

AN ACT concerning foreclosure.

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

Section 5. The Illinois Housing Development Act is amended by changing Sections 7.30 and 7.31 as follows:

(20 ILCS 3805/7.30)

Sec. 7.30. Foreclosure Prevention Program.

(a) The Authority shall establish and administer a Foreclosure Prevention Program. The Authority shall use moneys in the Foreclosure Prevention Program Fund, and any other funds appropriated for this purpose, to make grants to (i) approved counseling agencies for approved housing counseling and (ii) approved community-based organizations for approved foreclosure prevention outreach programs. The Authority shall promulgate rules to implement this Program and may adopt emergency rules as soon as practicable to begin implementation of the Program.

(b) Subject to appropriation, the Authority shall make grants from the Foreclosure Prevention Program Fund derived from fees paid as specified in subsection (a) of Section 15-1504.1 of the Code of Civil Procedure as follows:

(1) 25% of the moneys in the Fund shall be used to make grants to approved counseling agencies that provide

services in Illinois outside of the City of Chicago. Grants shall be based upon the number of foreclosures filed in an approved counseling agency's service area, the capacity of the agency to provide foreclosure counseling services, and any other factors that the Authority deems appropriate.

(2) 25% of the moneys in the Fund shall be distributed to the City of Chicago to make grants to approved counseling agencies located within the City of Chicago for approved housing counseling or to support foreclosure prevention counseling programs administered by the City of Chicago.

(3) 25% of the moneys in the Fund shall be used to make grants to approved community-based organizations located outside of the City of Chicago for approved foreclosure prevention outreach programs.

(4) 25% of the moneys in the Fund shall be used to make grants to approved community-based organizations located within the City of Chicago for approved foreclosure prevention outreach programs, with priority given to programs that provide door-to-door outreach.

(b-1) Subject to appropriation, the Authority shall make grants from the Foreclosure Prevention Program Fund derived from fees paid as specified in paragraph (1) of subsection (a-5) of Section 15-1504.1 of the Code of Civil Procedure, as follows:

(1) 30% shall be used to make grants for approved

housing counseling in Cook County outside of the City of Chicago;

(2) 25% shall be used to make grants for approved housing counseling in the City of Chicago;

(3) 30% shall be used to make grants for approved housing counseling in DuPage, Kane, Lake, McHenry, and Will Counties; and

(4) 15% shall be used to make grants for approved housing counseling in Illinois in counties other than Cook, DuPage, Kane, Lake, McHenry, and Will Counties provided that grants to provide approved housing counseling to borrowers residing within these counties shall be based (i) proportionately on the amount of fees paid to the respective clerks of the courts within these counties and (ii) on any other factors that the Authority deems appropriate.

(b-5) As used in this Section:

"Approved community-based organization" means a not-for-profit entity that provides educational and financial information to residents of a community through in-person contact. "Approved community-based organization" does not include a not-for-profit corporation or other entity or person that provides legal representation or advice in a civil proceeding or court-sponsored mediation services, or a governmental agency.

"Approved foreclosure prevention outreach program" means a

program developed by an approved community-based organization that includes in-person contact with residents to provide (i) pre-purchase and post-purchase home ownership counseling, (ii) education about the foreclosure process and the options of a mortgagor in a foreclosure proceeding, and (iii) programs developed by an approved community-based organization in conjunction with a State or federally chartered financial institution.

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

"Approved housing counseling" means in-person counseling provided by a counselor employed by an approved counseling agency to all borrowers, or documented telephone counseling where a hardship would be imposed on one or more borrowers. A hardship shall exist in instances in which the borrower is confined to his or her home due to a medical condition, as verified in writing by a physician, or the borrower resides 50 miles or more from the nearest approved counseling agency. In instances of telephone counseling, the borrower must supply all necessary documents to the counselor at least 72 hours prior to the scheduled telephone counseling session.

(c) (Blank). ~~As used in this Section, "approved counseling agencies" and "approved housing counseling" have the meanings ascribed to those terms in Section 15-1502.5 of the Code of Civil Procedure.~~

(Source: P.A. 96-1419, eff. 10-1-10.)

(20 ILCS 3805/7.31)

Sec. 7.31. Abandoned Residential Property Municipality Relief Program.

(a) The Authority shall establish and administer an Abandoned Residential Property Municipality Relief Program. The Authority shall use moneys in the Abandoned Residential Property Municipality Relief Fund, and any other funds appropriated for this purpose, to make grants to municipalities and to counties to assist with ~~removal costs and securing or enclosing~~ costs incurred by the municipality or county for: cutting of neglected weeds or grass, trimming of trees or bushes, and removal of nuisance bushes or trees; extermination of pests or prevention of the ingress of pests; removal of garbage, debris, and graffiti; boarding up, closing off, or locking windows or entrances or otherwise making the interior of a building inaccessible to the general public; surrounding part or all of an abandoned residential property's underlying parcel with a fence or wall or otherwise making part or all of the abandoned residential property's underlying parcel inaccessible to the general public; demolition of abandoned residential property; and repair or rehabilitation of abandoned residential property pursuant to Section 11-20-15.1 of the Illinois Municipal Code, as approved by the Authority under the Program. For purposes of this subsection (a), "pests"

has the meaning ascribed to that term in subsection (c) of Section 11-20-8 of the Illinois Municipal Code. The Authority shall promulgate rules for the administration, operation, and maintenance of the Program and may adopt emergency rules as soon as practicable to begin implementation of the Program.

