



Rep. William D. Burns

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LRB096 08541 AJ0 25027 a

1 AMENDMENT TO HOUSE BILL 3863

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3863 on page 1, line  
3 5, by deleting "15-1504.5, 15-1508,"; and

4 on page 1, line 6, by changing "15-1504.6, and 15-1508.5" to  
5 "15-1202.5 and 15-1508.5"; and

6 by replacing lines 8 through 21 of page 1, all of pages 2  
7 through 5, and lines 1 through 11 of page 6 with the following:

8 "(735 ILCS 5/15-1202.5 new)

9 Sec. 15-1202.5. Dwelling Unit. "Dwelling unit" means a room  
10 or suite of rooms providing complete, independent living  
11 facilities for at least one person, including permanent  
12 provisions for sanitation, cooking, eating, sleeping, and  
13 other activities routinely associated with daily life."; and

14 on page 6, by replacing lines 15 through 20 with the following:

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

4           (1) following the judicial sale under Section 15-1507,  
5 but not later than 14 days after the confirmation of sale  
6 under Section 15-1508, make a good faith effort to  
7 ascertain the identities and addresses of all occupants of  
8 dwelling units of the mortgaged real estate; and

9           (2) following the order confirming sale under Section  
10 15-1508, but not later than 21 days after the order  
11 confirming sale, notify all known occupants of dwelling  
12 units of the mortgaged real estate that he or she has  
13 acquired the mortgaged real estate, including any  
14 occupants identified as a result of the good faith effort  
15 required under this subsection. The holder or purchaser is  
16 not required to provide the notice required by this Section  
17 to a mortgagor or party against whom an order of possession  
18 has been entered authorizing the removal of the mortgagor  
19 or party pursuant to Section 15-1508(g)."; and

20 on page 6, line 21, by inserting "(2)" after "(a)"; and

21 on page 6, by replacing lines 23 through 25 with the following:

22       "(1) identify the occupant being served by name;

23       (2) inform the occupant that the mortgaged real estate  
24 is the subject of a foreclosure action and that control of

1       the mortgaged real estate has changed;"; and

2       on page 7, line 1, by replacing "(2)" with "(3)"; and

3       on page 7, lines 2 and 3, by deleting "to whom the occupants  
4       should pay rent and"; and

5       on page 7, by replacing lines 6 through 19 with the following:

6               "(4) include the following language, or language that  
7       is substantially similar: "This is NOT a notice to vacate  
8       the premises. You will receive additional notice if your  
9       lease or rental agreement is being terminated. You may wish  
10       to contact a lawyer or your local legal aid or housing  
11       counseling agency to discuss any rights that you may  
12       have."; and"; and

13       on page 7, line 23, by inserting "(2)" after "(a)"; and

14       on page 7, line 24, by inserting "known" before "occupant"; and

15       on page 7, line 25, by inserting "who is" after "older,"; and

16       on page 8, by replacing lines 1 through 13 with the following:

17       "the notice to the known occupant by first-class mail,  
18       addressed to the occupant by name.

19       (d) In the event that the holder or purchaser ascertains

1 the identity and address of an occupant of a dwelling unit of  
2 the mortgaged real estate more than 14 days after the  
3 confirmation of sale under Section 15-1508, the holder or  
4 purchaser shall provide the notice required by subsection  
5 (a)(2) within 7 days of ascertaining the identity and address  
6 of the occupant.

7 (e)(i) A holder or purchaser who fails to comply with  
8 subsections (a), (b), (c), and (d) may not collect any rent due  
9 and owing from a known occupant, or terminate a known  
10 occupant's tenancy for non-payment of such rent, until the  
11 holder or purchaser has served the notice described in  
12 subsection (a)(2) of this Section 15-1508.5 upon the occupant.  
13 The provisions of this subsection shall be the exclusive remedy  
14 for the failure of a holder or purchaser to provide notice  
15 under this Section.

