



Rep. Karen A. Yarbrough

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LRB097 06631 HLH 56432 a

1 AMENDMENT TO SENATE BILL 16

2 AMENDMENT NO. _____. Amend Senate Bill 16 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 changing Sections 11-20-15 and 11-20-15.1 and by adding Section
6 11-20-17 as follows:

7 (65 ILCS 5/11-20-15)

8 Sec. 11-20-15. Lien for removal costs.

9 (a) If the municipality incurs a removal cost under Section
10 11-20-7, 11-20-8, 11-20-12, ~~or~~ 11-20-13, or 11-20-17 with
11 respect to any underlying parcel, then that cost is a lien upon
12 that underlying parcel. This lien is superior to all other
13 liens and encumbrances, except tax liens and as otherwise
14 provided in subsection (c) of this Section.

15 (b) To perfect a lien under this Section, the municipality
16 must, within one year after the removal cost is incurred, file

1 notice of lien in the office of the recorder in the county in
2 which the underlying parcel is located or, if the underlying
3 parcel is registered under the Torrens system, in the office of
4 the Registrar of Titles of that county. The notice must consist
5 of a sworn statement setting out:

6 (1) a description of the underlying parcel that
7 sufficiently identifies the parcel;

8 (2) the amount of the removal cost; and

9 (3) the date or dates when the removal cost was
10 incurred by the municipality.

11 If, for any one parcel, the municipality engaged in any
12 removal activity on more than one occasion during the course of
13 one year, then the municipality may combine any or all of the
14 costs of each of those activities into a single notice of lien.

15 (c) A lien under this Section is not valid as to: (i) any
16 purchaser whose rights in and to the underlying parcel arose
17 after the removal activity but before the filing of the notice
18 of lien; or (ii) any mortgagee, judgment creditor, or other
19 lienor whose rights in and to the underlying parcel arose
20 before the filing of the notice of lien.

21 (d) The removal cost is not a lien on the underlying parcel
22 unless a notice is personally served on, or sent by certified
23 mail to, the person to whom was sent the tax bill for the
24 general taxes on the property for the taxable year immediately
25 preceding the removal activities. The notice must be delivered
26 or sent after the removal activities have been performed, and

1 it must: (i) state the substance of this Section and the
2 substance of any ordinance of the municipality implementing
3 this Section; (ii) identify the underlying parcel, by common
4 description; and (iii) describe the removal activity.

5 (e) A lien under this Section may be enforced by
6 proceedings to foreclose as in the case of mortgages or
7 mechanics' liens. An action to foreclose a lien under this
8 Section must be commenced within 2 years after the date of
9 filing notice of lien.

10 (f) Any person who performs a removal activity by the
11 authority of the municipality may, in his or her own name, file
12 a lien and foreclose on that lien in the same manner as a
13 municipality under this Section.

14 (g) A failure to file a foreclosure action does not, in any
15 way, affect the validity of the lien against the underlying
16 parcel.

17 (h) Upon payment of the lien cost by the owner of the
18 underlying parcel after notice of lien has been filed, the
19 municipality (or its agent under subsection (f)) shall release
20 the lien, and the release may be filed of record by the owner
21 at his or her sole expense as in the case of filing notice of
22 lien.

23 (i) For the purposes of this Section:

24 "Lien cost" means the removal cost and the filing costs for
25 any notice of lien under subsection (b).

26 "Removal activity" means any activity for which a removal

1 cost was incurred.

2 "Removal cost" means a removal cost as defined under
3 Section 11-20-7, 11-20-8, 11-20-12, ~~or~~ 11-20-13, or 11-20-17.

4 "Underlying parcel" means a parcel of private property upon
5 which a removal activity was performed.

6 "Year" means a 365-day period.

7 (j) This Section applies only to liens filed after August
8 14, 2009 (the effective date of Public Act 96-462).

9 (k) This Section shall not apply to a lien filed pursuant
10 to Section 11-20-15.1.

11 (Source: P.A. 96-462, eff. 8-14-09; 96-856, eff. 3-1-10;
12 96-1000, eff. 7-2-10.)

13 (65 ILCS 5/11-20-15.1)

14 Sec. 11-20-15.1. Lien for costs of removal, securing, and
15 enclosing on abandoned residential property.

16 (a) If the municipality elects to incur a removal cost
17 pursuant to subsection (d) of Section 11-20-7, subsection (d)
18 of Section 11-20-8, subsection (d) of Section 11-20-12, ~~or~~
19 subsection (e) of Section 11-20-13, or subsection (i) of
20 Section 11-20-17, or a securing or enclosing cost pursuant to
21 Section 11-31-1.01 with respect to an abandoned residential
22 property, then that cost is a lien upon the underlying parcel
23 of that abandoned residential property. This lien is superior
24 to all other liens and encumbrances, except tax liens and as
25 otherwise provided in this Section.

