv) if the mortgagor appeals the denial, the later
19 of 15 days after the denial of the appeal or 14 days
20 after a foreclosure prevention alternative is offered
21 in writing after appeal but declined by the mortgagor,
22 or, if a foreclosure prevention alternative is offered
23 in writing and accepted after appeal, the date on which
24 the mortgagor breaches the terms of the offer.

25 (14) In order to minimize the risk of mortgagors
26 submitting multiple applications for first lien loan

1 modifications for the purpose of delay, the mortgagee is
2 not obligated to evaluate applications from mortgagors who
3 have already been evaluated or afforded a fair opportunity
4 to be evaluated for a foreclosure prevention alternative
5 prior to January 1, 2014, or who have been evaluated or
6 afforded a fair opportunity to be evaluated consistent with
7 the requirements of this Section, unless there has been a
8 material change in the mortgagor's financial circumstances
9 since the date of the mortgagor's previous application and
10 that change is documented by the mortgagor and submitted to
11 the mortgage servicer.

12 (15) If a mortgagor has been approved in writing for a
13 foreclosure prevention alternative, and the servicing of
14 that mortgagor's loan is transferred or sold to another
15 mortgage servicer, the subsequent mortgagee must continue
16 to honor any previously approved foreclosure prevention
17 alternative.

18 (k) When a mortgagor requests a foreclosure prevention
19 alternative, the mortgagee shall promptly establish a single
20 point of contact and provide to the mortgagor one or more
21 direct means of communication with the single point of contact.
22 The single point of contact shall be responsible for doing all
23 of the following:

24 (i) communicating the process by which a mortgagor may
25 apply for an available foreclosure prevention alternative
26 and the deadline for any required submissions to be

1 considered for these options;

2 (ii) coordinating receipt of all documents associated
3 with available foreclosure prevention alternatives and
4 notifying the mortgagor of any missing documents necessary
5 to complete the application;

6 (iii) having access to current information and
7 personnel sufficient to timely, accurately, and adequately
8 inform the mortgagor of the current status of the
9 foreclosure prevention alternative application;

10 (iv) ensuring that a mortgagor is considered for all
11 foreclosure prevention alternatives offered by or through
12 the mortgage servicer, if any; and

13 (v) having access to individuals with the ability and
14 authority to stop foreclosure proceedings when necessary.

15 The single point of contact shall remain assigned to the
16 mortgagor's account until the mortgagee determines that all
17 loss mitigation options offered by or through the mortgagee
18 have been exhausted or the mortgagor's account becomes current.

19 The mortgagee shall ensure that a single point of contact
20 refers and transfers a mortgagor to an appropriate supervisor
21 upon request of the mortgagor, if the single point of contact
22 has a supervisor.

23 As used in this subsection (k), "single point of contact"
24 means an individual who has the ability and authority to
25 perform the responsibilities described in this subsection.

26 (1) With respect to documents relative to a foreclosure

1 proceeding, the following apply:

2 (1) Any affidavit filed in any court relative to a
3 foreclosure proceeding shall be accurate and complete and
4 supported by competent and reliable evidence.

5 (2) Before recording or filing any of the documents
6 related to the foreclosure, a mortgagee shall ensure that
7 it has reviewed competent and reliable evidence to
8 substantiate the mortgagor's default and the mortgagee's
9 right to foreclose, including the mortgagor's loan status
10 and loan information.

11 (3) Any mortgagee that engages in multiple and repeated
12 uncorrected violations in recording documents or in filing
13 documents in any court relative to a foreclosure proceeding
14 shall be liable for a civil penalty, of up to \$7,500 per
15 mortgage or deed of trust, in an action brought by a
16 government entity or in an administrative proceeding
17 brought by the Department against a respective licensee, in
18 addition to any other remedies available to these entities.