(b) Subject to appropriation, the Authority shall make grants from the Abandoned Residential Property Municipality Relief Fund derived from fees paid as specified in paragraph (1) of subsection (a-5) of Section 15-1504.1 of the Code of Civil Procedure as follows:

(1) 30% of the moneys in the Fund shall be used to make grants to municipalities other than the City of Chicago in Cook County and to Cook County; 75% of the moneys in the Fund shall be distributed to municipalities, other than the City of Chicago, to assist with removal costs and securing or enclosing costs incurred by the municipality pursuant to Section 11-20-15.1 of the Illinois Municipal Code.

(2) 25% of the moneys in the Fund shall be used to make grants to the City of Chicago; 25% of the moneys in the Fund shall be distributed to the City of Chicago to assist with removal costs and securing or enclosing costs incurred by the municipality pursuant to Section 11-20-15.1 of the Illinois Municipal Code.

(3) 30% of the moneys in the Fund shall be used to make grants to municipalities in DuPage, Kane, Lake, McHenry and Will Counties, and to those counties; and

(4) 15% of the moneys in the Fund shall be used to make grants to municipalities in Illinois in counties other than Cook, DuPage, Kane, Lake, McHenry, and Will Counties, and to counties other than Cook, DuPage, Kane, Lake, McHenry, and Will Counties. Grants distributed to the municipalities and counties identified in this paragraph (4) shall be based (i) proportionately on the amount of fees paid to the respective clerks of the courts within these counties and (ii) on any other factors that the Authority deems appropriate.

(Source: P.A. 96-1419, eff. 10-1-10.)

Section 10. The Criminal Code of 2012 is amended by changing Section 21-3 as follows:

(720 ILCS 5/21-3) (from Ch. 38, par. 21-3)

Sec. 21-3. Criminal trespass to real property.

(a) A person commits criminal trespass to real property when he or she:

(1) knowingly and without lawful authority enters or remains within or on a building;

(2) enters upon the land of another, after receiving, prior to the entry, notice from the owner or occupant that the entry is forbidden;

(3) remains upon the land of another, after receiving notice from the owner or occupant to depart;

(3.5) presents false documents or falsely represents his or her identity orally to the owner or occupant of a building or land in order to obtain permission from the owner or occupant to enter or remain in the building or on the land; ~~or~~

(3.7) intentionally removes a notice posted on residential real estate as required by subsection (1) of Section 15-1505.8 of Article XV of the Code of Civil Procedure before the date and time set forth in the notice;
or

(4) enters a field used or capable of being used for growing crops, an enclosed area containing livestock, an agricultural building containing livestock, or an orchard in or on a motor vehicle (including an off-road vehicle, motorcycle, moped, or any other powered two-wheel vehicle) after receiving, prior to the entry, notice from the owner or occupant that the entry is forbidden or remains upon or in the area after receiving notice from the owner or occupant to depart.

For purposes of item (1) of this subsection, this Section shall not apply to being in a building which is open to the public while the building is open to the public during its normal hours of operation; nor shall this Section apply to a person who enters a public building under the reasonable belief that the building is still open to the public.

(b) A person has received notice from the owner or occupant

within the meaning of Subsection (a) if he or she has been notified personally, either orally or in writing including a valid court order as defined by subsection (7) of Section 112A-3 of the Code of Criminal Procedure of 1963 granting remedy (2) of subsection (b) of Section 112A-14 of that Code, or if a printed or written notice forbidding such entry has been conspicuously posted or exhibited at the main entrance to the land or the forbidden part thereof.

(b-5) Subject to the provisions of subsection (b-10), as an alternative to the posting of real property as set forth in subsection (b), the owner or lessee of any real property may post the property by placing identifying purple marks on trees or posts around the area to be posted. Each purple mark shall be:

(1) A vertical line of at least 8 inches in length and the bottom of the mark shall be no less than 3 feet nor more than 5 feet high. Such marks shall be placed no more than 100 feet apart and shall be readily visible to any person approaching the property; or

(2) A post capped or otherwise marked on at least its top 2 inches. The bottom of the cap or mark shall be not less than 3 feet but not more than 5 feet 6 inches high. Posts so marked shall be placed not more than 36 feet apart and shall be readily visible to any person approaching the property. Prior to applying a cap or mark which is visible from both sides of a fence shared by different property

owners or lessees, all such owners or lessees shall concur in the decision to post their own property.

Nothing in this subsection (b-5) shall be construed to authorize the owner or lessee of any real property to place any purple marks on any tree or post or to install any post or fence if doing so would violate any applicable law, rule, ordinance, order, covenant, bylaw, declaration, regulation, restriction, contract, or instrument.

(b-10) Any owner or lessee who marks his or her real property using the method described in subsection (b-5) must also provide notice as described in subsection (b) of this Section. The public of this State shall be informed of the provisions of subsection (b-5) of this Section by the Illinois Department of Agriculture and the Illinois Department of Natural Resources. These Departments shall conduct an information campaign for the general public concerning the interpretation and implementation of subsection (b-5). The information shall inform the public about the marking requirements and the applicability of subsection (b-5) including information regarding the size requirements of the markings as well as the manner in which the markings shall be displayed. The Departments shall also include information regarding the requirement that, until the date this subsection becomes inoperative, any owner or lessee who chooses to mark his or her property using paint, must also comply with one of the notice requirements listed in subsection (b). The

Departments may prepare a brochure or may disseminate the information through agency websites. Non-governmental organizations including, but not limited to, the Illinois Forestry Association, Illinois Tree Farm and the Walnut Council may help to disseminate the information regarding the requirements and applicability of subsection (b-5) based on materials provided by the Departments. This subsection (b-10) is inoperative on and after January 1, 2013.

