



Sen. John G. Mulroe

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LRB097 14747 AJ0 68884 a

1 AMENDMENT TO SENATE BILL 2534

2 AMENDMENT NO. _____. Amend Senate Bill 2534, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Code of Civil Procedure is amended by
6 changing Sections 15-1504, 15-1507.1, 15-1508, 15-1603, and
7 15-1701 and by adding Sections 15-1200.5, 15-1200.7, and
8 15-1505.8 as follows:

9 (735 ILCS 5/15-1200.5 new)

10 Sec. 15-1200.5. Abandoned residential property. "Abandoned
11 residential property" means residential real estate that, upon
12 inspection:

13 (a) is either:

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

16 (2) an incomplete structure if the real estate is zoned

1 for residential development, where the structure is empty
2 or otherwise uninhabited and the structure or lot is in
3 need of maintenance, repair, or securing; and

4 (b) with respect to which either:

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

7 (A) all lawful business or construction operations
8 have ceased for 6 months;

9 (B) it has been declared unfit for occupancy and
10 ordered to remain vacant and unoccupied under an order
11 issued by a municipal or county authority or a court of
12 competent jurisdiction;

13 (C) no construction or legal repairs have
14 commenced for 6 months;

15 (D) the doors or windows are smashed through,
16 broken, unhinged, removed, or continuously unlocked;

17 (E) law enforcement officials have received at
18 least one report of trespassers or vandalism or other
19 illegal acts being committed at the property in the
20 last 6 months; or

21 (F) gas, electrical, or water services to the
22 entire premises have been terminated; or

23 (2) there exists other evidence indicating a clear
24 intent to abandon the property.

1 Sec. 15-1200.7. Abandoned residential property;
2 exceptions. A property shall not be considered abandoned
3 residential property if: (i) there is an unoccupied building
4 which is undergoing construction, renovation, or
5 rehabilitation that is proceeding diligently to completion,
6 and the building is in substantial compliance with all
7 applicable ordinances, codes, regulations, and laws; (ii)
8 there is a building occupied on a seasonal basis, but otherwise
9 secure; (iii) there is a secure building on which there are
10 bona fide rental or sale signs; (iv) there is a building that
11 is secure, but is the subject of a probate action, action to
12 quiet title, or other ownership dispute; or (v) there is a
13 building that is otherwise secure and in substantial compliance
14 with all applicable ordinances, codes, regulations and laws.

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

16 Sec. 15-1504. Pleadings and service.

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

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

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

1 (3) Information concerning mortgage:

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

5 (B) Date of mortgage:

6 (C) Name of mortgagor:

7 (D) Name of mortgagee:

8 (E) Date and place of recording:

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (S) Offer to mortgagor in accordance with Section
26 15-1402 to accept title to the real estate in

1 satisfaction of all indebtedness and obligations
2 secured by the mortgage without judicial sale, if
3 sought:

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

9 REQUEST FOR RELIEF

10 Plaintiff requests:

11 (i) A judgment of foreclosure and sale.

12 (ii) An order granting a shortened redemption period,
13 if sought.

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

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

16 (v) An order placing the mortgagee in possession or
17 appointing a receiver, if sought.

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

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

1 any additional relief permitted by Article II of the Code of
2 Civil Procedure.

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

6 (1) on the date indicated the obligor of the
7 indebtedness or other obligations secured by the mortgage
8 was justly indebted in the amount of the indicated original
9 indebtedness to the original mortgagee or payee of the
10 mortgage note;

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

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

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

23 (5) that defaults occurred as indicated;

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

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

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

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

16 (10) that any and all periods of grace or other period
17 of time allowed for the performance of the covenants or
18 conditions claimed to be breached or for the curing of any
19 breaches have expired;

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

1 (12) that, upon confirmation of the sale, the holder of
2 the certificate of sale or deed issued pursuant to that
3 certificate or, if no certificate or deed was issued, the
4 purchaser at the sale will be entitled to full possession
5 of the mortgaged real estate against the parties named in
6 clause (T) of paragraph (3) of subsection (a) of Section
7 15-1504 or elsewhere to the same effect; the omission of
8 any party indicates that plaintiff will not seek a
9 possessory order in the order confirming sale unless the
10 request is subsequently made under subsection (h) of
11 Section 15-1701 or by separate action under Article 9 of
12 this Code.