1 (b) To perfect a lien under this Section, the municipality
2 must, within one year after the cost is incurred for the
3 activity, file notice of the lien in the office of the recorder
4 in the county in which the abandoned residential property is
5 located or, if the abandoned residential property is registered
6 under the Torrens system, in the office of the Registrar of
7 Titles of that county, a sworn statement setting out:

8 (1) a description of the abandoned residential
9 property that sufficiently identifies the parcel;

10 (2) the amount of the cost of the activity;

11 (3) the date or dates when the cost for the activity
12 was incurred by the municipality; and

13 (4) a statement that the lien has been filed pursuant
14 to subsection (d) of Section 11-20-7, subsection (d) of
15 Section 11-20-8, subsection (d) of Section 11-20-12,
16 subsection (e) of Section 11-20-13, subsection (i) of
17 Section 11-20-17, or Section 11-31-1.01, as applicable.

18 If, for any abandoned residential property, the
19 municipality engaged in any activity on more than one occasion
20 during the course of one year, then the municipality may
21 combine any or all of the costs of each of those activities
22 into a single notice of lien. In order for a municipality to
23 perfect a lien for costs pursuant to Section 11-20-17 of this
24 Act, the municipality must first investigate and determine
25 that, pursuant to subsections (c) and (h) of this Section, the
26 underlying parcel is vacant and abandoned residential

1 property.

2 (c) To enforce a lien pursuant to this Section, the
3 municipality must maintain contemporaneous records that
4 include, at a minimum: (i) a dated statement of finding by the
5 municipality that the property for which the work is to be
6 performed has become abandoned residential property, which
7 shall include (1) the date when the property was first known or
8 observed to be unoccupied by any lawful occupant or occupants,
9 (2) a description of the actions taken by the municipality to
10 contact the legal owner or owners of the property identified on
11 the recorded mortgage, or, if known, any agent of the owner or
12 owners, including the dates such actions were taken, and (3) a
13 statement that no contacts were made with the legal owner or
14 owners or their agents as a result of such actions, (ii) a
15 dated certification by an authorized official of the
16 municipality of the necessity and specific nature of the work
17 to be performed, (iii) a copy of the agreement with the person
18 or entity performing the work that includes the legal name of
19 the person or entity, the rate or rates to be charged for
20 performing the work, and an estimate of the total cost of the
21 work to be performed, (iv) detailed invoices and payment
22 vouchers for all payments made by the municipality for such
23 work, and (v) a statement as to whether the work was engaged
24 through a competitive bidding process, and if so, a copy of all
25 proposals submitted by the bidders for such work.

26 (d) A lien under this Section shall be enforceable

1 exclusively at the hearing for confirmation of sale of the
2 abandoned residential property that is held pursuant to
3 subsection (b) of Section 15-1508 of the Code of Civil
4 Procedure and shall be limited to a claim of interest in the
5 proceeds of the sale and subject to the requirements of this
6 Section. Any mortgagee who holds a mortgage on the property, or
7 any beneficiary or trustee who holds a deed of trust on the
8 property, may contest the lien or the amount of the lien at any
9 time during the foreclosure proceeding upon motion and notice
10 in accordance with court rules applicable to motions generally.
11 Grounds for forfeiture of the lien or the superior status of
12 the lien granted by subsection (a) of this Section shall
13 include, but not be limited to, a finding by the court that:
14 (i) the municipality has not complied with subsection (b) or
15 (c) of this Section, (ii) the scope of the work was not
16 reasonable under the circumstances, (iii) the work exceeded the
17 authorization for the work to be performed under subsection (a)
18 of Section 11-20-7, subsection (a) of Section 11-20-8,
19 subsection (a) of Section 11-20-12, subsection (a) of Section
20 11-20-13, or subsection (a) of Section 11-31-1.01, as
21 applicable, or (iv) the cost of the services rendered or
22 materials provided was not commercially reasonable. Forfeiture
23 of the superior status of the lien otherwise granted by this
24 Section shall not constitute a forfeiture of the lien as a
25 subordinate lien.

26 (e) Upon payment of the amount of a lien filed under this

1 Section by the mortgagee, servicer, owner, or any other person,
2 the municipality shall release the lien, and the release may be
3 filed of record by the person making such payment at the
4 person's sole expense as in the case of filing notice of lien.