(b-15) Subsections (b-5) and (b-10) do not apply to real property located in a municipality of over 2,000,000 inhabitants.

(c) This Section does not apply to any person, whether a migrant worker or otherwise, living on the land with permission of the owner or of his or her agent having apparent authority to hire workers on this land and assign them living quarters or a place of accommodations for living thereon, nor to anyone living on the land at the request of, or by occupancy, leasing or other agreement or arrangement with the owner or his or her agent, nor to anyone invited by the migrant worker or other person so living on the land to visit him or her at the place he is so living upon the land.

(d) A person shall be exempt from prosecution under this Section if he or she beautifies unoccupied and abandoned residential and industrial properties located within any municipality. For the purpose of this subsection, "unoccupied and abandoned residential and industrial property" means any

real estate (1) in which the taxes have not been paid for a period of at least 2 years; and (2) which has been left unoccupied and abandoned for a period of at least one year; and "beautifies" means to landscape, clean up litter, or to repair dilapidated conditions on or to board up windows and doors.

(e) No person shall be liable in any civil action for money damages to the owner of unoccupied and abandoned residential and industrial property which that person beautifies pursuant to subsection (d) of this Section.

(e-5) Mortgagee or agent of the mortgagee exceptions.

(1) A mortgagee or agent of the mortgagee shall be exempt from prosecution for criminal trespass for entering, securing, or maintaining an abandoned residential property.

(2) No mortgagee or agent of the mortgagee shall be liable to the mortgagor or other owner of an abandoned residential property in any civil action for negligence or civil trespass in connection with entering, securing, or maintaining the abandoned residential property.

(3) For the purpose of this subsection (e-5) only, "abandoned residential property" means mortgaged real estate that the mortgagee or agent of the mortgagee determines in good faith meets the definition of abandoned residential property set forth in Section 15-1200.5 of Article XV of the Code of Civil Procedure.

(f) This Section does not prohibit a person from entering a

building or upon the land of another for emergency purposes. For purposes of this subsection (f), "emergency" means a condition or circumstance in which an individual is or is reasonably believed by the person to be in imminent danger of serious bodily harm or in which property is or is reasonably believed to be in imminent danger of damage or destruction.

(g) Paragraph (3.5) of subsection (a) does not apply to a peace officer or other official of a unit of government who enters a building or land in the performance of his or her official duties.

(h) Sentence. A violation of subdivision (a)(1), (a)(2), (a)(3), or (a)(3.5) is a Class B misdemeanor. A violation of subdivision (a)(4) is a Class A misdemeanor.

(i) Civil liability. A person may be liable in any civil action for money damages to the owner of the land he or she entered upon with a motor vehicle as prohibited under paragraph (4) of subsection (a) of this Section. A person may also be liable to the owner for court costs and reasonable attorney's fees. The measure of damages shall be: (i) the actual damages, but not less than \$250, if the vehicle is operated in a nature preserve or registered area as defined in Sections 3.11 and 3.14 of the Illinois Natural Areas Preservation Act; (ii) twice the actual damages if the owner has previously notified the person to cease trespassing; or (iii) in any other case, the actual damages, but not less than \$50. If the person operating the vehicle is under the age of 16, the owner of the vehicle

and the parent or legal guardian of the minor are jointly and severally liable. For the purposes of this subsection (i):

"Land" includes, but is not limited to, land used for crop land, fallow land, orchard, pasture, feed lot, timber land, prairie land, mine spoil nature preserves and registered areas. "Land" does not include driveways or private roadways upon which the owner allows the public to drive.

"Owner" means the person who has the right to possession of the land, including the owner, operator or tenant.

"Vehicle" has the same meaning as provided under Section 1-217 of the Illinois Vehicle Code.

(j) This Section does not apply to the following persons while serving process:

- (1) a person authorized to serve process under Section 2-202 of the Code of Civil Procedure; or
- (2) a special process server appointed by the circuit court.

(Source: P.A. 97-184, eff. 7-22-11; 97-477, eff. 8-22-11; 97-813, eff. 7-13-12; 97-1108, eff. 1-1-13.)

Section 15. The Code of Civil Procedure is amended by changing Sections 15-1219, 15-1503, 15-1504, 15-1504.1, and 15-1508 and by adding Sections 15-1108, 15-1200.5, 15-1200.7, and 15-1505.8 as follows:

(735 ILCS 5/15-1108 new)

Sec. 15-1108. Declaration of policy relating to abandoned residential property. The following findings directly relate to the changes made by this amendatory Act of the 97th General Assembly. The General Assembly finds that residential mortgage foreclosures and the abandoned properties that sometimes follow create enormous challenges for Illinois residents, local governments, and the courts, reducing neighboring property values, reducing the tax base, increasing crime, placing neighbors at greater risk of foreclosure, imposing additional costs on local governments, and increasing the burden on the courts of this State; conversely, maintaining and securing abandoned properties stabilizes property values and the tax base, decreases crime, reduces the risk of foreclosure for nearby properties, thus reducing costs for local governments and making a substantial contribution to the operation and maintenance of the courts of this State by reducing the volume of matters which burden the court system in this State. The General Assembly further finds that the average foreclosure case for residential property takes close to 2 years in Illinois; when a property is abandoned, the lengthy foreclosure process harms lien-holders, neighbors, and local governments, and imposes significant and unnecessary burdens on the courts of this State; and an expedited foreclosure process for abandoned residential property can also help the

courts of this State by decreasing the volume of foreclosure cases and allowing these cases to proceed more efficiently through the court system. The General Assembly further finds that housing counseling has proven to be an effective way to help many homeowners find alternatives to foreclosure; and that housing counseling therefore also reduces the volume of matters which burden the court system in this State and allows the courts to more efficiently handle the burden of foreclosure cases.