19 (m) Notwithstanding any other provision of this Section, no
20 request for a deficiency judgment shall be granted to any
21 plaintiff for a first lien mortgage, deed of trust, or purchase
22 money loan that is:

23 (i) secured by owner-occupied residential real
24 property containing no more than 4 dwelling units; and

25 (ii) in fact used to pay all or part of the purchase
26 price of the dwelling occupied entirely or in part by the

1 purchaser.

2 As used in this subsection (m), a "purchase money loan" is
3 any loan, refinance, or other credit transaction
4 (collectively, a "credit transaction") which is used to
5 refinance a purchase money loan, or subsequent refinances of a
6 purchase money loan, except to the extent that in a credit
7 transaction, the lender or creditor advances new principal
8 (hereafter "new advance") which is not applied to any
9 obligation owed or to be owed under the purchase money loan, or
10 to fees, costs, or related expenses of the credit transaction.
11 Any new credit transaction shall be deemed to be a purchase
12 money loan except as to the principal amount of any new
13 advance. Any payment of principal shall be applied first to the
14 principal balance of the purchase money loan, and then to the
15 principal balance of any new advance, and interest payments
16 shall be applied to any interest due and owing.

17 (n) Whenever a judicial sale is postponed for at least 10
18 business days, a mortgagee, beneficiary, or authorized agent
19 shall provide written notice regarding the new sale date and
20 time, to all parties who have appeared or filed an answer,
21 within 5 business days following the postponement. Failure to
22 comply with this subsection (n) does not invalidate any sale
23 that would otherwise be valid.

24 (o) Failure to comply with any of the requirements of this
25 Section shall provide a private right of action, which can be
26 asserted by a mortgagor as a defense or counterclaim in a

1 foreclosure action, or as a claim in an independent action. In
2 a foreclosure action, the mortgagor may assert a defense or
3 counterclaim to oppose or vacate a foreclosure judgment, to
4 postpone or set aside a judicial sale, or to oppose or vacate
5 an order approving a sale.

6 After a deed upon sale has been recorded, a mortgage
7 servicer, mortgagee, trustee, beneficiary, or authorized agent
8 shall be liable to a mortgagor for actual economic damages
9 resulting from a material violation of this Section by that
10 mortgage servicer, mortgagee, trustee, beneficiary, or
11 authorized agent where the violation was not corrected and
12 remedied prior to the recording of the deed upon sale. If the
13 court finds that the material violation was intentional or
14 reckless, or resulted from willful misconduct by a mortgage
15 servicer, mortgagee, trustee, beneficiary, or authorized
16 agent, the court may award the mortgagor the greater of treble
17 actual damages or statutory damages of \$50,000.

18 A mortgage servicer, mortgagee, trustee, beneficiary, or
19 authorized agent is not liable for any violation that it has
20 corrected and remedied prior to the recordation of a deed upon
21 sale, or that has been corrected and remedied by a third party
22 working on its behalf prior to the recordation of a deed upon
23 sale.

24 A violation of this Section by a person licensed by the
25 Department shall be deemed to be a violation of that person's
26 licensing law.

1 No violation of this Article shall affect the validity of a
2 sale in favor of a bona fide purchaser and any of its
3 encumbrancers for value without notice. A third-party
4 encumbrancer shall not be relieved of liability resulting from
5 violations of this Section, committed by that third-party
6 encumbrancer, that occurred prior to the sale of the subject
7 property to the bona fide purchaser.

8 The rights, remedies, and procedures provided by this
9 Section are in addition to and independent of any other rights,
10 remedies, or procedures under any other law. Nothing in this
11 Section shall be construed to alter, limit, or negate any other
12 rights, remedies, or procedures provided by law.

13 A court shall award a prevailing mortgagor reasonable
14 attorney's fees and costs in an action brought under this
15 Section. A mortgagor shall be deemed to have prevailed for
16 purposes of this subsection (o) if the mortgagor obtained
17 injunctive relief or was awarded damages under this Section.

18 (p) For all residential real estate with no more than 4
19 dwelling units that is occupied as a principal residence by the
20 mortgagor, a judgment must include, in addition to the other
21 information required in Section 15-1506 of this Code, a written
22 finding by the court that all reasonable foreclosure prevention
23 alternatives have been exhausted by the mortgagee and
24 mortgagor.