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

17 (1) plaintiff has been compelled to employ and retain
18 attorneys to prepare and file the complaint and to
19 represent and advise the plaintiff in the foreclosure of
20 the mortgage and the plaintiff will thereby become liable
21 for the usual, reasonable and customary fees of the
22 attorneys in that behalf;

23 (2) that the plaintiff has been compelled to advance or
24 will be compelled to advance, various sums of money in
25 payment of costs, fees, expenses and disbursements
26 incurred in connection with the foreclosure, including,

1 without limiting the generality of the foregoing, filing
2 fees, stenographer's fees, witness fees, costs of
3 publication, costs of procuring and preparing documentary
4 evidence and costs of procuring abstracts of title, Torrens
5 certificates, foreclosure minutes and a title insurance
6 policy;

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

16 (4) that in order to protect the lien of the mortgage,
17 it may become necessary for plaintiff to pay taxes and
18 assessments which have been or may be levied upon the
19 mortgaged real estate;

20 (5) that in order to protect and preserve the mortgaged
21 real estate, it may also become necessary for the plaintiff
22 to pay liability (protecting mortgagor and mortgagee),
23 fire and other hazard insurance premiums on the mortgaged
24 real estate, make such repairs to the mortgaged real estate
25 as may reasonably be deemed necessary for the proper
26 preservation thereof, advance for costs to inspect the

1 mortgaged real estate or to appraise it, or both, and
2 advance for premiums for pre-existing private or
3 governmental mortgage insurance to the extent required
4 after a foreclosure is commenced in order to keep such
5 insurance in force; and

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

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

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

16 (2) that the defendants be ordered to pay to the
17 plaintiff before expiration of any redemption period (or,
18 if no redemption period, before a short date fixed by the
19 court) whatever sums may appear to be due upon the taking
20 of such account, together with attorneys' fees and costs of
21 the proceedings (to the extent provided in the mortgage or
22 by law);

23 (3) that in default of such payment in accordance with
24 the judgment, the mortgaged real estate be sold as directed
25 by the court, to satisfy the amount due to the plaintiff as
26 set forth in the judgment, together with the interest

1 thereon at the statutory judgment rate from the date of the
2 judgment;

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

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

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

23 (f) Request for Deficiency Judgment. A request for a
24 personal judgment for a deficiency in a foreclosure complaint
25 if the sale of the mortgaged real estate fails to produce a
26 sufficient amount to pay the amount found due, the plaintiff

1 may have a personal judgment against any party in the
2 foreclosure indicated as being personally liable therefor and
3 the enforcement thereof be had as provided by law.

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

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

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

18 (735 ILCS 5/15-1505.8 new)

19 Sec. 15-1505.8. Expedited judgment and sale procedure for
20 abandoned residential property.

21 (a) Upon motion and notice, the mortgagee may elect to
22 utilize the expedited judgment and sale procedure for abandoned
23 residential property stated in this Section to obtain a
24 judgment of foreclosure pursuant to Section 15-1506. The motion
25 to expedite the judgment and sale may be combined with or made

1 part of the motion requesting a judgment of foreclosure. The
2 notice of the motion to expedite the judgment and sale shall be
3 posted at the property address and sent by first-class mail to
4 the last known address of the mortgagor.

5 (b) The motion requesting an expedited judgment of
6 foreclosure and sale may be filed by the mortgagee at the time
7 the foreclosure complaint is filed or any time thereafter and
8 shall be accompanied by an affidavit setting forth facts
9 sufficient for the court to find that the mortgaged real estate
10 is abandoned residential property.

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

18 (d) If a motion for an expedited judgment and sale is filed
19 after the period to answer the foreclosure complaint has
20 expired, the motion shall be heard no later than 15 days after
21 the motion is filed.

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

25 (f) The affidavit required under subsection (b) shall be
26 signed and verified by the mortgagee and shall state that, upon

1 information and belief of the mortgagee after inspection by the
2 mortgagee, the property is not occupied by any mortgagor or
3 lawful occupant as a principal residence, or the structure is
4 empty or otherwise uninhabited and the structure or lot is in
5 need of maintenance, repair, or securing, and the property is
6 abandoned residential property. The affidavit shall set forth
7 the conditions or circumstances listed in Section 15-1200.5
8 that support the request for a finding that the property is
9 abandoned residential property. Photographic or other
10 documentary evidence in support of the conditions or
11 circumstances shall be attached to the affidavit.

