



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB3058

by Rep. Sonya M. Harper

#### SYNOPSIS AS INTRODUCED:

New Act

735 ILCS 5/15-1701

from Ch. 110, par. 15-1701

735 ILCS 5/15-1702

from Ch. 110, par. 15-1702

Creates the Abandoned Residential Property Act. Imposes requirements on first lien mortgage holders concerning the inspecting, securing, and maintaining of abandoned residential property. Provides exceptions. Provides that the Department of Financial and Professional Regulation shall maintain a statewide abandoned property registry electronic database. Provides that the Department shall establish and maintain a toll-free hotline that neighbors of residential property that is, or appears to be, abandoned may use to report hazards, blights, or other concerns related to the property. Provides that violations of the provisions may be heard before a hearing officer or a court of competent jurisdiction and that the violations may be enforced by the Secretary of the Department or the municipality where the residential property is located. Provides that if the mortgagee violates the provisions, a civil penalty may be issued in the amount of up to \$500 per day per property for each day the violation persisted. Provides rulemaking powers to the Division of Banking of the Department to implement the provisions. Limits home rule powers. Makes conforming changes.

LRB101 10528 LNS 55634 b

HOME RULE NOTE  
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 1. Short title. This Act may be cited as the  
5 Abandoned Residential Property Act.

6 Section 5. Definitions. As used in this Act:

7 "Abandoned residential property" means property that:

8 (1) has any of the following occur: overgrown or dead  
9 vegetation; accumulation of newspapers, circulars, flyers,  
10 or mail; past due utility notices, disconnected utilities,  
11 or utilities not in use; accumulation of trash, refuse, or  
12 other debris; absence of window coverings; one or more  
13 boarded, missing, or broken windows; the property is open  
14 to casual entry or trespass; or the property has a building  
15 or structure that is or appears structurally unsound or has  
16 any other condition that presents a potential hazard or  
17 danger to the safety of persons;

18 (2) a court or other appropriate State or local  
19 governmental entity has formally determined, following due  
20 notice to the borrower at the property address and any  
21 other known addresses, that such property is vacant and  
22 abandoned; or

23 (3) each borrower and owner has separately issued a

1 sworn written statement, expressing his or her intent to  
2 vacate and abandon the property and an inspection of the  
3 property shows no evidence of occupancy to indicate that  
4 any person is residing there.

5 "Department" means the Department of Financial and  
6 Professional Regulation.

7 "Division of Banking" means the Division of Banking of the  
8 Department of Financial and Professional Regulation.

9 "Secretary" means the Secretary of the Department of  
10 Financial and Professional Regulation.

11 Section 10. Application. Notwithstanding any other  
12 provision of law to the contrary, any duties and  
13 responsibilities prescribed by this Act apply only to the first  
14 lien mortgage holder.

15 This Act does not apply to State or federally chartered  
16 banks, savings banks, savings and loan associations, or credit  
17 unions that:

18 (1) originate, own, service, and maintain their  
19 mortgages or a portion thereof; and

20 (2) have less than three-tenths of 1% of the total  
21 loans in the State that they either originate, own,  
22 service, or maintain for the calendar year ending December  
23 31 of the calendar year ending 2 years prior to the current  
24 calendar year.

25 For any State or federally chartered banks, savings banks,

1 savings and loan associations, or credit unions that originate,  
2 own, service, and maintain between three-tenths of 1% and  
3 five-tenths of 1% of the total loans in the State that they  
4 either originate, own, service, or maintain for the calendar  
5 year ending December 31 of the calendar year ending 2 years  
6 prior to the current calendar year, the application of this Act  
7 shall be prospective only.

8 Section 15. Inspecting, securing, and maintaining  
9 abandoned residential property.

10 (a) Subject to bankruptcy filings, cease and desist orders,  
11 threats of violence, or active loss mitigation efforts, within  
12 90 days of a borrower's delinquency, the lender, assignee, or  
13 mortgage loan servicer authorized to accept payment of the loan  
14 shall complete an exterior inspection of the subject property  
15 to determine occupancy. Thereafter, throughout the delinquency  
16 of the loan, the lender, assignee, or mortgage loan servicer  
17 shall conduct an exterior inspection of the property every 25  
18 to 35 days, at different times of the day.