25 (q) Consistent with its general regulatory authority, the
26 Department may adopt rules applicable to any entity or person

1 under its respective jurisdiction that are necessary to
2 implement this Section. A violation of the rules adopted
3 pursuant to this Section shall be enforceable only by the
4 Department.

5 (r) Unless otherwise provided, this Section applies only to
6 residential real estate with no more than 4 dwelling units that
7 is occupied as a principal residence by the mortgagor.

8 (s) The provisions of this Section are severable. If any
9 provision of this Section or its application is held invalid,
10 that invalidity shall not affect other provisions or
11 applications that can be given effect without the invalid
12 provision or application.

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

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

15 Sec. 15-1504. Pleadings and service.

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

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

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

25 (3) Information concerning mortgage:

1 (A) Nature of instrument: (here insert whether a
2 mortgage, trust deed or other instrument in the nature
3 of a mortgage, etc.)

4 (B) Date of mortgage:

5 (C) Name of mortgagor:

6 (D) Name of mortgagee:

7 (E) Date and place of recording:

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

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

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

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

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

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

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

26 (M) Names of defendants claimed to be personally

1 liable for deficiency, if any:

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

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

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

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

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

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

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

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

8 (U) For all residential real estate with no more
9 than 4 dwelling units that is occupied as a principal
10 residence by the mortgagor, statement as to what
11 sustainable loan workout plans, if any, have been
12 attempted between the mortgagee and mortgagor:

13 (V) For all residential real estate with no more
14 than 4 dwelling units that is occupied as a principal
15 residence by the mortgagor, statement as to what
16 foreclosure prevention alternatives will be attempted
17 between the mortgagee and mortgagor:

18 REQUEST FOR RELIEF

19 Plaintiff requests:

20 (i) A judgment of foreclosure and sale.

21 (ii) An order granting a shortened redemption period,
22 if sought.

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

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

25 (v) An order placing the mortgagee in possession or

1 appointing a receiver, if sought.

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

4 (b) Required Information. A foreclosure complaint need
5 contain only such statements and requests called for by the
6 form set forth in subsection (a) of Section 15-1504 as may be
7 appropriate for the relief sought. Such complaint may be filed
8 as a counterclaim, may be joined with other counts or may
9 include in the same count additional matters or a request for
10 any additional relief permitted by Article II of the Code of
11 Civil Procedure.

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

15 (1) on the date indicated the obligor of the
16 indebtedness or other obligations secured by the mortgage
17 was justly indebted in the amount of the indicated original
18 indebtedness to the original mortgagee or payee of the
19 mortgage note;

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

23 (3) that the mortgagor was at the date indicated an
24 owner of the interest in the real estate described in the
25 complaint and that as of that date made, executed and
26 delivered the mortgage as security for the note or other

1 obligations;

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

6 (5) that defaults occurred as indicated;

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

10 (7) that the mortgage constitutes a valid, prior and
11 paramount lien upon the indicated interest in the mortgaged
12 real estate, which lien is prior and superior to the right,
13 title, interest, claim or lien of all parties and nonrecord
14 claimants whose interests in the mortgaged real estate are
15 sought to be terminated;

16 (8) that by reason of the defaults alleged, if the
17 indebtedness has not matured by its terms, the same has
18 become due by the exercise, by the plaintiff or other
19 persons having such power, of a right or power to declare
20 immediately due and payable the whole of all indebtedness
21 secured by the mortgage;

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

25 (10) that any and all periods of grace or other period
26 of time allowed for the performance of the covenants or

1 conditions claimed to be breached or for the curing of any
2 breaches have expired;

3 (11) that the amounts indicated in the statement in the
4 complaint are correctly stated and if such statement
5 indicates any advances made or to be made by the plaintiff
6 or owner of the mortgage indebtedness, that such advances
7 were, in fact, made or will be required to be made, and
8 under and by virtue of the mortgage the same constitute
9 additional indebtedness secured by the mortgage; and