12 (g) Subject to subsection (h), at the hearing on the motion
13 requesting an expedited judgment and sale, if the court finds
14 that the property which is the subject of the foreclosure
15 complaint is abandoned residential property, the court shall
16 grant the motion and immediately proceed to a trial of the
17 foreclosure. A judgment of foreclosure under this Section shall
18 include the matters identified in Section 15-1506.

19 (h) The court may not grant the motion requesting an
20 expedited judgment and sale if: (i) the mortgagor appears in
21 the action in any manner before or at the hearing and objects
22 to a finding of abandonment; (ii) a person other than the
23 mortgagor appears at the hearing and presents evidence
24 establishing to the satisfaction of the court that the
25 mortgagor is working with, or making an attempt to work with,
26 the mortgagee to modify the mortgage; or (iii) a person other

1 than the mortgagor appears at the hearing and presents evidence
2 establishing to the satisfaction of the court that the
3 mortgagor or a lawful occupant has not abandoned the property.

4 (i) The court shall vacate an order issued pursuant to
5 subsection (g) of this Section if the mortgagor appears in the
6 action at any time prior to the court issuing an order
7 confirming the sale pursuant to subsection (b-3) of Section
8 15-1508 and presents evidence establishing to the satisfaction
9 of the court that the mortgagor has not abandoned the property.

10 (j) The reinstatement period and redemption period for the
11 abandoned residential property shall end in accordance with
12 paragraph (4) of subsection (b) of Section 15-1603, and the
13 property shall be sold at the earliest practicable time at a
14 sale as provided in this Article.

15 (k) A mortgagee or its agent may enter an abandoned
16 residential property at any time for the purpose of maintaining
17 or securing the property, provided that entry is not barred by
18 an automatic stay issued by a bankruptcy court. A mortgagee and
19 its agents shall not be held liable for any claim of
20 negligence, civil trespass, or criminal trespass based upon
21 entering the abandoned residential property or maintaining or
22 securing the abandoned residential property.

23 (l) Upon confirmation of the sale held pursuant to Section
24 15-1507, any personal property remaining in or upon the
25 abandoned residential property shall be deemed to have been
26 abandoned by the owner of such personal property and may be

1 disposed of or donated by the holder of the certificate of sale
2 (or, if none, by the purchaser at the sale). In the event of
3 donation of any such personal property, the holder of the
4 certificate of sale (or, if none, the purchaser at the sale)
5 may transfer such donated property with a bill of sale. No
6 mortgagee or its successors or assigns, holder of a certificate
7 of sale, or purchaser at the sale shall be liable for any such
8 disposal or donation of personal property.

9 (735 ILCS 5/15-1507.1)

10 (Section scheduled to be repealed on March 2, 2016)

11 Sec. 15-1507.1. Judicial sale fee for Abandoned
12 Residential Property Municipality Relief Fund.

13 (a) Upon and at the sale of residential real estate under
14 Section 15-1507, the purchaser shall pay to the person
15 conducting the sale pursuant to Section 15-1507 a fee for
16 deposit into the Abandoned Residential Property Municipality
17 Relief Fund, a special fund created in the State treasury. The
18 fee shall be calculated at the rate of \$1 for each \$1,000 or
19 fraction thereof of the amount paid by the purchaser to the
20 person conducting the sale, as reflected in the receipt of sale
21 issued to the purchaser, provided that in no event shall the
22 fee exceed \$300. ~~No fee shall be paid by the mortgagee~~
23 ~~acquiring the residential real estate pursuant to its credit~~
24 ~~bid at the sale or by any mortgagee, judgment creditor, or~~
25 ~~other lienor acquiring the residential real estate whose rights~~

1 ~~in and to the residential real estate arose prior to the sale.~~

2 Upon confirmation of the sale under Section 15-1508, the person
3 conducting the sale shall remit the fee to the clerk of the
4 court in which the foreclosure case is pending. The clerk shall
5 remit the fee to the State Treasurer as provided in this
6 Section, to be expended for the purposes set forth in Section
7 7.31 of the Illinois Housing Development Act.