(735 ILCS 5/15-1200.5 new)

Sec. 15-1200.5. Abandoned residential property. "Abandoned residential property" means residential real estate that:

(a) either:

(1) is not occupied by any mortgagor or lawful occupant as a principal residence; or

(2) contains an incomplete structure if the real estate is zoned for residential development, where the structure is empty or otherwise uninhabited and is in need of maintenance, repair, or securing; and

(b) with respect to which either:

(1) two or more of the following conditions are shown to exist:

(A) construction was initiated on the property and was discontinued prior to completion, leaving a building unsuitable for occupancy, and no construction

has taken place for at least 6 months;

(B) multiple windows on the property are boarded up or closed off or are smashed through, broken off, or unhinged, or multiple window panes are broken and unrepaired;

(C) doors on the property are smashed through, broken off, unhinged, or continuously unlocked;

(D) the property has been stripped of copper or other materials, or interior fixtures to the property have been removed;

(E) gas, electrical, or water services to the entire property have been terminated;

(F) there exist one or more written statements of the mortgagor or the mortgagor's personal representative or assigns, including documents of conveyance, which indicate a clear intent to abandon the property;

(G) law enforcement officials have received at least one report of trespassing or vandalism or other illegal acts being committed at the property in the last 6 months;

(H) the property has been declared unfit for occupancy and ordered to remain vacant and unoccupied under an order issued by a municipal or county authority or a court of competent jurisdiction;

(I) the local police, fire, or code enforcement

authority has requested the owner or other interested or authorized party to secure or winterize the property due to the local authority declaring the property to be an imminent danger to the health, safety, and welfare of the public;

(J) the property is open and unprotected and in reasonable danger of significant damage due to exposure to the elements, vandalism, or freezing; or

(K) there exists other evidence indicating a clear intent to abandon the property; or

(2) the real estate is zoned for residential development and is a vacant lot that is in need of maintenance, repair, or securing.

(735 ILCS 5/15-1200.7 new)

Sec. 15-1200.7. Abandoned residential property; exceptions. A property shall not be considered abandoned residential property if: (i) there is an unoccupied building which is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion, and the building is in substantial compliance with all applicable ordinances, codes, regulations, and laws; (ii) there is a building occupied on a seasonal basis, but otherwise secure; (iii) there is a secure building on which there are bona fide rental or sale signs; (iv) there is a building that is secure, but is the subject of a probate action, action to

quiet title, or other ownership dispute; or (v) there is a building that is otherwise secure and in substantial compliance with all applicable ordinances, codes, regulations, and laws.

(735 ILCS 5/15-1219) (from Ch. 110, par. 15-1219)

Sec. 15-1219. Residential Real Estate. "Residential real estate" means any real estate, except a single tract of agricultural real estate consisting of more than 40 acres, which is improved with a single family residence or residential condominium units or a multiple dwelling structure containing single family dwelling units for six or fewer families living independently of each other, which residence, or at least one of which condominium or dwelling units, is occupied as a principal residence either (i) if a mortgagor is an individual, by that mortgagor, that mortgagor's spouse or that mortgagor's descendants, or (ii) if a mortgagor is a trustee of a trust or an executor or administrator of an estate, by a beneficiary of that trust or estate or by such beneficiary's spouse or descendants or (iii) if a mortgagor is a corporation, by persons owning collectively at least 50 percent of the shares of voting stock of such corporation or by a spouse or descendants of such persons. The use of a portion of residential real estate for non-residential purposes shall not affect the characterization of such real estate as residential real estate. For purposes of the definition of the term "abandoned residential property" in Section 15-1200.5 of this

Article, "abandoned residential property" shall not include the requirement that the real estate be occupied, or if zoned for residential development, improved with a dwelling structure.

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

(735 ILCS 5/15-1503) (from Ch. 110, par. 15-1503)

Sec. 15-1503. Notice of Foreclosure.

(a) A notice of foreclosure, whether the foreclosure is initiated by complaint or counterclaim, made in accordance with this Section and recorded in the county in which the mortgaged real estate is located shall be constructive notice of the pendency of the foreclosure to every person claiming an interest in or lien on the mortgaged real estate, whose interest or lien has not been recorded prior to the recording of such notice of foreclosure. Such notice of foreclosure must be executed by any party or any party's attorney and shall include (i) the names of all plaintiffs and the case number, (ii) the court in which the action was brought, (iii) the names of title holders of record, (iv) a legal description of the real estate sufficient to identify it with reasonable certainty, (v) a common address or description of the location of the real estate and (vi) identification of the mortgage sought to be foreclosed. An incorrect common address or description of the location, or an immaterial error in the identification of a plaintiff or title holder of record, shall

not invalidate the lis pendens effect of the notice under this Section. A notice which complies with this Section shall be deemed to comply with Section 2-1901 of the Code of Civil Procedure and shall have the same effect as a notice filed pursuant to that Section; however, a notice which complies with Section 2-1901 shall not be constructive notice unless it also complies with the requirements of this Section.