10 (12) that, upon confirmation of the sale, the holder of
11 the certificate of sale or deed issued pursuant to that
12 certificate or, if no certificate or deed was issued, the
13 purchaser at the sale will be entitled to full possession
14 of the mortgaged real estate against the parties named in
15 clause (T) of paragraph (3) of subsection (a) of Section
16 15-1504 or elsewhere to the same effect; the omission of
17 any party indicates that plaintiff will not seek a
18 possessory order in the order confirming sale unless the
19 request is subsequently made under subsection (h) of
20 Section 15-1701 or by separate action under Article 9 of
21 this Code.

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

26 (1) plaintiff has been compelled to employ and retain

1 attorneys to prepare and file the complaint and to
2 represent and advise the plaintiff in the foreclosure of
3 the mortgage and the plaintiff will thereby become liable
4 for the usual, reasonable and customary fees of the
5 attorneys in that behalf;

6 (2) that the plaintiff has been compelled to advance or
7 will be compelled to advance, various sums of money in
8 payment of costs, fees, expenses and disbursements
9 incurred in connection with the foreclosure, including,
10 without limiting the generality of the foregoing, filing
11 fees, stenographer's fees, witness fees, costs of
12 publication, costs of procuring and preparing documentary
13 evidence and costs of procuring abstracts of title, Torrens
14 certificates, foreclosure minutes and a title insurance
15 policy;

16 (3) that under the terms of the mortgage, all such
17 advances, costs, attorneys' fees and other fees, expenses
18 and disbursements are made a lien upon the mortgaged real
19 estate and the plaintiff is entitled to recover all such
20 advances, costs, attorneys' fees, expenses and
21 disbursements, together with interest on all advances at
22 the rate provided in the mortgage, or, if no rate is
23 provided therein, at the statutory judgment rate, from the
24 date on which such advances are made;

25 (4) that in order to protect the lien of the mortgage,
26 it may become necessary for plaintiff to pay taxes and

1 assessments which have been or may be levied upon the
2 mortgaged real estate;

3 (5) that in order to protect and preserve the mortgaged
4 real estate, it may also become necessary for the plaintiff
5 to pay liability (protecting mortgagor and mortgagee),
6 fire and other hazard insurance premiums on the mortgaged
7 real estate, make such repairs to the mortgaged real estate
8 as may reasonably be deemed necessary for the proper
9 preservation thereof, advance for costs to inspect the
10 mortgaged real estate or to appraise it, or both, and
11 advance for premiums for pre-existing private or
12 governmental mortgage insurance to the extent required
13 after a foreclosure is commenced in order to keep such
14 insurance in force; and

15 (6) that under the terms of the mortgage, any money so
16 paid or expended will become an additional indebtedness
17 secured by the mortgage and will bear interest from the
18 date such monies are advanced at the rate provided in the
19 mortgage, or, if no rate is provided, at the statutory
20 judgment rate.

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

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

25 (2) that the defendants be ordered to pay to the
26 plaintiff before expiration of any redemption period (or,

1 if no redemption period, before a short date fixed by the
2 court) whatever sums may appear to be due upon the taking
3 of such account, together with attorneys' fees and costs of
4 the proceedings (to the extent provided in the mortgage or
5 by law);

6 (3) that in default of such payment in accordance with
7 the judgment, the mortgaged real estate be sold as directed
8 by the court, to satisfy the amount due to the plaintiff as
9 set forth in the judgment, together with the interest
10 thereon at the statutory judgment rate from the date of the
11 judgment;

12 (4) that in the event the plaintiff is a purchaser of
13 the mortgaged real estate at such sale, the plaintiff may
14 offset against the purchase price of such real estate the
15 amounts due under the judgment of foreclosure and order
16 confirming the sale;