19 (b) If a borrower is delinquent and subject to property  
20 inspections pursuant to subsection (a), the lender, assignee,  
21 or mortgage loan servicer shall secure and maintain the  
22 residential property pursuant to subsections (c), (d), (e),  
23 (f), and (g) if the lender, assignee, or mortgage loan servicer  
24 has a reasonable basis to believe that the residential property  
25 is abandoned and the lender, assignee, or mortgage loan

1 servicer is not otherwise restricted from accessing the  
2 property.

3 (c) Within 7 business days of determining that the property  
4 is abandoned based on the criteria set forth in subsection (b),  
5 the lender, assignee, or mortgage loan servicer shall post a  
6 notice on an easily accessible part of the property that is  
7 reasonably visible to the borrower, property owner, or  
8 occupant, and monitor the property (1) for any change in  
9 occupancy or contact with the borrower, property owner, or  
10 occupant, and (2) to ensure that the notice remains posted so  
11 long as the duty to maintain applies. The posted notice shall  
12 provide the lender's, assignee's, or mortgage loan servicer's  
13 toll-free number or similar contact information.

14 (d) If the posted notice is not responded to or persists  
15 for 7 consecutive calendar days without contact with the  
16 borrower, property owner, or occupant indicating that the  
17 property is not abandoned, or if an emergent property condition  
18 that could reasonably damage, destroy, or harm the property  
19 arises, the lender, assignee, or mortgage loan servicer shall:

20 (1) if the property contains 2 or more points of  
21 ingress or egress, replace no more than one door lock to  
22 provide subsequent access to the property;

23 (2) secure, replace, or board up broken doors and  
24 windows;

25 (3) secure any part of the property that may be deemed  
26 an attractive nuisance, including, but not limited to, a

1 water feature that could create a drowning risk,  
2 refrigerator or freezer units, outbuildings, wells, or  
3 septic tanks;

4 (4) respond to government inquiries regarding the  
5 condition of the property, subject to restrictions  
6 regarding financial privacy; and

7 (5) ensure that the notice required to be posted under  
8 subsection (c) remains posted on an easily accessible part  
9 of the property that is reasonably visible to the borrower,  
10 property owner, or occupant so long as the duty to maintain  
11 applies.

12 (e) At no time shall a lender, assignee, or mortgage loan  
13 servicer remove personal property from the property unless:

14 (1) the personal property poses a significant health  
15 and safety issue; or

16 (2) there is an uncontested order to do so by a  
17 governmental entity.

18 (f) A lender, assignee, or mortgage loan servicer who has  
19 determined a property to be abandoned and who has secured the  
20 same shall take reasonable and necessary actions to maintain  
21 the property until the earliest of the following events:

22 (1) an occupant of the property has asserted his or her  
23 right to occupy the property, or the lender, assignee, or  
24 mortgage loan servicer or its agents have received threats  
25 of violence;

26 (2) the borrower has filed for bankruptcy;

1           (3) a court has ordered the lender, assignee, or  
2 mortgage loan servicer to stop any maintenance of the  
3 property;

4           (4) a homeowners' association has prevented the  
5 lender, assignee, or mortgage loan servicer from gaining  
6 access to or maintaining the property;

7           (5) the property has been sold or transferred to a new  
8 owner;

9           (6) the lender, assignee, or mortgage loan servicer or  
10 investor subject to this Act has released the lien on the  
11 property; or

12           (7) the mortgage note has been assigned, transferred,  
13 or sold to another lender, assignee, or mortgage loan  
14 servicer.

