



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB1487

Introduced 2/20/2015, by Sen. Bill Cunningham

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-5010.7 new

Amends the Counties Code. Provides that the recorder of deeds in a county with a population of more than 3,000,000 shall establish a pilot program that permits documents to be recorded against a property in foreclosure by judicial order only. Provides that the pilot program shall last from January 1, 2016 to January 1, 2019. Adds provisions concerning: the procedures for limiting the recording of documents; erroneous recording of documents; immunity of the recorder; and premature termination of the pilot program. Repeals the new provisions on January 1, 2019.

LRB099 09675 HEP 29884 b

1 AN ACT concerning local government.

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

4 Section 5. The Counties Code is amended by adding Section  
5 3-5010.7 as follows:

6 (55 ILCS 5/3-5010.7 new)

7 Sec. 3-5010.7. Foreclosure property pilot program.

8 (a) The recorder in a county with a population of more than  
9 3,000,000 shall establish a pilot program that permits  
10 documents to be recorded against a property in foreclosure by  
11 judicial order only.

12 (b) Beginning January 1, 2016, upon motion by the plaintiff  
13 in a foreclosure action, the judge shall issue an order barring  
14 any nonrecord claimants from recording, without approval of the  
15 court, an interest on the property that is the subject of the  
16 foreclosure action. The order shall expire 2 years after the  
17 date of recordation of the notice of foreclosure unless renewed  
18 by order of the judge.

19 (c) Upon inspecting the order and making a determination  
20 that the order is valid and prevents any nonrecord claimants  
21 from recording an interest on the property without court  
22 approval, the recorder shall record the court's order as a  
23 separate document in the chain of title, after the notice of

1 foreclosure. It is the responsibility of the plaintiff to  
2 attach any necessary exhibits to fulfill statutory recording  
3 requirements. The recorder may charge the standard and  
4 applicable recording fees at the time the order is presented  
5 for recording.

6 (d) If a court order has been recorded under this Section,  
7 a nonrecord claimant shall not record a document regarding the  
8 property that is the subject of the foreclosure action without  
9 a certified court order. A nonrecord claimant shall obtain a  
10 certified court order by filing a motion in the office of the  
11 clerk of the court in which the action is pending. The court  
12 shall then issue a dated certified order indicating the type of  
13 document to be recorded, the person or entity authorized to  
14 record, the property index number of the property, and the case  
15 number of the foreclosure. The order must be presented in  
16 person to designated staff in the recorder's office along with  
17 the document to be recorded. The recorder shall not accept  
18 recordings subject to this Section by mail or electronic  
19 submission.

20 (e) The recorder is authorized to inspect the photo  
21 identification of any person attempting to record a document on  
22 a title that is subject to a court order under this Section and  
23 may deny recordation to any person who refuses to provide  
24 proper photo identification.

25 (f) Once the foreclosure is finalized and a new deed is  
26 issued, an official court order must accompany the deed at the

1 time of recordation.

2 (g) This Section does not apply to a bank or financial  
3 institution that recorded the lis pendens notice of  
4 foreclosure. If the initial foreclosure is found to be in  
5 error, or the wrong institution files the foreclosure, then the  
6 filing institution shall file an affidavit rescinding the  
7 freeze on title and shall be liable for a \$10,000 penalty,  
8 payable to the owner against which the foreclosure was filed.

9 (h) If a document is recorded contrary to a court's order  
10 and the recorder determines that the recorder's office is  
11 responsible for the error, then the recorder shall record a new  
12 document clearly referencing the document number of the  
13 erroneous recording, indicating that it is invalid. If  
14 feasible, the recorder may watermark the erroneous recording as  
15 invalid.

16 (i) Except in cases of willful or wanton misconduct, the  
17 recorder, or any agent or employee of the recorder, is immune  
18 from any liability under this Section.

19 (j) The program implemented under this amendatory Act of  
20 the 99th General Assembly shall be considered a pilot program  
21 from January 1, 2016 to January 1, 2019. The recorder may end  
22 the pilot program earlier than January 1, 2019 by sending a  
23 certified letter to the Chief Judge of the county if the  
24 recorder determines that either workforce challenges or  
25 computer hardware or software limitations have prevented the  
26 effective implementation and operation of the program. The

1 recorder shall enforce in good faith any frozen title requests  
2 initiated prior to cancelling the pilot program.

3 (k) This Section is repealed on January 1, 2019.