8 (b) All fees paid by purchasers as provided in this Section
9 shall be disbursed within 60 days after receipt by the clerk of
10 the court as follows: (i) 98% to the State Treasurer for
11 deposit into the Abandoned Residential Property Municipality
12 Relief Fund, and (ii) 2% to the clerk of the court for
13 administrative expenses related to implementation of this
14 Section.

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

19 (d) Subsections (a) and (b) of this Section shall become
20 inoperative on January 1, 2016. This Section is repealed on
21 March 2, 2016.

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

23 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

25 (a) Report. The person conducting the sale shall promptly

1 make a report to the court, which report shall include a copy
2 of all receipts and, if any, certificate of sale.

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

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

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

24 (3) determine the priority of the judgments of parties
25 who deferred proving the priority pursuant to subsection
26 (h) of Section 15-1506, but the court shall not defer

1 confirming the sale pending the determination of such
2 priority.

3 (b-3) Hearing to confirm sale of abandoned residential
4 property. Upon motion and notice by first-class mail to the
5 last known address of the mortgagor, which motion shall be made
6 prior to the sale and heard by the court at the earliest
7 practicable time after conclusion of the sale, the court shall
8 enter an order confirming the sale of the abandoned residential
9 property, unless the court finds that a reason set forth in
10 items (i) through (iv) of subsection (b) of this Section exists
11 for not approving the sale. The confirmation order also may
12 address the matters identified in items (1) through (3) of
13 subsection (b) of this Section. Notwithstanding anything to the
14 contrary in this Section, the order confirming the sale of the
15 abandoned residential property shall award to the purchaser
16 possession of the property as of the date of the entry of the
17 order confirming the sale, and the notice required under
18 subsection (b-5) of this Section shall not be required.

19 (b-5) Notice with respect to residential real estate. With
20 respect to residential real estate, the notice required under
21 subsection (b) of this Section shall be sent to the mortgagor
22 even if the mortgagor has previously been held in default. In
23 the event the mortgagor has filed an appearance, the notice
24 shall be sent to the address indicated on the appearance. In
25 all other cases, the notice shall be sent to the mortgagor at
26 the common address of the foreclosed property. The notice shall

1 be sent by first class mail. Unless the right to possession has
2 been previously terminated by the court, the notice shall
3 include the following language in 12-point boldface
4 capitalized type:

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

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

24 (c) Failure to Give Notice. If any sale is held without
25 compliance with subsection (c) of Section 15-1507 of this
26 Article, any party entitled to the notice provided for in

1 paragraph (3) of that subsection (c) who was not so notified
2 may, by motion supported by affidavit made prior to
3 confirmation of such sale, ask the court which entered the
4 judgment to set aside the sale. Any such party shall guarantee
5 or secure by bond a bid equal to the successful bid at the
6 prior sale, unless the party seeking to set aside the sale is
7 the mortgagor, the real estate sold at the sale is residential
8 real estate, and the mortgagor occupies the residential real
9 estate at the time the motion is filed. In that event, no
10 guarantee or bond shall be required of the mortgagor. Any
11 subsequent sale is subject to the same notice requirement as
12 the original sale.

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

1 (d-5) Making Home Affordable Program. The court that
2 entered the judgment shall set aside a sale held pursuant to
3 Section 15-1507, upon motion of the mortgagor at any time prior
4 to the confirmation of the sale, if the mortgagor proves by a
5 preponderance of the evidence that (i) the mortgagor has
6 applied for assistance under the Making Home Affordable Program
7 established by the United States Department of the Treasury
8 pursuant to the Emergency Economic Stabilization Act of 2008,
9 as amended by the American Recovery and Reinvestment Act of
10 2009, and (ii) the mortgaged real estate was sold in material
11 violation of the program's requirements for proceeding to a
12 judicial sale. The provisions of this subsection (d-5), except
13 for this sentence, shall become inoperative on January 1, 2013
14 for all actions filed under this Article after December 31,
15 2012, in which the mortgagor did not apply for assistance under
16 the Making Home Affordable Program on or before December 31,
17 2012.