15           (g) Reasonable and necessary actions to maintain the  
16 property include, but are not limited to:

17           (1) ensuring that the property remains secure pursuant  
18 to subsections (d), (e), and (f); and

19           (2) maintaining property in a manner consistent with  
20 the standards set forth in Section 15-1200.5 to the extent  
21 that the lender, assignee, or mortgage loan servicer is  
22 able to obtain necessary or required permits or approvals.

23           Section 20. Zip code database; toll-free number.

24           (a) The Department shall maintain a statewide abandoned  
25 residential property registry electronic database. The

1 Department may retain a private contractor to administer the  
2 database for the purposes of satisfying this requirement.

3 The Department, upon written request, shall provide a  
4 public official of any State district, county, city, town, or  
5 village with access to information specific to the public  
6 official's district, county, city, town, or village maintained  
7 on the database. The Department shall make the database open to  
8 the public and available on the Department's website.

9 (b) A lender, assignee, or mortgage loan servicer shall  
10 submit to the Department by December 31, 2020 information  
11 required by the Secretary about any abandoned residential real  
12 property that is located in a zip code where there are  
13 prevalent abandoned residential properties.

14 The information shall, at a minimum, include: (1) the  
15 current name, address, and contact information for the lender,  
16 assignee, or mortgage loan servicer responsible for  
17 maintaining the vacant property; (2) whether a foreclosure  
18 action has been filed for the property in question, and, if so,  
19 the date on which the foreclosure action was commenced; and (3)  
20 the last known address and contact information for the  
21 mortgagor of record.

22 If any of the information contained in a lender's,  
23 assignee's, or mortgage loan servicer's initial submission to  
24 the registry has materially changed since submission, the  
25 lender, assignee, or mortgage loan servicer shall make an  
26 amended submission to the registry not later than 30 days after



1 the lender, assignee, or mortgage loan servicer learns, or  
2 reasonably should have learned, of the new or changed  
3 information.

4 (c) The Department shall establish and maintain a toll-free  
5 hotline that a neighbor of residential property that is, or  
6 appears to be, abandoned residential property may use to report  
7 to the Department any hazards, blights, or other concerns  
8 related to the property. The Department shall include on its  
9 official public website information about the toll-free  
10 hotline.

11 Section 25. Violations; enforcement.

12 (a) An allegation of a violation of this Act may be heard  
13 before a hearing officer or a court of competent jurisdiction.  
14 If the mortgagee or agent of the mortgagee has violated this  
15 Act, a civil penalty may be imposed by the hearing officer or  
16 the court in the amount of up to \$500 per day per property for  
17 each day the violation persisted.

18 The Secretary, or his or her designee, may, as appropriate  
19 and in his or her discretion, pursue any suspected violation of  
20 this Act. Before taking such action, the Secretary, or his or  
21 her designee, shall give the lender, assignee, or mortgage loan  
22 servicer at least 7 days' notice of the violation.

23 The municipality in which the residential property is  
24 located may file an action to enforce the obligations described  
25 in this Act in any court of competent jurisdiction after at

1 least 7 days' notice to the lender, assignee, or mortgage loan  
2 servicer, unless the property requires emergency repairs to  
3 address a threat to public health, safety, or welfare, in which  
4 case the municipality may enter and maintain the property to  
5 cure the emergency; however, notice shall be provided to the  
6 lender, assignee, or mortgage loan servicer as soon as  
7 practicable. Any municipality acting pursuant to this  
8 subsection may bring an action in any court of competent  
9 jurisdiction against the lender, assignee, or mortgage loan  
10 servicer to recover costs incurred as a result of maintaining  
11 the property. The municipality shall provide the Division of  
12 Banking with written notice at least 10 days prior to bringing  
13 an action pursuant to this subsection; however, failure to  
14 comply with this notice requirement shall not be a defense to  
15 an allegation in a proceeding brought pursuant to this  
16 subsection. The authority provided by this subsection is in  
17 addition to, and is not deemed to diminish or reduce, any  
18 rights of the parties described in this Act under existing law  
19 against the mortgagor of the property for failure to maintain  
20 the property. Any civil penalty imposed pursuant to this  
21 subsection in an action brought by a municipality shall be  
22 retained by the municipality.