17 (5) that in the event of such sale and the failure of
18 any person entitled thereto to redeem prior to such sale
19 pursuant to this Article, the defendants made parties to
20 the foreclosure in accordance with this Article, and all
21 nonrecord claimants given notice of the foreclosure in
22 accordance with this Article, and all persons claiming by,
23 through or under them, and each and any and all of them,
24 may be forever barred and foreclosed of any right, title,
25 interest, claim, lien, or right to redeem in and to the
26 mortgaged real estate; and

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

6 (f) Request for Deficiency Judgment. A request for a
7 personal judgment for a deficiency in a foreclosure complaint
8 if the sale of the mortgaged real estate fails to produce a
9 sufficient amount to pay the amount found due, the plaintiff
10 may have a personal judgment against any party in the
11 foreclosure indicated as being personally liable therefor and
12 the enforcement thereof be had as provided by law.

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

16 (h) Answers by Parties. Any party may assert its interest
17 by counterclaim and such counterclaim may at the option of that
18 party stand in lieu of answer to the complaint for foreclosure
19 and all counter complaints previously or thereafter filed in
20 the foreclosure. Any such counterclaim shall be deemed to
21 constitute a statement that the counter claimant does not have
22 sufficient knowledge to form a belief as to the truth or
23 falsity of the allegations of the complaint and all other
24 counterclaims, except to the extent that the counterclaim
25 admits or specifically denies such allegations.

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

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

2 Sec. 15-1504. Pleadings and service.

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

5 (1) Plaintiff files this complaint to foreclose the
6 mortgage (or other conveyance in the nature of a mortgage)
7 (hereinafter called "mortgage") hereinafter described and
8 joins the following person as defendants: (here insert
9 names of all defendants).

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

12 (3) Information concerning mortgage:

13 (A) Nature of instrument: (here insert whether a
14 mortgage, trust deed or other instrument in the nature
15 of a mortgage, etc.)

16 (B) Date of mortgage:

17 (C) Name of mortgagor:

18 (D) Name of mortgagee:

19 (E) Date and place of recording:

20 (F) Identification of recording: (here insert book
21 and page number or document number)

22 (G) Interest subject to the mortgage: (here insert
23 whether fee simple, estate for years, undivided
24 interest, etc.)

25 (H) Amount of original indebtedness, including

1 subsequent advances made under the mortgage:

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

5 (J) Statement as to defaults, including, but not
6 necessarily limited to, date of default, current
7 unpaid principal balance, per diem interest accruing,
8 and any further information concerning the default:

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

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

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

15 (N) Capacity in which plaintiff brings this
16 foreclosure (here indicate whether plaintiff is the
17 legal holder of the indebtedness, a pledgee, an agent,
18 the trustee under a trust deed or otherwise, as
19 appropriate):

20 (O) Facts in support of redemption period shorter
21 than the longer of (i) 7 months from the date the
22 mortgagor or, if more than one, all the mortgagors (I)
23 have been served with summons or by publication or (II)
24 have otherwise submitted to the jurisdiction of the
25 court, or (ii) 3 months from the entry of the judgment
26 of foreclosure, if sought (here indicate whether based

1 upon the real estate not being residential or real
2 estate value less than 90% of amount owed, etc.):

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

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

7 (R) Facts in support of a request for appointment
8 of mortgagee in possession or for appointment of
9 receiver, and identity of such receiver, if sought:

10 (S) Offer to mortgagor in accordance with Section
11 15-1402 to accept title to the real estate in
12 satisfaction of all indebtedness and obligations
13 secured by the mortgage without judicial sale, if
14 sought:

15 (T) Name or names of defendants whose right to
16 possess the mortgaged real estate, after the
17 confirmation of a foreclosure sale, is sought to be
18 terminated and, if not elsewhere stated, the facts in
19 support thereof:

20 (U) For all residential real estate with no more
21 than 4 dwelling units that is occupied as a principal
22 residence by the mortgagor, statement as to what
23 sustainable loan workout plans, if any, have been
24 attempted between the mortgagee and mortgagor:

25 (V) For all residential real estate with no more
26 than 4 dwelling units that is occupied as a principal