5 (f) Notwithstanding any other provision of this Section, a
6 municipality may not file a lien pursuant to this Section for
7 activities performed pursuant to Section 11-20-7, Section
8 11-20-8, Section 11-20-12, Section 11-20-13, or Section
9 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned
10 residential property has provided notice to the municipality
11 that the mortgagee or servicer has performed or will perform
12 the remedial actions specified in the notice that the
13 municipality otherwise might perform pursuant to subsection
14 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
15 subsection (d) of Section 11-20-12, subsection (e) of Section
16 11-20-13, or Section 11-31-1.01, provided that the remedial
17 actions specified in the notice have been performed or are
18 performed or initiated in good faith within 30 days of such
19 notice; or (ii) the municipality has provided notice to the
20 mortgagee or servicer of a problem with the property requiring
21 the remedial actions specified in the notice that the
22 municipality otherwise would perform pursuant to subsection
23 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
24 subsection (d) of Section 11-20-12, subsection (e) of Section
25 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer
26 has performed or performs or initiates in good faith the

1 remedial actions specified in the notice within 30 days of such
2 notice.

3 (g) This Section and subsection (d) of Section 11-20-7,
4 subsection (d) of Section 11-20-8, subsection (d) of Section
5 11-20-12, subsection (e) of Section 11-20-13, or Section
6 11-31-1.01 shall apply only to activities performed, costs
7 incurred, and liens filed after the effective date of this
8 amendatory Act of the 96th General Assembly. Subsection (i) of
9 Section 11-20-17 shall apply only to activities performed,
10 costs incurred, and liens filed after the effective date of
11 this amendatory Act of the 97th General Assembly.

12 (h) For the purposes of this Section and subsection (d) of
13 Section 11-20-7, subsection (d) of Section 11-20-8, subsection
14 (d) of Section 11-20-12, subsection (e) of Section 11-20-13,
15 subsection (i) of Section 11-20-17, or Section 11-31-1.01:

16 "Abandoned residential property" means any type of
17 permanent residential dwelling unit, including detached single
18 family structures, and townhouses, condominium units and
19 multifamily rental apartments covering the entire property,
20 and manufactured homes treated under Illinois law as real
21 estate and not as personal property, that has been unoccupied
22 by any lawful occupant or occupants for at least 90 days, and
23 for which after such 90 day period, the municipality has made
24 good faith efforts to contact the legal owner or owners of the
25 property identified on the recorded mortgage, or, if known, any
26 agent of the owner or owners, and no contact has been made. A

1 property for which the municipality has been given notice of
2 the order of confirmation of sale pursuant to subsection (b-10)
3 of Section 15-1508 of the Code of Civil Procedure shall not be
4 deemed to be an abandoned residential property for the purposes
5 of subsection (d) of Section 11-20-7, subsection (d) of Section
6 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of
7 Section 11-20-13, subsection (i) of Section 11-20-17, and
8 Section 11-31-1.01 of this Code.

9 "MERS program" means the nationwide Mortgage Electronic
10 Registration System approved by Fannie Mae, Freddie Mac, and
11 Ginnie Mae that has been created by the mortgage banking
12 industry with the mission of registering every mortgage loan in
13 the United States to lawfully make information concerning each
14 residential mortgage loan and the property securing it
15 available by Internet access to mortgage originators,
16 servicers, warehouse lenders, wholesale lenders, retail
17 lenders, document custodians, settlement agents, title
18 companies, insurers, investors, county recorders, units of
19 local government, and consumers.

20 (i) Any entity or person who performs a removal, securing,
21 or enclosing activity pursuant to the authority of a
22 municipality under subsection (d) of Section 11-20-7,
23 subsection (d) of Section 11-20-8, subsection (d) of Section
24 11-20-12, subsection (e) of Section 11-20-13, or Section
25 11-31-1.01, may, in its, his, or her own name, file a lien
26 pursuant to subsection (b) of this Section and appear in a

1 foreclosure action on that lien pursuant to subsection (d) of
2 this Section in the place of the municipality, provided that
3 the municipality shall remain subject to subsection (c) of this
4 Section, and such party shall be subject to all of the
5 provisions in this Section as if such party were the
6 municipality.

7 (i-5) All amounts received by the municipality for costs
8 incurred pursuant to this Section for which the municipality
9 has been reimbursed under Section 7.31 of the Illinois Housing
10 Development Act shall be remitted to the State Treasurer for
11 deposit into the Abandoned Residential Property Municipality
12 Relief Fund.