23 (b) A lender, assignee, or mortgage loan servicer who  
24 peacefully enters an abandoned property in order to maintain it  
25 pursuant to this Act shall be immune from liability if the  
26 lender, assignee, or mortgage loan servicer is making

1 reasonable efforts to comply with this Act.

2 (c) This Act is subject to federal laws, court orders, and  
3 investor and insurer guidelines.

4 (d) For all State or federally chartered banks, savings  
5 banks, savings and loan associations, credit unions, or  
6 servicers for which the provisions of this Act do not apply,  
7 any agreement between a State or federally chartered bank,  
8 savings bank, savings and loan association, credit union, or  
9 servicer and the Division of Banking that is associated with  
10 the maintenance and repair of abandoned property shall remain  
11 in full force and effect for so long as the terms and  
12 conditions of the agreement remain in effect.

13 (e) The Division of Banking shall adopt any rules necessary  
14 to implement the terms of this Act, including, but not limited  
15 to, rules pertaining to the reporting of financial information  
16 that State or federally chartered banks, savings banks, savings  
17 and loan associations, or credit unions must provide to  
18 implement this Act.

19 Section 30. Home rule limitations. A home rule unit shall  
20 not impose a duty to maintain abandoned property in a manner  
21 inconsistent with the provisions of this Act that are related  
22 to maintenance as provided under subsections (c), (d), (e),  
23 (f), and (g) of Section 15, or establish related penalties or  
24 other monetary obligations, with respect to a State or  
25 federally chartered bank, savings bank, savings and loan

1 association, or credit union that originates, owns, services or  
2 maintains a mortgage related to the property. A home rule unit  
3 shall not impose a duty to maintain abandoned property upon any  
4 State or federally chartered bank, savings bank, savings and  
5 loan association, or credit union that is not subject to this  
6 Act. This subsection is a limitation under subsection (i) of  
7 Article VII of the Illinois Constitution on the concurrent  
8 exercise by home rule units of powers and functions exercised  
9 by the State.

10 Section 35. The Code of Civil Procedure is amended by  
11 changing Sections 15-1701 and 15-1702 as follows:

12 (735 ILCS 5/15-1701) (from Ch. 110, par. 15-1701)

13 Sec. 15-1701. Right to possession.

14 (a) General. The provisions of this Article shall govern  
15 the right to possession of the mortgaged real estate during  
16 foreclosure. Possession under this Article includes physical  
17 possession of the mortgaged real estate to the same extent to  
18 which the mortgagor, absent the foreclosure, would have been  
19 entitled to physical possession. For the purposes of Part 17,  
20 real estate is residential real estate only if it is  
21 residential real estate at the time the foreclosure is  
22 commenced.

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

1           (1) In the case of residential real estate, the  
2 mortgagor shall be entitled to possession of the real  
3 estate except if (i) the mortgagee shall object and show  
4 good cause, (ii) the mortgagee is so authorized by the  
5 terms of the mortgage or other written instrument, and  
6 (iii) the court is satisfied that there is a reasonable  
7 probability that the mortgagee will prevail on a final  
8 hearing of the cause, the court shall upon request place  
9 the mortgagee in possession. If the residential real estate  
10 consists of more than one dwelling unit, then for the  
11 purpose of this Part residential real estate shall mean  
12 only that dwelling unit or units occupied by persons  
13 described in clauses (i), (ii) and (iii) of Section  
14 15-1219.

15           (1.5) The mortgagor may take possession of the real  
16 estate for the purposes of compliance with the Abandoned  
17 Residential Property Act.

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

26           (c) Judgment Through 30 Days After Sale Confirmation. After

1 the entry of a judgment of foreclosure and through the 30th day  
2 after a foreclosure sale is confirmed:

3 (1) Subsection (b) of Section 15-1701 shall be  
4 applicable, regardless of the provisions of the mortgage or  
5 other instrument, except that after a sale pursuant to the  
6 judgment the holder of the certificate of sale (or, if  
7 none, the purchaser at the sale) shall have the mortgagee's  
8 right to be placed in possession, with all rights and  
9 duties of a mortgagee in possession under this Article.