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

23 (f) Following the confirmation of sale, a holder or  
24 purchaser may request, in writing, a copy of the lease or  
25 rental agreement of an occupant who has been served the notice  
26 prescribed in subsection (a)(2) of this Section, or the notice

1 prescribed in subsection (a-5)(2) of Section 15-1703. An  
2 occupant who has received a request shall provide the holder or  
3 purchaser with a copy of any lease or rental agreement, or make  
4 such lease or rental agreement available for duplication to the  
5 holder or purchaser, within 14 days of receiving the request.  
6 In the event that there is no written lease or rental  
7 agreement, or if the occupant cannot produce such agreement,  
8 the occupant may provide a statement, verbally or in writing,  
9 about the terms of his or her possession of the unit, including  
10 the term of the tenancy, the amount of periodic rental  
11 payments, if any, and when rent is due. An occupant shall not  
12 unreasonably withhold information requested by a holder or  
13 purchaser under this subsection. A holder or purchaser shall  
14 include the following in a request under this subsection: (1)  
15 the specific information or documentation requested; (2) a  
16 mailing address, an electronic mail address if available, and a  
17 telephone number for responses to the request; (3) that the  
18 occupant shall respond within 14 days of receiving the request.  
19 The request under this subsection shall be served in the same  
20 manner described in subsection (c) of this Section, and may be  
21 served concurrently with the notice required under subsection  
22 (a)(2) of this Section. An occupant's failure to comply with  
23 the requirements of this subsection shall create the rebuttable  
24 presumption, in a proceeding under Section 15-1701(h)(1), that  
25 the term of the occupant's current leasehold interest is not  
26 more than 30 days.

1       (g) Within 14 days of the confirmation of sale under  
2 Section 15-1508, the holder or purchaser shall post a written  
3 notice on the primary entrance of each dwelling unit subject to  
4 the foreclosure action. This notice shall:

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

8           (2) include the following language: "This is NOT a  
9 notice to vacate the premises."

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

14       (h) In the event that the holder or purchaser is a  
15 mortgagee in possession of the mortgaged real estate pursuant  
16 to Section 15-1703 at the time of the confirmation of sale and  
17 has complied with requirements of subsection (a-5) of Section  
18 15-1703, the holder or purchaser is excused from the  
19 requirements of subsections (a) and (g) of this Section  
20 15-1508.5."; and

21 by replacing lines 17 through 26 of page 11 and lines 1 through  
22 4 of page 12 with the following:

23 "the order confirming the sale is entered. Following the  
24 confirmation of sale and until the right of possession of an  
25 occupant of a dwelling unit of the mortgaged real estate has

1 been terminated, the holder or purchaser shall: (i) maintain  
2 any essential utility services that had been the obligation of  
3 the mortgagor, receiver, or mortgagee in possession prior to  
4 the order confirming sale; (ii) maintain the mortgaged real  
5 estate in the same physical condition as had been the  
6 obligation of the mortgagor, receiver, or mortgagee in  
7 possession prior to the confirmation of sale; and (iii)  
8 maintain the mortgaged real estate in compliance with the  
9 requirements of State and local law. Nothing in this subsection  
10 shall prohibit the holder or purchaser and an occupant from  
11 entering into a new lease agreement that changes their  
12 respective utility obligations."; and

13 on page 14, by replacing lines 11 through 17 with the  
14 following:

15 " (4) In a case of foreclosure where the occupant ~~tenant~~  
16 is current on his or her rent, or where timely written  
17 notice of to whom and where the rent is to be paid has not  
18 been provided to the occupant ~~tenant~~, or where the occupant  
19 ~~tenant~~ has made good-faith efforts to make rental payments  
20 in order to keep current, any order of possession must  
21 allow the occupant ~~tenant~~ to retain possession of"; and

22 by replacing lines 21 through 26 of page 14 and line 1 of page  
23 15 with the following:

24 "the occupant, or through the duration of his or her

1 lease, whichever is shorter, but in no event less than 30  
2 days after entry of the order of possession. A mortgagee in  
3 possession, receiver, or holder of a certificate of sale or  
4 deed, or purchaser at the judicial sale who asserts that  
5 the occupant is not current in rent at the time the  
6 supplemental petition is filed shall attach an affidavit to  
7 that effect to the supplemental petition. If the occupant  
8 ~~the tenant, or (ii) through the duration of his or her~~  
9 ~~lease, whichever is shorter. If the tenant~~ has been given  
10 timely written notice of to whom and where the rent is to  
11 be paid, this item (4) shall only apply if the occupant  
12 ~~tenant~~ continues to pay his or her rent in full during the  
13 120-day period or has made good-faith efforts to pay the  
14 rent in full during that period. No  
15 mortgagee-in-possession,"; and

16 by replacing lines 8 through 26 of page 15 and lines 1 and 2 of  
17 page 16 with the following:

18 "has been properly served upon the occupant ~~tenant~~."; and

19 by replacing lines 10 through 26 of page 17 and line 1 of page  
20 18 with the following:

21 "(1) Within 14 days of taking possession of the  
22 mortgaged real estate, the mortgagee in possession shall  
23 make a good faith effort to ascertain the identities and  
24 addresses of all occupants of dwelling units of the

1 mortgaged real estate.