18 (e) Deficiency Judgment. In any order confirming a sale
19 pursuant to the judgment of foreclosure, the court shall also
20 enter a personal judgment for deficiency against any party (i)
21 if otherwise authorized and (ii) to the extent requested in the
22 complaint and proven upon presentation of the report of sale in
23 accordance with Section 15-1508. Except as otherwise provided
24 in this Article, a judgment may be entered for any balance of
25 money that may be found due to the plaintiff, over and above
26 the proceeds of the sale or sales, and enforcement may be had

1 for the collection of such balance, the same as when the
2 judgment is solely for the payment of money. Such judgment may
3 be entered, or enforcement had, only in cases where personal
4 service has been had upon the persons personally liable for the
5 mortgage indebtedness, unless they have entered their
6 appearance in the foreclosure action.

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

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

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

26 Notwithstanding the preceding paragraph, the failure to

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

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

24 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;
25 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.
26 8-26-11.)

1 (735 ILCS 5/15-1603) (from Ch. 110, par. 15-1603)

2 Sec. 15-1603. Redemption.

3 (a) Owner of Redemption. Except as provided in subsection
4 (b) of Section 15-1402, only an owner of redemption may redeem
5 from the foreclosure, and such owner of redemption may redeem
6 only during the redemption period specified in subsection (b)
7 of Section 15-1603 and only if the right of redemption has not
8 been validly waived.

9 (b) Redemption Period.

10 (1) In the foreclosure of a mortgage of real estate
11 which is residential real estate at the time the
12 foreclosure is commenced, the redemption period shall end
13 on the later of (i) the date 7 months from the date the
14 mortgagor or, if more than one, all the mortgagors (A) have
15 been served with summons or by publication or (B) have
16 otherwise submitted to the jurisdiction of the court, or
17 (ii) the date 3 months from the date of entry of a judgment
18 of foreclosure.

19 (2) In all other foreclosures, the redemption period
20 shall end on the later of (i) the date 6 months from the
21 date the mortgagor or, if more than one, all the mortgagors
22 (A) have been served with summons or by publication or (B)
23 have otherwise submitted to the jurisdiction of the court,
24 or (ii) the date 3 months from the date of entry of a
25 judgment of foreclosure.

1 (3) Notwithstanding paragraphs (1) and (2), the
2 redemption period shall end at the later of the expiration
3 of any reinstatement period provided for in Section 15-1602
4 or the date 60 days after the date the judgment of
5 foreclosure is entered, if the court finds that (i) the
6 value of the mortgaged real estate as of the date of the
7 judgment is less than 90% of the amount specified pursuant
8 to subsection (d) of Section 15-1603 and (ii) the mortgagee
9 waives any and all rights to a personal judgment for a
10 deficiency against the mortgagor and against all other
11 persons liable for the indebtedness or other obligations
12 secured by the mortgage.

13 (4) Notwithstanding paragraphs (1) and (2), ~~the~~
14 ~~redemption period shall end on the date 30 days after the~~
15 ~~date the judgment of foreclosure is entered~~ if the court
16 has found ~~finds~~ that the mortgaged real estate is abandoned
17 residential property, the redemption period shall end on
18 the date of and immediately prior to the judicial sale
19 conducted under Section 15-1507 ~~has been abandoned~~. In
20 cases where the redemption period is shortened on account
21 of abandonment, the reinstatement period shall not extend
22 beyond the date the judgment of foreclosure is entered
23 ~~redemption period as shortened~~.

24 (c) Extension of Redemption Period.

25 (1) Once expired, the right of redemption provided for
26 in Sections 15-1603 or 15-1604 shall not be revived. The

1 period within which the right of redemption provided for in
2 Sections 15-1603 or 15-1604 may be exercised runs
3 independently of any action by any person to enforce the
4 judgment of foreclosure or effect a sale pursuant thereto.
5 Neither the initiation of any legal proceeding nor the
6 order of any court staying the enforcement of a judgment of
7 foreclosure or the sale pursuant to a judgment or the
8 confirmation of the sale, shall have the effect of tolling
9 the running of the redemption period.

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

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

24 (1) The amount specified in the judgment of
25 foreclosure, which shall consist of (i) all principal and
26 accrued interest secured by the mortgage and due as of the

1 date of the judgment, (ii) all costs allowed by law, (iii)
2 costs and expenses approved by the court, (iv) to the
3 extent provided for in the mortgage and approved by the
4 court, additional costs, expenses and reasonable
5 attorneys' fees incurred by the mortgagee, (v) all amounts
6 paid pursuant to Section 15-1505 and (vi) per diem interest
7 from the date of judgment to the date of redemption
8 calculated at the mortgage rate of interest applicable as
9 if no default had occurred; and

10 (2) The amount of other expenses authorized by the
11 court which the mortgagee reasonably incurs between the
12 date of judgment and the date of redemption, which shall be
13 the amount certified by the mortgagee in accordance with
14 subsection (e) of Section 15-1603.