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

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

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

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

18 (5) that defaults occurred as indicated;

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

22 (7) that the mortgage constitutes a valid, prior and
23 paramount lien upon the indicated interest in the mortgaged
24 real estate, which lien is prior and superior to the right,
25 title, interest, claim or lien of all parties and nonrecord
26 claimants whose interests in the mortgaged real estate are

1 sought to be terminated;

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

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

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

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

22 (12) that, upon confirmation of the sale, the holder of
23 the certificate of sale or deed issued pursuant to that
24 certificate or, if no certificate or deed was issued, the
25 purchaser at the sale will be entitled to full possession
26 of the mortgaged real estate against the parties named in

1 clause (T) of paragraph (3) of subsection (a) of Section
2 15-1504 or elsewhere to the same effect; the omission of
3 any party indicates that plaintiff will not seek a
4 possessory order in the order confirming sale unless the
5 request is subsequently made under subsection (h) of
6 Section 15-1701 or by separate action under Article 9 of
7 this Code.

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

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

18 (2) the plaintiff has been compelled to advance or will
19 be compelled to advance, various sums of money in payment
20 of costs, fees, expenses and disbursements incurred in
21 connection with the foreclosure, including, without
22 limiting the generality of the foregoing, filing fees,
23 stenographer's fees, witness fees, costs of publication,
24 costs of procuring and preparing documentary evidence and
25 costs of procuring abstracts of title, Torrens
26 certificates, foreclosure minutes and a title insurance

1 policy;

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

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

15 (5) in order to protect and preserve the mortgaged real
16 estate, it may also become necessary for the plaintiff to
17 pay liability (protecting mortgagor and mortgagee), fire
18 and other hazard insurance premiums on the mortgaged real
19 estate, make such repairs to the mortgaged real estate as
20 may reasonably be deemed necessary for the proper
21 preservation thereof, advance for costs to inspect the
22 mortgaged real estate or to appraise it, or both, and
23 advance for premiums for pre-existing private or
24 governmental mortgage insurance to the extent required
25 after a foreclosure is commenced in order to keep such
26 insurance in force; and

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

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

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

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

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

23 (4) in the event the plaintiff is a purchaser of the
24 mortgaged real estate at such sale, the plaintiff may
25 offset against the purchase price of such real estate the
26 amounts due under the judgment of foreclosure and order

1 confirming the sale;

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

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

16 (f) Request for Deficiency Judgment. A request for a
17 personal judgment for a deficiency in a foreclosure complaint
18 if the sale of the mortgaged real estate fails to produce a
19 sufficient amount to pay the amount found due, the plaintiff
20 may have a personal judgment against any party in the
21 foreclosure indicated as being personally liable therefor and
22 the enforcement thereof be had as provided by law.

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

26 (h) Answers by Parties. Any party may assert its interest

1 by counterclaim and such counterclaim may at the option of that
2 party stand in lieu of answer to the complaint for foreclosure
3 and all counter complaints previously or thereafter filed in
4 the foreclosure. Any such counterclaim shall be deemed to
5 constitute a statement that the counter claimant does not have
6 sufficient knowledge to form a belief as to the truth or
7 falsity of the allegations of the complaint and all other
8 counterclaims, except to the extent that the counterclaim
9 admits or specifically denies such allegations.

10 (Source: P.A. 97-1164, eff. 6-1-13.)

11 (735 ILCS 5/15-1507) (from Ch. 110, par. 15-1507)

12 Sec. 15-1507. Judicial Sale.

13 (a) In General. Except as provided in Sections 15-1402 and
14 15-1403, upon entry of a judgment of foreclosure, the real
15 estate which is the subject of the judgment shall be sold at a
16 judicial sale in accordance with this Section 15-1507.

17 (b) Sale Procedures. Upon expiration of the reinstatement
18 period and the redemption period in accordance with subsection
19 (b) or (c) of Section 15-1603 or upon the entry of a judgment
20 of foreclosure after the waiver of all rights of redemption,
21 except as provided in subsection (g) of Section 15-1506, the
22 real estate shall be sold at a sale as provided in this
23 Article, on such terms and conditions as shall be specified by
24 the court in the judgment of foreclosure. A sale may be
25 conducted by any judge or sheriff.