13 (j) If prior to subsection (d) of Section 11-20-7,
14 subsection (d) of Section 11-20-8, subsection (d) of Section
15 11-20-12, and subsection (e) of Section 11-20-13 becoming
16 inoperative a lien is filed pursuant to any of those
17 subsections, then the lien shall remain in full force and
18 effect after the subsections have become inoperative, subject
19 to all of the provisions of this Section. If prior to the
20 repeal of Section 11-31-1.01 a lien is filed pursuant to
21 Section 11-31-1.01, then the lien shall remain in full force
22 and effect after the repeal of Section 11-31-1.01, subject to
23 all of the provisions of this Section.

24 (Source: P.A. 96-856, eff. 3-1-10; 96-1419, eff. 10-1-10.)

1 Sec. 11-20-17. Vacant property.

2 (a) For the purposes of minimizing the hazards to persons
3 and property resulting from vacant property, the corporate
4 authorities of each municipality may, by ordinance, prescribe
5 rules or regulations for the maintenance and security of vacant
6 property. The corporate authorities of a municipality may
7 impose reasonable registration fees for vacant property and
8 reasonable fines for failure to comply with ordinances enacted
9 pursuant to this Section. The corporate authority of a
10 municipality that enacts an ordinance pursuant to this Section
11 shall transmit a copy of that ordinance to the Illinois Housing
12 Development Authority within 30 days of the ordinance's
13 enactment. The Illinois Housing Development Authority shall
14 post a copy of the ordinance on its website within 30 days of
15 receipt.

16 (b) Pursuant to those ordinances, the corporate
17 authorities of each municipality shall provide notice to all
18 responsible parties informing them of the basis for the
19 municipality's finding that the property is vacant, their right
20 to contest the municipality's finding in a court or in an
21 administrative proceeding, and how to comply with the
22 municipality's registration requirement or other ordinance
23 requirements. Upon directing a notice of its determination and
24 finding that the underlying parcel is vacant and abandoned
25 residential property by regular or certified mail, the
26 corporate authorities of each municipality may hold

1 responsible for maintaining and securing a vacant property (i)
2 any owner of the property, (ii) any trust beneficiary or other
3 trustee who holds a deed of trust on the property, (iii) any
4 mortgagee who holds a mortgage on the property, and (iv) any
5 assignee of an owner, beneficiary, trustee, or mortgagee.

6 (c) Upon delivery of the notice provided in subsection (b),
7 a beneficiary, trustee, or mortgagee seeking to comply with
8 ordinances regarding the maintenance or security of vacant
9 property may enter that property to remedy any potential
10 violation of an ordinance to maintain or secure vacant property
11 without an order for possession under the Illinois Mortgage
12 Foreclosure Act, provided that entry is not barred by an
13 automatic stay issued by a bankruptcy court.

14 (d) Beneficiaries, trustees, mortgagees, and their agents
15 and assignees shall be held harmless from and against all
16 claims of negligence, civil trespass, and criminal trespass in
17 connection with compliance activity under the ordinances for
18 the maintenance or security of vacant property, provided that
19 the person authorizing or engaging in the compliance activity
20 has (i) made a good faith effort to identify any owner and
21 occupant of the property and (ii) made a good faith effort to
22 contact any owner and occupant in a manner reasonably
23 calculated to give the owner and occupant notice that the
24 compliance activity is imminent, after the notice provided by
25 subsection (b) has been delivered.

26 (e) For the purpose of this Section, "owner" means the

1 legal or beneficial owner of an improved or unimproved parcel
2 of real estate.

3 (f) For the purpose of this Section, "mortgagee" means (i)
4 the holder of an indebtedness, the obligee of a non-monetary
5 obligation secured by a mortgage, any assignee of the mortgage,
6 or any person designated or authorized to act on behalf of such
7 holder, (ii) any person or entity who previously initiated a
8 foreclosure of the vacant property or obtained a foreclosure
9 judgment against the vacant property if the deed to vacant
10 property has not been transferred to the purchaser at the
11 judicial sale, and (iii) any person claiming through a
12 mortgagee as successor.

13 (g) For the purpose of this Section, "vacant property"
14 means any property having complete or incomplete structures
15 that are empty or otherwise uninhabited by persons legally
16 entitled to inhabit the structures, that are in need of
17 maintenance, repair or securing, and with respect to which one
18 or more of the following conditions exist:

19 (1) all lawful business or construction operations
20 have ceased for 6 months;

21 (2) it has been declared unfit for occupancy and
22 ordered to remain vacant and unoccupied by municipal
23 authorities;

24 (3) no construction or legal repairs have commenced for
25 6 months;

26 (4) the doors or windows are smashed through, broken,

1 unhinged, removed, or continuously unlocked;

2 (5) the police or sheriff's office received at least 2
3 reports of trespassers on the premises or vandalism or
4 other illegal acts being committed at the property in the
5 last 6 months.