15 (e) Notice of Intent to Redeem. An owner of redemption who
16 intends to redeem shall give written notice of such intent to
17 redeem to the mortgagee's attorney of record specifying the
18 date designated for redemption and the current address of the
19 owner of redemption for purposes of receiving notice. Such
20 owner of redemption shall file with the clerk of the court a
21 certification of the giving of such notice. The notice of
22 intent to redeem must be received by the mortgagee's attorney
23 at least 15 days (other than Saturday, Sunday or court holiday)
24 prior to the date designated for redemption. The mortgagee
25 shall thereupon file with the clerk of the court and shall give
26 written notice to the owner of redemption at least three days

1 (other than Saturday, Sunday or court holiday) before the date
2 designated for redemption a certification, accompanied by
3 copies of paid receipts or appropriate affidavits, of any
4 expenses authorized in paragraph (2) of subsection (d) of
5 Section 15-1603. If the mortgagee fails to serve such
6 certification within the time specified herein, then the owner
7 of redemption intending to redeem may redeem on the date
8 designated for redemption in the notice of intent to redeem,
9 and the mortgagee shall not be entitled to payment of any
10 expenses authorized in paragraph (2) of subsection (d) of
11 Section 15-1603.

12 (f) Procedure for Redemption.

13 (1) An owner of redemption may redeem the real estate
14 from the foreclosure by paying the amount specified in
15 subsection (d) of Section 15-1603 to the mortgagee or the
16 mortgagee's attorney of record on or before the date
17 designated for redemption pursuant to subsection (e) of
18 Section 15-1603.

19 (2) If the mortgagee refuses to accept payment or if
20 the owner of redemption redeeming from the foreclosure
21 objects to the reasonableness of the additional expenses
22 authorized in paragraph (2) of subsection (d) of Section
23 15-1603 and certified in accordance with subsection (e) of
24 Section 15-1603, the owner of redemption shall pay the
25 certified amount to the clerk of the court on or before the
26 date designated for redemption, together with a written

1 statement specifying the expenses to which objection is
2 made. In such case the clerk shall pay to the mortgagee the
3 amount tendered minus the amount to which the objection
4 pertains.

5 (3) Upon payment to the clerk, whether or not the owner
6 of redemption files an objection at the time of payment,
7 the clerk shall give a receipt of payment to the person
8 redeeming from the foreclosure, and shall file a copy of
9 that receipt in the foreclosure record. Upon receipt of the
10 amounts specified to be paid to the mortgagee pursuant to
11 this Section, the mortgagee shall promptly furnish the
12 mortgagor with a release of the mortgage or satisfaction of
13 the judgment, as appropriate, and the evidence of all
14 indebtedness secured by the mortgage shall be cancelled.

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

25 (h) Failure to Redeem. Unless the real estate being
26 foreclosed is redeemed from the foreclosure, it shall be sold

1 as provided in this Article.

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

3 (735 ILCS 5/15-1701) (from Ch. 110, par. 15-1701)

4 Sec. 15-1701. Right to possession.

5 (a) General. The provisions of this Article shall govern
6 the right to possession of the mortgaged real estate during
7 foreclosure. Possession under this Article includes physical
8 possession of the mortgaged real estate to the same extent to
9 which the mortgagor, absent the foreclosure, would have been
10 entitled to physical possession. For the purposes of Part 17,
11 real estate is residential real estate only if it is
12 residential real estate at the time the foreclosure is
13 commenced.

14 (a-5) Abandoned residential property. Notwithstanding
15 anything to the contrary in this Section, the holder of the
16 certificate of sale or deed issued pursuant to that certificate
17 or, if no certificate or deed was issued, the purchaser, of the
18 abandoned residential property shall be entitled to possession
19 of the property as of the date the order confirming the sale of
20 the abandoned residential property is entered.