2 (2) Within 21 days of taking possession of the  
3 mortgaged real estate, the mortgagee in possession shall  
4 notify all known occupants of dwelling units of the  
5 mortgaged real estate, including any occupants identified  
6 as a result of the good faith effort required under this  
7 subsection, that he or she has taken possession of the  
8 mortgaged real estate. The notice shall be in writing and  
9 shall:

10 (i) identify the occupant being served by name;

11 (ii) inform the occupant that the mortgaged real  
12 estate is the subject of a foreclosure action and that  
13 control of the mortgaged real estate has changed;

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

18 (iv) include the following language, or language  
19 that is substantially similar:

20 "This is NOT a notice to vacate the premises. You  
21 will receive additional notice if your lease or rental  
22 agreement is being terminated. You may wish to contact  
23 a lawyer or your local legal aid or housing counseling  
24 agency to discuss any rights that you may have.""; and

25 on page 18, line 2, by replacing "(iv)" with "(v)"; and

1 on page 18, line 4, by replacing "(2)" with "(3)"; and

2 on page 18, line 4, by replacing "item (1)" with "item (2)";

3 and

4 on page 18, line 6, by inserting "known" before "occupant"; and

5 on page 18, line 7, by inserting "who is" after "older,"; and

6 on page 18, by replacing lines 9 through 23 with the following:

7 "notice to the known occupant by first-class mail,  
8 addressed to the occupant by name.

9 (4) In the event that a mortgagee in possession  
10 ascertains the identity and address of an occupant of a  
11 dwelling unit of the mortgaged real estate more than 14  
12 days after taking possession of the mortgaged real estate,  
13 the mortgagee in possession shall provide the notice  
14 required by subsection (a-5)(2) within 7 days of  
15 ascertaining the identity and address of the occupant.

16 (5)(i) A mortgagee in possession who fails to comply  
17 with items (2), (3), and (4) of this subsection (a-5) may  
18 not collect any rent due and owing from a known occupant,  
19 or terminate a known occupant's tenancy for non-payment of  
20 such rent, until the mortgagee in possession has served the  
21 notice described in item (2) of this subsection (a-5) upon

1       the occupant. The provisions of this subsection shall be  
2       the exclusive remedy for the failure of a mortgagee in  
3       possession to provide notice under this Section.

4       (ii) An occupant who previously paid rent for the  
5       current rental period to the mortgagor, or other entity  
6       with the authority to operate, manage, and conserve the  
7       mortgaged real estate at the time of payment, shall not be  
8       held liable for that rent by the mortgagee in possession,  
9       and the occupant's tenancy shall not be terminated for  
10       non-payment of rent for that rental period.

11       (6) Within 14 days of the order allowing the mortgagee  
12       to take possession of the mortgaged real estate, the  
13       mortgagee in possession shall post a written notice on the  
14       primary entrance of each dwelling unit subject to the  
15       foreclosure action that informs the occupants that the  
16       mortgagee in possession is now operating and managing the  
17       mortgaged real estate. This written notice shall: (i)  
18       inform the occupant that the dwelling unit is the subject  
19       of a foreclosure action and that control of the mortgaged  
20       real estate has changed; (ii) include the following  
21       language: "This is NOT a notice to vacate the premises";  
22       and (iii) provide the name, address, and telephone number  
23       of the individual or entity whom occupants may contact with  
24       concerns about the mortgaged real estate or to request  
25       repairs of the property."; and

1 on page 21, by replacing lines 10 through 13 with the  
2 following:

3 "(3) shall: (i) maintain any essential utility  
4 services that had been the obligation of the mortgagor  
5 prior to an order appointing a receiver or allowing the  
6 mortgagee to take possession of the mortgaged real estate;  
7 (ii) maintain the mortgaged real estate in the same  
8 physical condition as had been the obligation of the  
9 mortgagor prior to an order appointing a receiver or  
10 allowing the mortgagee to take possession of the mortgaged  
11 real estate; and (iii) maintain the mortgaged real estate  
12 in compliance with the requirements of State and local  
13 law;"; and

14 by replacing lines 14 through 26 of page 23 and lines 1 through  
15 3 of page 24 with the following:

16 "(1) Within 14 days of appointment, the receiver shall  
17 make a good faith effort to ascertain the identities and  
18 addresses of the mortgaged real estate.

19 (2) Within 21 days of appointment, the receiver shall  
20 notify all occupants of dwelling units of the mortgaged  
21 real estate that he or she has been appointed receiver of  
22 the mortgaged real estate, including any occupants  
23 identified as a result of the good faith effort under this  
24 subsection. Such notice shall be in writing and shall:

25 (i) identify the occupant being served by name;

1           (ii) inform the occupant that the mortgaged real  
2           estate is the subject of a foreclosure action and that  
3           control of the mortgaged real estate has changed;

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

8           (iv) include the following language, or language  
9           that is substantially similar:

10           "This is NOT a notice to vacate the premises. You  
11           will receive additional notice if your lease or rental  
12           agreement is being terminated. You may wish to contact  
13           a lawyer or your local legal aid or housing counseling  
14           agency to discuss any rights that you may have.""; and

15 on page 24, line 4, by replacing "(iv)" with "(v)"; and

16 on page 24, line 6, by replacing "(2)" with "(3)"; and

17 on page 24, line 6, by replacing "item (1)" with "item (2)";

18 and

19 on page 24, line 8, by inserting "known" before "occupant"; and

20 on page 24, by replacing lines 12 through 25 with the  
21 following:

1       "known occupant by first-class mail, addressed to the  
2       occupant by name.

3       (4) In the event that a receiver ascertains the  
4       identity and address of an occupant of a dwelling unit of  
5       the mortgaged real estate more than 14 days after  
6       appointment, the receiver shall provide the notice  
7       required by part (2) of this subsection (f) within 7 days  
8       of ascertaining the identity and address of the occupant.

9       (5) (i) A receiver who fails to comply with items (2),  
10       (3), and (4) of this subsection (f) may not collect any  
11       rent due and owing from a known occupant, or terminate a  
12       known occupant's tenancy for non-payment of such rent,  
13       until the receiver has served the notice described in item  
14       (2) of this subsection (f) upon the occupant. The  
15       provisions of this subsection shall be the exclusive remedy  
16       for the failure of a receiver to provide notice under this  
17       Section.

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

25       (6) Within 14 days of appointment, the receiver shall  
26       post a written notice on the primary entrance of all

1        dwelling units subject to the foreclosure action that  
2        informs occupants that the receiver has been appointed to  
3        operate and manage the property. This written notice shall:  
4        (i) inform the occupant that the dwelling unit is the  
5        subject of a foreclosure action and that control of the  
6        mortgaged real estate has changed; (ii) include the  
7        following language: "This is NOT a notice to vacate the  
8        premises"; and (iii) provide the name, address, and  
9        telephone number of the individual or entity whom occupants  
10       may contact with concerns about the mortgaged real estate  
11       or to request repairs of the property."; and

12       on page 25, line 1, by deleting "or mortgagee in possession";  
13       and

14       on page 25, line 5, by deleting "or mortgagee in possession";  
15       and

16       on page 25, line 6, by inserting after "leave of court" the  
17       following:

18       "or an agreement with the occupant about the increased rent";  
19       and

20       on page 25, line 7, by deleting "or mortgagee in possession";  
21       and

1 by replacing line 26 of page 25 and line 1 of page 26 with the  
2 following:

3 "Section 98. In a foreclosure action filed on or before the  
4 effective date of this Act, a holder or purchaser, receiver, or  
5 mortgagee in possession required to serve notice or otherwise  
6 comply with Section 15-1508.5, Section 15-1703(a-5), and  
7 Section 15-1704(f) shall have an additional 60 days to comply  
8 with the provisions of this Act.

9 Section 99. Effective date. This Act takes effect 90 days  
10 after becoming law."