(b) With respect to residential real estate, a copy of the notice of foreclosure described in subsection (a) of Section 15-1503 shall be sent by first class mail, postage prepaid, to the municipality within the boundary of which the mortgaged real estate is located, or to the county within the boundary of which the mortgaged real estate is located if the mortgaged real estate is located in an unincorporated territory. A municipality or county must clearly publish on its website a single address to which such notice shall be sent. If a municipality or county does not maintain a website, then the municipality or county must publicly post in its main office a single address to which such notice shall be sent. In the event that a municipality or county has not complied with the publication requirement in this subsection (b), then the copy of the ~~such~~ notice to the municipality or county shall be sent by first class mail, postage prepaid, to the chairperson of the county board or county clerk in the case of a county, to the mayor or city clerk in the case of a city, to the president of the board of trustees or village clerk in the case of a

village, or to the president or town clerk in the case of a town provided pursuant to Section 2-211 of the Code of Civil Procedure. Additionally, if the real estate is located in a city with a population of more than 2,000,000, regardless of whether that city has complied with the publication requirement in this subsection (b), the party must, within 10 days after filing the complaint or counterclaim: (i) send by first class mail, postage prepaid, a copy of the notice of foreclosure to the alderman for the ward in which the real estate is located and (ii) file an affidavit with the court attesting to the fact that the notice was sent to the alderman for the ward in which the real estate is located. The failure to send a copy of the notice to the alderman or to file an affidavit as required results in the dismissal without prejudice of the complaint or counterclaim on a motion of a party or the court. If, after the complaint or counterclaim has been dismissed without prejudice, the party refiles the complaint or counterclaim, then the party must again comply with the requirements that the party send by first class mail, postage prepaid, the notice to the alderman for the ward in which the real estate is located and file an affidavit attesting to the fact that the notice was sent.

(Source: P.A. 96-856, eff. 3-1-10.)

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

Sec. 15-1504. Pleadings and service.

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

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

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

(3) Information concerning mortgage:

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

(B) Date of mortgage:

(C) Name of mortgagor:

(D) Name of mortgagee:

(E) Date and place of recording:

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

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

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

(I) Both the legal description of the mortgaged real estate and the common address or other information

sufficient to identify it with reasonable certainty:

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

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

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

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

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

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

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

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

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

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

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

REQUEST FOR RELIEF

Plaintiff requests:

- (i) A judgment of foreclosure and sale.
- (ii) An order granting a shortened redemption period, if sought.
- (iii) A personal judgment for a deficiency, if sought.
- (iv) An order granting possession, if sought.
- (v) An order placing the mortgagee in possession or

appointing a receiver, if sought.

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

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

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

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

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

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

obligations;

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

(5) that defaults occurred as indicated;

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

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

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

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

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

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

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

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

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

(1) plaintiff has been compelled to employ and retain

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Source: P.A. 91-357, eff. 7-29-99; revised 8-3-12.)

(735 ILCS 5/15-1504.1)

Sec. 15-1504.1. Filing fee for Foreclosure Prevention Program Fund and Abandoned Residential Property Municipality Relief Fund.

(a) Fee paid by all plaintiffs with respect to residential real estate. With respect to residential real estate, at the time of the filing of a foreclosure complaint, the plaintiff shall pay to the clerk of the court in which the foreclosure complaint is filed a fee of \$50 for deposit into the Foreclosure Prevention Program Fund, a special fund created in the State treasury. The clerk shall remit the fee collected pursuant to this subsection (a) to the State Treasurer ~~as provided in this Section~~ to be expended for the purposes set forth in Section 7.30 of the Illinois Housing Development Act. All fees paid by plaintiffs to the clerk of the court as provided in this subsection (a) ~~Section~~ shall be disbursed within 60 days after receipt by the clerk of the court as follows: (i) 98% to the State Treasurer for deposit into the Foreclosure Prevention Program Fund, and (ii) 2% to the clerk of the court for administrative expenses related to implementation of this subsection (a) ~~Section~~. Notwithstanding any other law to the contrary, the Foreclosure Prevention Program Fund is not subject to sweeps, administrative charge-backs, or any other fiscal maneuver that would in any way transfer any amounts from the Foreclosure Prevention

Program Fund into any other fund of the State.

(a-5) Additional fee paid by plaintiffs with respect to residential real estate.

(1) Until January 1, 2018, with respect to residential real estate, at the time of the filing of a foreclosure complaint and in addition to the fee set forth in subsection (a) of this Section, the plaintiff shall pay to the clerk of the court in which the foreclosure complaint is filed a fee for the Foreclosure Prevention Program Fund and the Abandoned Residential Property Municipality Relief Fund as follows:

(A) The fee shall be \$500 if:

(i) the plaintiff, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the first tier foreclosure filing category and is filing the complaint on its own behalf as the holder of the indebtedness; or

(ii) the plaintiff, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the first tier foreclosure filing category and is filing the complaint on behalf of a mortgagee that, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the first tier foreclosure filing

category; or

(iii) the plaintiff is not a depository institution and is filing the complaint on behalf of a mortgagee that, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the first tier foreclosure filing category.

(B) The fee shall be \$250 if:

(i) the plaintiff, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the second tier foreclosure filing category and is filing the complaint on its own behalf as the holder of the indebtedness; or

(ii) the plaintiff, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the first or second tier foreclosure filing category and is filing the complaint on behalf of a mortgagee that, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the second tier foreclosure filing category; or

(iii) the plaintiff, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the

second tier foreclosure filing category and is filing the complaint on behalf of a mortgagee that, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the first tier foreclosure filing category; or

(iv) the plaintiff is not a depository institution and is filing the complaint on behalf of a mortgagee that, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the second tier foreclosure filing category.