21 (b) Pre-Judgment. Prior to the entry of a judgment of
22 foreclosure:

23 (1) In the case of residential real estate, the
24 mortgagor shall be entitled to possession of the real
25 estate except if (i) the mortgagee shall object and show

1 good cause, (ii) the mortgagee is so authorized by the
2 terms of the mortgage or other written instrument, and
3 (iii) the court is satisfied that there is a reasonable
4 probability that the mortgagee will prevail on a final
5 hearing of the cause, the court shall upon request place
6 the mortgagee in possession. If the residential real estate
7 consists of more than one dwelling unit, then for the
8 purpose of this Part residential real estate shall mean
9 only that dwelling unit or units occupied by persons
10 described in clauses (i), (ii) and (iii) of Section
11 15-1219.

12 (2) In all other cases, if (i) the mortgagee is so
13 authorized by the terms of the mortgage or other written
14 instrument, and (ii) the court is satisfied that there is a
15 reasonable probability that the mortgagee will prevail on a
16 final hearing of the cause, the mortgagee shall upon
17 request be placed in possession of the real estate, except
18 that if the mortgagor shall object and show good cause, the
19 court shall allow the mortgagor to remain in possession.

20 (c) Judgment Through 30 Days After Sale Confirmation. After
21 the entry of a judgment of foreclosure and through the 30th day
22 after a foreclosure sale is confirmed:

23 (1) Subsection (b) of Section 15-1701 shall be
24 applicable, regardless of the provisions of the mortgage or
25 other instrument, except that after a sale pursuant to the
26 judgment the holder of the certificate of sale (or, if

1 none, the purchaser at the sale) shall have the mortgagee's
2 right to be placed in possession, with all rights and
3 duties of a mortgagee in possession under this Article.

4 (2) Notwithstanding paragraph (1) of subsection (b)
5 and paragraph (1) of subsection (c) of Section 15-1701,
6 upon request of the mortgagee, a mortgagor of residential
7 real estate shall not be allowed to remain in possession
8 between the expiration of the redemption period and through
9 the 30th day after sale confirmation unless (i) the
10 mortgagor pays to the mortgagee or such holder or
11 purchaser, whichever is applicable, monthly the lesser of
12 the interest due under the mortgage calculated at the
13 mortgage rate of interest applicable as if no default had
14 occurred or the fair rental value of the real estate, or
15 (ii) the mortgagor otherwise shows good cause. Any amounts
16 paid by the mortgagor pursuant to this subsection shall be
17 credited against the amounts due from the mortgagor.

18 (d) After 30 Days After Sale Confirmation. The holder of
19 the certificate of sale or deed issued pursuant to that
20 certificate or, if no certificate or deed was issued, the
21 purchaser, except to the extent the holder or purchaser may
22 consent otherwise, shall be entitled to possession of the
23 mortgaged real estate, as of the date 30 days after the order
24 confirming the sale is entered, against those parties to the
25 foreclosure whose interests the court has ordered terminated,
26 without further notice to any party, further order of the

1 court, or resort to proceedings under any other statute other
2 than this Article. This right to possession shall be limited by
3 the provisions governing entering and enforcing orders of
4 possession under subsection (g) of Section 15-1508. If the
5 holder or purchaser determines that there are occupants of the
6 mortgaged real estate who have not been made parties to the
7 foreclosure and had their interests terminated therein, the
8 holder or purchaser may bring a proceeding under subsection (h)
9 of this Section or under Article 9 of this Code to terminate
10 the rights of possession of any such occupants. The holder or
11 purchaser shall not be entitled to proceed against any such
12 occupant under Article 9 of this Code until after 30 days after
13 the order confirming the sale is entered.

14 (e) Termination of Leases. A lease of all or any part of
15 the mortgaged real estate shall not be terminated automatically
16 solely by virtue of the entry into possession by (i) a
17 mortgagee or receiver prior to the entry of an order confirming
18 the sale, (ii) the holder of the certificate of sale, (iii) the
19 holder of the deed issued pursuant to that certificate, or (iv)
20 if no certificate or deed was issued, the purchaser at the
21 sale.

22 (f) Other Statutes; Instruments. The provisions of this
23 Article providing for possession of mortgaged real estate shall
24 supersede any other inconsistent statutory provisions. In
25 particular, and without limitation, whenever a receiver is
26 sought to be appointed in any action in which a foreclosure is

1 also pending, a receiver shall be appointed only in accordance
2 with this Article. Except as may be authorized by this Article,
3 no mortgage or other instrument may modify or supersede the
4 provisions of this Article.