6 A property shall not be considered vacant, for the purposes
7 of this Section, if on the property (i) there is an unoccupied
8 building which is undergoing construction, renovation, or
9 rehabilitation that is proceeding diligently to completion,
10 and the building is in compliance with all applicable
11 ordinances, codes, regulations, and legislation; (ii) there is
12 a building occupied on a seasonal basis, but otherwise secure;
13 (iii) there is a secure building on which there are rental or
14 sale signs; (iv) there is a building that is secure, but is the
15 subject of a probate action, action to quiet title, or other
16 ownership dispute; or (v) there is otherwise a building that is
17 secure and in substantial compliance with all applicable
18 ordinances, codes, regulations, and legislation.

19 (h) For the purpose of this Section, "removal cost" means
20 the total value of fees and fines imposed pursuant to rules,
21 regulations, or ordinances regarding maintenance, security, or
22 demolition of vacant property.

23 (i) To enforce fees and costs pursuant to this Section, a
24 municipality has the following options: (i) the municipality
25 may elect to obtain a lien upon the underlying property for the
26 removal cost in accordance with Section 11-20-15 and after

1 providing all notices and hearings under Section 11-20-15; (ii)
2 in the case of an abandoned residential property as defined in
3 Section 11-20-15.1, the municipality may elect to obtain a lien
4 for the removal cost pursuant to Section 11-20-15.1, in which
5 case the provisions of Section 11-20-15.1 shall be the
6 exclusive remedy for the removal cost, after providing all
7 notices and hearings under Section 11-20-15; or (iii) the
8 municipality may elect, after providing the applicable notice
9 and hearing, to obtain a lien for the removal cost by
10 exercising any enforcement actions available under its police
11 powers or other statutory grant of authority. No fine imposed
12 shall be considered a lien enforceable under Section 11-20-15
13 or 11-20-15.1 or any other statutory grant of authority that
14 makes liens for costs and fees superior liens.

15 (j) Nothing in this Section prohibits a municipality from
16 obtaining and enforcing liens pursuant to any other local,
17 State, or federal law.

18 (k) No municipality may enact or enforce an ordinance
19 adopted under this Section on or after January 1, 2017. Nothing
20 in this subsection (k) affects the power of a municipality to
21 enact or continue to enforce, pursuant to the municipality's
22 home rule powers or pursuant to any other law other than this
23 Section, any ordinance that regulates the maintenance and
24 security of vacant property.

25 Section 10. The Code of Civil Procedure is amended by

1 changing Sections 15-1506, 15-1508, and 15-1603 as follows:

2 (735 ILCS 5/15-1506) (from Ch. 110, par. 15-1506)

3 Sec. 15-1506. Judgment. (a) Evidence. In the trial of a
4 foreclosure, the evidence to support the allegations of the
5 complaint shall be taken in open court, except:

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

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

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

25 (c) Summary and Default Judgments. Nothing in this Section

1 15-1506 shall prevent a party from obtaining a summary or
2 default judgment authorized by Article II of the Code of Civil
3 Procedure. If the mortgagee files a motion to shorten the
4 redemption period pursuant to Section 2-1603(b)(4) of this
5 Article on or before the date of filing a motion for entry of a
6 default judgment, the motions shall be set before the court
7 within 30 days of the filing of the motion for default, unless
8 the motion brought under Section 2-1603(b)(4) has already been
9 heard and denied by the court.

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

14 (e) Matters Required in Judgment. A judgment of foreclosure
15 shall include the last date for redemption and all rulings of
16 the court entered with respect to each request for relief set
17 forth in the complaint. The omission of the date for redemption
18 shall not extend the time for redemption or impair the validity
19 of the judgment.

20 (f) Special Matters in Judgment. Without limiting the
21 general authority and powers of the court, special matters may
22 be included in the judgment of foreclosure if sought by a party
23 in the complaint or by separate motion. Such matters may
24 include, without limitation:

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

26 (2) a sale by sealed bid;

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

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

7 (5) the fees or commissions to be paid out of the sale
8 proceeds to the listing or other duly licensed broker, if any,
9 who shall have procured the accepted bid;

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

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

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

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

19 (10) the format for the advertising of such sale, including
20 the size, content and format of such advertising, and
21 additional advertising of such sale;

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

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

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

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

6 (g) Agreement of the Parties. If all of the parties agree
7 in writing on the minimum price and that the real estate may be
8 sold to the first person who offers in writing to purchase the
9 real estate for such price, and on such other commercially
10 reasonable terms and conditions as the parties may agree, then
11 the court shall order the real estate to be sold on such terms,
12 subject to confirmation of the sale in accordance with Section
13 15-1508.