(C) The fee shall be \$50 if:

(i) the plaintiff, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the third tier foreclosure filing category and is filing the complaint on its own behalf as the holder of the indebtedness; or

(ii) the plaintiff, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the first, second, or third tier foreclosure filing category and is filing the complaint on behalf of a mortgagee that, together with its affiliates, has filed a sufficient number of foreclosure

complaints so as to be included in the third tier foreclosure filing category; or

(iii) the plaintiff, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the third tier foreclosure filing category and is filing the complaint on behalf of a mortgagee that, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the first tier foreclosure filing category; or

(iv) the plaintiff, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the third tier foreclosure filing category and is filing the complaint on behalf of a mortgagee that, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the second tier foreclosure filing category; or

(v) the plaintiff is not a depository institution and is filing the complaint on behalf of a mortgagee that, together with its affiliates, has filed a sufficient number of foreclosure complaints so as to be included in the third tier foreclosure filing category.

(2) The clerk shall remit the fee collected pursuant to paragraph (1) of this subsection (a-5) to the State Treasurer to be expended for the purposes set forth in Sections 7.30 and 7.31 of the Illinois Housing Development Act and for administrative expenses. All fees paid by plaintiffs to the clerk of the court as provided in paragraph (1) shall be disbursed within 60 days after receipt by the clerk of the court as follows:

(A) 28% to the State Treasurer for deposit into the Foreclosure Prevention Program Fund;

(B) 70% to the State Treasurer for deposit into the Abandoned Residential Property Municipality Relief Fund; and

(C) 2% to the clerk of the court for administrative expenses related to implementation of this subsection (a-5).

(3) To determine whether a plaintiff is subject to the fee as set forth in paragraph (1) of this subsection (a-5), a person, including the clerk of the court, may rely on:

(A) a verified statement filed by the plaintiff at the time of filing the foreclosure complaint that states whether the plaintiff has an obligation to pay an additional fee as set forth in subsection (a-5) and if so whether the fee is due under subparagraph (A), (B), or (C) of paragraph (1) of subsection (a-5); or

(B) such other processes established by the clerk

of the court for plaintiffs to certify their eligibility for the exemption from the additional fee set forth in subsection (a-5).

(4) This subsection (a-5) is inoperative on and after January 1, 2018.

(b) Not later than March 1 of each year, the clerk of the court shall submit to the Illinois Housing Development Authority a report of the funds collected and remitted pursuant to this Section during the preceding year.

(c) As used in this Section:

"Affiliate" means any company that controls, is controlled by, or is under common control with another company.

"Approved counseling agency" and "approved housing counseling" have the meanings ascribed to those terms in Section 7.30 of the Illinois Housing Development Act.

"Depository institution" means a bank, savings bank, savings and loan association, or credit union chartered, organized, or holding a certificate of authority to do business under the laws of this State, another state, or the United States.

"First tier foreclosure filing category" is a classification that only applies to a plaintiff that has filed 175 or more foreclosure complaints on residential real estate located in Illinois during the calendar year immediately preceding the date of the filing of the subject foreclosure complaint.

"Second tier foreclosure filing category" is a classification that only applies to a plaintiff that has filed at least 50, but no more than 174, foreclosure complaints on residential real estate located in Illinois during the calendar year immediately preceding the date of the filing of the subject foreclosure complaint.

"Third tier foreclosure filing category" is a classification that only applies to a plaintiff that has filed no more than 49 foreclosure complaints on residential real estate located in Illinois during the calendar year immediately preceding the date of the filing of the subject foreclosure complaint.

(d) In no instance shall the fee set forth in subsection (a-5) be assessed for any foreclosure complaint filed before the effective date of this amendatory Act of the 97th General Assembly.

(e) Notwithstanding any other law to the contrary, the Abandoned Residential Property Municipality Relief Fund is not subject to sweeps, administrative charge-backs, or any other fiscal maneuver that would in any way transfer any amounts from the Abandoned Residential Property Municipality Relief Fund into any other fund of the State.

(Source: P.A. 96-1419, eff. 10-1-10; 97-333, eff. 8-12-11.)

(735 ILCS 5/15-1505.8 new)

Sec. 15-1505.8. Expedited judgment and sale procedure for

abandoned residential property.

(a) Upon motion and notice, the mortgagee may elect to utilize the expedited judgment and sale procedure for abandoned residential property stated in this Section to obtain a judgment of foreclosure pursuant to Section 15-1506. The motion to expedite the judgment and sale may be combined with or made part of the motion requesting a judgment of foreclosure. The notice of the motion to expedite the judgment and sale shall be sent by first-class mail to the last known address of the mortgagor, and the notice required by paragraph (1) of subsection (1) of this Section shall be posted at the property address.

(b) The motion requesting an expedited judgment of foreclosure and sale may be filed by the mortgagee at the time the foreclosure complaint is filed or any time thereafter, and shall set forth the facts demonstrating that the mortgaged real estate is abandoned residential real estate under Section 15-1200.5 and shall be supported by affidavit.

(c) If a motion for an expedited judgment and sale is filed at the time the foreclosure complaint is filed or before the period to answer the foreclosure complaint has expired, the motion shall be heard by the court no earlier than before the period to answer the foreclosure complaint has expired and no later than 15 days after the period to answer the foreclosure complaint has expired.

(d) If a motion for an expedited judgment and sale is filed

after the period to answer the foreclosure complaint has expired, the motion shall be heard no later than 15 days after the motion is filed.

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

(f) Subject to subsection (g), at the hearing on the motion requesting an expedited judgment and sale, if the court finds that the mortgaged real estate is abandoned residential property, the court shall grant the motion and immediately proceed to a trial of the foreclosure. A judgment of foreclosure under this Section shall include the matters identified in Section 15-1506.