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

24 (d) After 30 Days After Sale Confirmation. The holder of  
25 the certificate of sale or deed issued pursuant to that  
26 certificate or, if no certificate or deed was issued, the

1 purchaser, except to the extent the holder or purchaser may  
2 consent otherwise, shall be entitled to possession of the  
3 mortgaged real estate, as of the date 30 days after the order  
4 confirming the sale is entered, against those parties to the  
5 foreclosure whose interests the court has ordered terminated,  
6 without further notice to any party, further order of the  
7 court, or resort to proceedings under any other statute other  
8 than this Article. This right to possession shall be limited by  
9 the provisions governing entering and enforcing orders of  
10 possession under subsection (g) of Section 15-1508. If the  
11 holder or purchaser determines that there are occupants of the  
12 mortgaged real estate who have not been made parties to the  
13 foreclosure and had their interests terminated therein, the  
14 holder or purchaser may bring an eviction proceeding under  
15 subsection (h) of this Section, if applicable, or under Article  
16 IX of this Code to terminate the rights of possession of any  
17 such occupants. The holder or purchaser shall not be entitled  
18 to proceed against any such occupant under Article IX of this  
19 Code until after 30 days after the order confirming the sale is  
20 entered.

21 (e) Termination of Leases. A lease of all or any part of  
22 the mortgaged real estate shall not be terminated automatically  
23 solely by virtue of the entry into possession by (i) a  
24 mortgagee or receiver prior to the entry of an order confirming  
25 the sale, (ii) the holder of the certificate of sale, (iii) the  
26 holder of the deed issued pursuant to that certificate, or (iv)

1 if no certificate or deed was issued, the purchaser at the  
2 sale.

3 (f) Other Statutes; Instruments. The provisions of this  
4 Article providing for possession of mortgaged real estate shall  
5 supersede any other inconsistent statutory provisions. In  
6 particular, and without limitation, whenever a receiver is  
7 sought to be appointed in any action in which a foreclosure is  
8 also pending, a receiver shall be appointed only in accordance  
9 with this Article. Except as may be authorized by this Article,  
10 no mortgage or other instrument may modify or supersede the  
11 provisions of this Article.

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

20 (h) Proceedings Against Certain Occupants.

21 (1) The mortgagee-in-possession of the mortgaged real  
22 estate under Section 15-1703, a receiver appointed under  
23 Section 15-1704, a holder of the certificate of sale or  
24 deed, or the purchaser may, at any time during the pendency  
25 of the foreclosure and up to 90 days after the date of the  
26 order confirming the sale, file a supplemental eviction



1 petition against a person not personally named as a party  
2 to the foreclosure. This subsection (h) does not apply to  
3 any lessee with a bona fide lease of a dwelling unit in  
4 residential real estate in foreclosure.

5 (2) The supplemental eviction petition shall name each  
6 such occupant against whom an eviction order is sought and  
7 state the facts upon which the claim for relief is  
8 premised.

9 (3) The petitioner shall serve upon each named occupant  
10 the petition, a notice of hearing on the petition, and, if  
11 any, a copy of the certificate of sale or deed. The  
12 eviction proceeding, including service of the notice of the  
13 hearing and the petition, shall in all respects comport  
14 with the requirements of Article IX of this Code, except as  
15 otherwise specified in this Section. The hearing shall be  
16 no less than 21 days from the date of service of the  
17 notice.