1 (c) Notice of Sale. The mortgagee, or such other party
2 designated by the court, in a foreclosure under this Article
3 shall give public notice of the sale as follows:

4 (1) The notice of sale shall include at least the
5 following information, but an immaterial error in the
6 information shall not invalidate the legal effect of the
7 notice:

8 (A) the name, address and telephone number of the
9 person to contact for information regarding the real
10 estate;

11 (B) the common address and other common
12 description (other than legal description), if any, of
13 the real estate;

14 (C) a legal description of the real estate
15 sufficient to identify it with reasonable certainty;

16 (D) a description of the improvements on the real
17 estate;

18 (E) the times specified in the judgment, if any,
19 when the real estate may be inspected prior to sale;

20 (F) the time and place of the sale;

21 (G) the terms of the sale;

22 (H) the case title, case number and the court in
23 which the foreclosure was filed;

24 (H-1) in the case of a condominium unit to which
25 subsection (g) of Section 9 of the Condominium Property
26 Act applies, the statement required by subdivision

1 (g) (5) of Section 9 of the Condominium Property Act;

2 (H-2) in the case of a unit of a common interest
3 community to which subsection (g-1) of Section 18.5 of
4 the Condominium Property Act applies, the statement
5 required by subdivision (g-1) of Section 18.5 of the
6 Condominium Property Act; and

7 (I) such other information ordered by the Court.

8 (2) The notice of sale shall be published at least 3
9 consecutive calendar weeks (Sunday through Saturday), once
10 in each week, the first such notice to be published not
11 more than 45 days prior to the sale, the last such notice
12 to be published not less than 7 days prior to the sale, by:

13 (i) (A) advertisements in a newspaper circulated to the
14 general public in the county in which the real estate is
15 located, in the section of that newspaper where legal
16 notices are commonly placed and (B) separate
17 advertisements in the section of such a newspaper, which
18 (except in counties with a population in excess of
19 3,000,000) may be the same newspaper, in which real estate
20 other than real estate being sold as part of legal
21 proceedings is commonly advertised to the general public;
22 provided, that the separate advertisements in the real
23 estate section need not include a legal description and
24 that where both advertisements could be published in the
25 same newspaper and that newspaper does not have separate
26 legal notices and real estate advertisement sections, a

1 single advertisement with the legal description shall be
2 sufficient; and (ii) such other publications as may be
3 further ordered by the court.

4 (3) The party who gives notice of public sale in
5 accordance with subsection (c) of Section 15-1507 shall
6 also give notice to all parties in the action who have
7 appeared or filed an answer and have not theretofore been
8 found by the court to be in default for failure to plead.
9 Such notice shall be given in the manner provided in the
10 applicable rules of court for service of papers other than
11 process and complaint, not more than 45 days nor less than
12 7 days prior to the day of sale. After notice is given as
13 required in this Section a copy thereof shall be filed in
14 the office of the clerk of the court entering the judgment,
15 together with a certificate of counsel or other proof that
16 notice has been served in compliance with this Section.

17 (4) The party who gives notice of public sale in
18 accordance with subsection (c) of Section 15-1507 shall
19 again give notice in accordance with that Section of any
20 adjourned sale; provided, however, that if the adjourned
21 sale is to occur less than 60 days after the last scheduled
22 sale, notice of any adjourned sale need not be given
23 pursuant to this Section. In the event of adjournment, the
24 person conducting the sale shall, upon adjournment,
25 announce the date, time and place upon which the adjourned
26 sale shall be held. Notwithstanding any language to the

1 contrary, for any adjourned sale that is to be conducted
2 more than 60 days after the date on which it was to first
3 be held, the party giving notice of such sale shall again
4 give notice in accordance with this Section.