(g) The court may not grant the motion requesting an expedited judgment and sale if the mortgagor, an unknown owner, or a lawful occupant appears in the action in any manner before or at the hearing and objects to a finding of abandonment.

(h) The court shall vacate an order issued pursuant to subsection (f) of this Section if the mortgagor or a lawful occupant appears in the action at any time prior to the court issuing an order confirming the sale pursuant to subsection (b-3) of Section 15-1508 and presents evidence establishing to the satisfaction of the court that the mortgagor or lawful occupant has not abandoned the mortgaged real estate.

(i) The reinstatement period and redemption period for the abandoned residential property shall end in accordance with

paragraph (4) of subsection (b) of Section 15-1603, and the abandoned residential property shall be sold at the earliest practicable time at a sale as provided in this Article.

(j) The mortgagee or its agent may enter, secure, and maintain abandoned residential property subject to subsection (e-5) of Section 21-3 of the Criminal Code of 2012.

(k) Personal property.

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

(2) Notwithstanding paragraph (1) of this subsection (k), in the event a lawful occupant is in possession of the mortgaged real estate who has not been made a party to the foreclosure and had his or her interests terminated therein, any personal property of the lawful occupant shall not be deemed to have been abandoned, nor shall the rights

of the lawful occupant to any personal property be affected.

(1) Notices to be posted at property address.

(1) The notice set out in this paragraph (1) of this subsection (1) shall be conspicuously posted at the property address at least 14 days before the hearing on the motion requesting an expedited judgment and sale and shall be in boldface, in at least 12 point type, and in substantially the following form:

"NOTICE TO ANY TENANT OR OTHER LAWFUL
OCCUPANT OF THIS PROPERTY

A lawsuit has been filed to foreclose on this property, and the party asking to foreclose on this property has asked a judge to find that THIS PROPERTY IS ABANDONED.

The judge will be holding a hearing to decide whether this property is ABANDONED.

IF YOU LAWFULLY OCCUPY ANY PART OF THIS PROPERTY, YOU MAY CHOOSE TO GO TO THIS HEARING and explain to the judge how you are a lawful occupant of this property.

If the judge is satisfied that you are a LAWFUL OCCUPANT of this property, the court will find that this property is NOT

ABANDONED.

This hearing will be held in the courthouse at the following address, date, and time:

Court name:

Court address:

Court room number where hearing will be held:

(There should be a person in this room called a CLERK who can help you. Make sure you know THIS PROPERTY'S ADDRESS.)

Date of hearing:

Time of hearing:

MORE INFORMATION

Name of lawsuit:

Number of lawsuit:

Address of this property:

IMPORTANT

This is NOT a notice to vacate the premises. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights that you may have.

WARNING

INTENTIONAL REMOVAL OF THIS NOTICE BEFORE THE DATE AND TIME STATED IN THIS NOTICE IS A CLASS B MISDEMEANOR, PUNISHABLE BY UP TO 180 DAYS IN JAIL AND A FINE OF UP TO \$1500, UNDER ILLINOIS LAW. 720 ILCS 5/21-3(a).

NO TRESPASSING

KNOWINGLY ENTERING THIS PROPERTY WITHOUT LAWFUL AUTHORITY IS A CLASS B MISDEMEANOR, PUNISHABLE BY UP TO 180 DAYS IN JAIL AND A FINE OF UP TO \$1500, UNDER ILLINOIS LAW. 720 ILCS 5/21-3(a)."

(2) The notice set out in this paragraph (2) of this subsection (1) shall be conspicuously posted at the property address at least 14 days before the hearing to confirm the sale of the abandoned residential property and shall be in boldface, in at least 12 point type, and in substantially the following form:

"NOTICE TO ANY TENANT OR OTHER LAWFUL

OCCUPANT OF THIS PROPERTY

A lawsuit has been filed to foreclose on this property, and the judge has found that THIS PROPERTY IS ABANDONED. As a result, THIS PROPERTY HAS BEEN OR WILL BE SOLD.

HOWEVER, there still must be a hearing for the judge to approve

the sale. The judge will NOT APPROVE this sale if the judge finds that any person lawfully occupies any part of this property.

IF YOU LAWFULLY OCCUPY ANY PART OF THIS PROPERTY, YOU MAY CHOOSE TO GO TO THIS HEARING and explain to the judge how you are a lawful occupant of this property. You also may appear BEFORE this hearing and explain to the judge how you are a lawful occupant of this property.

If the judge is satisfied that you are a LAWFUL OCCUPANT of this property, the court will find that this property is NOT ABANDONED, and there will be no sale of the property at this time.

This hearing will be held in the courthouse at the following address, date, and time:

Court name:

Court address:

Court room number where hearing will be held:

(There should be a person in this room called a CLERK who can help you. Make sure you know THIS PROPERTY'S ADDRESS.)

Date of hearing:

Time of hearing:

MORE INFORMATION

Name of lawsuit:

Number of lawsuit:

Address of this property:

IMPORTANT

This is NOT a notice to vacate the premises. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights that you may have.

WARNING

INTENTIONAL REMOVAL OF THIS NOTICE BEFORE THE DATE AND TIME STATED IN THIS NOTICE IS A CLASS B MISDEMEANOR, PUNISHABLE BY UP TO 180 DAYS IN JAIL AND A FINE OF UP TO \$1500, UNDER ILLINOIS LAW. 720 ILCS 5/21-3(a).