14 (h) Postponement of Proving Priority. With the approval of
15 the court prior to the entry of the judgment of foreclosure, a
16 party claiming an interest in the proceeds of the sale of the
17 mortgaged real estate may defer proving the priority of such
18 interest until the hearing to confirm the sale.

19 (i) Effect of Judgment and Lien. (1) Upon the entry of the
20 judgment of foreclosure, all rights of a party in the
21 foreclosure against the mortgagor provided for in the judgment
22 of foreclosure or this Article shall be secured by a lien on
23 the mortgaged real estate, which lien shall have the same
24 priority as the claim to which the judgment relates and shall
25 be terminated upon confirmation of a judicial sale in
26 accordance with this Article.

1 (2) Upon the entry of the judgment of foreclosure, the
2 rights in the real estate subject to the judgment of
3 foreclosure of (i) all persons made a party in the foreclosure
4 and (ii) all nonrecord claimants given notice in accordance
5 with paragraph (2) of subsection (c) of Section 15-1502, shall
6 be solely as provided for in the judgment of foreclosure and in
7 this Article.

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

9 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

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

1 municipality or county may contact with concerns about the real
2 estate. The confirmation order may also:

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

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

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

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

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

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

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

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

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

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

1 preponderance of the evidence that (i) the mortgagor has
2 applied for assistance under the Making Home Affordable Program
3 established by the United States Department of the Treasury
4 pursuant to the Emergency Economic Stabilization Act of 2008,
5 as amended by the American Recovery and Reinvestment Act of
6 2009, and (ii) the mortgaged real estate was sold in material
7 violation of the program's requirements for proceeding to a
8 judicial sale. The provisions of this subsection (d-5), except
9 for this sentence, shall become inoperative on January 1, 2013
10 for all actions filed under this Article after December 31,
11 2012, in which the mortgagor did not apply for assistance under
12 the Making Home Affordable Program on or before December 31,
13 2012.

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

1 mortgage indebtedness, unless they have entered their
2 appearance in the foreclosure action.

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

8 (g) The order confirming the sale shall include,
9 notwithstanding any previous orders awarding possession during
10 the pendency of the foreclosure, an award to the purchaser of
11 possession of the mortgaged real estate, as of the date 30 days
12 after the entry of the order, against the parties to the
13 foreclosure whose interests have been terminated. If the court
14 has determined that the property is abandoned pursuant to item
15 (4) of subsection (b) of Section 2-1603 and the parties whose
16 interests have been terminated have not appeared at the hearing
17 to confirm the sale, the purchaser shall be awarded possession
18 of the mortgaged real estate immediately.

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

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

13 (Source: P.A. 95-826, eff. 8-14-08; 96-265, eff. 8-11-09;
14 96-856, eff. 3-1-10; 96-1245, eff. 7-23-10; revised 9-16-10.)

15 (735 ILCS 5/15-1603) (from Ch. 110, par. 15-1603)

16 Sec. 15-1603. Redemption.

17 (a) Owner of Redemption. Except as provided in subsection
18 (b) of Section 15-1402, only an owner of redemption may redeem
19 from the foreclosure, and such owner of redemption may redeem
20 only during the redemption period specified in subsection (b)
21 of Section 15-1603 and only if the right of redemption has not
22 been validly waived.

23 (b) Redemption Period.

24 (1) In the foreclosure of a mortgage of real estate
25 which is residential real estate at the time the

1 foreclosure is commenced, the redemption period shall end
2 on the later of (i) the date 7 months from the date the
3 mortgagor or, if more than one, all the mortgagors (A) have
4 been served with summons or by publication or (B) have
5 otherwise submitted to the jurisdiction of the court, or
6 (ii) the date 3 months from the date of entry of a judgment
7 of foreclosure.

8 (2) In all other foreclosures, the redemption period
9 shall end on the later of (i) the date 6 months from the
10 date the mortgagor or, if more than one, all the mortgagors
11 (A) have been served with summons or by publication or (B)
12 have otherwise submitted to the jurisdiction of the court,
13 or (ii) the date 3 months from the date of entry of a
14 judgment of foreclosure.