5 (g) Certain Leases. Leases of the mortgaged real estate
6 entered into by a mortgagee in possession or a receiver and
7 approved by the court in a foreclosure shall be binding on all
8 parties, including the mortgagor after redemption, the
9 purchaser at a sale pursuant to a judgment of foreclosure and
10 any person acquiring an interest in the mortgaged real estate
11 after entry of a judgment of foreclosure in accordance with
12 Sections 15-1402 and 15-1403.

13 (h) Proceedings Against Certain Occupants.

14 (1) The mortgagee-in-possession of the mortgaged real
15 estate under Section 15-1703, a receiver appointed under
16 Section 15-1704, a holder of the certificate of sale or
17 deed, or the purchaser may, at any time during the pendency
18 of the foreclosure and up to 90 days after the date of the
19 order confirming the sale, file a supplemental petition for
20 possession against a person not personally named as a party
21 to the foreclosure. The supplemental petition for
22 possession shall name each such occupant against whom
23 possession is sought and state the facts upon which the
24 claim for relief is premised.

25 (2) The petitioner shall serve upon each named occupant
26 the petition, a notice of hearing on the petition, and, if

1 any, a copy of the certificate of sale or deed. The
2 proceeding for the termination of such occupant's
3 possessory interest, including service of the notice of the
4 hearing and the petition, shall in all respects comport
5 with the requirements of Article 9 of this Code, except as
6 otherwise specified in this Section. The hearing shall be
7 no less than 21 days from the date of service of the
8 notice.

9 (3) The supplemental petition shall be heard as part of
10 the foreclosure proceeding and without the payment of
11 additional filing fees. An order for possession obtained
12 under this Section shall name each occupant whose interest
13 has been terminated, shall recite that it is only effective
14 as to the occupant so named and those holding under them,
15 and shall be enforceable for no more than 120 days after
16 its entry, except that the 120-day period may be extended
17 to the extent and in the manner provided in Section 9-117
18 of Article 9 and except as provided in item (4) of this
19 subsection (h).

20 (4) In a case of foreclosure where the occupant is
21 current on his or her rent, or where timely written notice
22 of to whom and where the rent is to be paid has not been
23 provided to the occupant, or where the occupant has made
24 good-faith efforts to make rental payments in order to keep
25 current, any order of possession must allow the occupant to
26 retain possession of the property covered in his or her

1 rental agreement (i) for 120 days following the notice of
2 the hearing on the supplemental petition that has been
3 properly served upon the occupant, or (ii) through the
4 duration of his or her lease, whichever is shorter,
5 provided that if the duration of his or her lease is less
6 than 30 days from the date of the order, the order shall
7 allow the occupant to retain possession for 30 days from
8 the date of the order. A mortgagee in possession, receiver,
9 holder of a certificate of sale or deed, or purchaser at
10 the judicial sale, who asserts that the occupant is not
11 current in rent, shall file an affidavit to that effect in
12 the supplemental petition proceeding. If the occupant has
13 been given timely written notice of to whom and where the
14 rent is to be paid, this item (4) shall only apply if the
15 occupant continues to pay his or her rent in full during
16 the 120-day period or has made good-faith efforts to pay
17 the rent in full during that period. No
18 mortgagee-in-possession, receiver or holder of a
19 certificate of sale or deed, or purchaser who fails to file
20 a supplemental petition under this subsection during the
21 pendency of a mortgage foreclosure shall file a forcible
22 entry and detainer action against an occupant of the
23 mortgaged real estate until 90 days after a notice of
24 intent to file such action has been properly served upon
25 the occupant.

26 (5) The court records relating to a supplemental

1 petition for possession filed under this subsection (h)
2 against an occupant who is entitled to notice under item
3 (4) of this subsection (h), or relating to a forcible entry
4 and detainer action brought against an occupant who would
5 have lawful possession of the premises but for the
6 foreclosure of a mortgage on the property, shall be ordered
7 sealed and shall not be disclosed to any person, other than
8 a law enforcement officer or any other representative of a
9 governmental entity, except upon further order of the
10 court.

11 (Source: P.A. 95-262, eff. 1-1-08; 95-933, eff. 8-26-08; 96-60,
12 eff. 7-23-09; 96-111, eff. 10-29-09; 96-1000, eff. 7-2-10.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law."