NO TRESPASSING

KNOWINGLY ENTERING THIS PROPERTY WITHOUT LAWFUL AUTHORITY IS A CLASS B MISDEMEANOR, PUNISHABLE BY UP TO 180 DAYS IN JAIL AND A FINE OF UP TO \$1500, UNDER ILLINOIS LAW. 720 ILCS 5/21-3(a)."

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

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

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

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

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

(3) determine the priority of the judgments of parties

who deferred proving the priority pursuant to subsection (h) of Section 15-1506, but the court shall not defer confirming the sale pending the determination of such priority.

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

(b-5) Notice with respect to residential real estate. With respect to residential real estate, the notice required under subsection (b) of this Section shall be sent to the mortgagor even if the mortgagor has previously been held in default. In the event the mortgagor has filed an appearance, the notice shall be sent to the address indicated on the appearance. In

all other cases, the notice shall be sent to the mortgagor at the common address of the foreclosed property. The notice shall be sent by first class mail. Unless the right to possession has been previously terminated by the court, the notice shall include the following language in 12-point boldface capitalized type:

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

(b-10) Notice of confirmation order sent to municipality or county. A copy of the confirmation order required under subsection (b) shall be sent to the municipality in which the foreclosed property is located, or to the county within the boundary of which the foreclosed property is located if the foreclosed property is located in an unincorporated territory. A municipality or county must clearly publish on its website a single address to which a copy of the order ~~such notice~~ shall be sent. If a municipality or county does not maintain a website, then the municipality or county must publicly post in its main office a single address to which a copy of the order ~~such notice~~ shall be sent. In the event that a municipality or county has not complied with the publication requirement in this subsection (b-10), then a copy of the order ~~such notice to the municipality or county~~ shall be sent by first class mail, postage prepaid, to the chairperson of the county board or

county clerk in the case of a county, to the mayor or city clerk in the case of a city, to the president of the board of trustees or village clerk in the case of a village, or to the president or town clerk in the case of a town provided pursuant to Section 2-211 of the Code of Civil Procedure.

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

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

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

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

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

violation of the program's requirements for proceeding to a judicial sale. The provisions of this subsection (d-5), except for this sentence, shall become inoperative on January 1, 2013 for all actions filed under this Article after December 31, 2012, in which the mortgagor did not apply for assistance under the Making Home Affordable Program on or before December 31, 2012.

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

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

manner of any other judgment for the payment of money.

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

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

Notwithstanding the preceding paragraph, the failure to personally name, include, or seek an award of possession of the mortgaged real estate against a person in the confirmation order shall not abrogate any right that the purchaser may have to possession of the mortgaged real estate and to maintain a proceeding against that person for possession under Article 9 of this Code or subsection (h) of Section 15-1701; and possession against a person who (1) has not been personally named as a party to the foreclosure and (2) has not been provided an opportunity to be heard in the foreclosure proceeding may be sought only by maintaining a proceeding under

Article 9 of this Code or subsection (h) of Section 15-1701.

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

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

Section 20. The Conveyances Act is amended by changing Section 11 as follows:

(765 ILCS 5/11) (from Ch. 30, par. 10)

Sec. 11. (a) Mortgages of lands may be substantially in the following form:

The Mortgagor (here insert name or names), mortgages and warrants to (here insert name or names of mortgagee or mortgagees), to secure the payment of (here recite the nature

and amount of indebtedness, showing when due and the rate of interest, and whether secured by note or otherwise), the following described real estate (here insert description thereof), situated in the County of, in the State of Illinois.

Dated (insert date).

(signature of mortgagor or mortgagors)

The names of the parties shall be typed or printed below the signatures. Such form shall have a blank space of 3 1/2 inches by 3 1/2 inches for use by the recorder. However, the failure to comply with the requirement that the names of the parties be typed or printed below the signatures and that the form have a blank space of 3 1/2 inches by 3 1/2 inches for use by the recorder shall not affect the validity and effect of such form.

Such mortgage, when otherwise properly executed, shall be deemed and held a good and sufficient mortgage in fee to secure the payment of the moneys therein specified; and if the same contains the words "and warrants," the same shall be construed the same as if full covenants of ownership, good right to convey against incumbrances of quiet enjoyment and general warranty, as expressed in Section 9 of this Act were fully written therein; but if the words "and warrants" are omitted, no such covenants shall be implied. When the grantor or grantors in such deed or mortgage for the conveyance of any

real estate desires to release or waive his, her or their homestead rights therein, they or either of them may release or waive the same by inserting in the form of deed or mortgage (as the case may be), provided in Sections 9, 10 and 11, after the words "State of Illinois," in substance the following words, "hereby releasing and waiving all rights under and by virtue of the homestead exemption laws of this State."

Mortgages securing "reverse mortgage" loans shall be subject to this Section except where requirements concerning the definiteness of the term and amount of indebtedness provisions of a mortgage would be inconsistent with the Acts authorizing "reverse mortgage" loans, or rules and regulations promulgated under those Acts.

Mortgages securing "revolving credit" loans shall be subject to this Section.

(b) The provisions of subsection (a) regarding the form of a mortgage are, and have always been, permissive and not mandatory. Accordingly, the failure of an otherwise lawfully executed and recorded mortgage to be in the form described in subsection (a) in one or more respects, including the failure to state the interest rate or the maturity date, or both, shall not affect the validity or priority of the mortgage, nor shall its recordation be ineffective for notice purposes regardless of when the mortgage was recorded.

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

Section 99. Effective date. This Act takes effect June 1,

Public Act 097-1164

SB0016 Enrolled

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