15 (3) Notwithstanding paragraphs (1) and (2), the
16 redemption period shall end at the later of the expiration
17 of any reinstatement period provided for in Section 15-1602
18 or the date 60 days after the date the judgment of
19 foreclosure is entered, if the court finds that (i) the
20 value of the mortgaged real estate as of the date of the
21 judgment is less than 90% of the amount specified pursuant
22 to subsection (d) of Section 15-1603 and (ii) the mortgagee
23 waives any and all rights to a personal judgment for a
24 deficiency against the mortgagor and against all other
25 persons liable for the indebtedness or other obligations
26 secured by the mortgage.

1 (4) Notwithstanding paragraphs (1) and (2), the
2 redemption period shall end on the date 30 days after the
3 date the judgment of foreclosure is entered if, upon motion
4 and notice in accordance with court rules applicable to
5 motions generally, the court finds that the mortgaged real
6 estate has been abandoned. ~~In cases where the redemption~~
7 ~~period is shortened on account of abandonment, the~~
8 ~~reinstatement period shall not extend beyond the~~
9 ~~redemption period as shortened.~~

10 (A) The court may find that the mortgaged real
11 estate is abandoned if the mortgagee proves, by a
12 preponderance of the evidence, that the mortgaged real
13 estate has been abandoned. To determine that the
14 property has been abandoned, the court must find the
15 following:

16 (i) the mortgaged property is not actually
17 occupied; and

18 (ii) at least one of the following applies:

19 (aa) more than 5 attempts to contact the
20 mortgagor have been made, at least one by
21 certified mail and one by telephone, if there
22 is a working telephone number for the
23 mortgagor; and at least 2 of the following
24 supporting facts are true:

25 (I) construction was initiated on the
26 property and was discontinued prior to

1 completion, leaving the building
2 unsuitable for occupancy, and no
3 construction has taken place for at least 6
4 months;

5 (II) the property has had more than
6 one uncorrected municipal code violation
7 over the past year, or has been declared
8 unfit for occupancy and ordered to remain
9 vacant and unoccupied by the municipal
10 authorities;

11 (III) gas, electric, or water service
12 to the entire premises has been terminated
13 or is threatened with termination;

14 (IV) windows or entrances to the
15 premises are boarded up or closed off, or
16 multiple window panes are broken and
17 unrepaired;

18 (V) doors to the premises are smashed
19 through, broken off, unhinged, or
20 continuously unlocked;

21 (VI) the police or sheriff's office
22 has received at least 2 reports of
23 trespassers on the premises or of
24 vandalism or other illegal acts being
25 committed on the premises in the past 6
26 months;

1 (bb) 2 or more attempts to contact the
2 mortgagor have been made and there exist
3 written statements of the mortgagor, the
4 mortgagor's personal representatives or
5 assigns, including documents of conveyance,
6 which indicate a clear intent to abandon the
7 premises; or

8 (cc) 2 or more attempts to contact the
9 mortgagor have been made and the property is a
10 vacant lot.

11 (B) Notwithstanding the provisions of this
12 subsection, if an appearance by the mortgagor or other
13 occupant is made at or before the hearing on a motion
14 brought pursuant to this subsection, the mortgaged
15 real estate shall not be deemed abandoned and the court
16 shall deny the motion to shorten the redemption period.

17 (c) Extension of Redemption Period.

18 (1) Once expired, the right of redemption provided for
19 in Sections 15-1603 or 15-1604 shall not be revived. The
20 period within which the right of redemption provided for in
21 Sections 15-1603 or 15-1604 may be exercised runs
22 independently of any action by any person to enforce the
23 judgment of foreclosure or effect a sale pursuant thereto.
24 Neither the initiation of any legal proceeding nor the
25 order of any court staying the enforcement of a judgment of
26 foreclosure or the sale pursuant to a judgment or the

1 confirmation of the sale, shall have the effect of tolling
2 the running of the redemption period.

3 (2) If a court has the authority to stay, and does
4 stay, the running of the redemption period, or if the
5 redemption period is extended by any statute of the United
6 States, the redemption period shall be extended until the
7 expiration of the same number of days after the expiration
8 of the stay order as the number of days remaining in the
9 redemption period at the time the stay order became
10 effective, or, if later, until the expiration of 30 days
11 after the stay order terminates. If the stay order
12 terminates more than 30 days prior to the expiration of the
13 redemption period, the redemption period shall not be
14 extended.