5 (5) Notice of the sale may be given prior to the
6 expiration of any reinstatement period or redemption
7 period.

8 (6) No other notice by publication or posting shall be
9 necessary unless required by order or rule of the court.

10 (7) The person named in the notice of sale to be
11 contacted for information about the real estate may, but
12 shall not be required, to provide additional information
13 other than that set forth in the notice of sale.

14 (d) Election of Property. If the real estate which is the
15 subject of a judgment of foreclosure is susceptible of
16 division, the court may order it to be sold as necessary to
17 satisfy the judgment. The court shall determine which real
18 estate shall be sold, and the court may determine the order in
19 which separate tracts may be sold.

20 (e) Receipt upon Sale. Upon and at the sale of mortgaged
21 real estate, the person conducting the sale shall give to the
22 purchaser a receipt of sale. The receipt shall describe the
23 real estate purchased and shall show the amount bid, the amount
24 paid, the total amount paid to date and the amount still to be
25 paid therefor. An additional receipt shall be given at the time
26 of each subsequent payment.

1 (f) Certificate of Sale. Upon payment in full of the amount
2 bid, the person conducting the sale shall issue, in duplicate,
3 and give to the purchaser a Certificate of Sale. The
4 Certificate of Sale shall be in a recordable form, describe the
5 real estate purchased, indicate the date and place of sale and
6 show the amount paid therefor. The Certificate of Sale shall
7 further indicate that it is subject to confirmation by the
8 court. The duplicate certificate may be recorded in accordance
9 with Section 12-121. The Certificate of Sale shall be freely
10 assignable by endorsement thereon.

11 (g) Interest after Sale. Any bid at sale shall be deemed to
12 include, without the necessity of a court order, interest at
13 the statutory judgment rate on any unpaid portion of the sale
14 price from the date of sale to the date of payment.

15 (Source: P.A. 96-1045, eff. 7-14-10.)

16 Section 10. The Conveyances Act is amended by changing
17 Sections 28 and 30 as follows:

18 (765 ILCS 5/28) (from Ch. 30, par. 27)

19 Sec. 28. Deeds, mortgages, powers of attorney, and other
20 instruments relating to or affecting the title to real estate
21 in this state, shall be recorded in the recorder's office in
22 the county in which such real estate is situated; but if such
23 county is not organized, then in the county to which such
24 unorganized county is attached for judicial purposes. No deed,

1 mortgage, assignment of mortgage, or other instrument relating
2 to or affecting the title to real estate in this State may
3 include a provision prohibiting the recording of that
4 instrument, and any such provision in an instrument signed
5 after the effective date of this amendatory Act shall be void
6 and of no force and effect.

7 (Source: P.A. 89-160, eff. 7-19-95.)

8 (765 ILCS 5/30) (from Ch. 30, par. 29)

9 Sec. 30. Effect of recording. All deeds, mortgages,
10 assignments, mortgage releases, mortgage modifications, land
11 equity loans, liens, lis pendens, memoranda of judgment, and
12 other instruments in ~~of~~ writing that affect interests in real
13 property and that ~~which~~ are authorized to be recorded, shall
14 take effect and be in force from and after the time of filing
15 the same for record, and not before, ~~as to all creditors and~~
16 ~~subsequent purchasers, without notice;~~ and all these ~~such~~ deeds
17 and title papers shall be adjudged void ~~as to all such~~
18 ~~creditors and subsequent purchasers, without notice,~~ until the
19 same shall be filed for record with the recorder's office in
20 the county in which the property is located.

21 (Source: Laws 1871-2, p. 282.)

22 Section 95. No acceleration or delay. Where this Act makes
23 changes in a statute that is represented in this Act by text
24 that is not yet or no longer in effect (for example, a Section

1 represented by multiple versions), the use of that text does
2 not accelerate or delay the taking effect of (i) the changes
3 made by this Act or (ii) provisions derived from any other
4 Public Act.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law, except that Sec. 15-1502.6 of Section 5 takes
7 effect on January 1, 2014.