15 (d) Amount Required to Redeem. The amount required to
16 redeem shall be the sum of:

17 (1) The amount specified in the judgment of
18 foreclosure, which shall consist of (i) all principal and
19 accrued interest secured by the mortgage and due as of the
20 date of the judgment, (ii) all costs allowed by law, (iii)
21 costs and expenses approved by the court, (iv) to the
22 extent provided for in the mortgage and approved by the
23 court, additional costs, expenses and reasonable
24 attorneys' fees incurred by the mortgagee, (v) all amounts
25 paid pursuant to Section 15-1505 and (vi) per diem interest
26 from the date of judgment to the date of redemption

1 calculated at the mortgage rate of interest applicable as
2 if no default had occurred; and

3 (2) The amount of other expenses authorized by the
4 court which the mortgagee reasonably incurs between the
5 date of judgment and the date of redemption, which shall be
6 the amount certified by the mortgagee in accordance with
7 subsection (e) of Section 15-1603.

8 (e) Notice of Intent to Redeem. An owner of redemption who
9 intends to redeem shall give written notice of such intent to
10 redeem to the mortgagee's attorney of record specifying the
11 date designated for redemption and the current address of the
12 owner of redemption for purposes of receiving notice. Such
13 owner of redemption shall file with the clerk of the court a
14 certification of the giving of such notice. The notice of
15 intent to redeem must be received by the mortgagee's attorney
16 at least 15 days (other than Saturday, Sunday or court holiday)
17 prior to the date designated for redemption. The mortgagee
18 shall thereupon file with the clerk of the court and shall give
19 written notice to the owner of redemption at least three days
20 (other than Saturday, Sunday or court holiday) before the date
21 designated for redemption a certification, accompanied by
22 copies of paid receipts or appropriate affidavits, of any
23 expenses authorized in paragraph (2) of subsection (d) of
24 Section 15-1603. If the mortgagee fails to serve such
25 certification within the time specified herein, then the owner
26 of redemption intending to redeem may redeem on the date

1 designated for redemption in the notice of intent to redeem,
2 and the mortgagee shall not be entitled to payment of any
3 expenses authorized in paragraph (2) of subsection (d) of
4 Section 15-1603.

5 (f) Procedure for Redemption.

6 (1) An owner of redemption may redeem the real estate
7 from the foreclosure by paying the amount specified in
8 subsection (d) of Section 15-1603 to the mortgagee or the
9 mortgagee's attorney of record on or before the date
10 designated for redemption pursuant to subsection (e) of
11 Section 15-1603.

12 (2) If the mortgagee refuses to accept payment or if
13 the owner of redemption redeeming from the foreclosure
14 objects to the reasonableness of the additional expenses
15 authorized in paragraph (2) of subsection (d) of Section
16 15-1603 and certified in accordance with subsection (e) of
17 Section 15-1603, the owner of redemption shall pay the
18 certified amount to the clerk of the court on or before the
19 date designated for redemption, together with a written
20 statement specifying the expenses to which objection is
21 made. In such case the clerk shall pay to the mortgagee the
22 amount tendered minus the amount to which the objection
23 pertains.

24 (3) Upon payment to the clerk, whether or not the owner
25 of redemption files an objection at the time of payment,
26 the clerk shall give a receipt of payment to the person

1 redeeming from the foreclosure, and shall file a copy of
2 that receipt in the foreclosure record. Upon receipt of the
3 amounts specified to be paid to the mortgagee pursuant to
4 this Section, the mortgagee shall promptly furnish the
5 mortgagor with a release of the mortgage or satisfaction of
6 the judgment, as appropriate, and the evidence of all
7 indebtedness secured by the mortgage shall be cancelled.

8 (g) Procedure Upon Objection. If an objection is filed by
9 an owner of redemption in accordance with paragraph (2) of
10 subsection (f) of Section 15-1603, the clerk shall hold the
11 amount to which the objection pertains until the court orders
12 distribution of those funds. The court shall hold a hearing
13 promptly to determine the distribution of any funds held by the
14 clerk pursuant to such objection. Each party shall pay its own
15 costs and expenses in connection with any objection, including
16 attorneys' fees, subject to Section 2-611 of the Code of Civil
17 Procedure.

18 (h) Failure to Redeem. Unless the real estate being
19 foreclosed is redeemed from the foreclosure, it shall be sold
20 as provided in this Article.

21 (i) Mortgagees electing to release, discharge, or abandon
22 their mortgage interest in any property shall execute a binding
23 written release declaring their discharge of the related lien
24 and shall, within 30 days, record the release as provided in
25 Section 28 of the Conveyances Act. The failure to record a
26 written release creates a presumption that the mortgagee of

1 record, or any of its, his, or her successors in interest, has
2 knowingly interfered, delayed, and prevented the enforcement
3 of any municipal ordinance concerning property.

4 (Source: P.A. 86-974.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.".