18 (4) The supplemental petition shall be heard as part of  
19 the foreclosure proceeding and without the payment of  
20 additional filing fees. An eviction order obtained under  
21 this Section shall name each occupant whose interest has  
22 been terminated, shall recite that it is only effective as  
23 to the occupant so named and those holding under them, and  
24 shall be enforceable for no more than 120 days after its  
25 entry, except that the 120-day period may be extended to  
26 the extent and in the manner provided in Section 9-117 of

1 Article IX and except as provided in item (5) of this  
2 subsection (h).

3 (5) In a case of foreclosure where the occupant is  
4 current on his or her rent, or where timely written notice  
5 of to whom and where the rent is to be paid has not been  
6 provided to the occupant, or where the occupant has made  
7 good-faith efforts to make rental payments in order to keep  
8 current, any eviction order must allow the occupant to  
9 retain possession of the property covered in his or her  
10 rental agreement (i) for 120 days following the notice of  
11 the hearing on the supplemental petition that has been  
12 properly served upon the occupant, or (ii) through the  
13 duration of his or her lease, whichever is shorter,  
14 provided that if the duration of his or her lease is less  
15 than 30 days from the date of the order, the order shall  
16 allow the occupant to retain possession for 30 days from  
17 the date of the order. A mortgagee in possession, receiver,  
18 holder of a certificate of sale or deed, or purchaser at  
19 the judicial sale, who asserts that the occupant is not  
20 current in rent, shall file an affidavit to that effect in  
21 the supplemental petition proceeding. If the occupant has  
22 been given timely written notice of to whom and where the  
23 rent is to be paid, this item (5) shall only apply if the  
24 occupant continues to pay his or her rent in full during  
25 the 120-day period or has made good-faith efforts to pay  
26 the rent in full during that period.

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

12          (i) Termination of bona fide leases. The holder of the  
13          certificate of sale, the holder of the deed issued pursuant to  
14          that certificate, or, if no certificate or deed was issued, the  
15          purchaser at the sale shall not terminate a bona fide lease of  
16          a dwelling unit in residential real estate in foreclosure  
17          except pursuant to Article IX of this Code.

18          (Source: P.A. 100-173, eff. 1-1-18.)

19           (735 ILCS 5/15-1702) (from Ch. 110, par. 15-1702)

20          Sec. 15-1702. Specific Rules of Possession. (a)  
21          Mortgagee's Rights. Except as necessary to comply with the  
22          Abandoned Residential Property Act, no ~~No~~ mortgagee shall be  
23          required to take possession of the mortgaged real estate,  
24          whether upon application made by any other party or otherwise.  
25          Whenever a mortgagee entitled to possession so requests, the

1 court shall appoint a receiver. The failure of a mortgagee to  
2 request possession or appointment of a receiver shall not  
3 preclude a mortgagee otherwise entitled to possession from  
4 making such a request at any future time. The appointment of a  
5 receiver shall not preclude a mortgagee from thereafter seeking  
6 to exercise such mortgagee's right to be placed in possession.

7 (b) Designation of Receivers. Whenever a receiver is to be  
8 appointed, the mortgagee shall be entitled to designate the  
9 receiver. If the mortgagor or any other party to the  
10 foreclosure objects to any such designation or designations and  
11 shows good cause, or the court disapproves the designee, the  
12 mortgagee in such instance shall be entitled to make another  
13 designation.

14 (c) Rights of Mortgagee Having Priority. If a mortgagee  
15 having priority objects to the proposed possession by a  
16 subordinate mortgagee or by a receiver designated by the  
17 subordinate mortgagee, upon entry of a finding in accordance  
18 with subsection (d) of Section 15-1702 the court shall instead  
19 place that objecting mortgagee in possession or, if a receiver  
20 is to be designated in accordance with subsection (b) of  
21 Section 15-1702, allow the designation of the receiver to be  
22 made by that objecting mortgagee.

23 (d) Removal of Mortgagee in Possession. A mortgagee placed  
24 in possession shall not be removed from possession, and no  
25 receiver or other mortgagee shall be placed in possession  
26 except upon (i) the mortgagee's misconduct, death, legal

1 disability or other inability to act, (ii) appointment of a  
2 receiver in accordance with subsection (a) of Section 15-1704  
3 or (iii) a showing of good cause by a mortgagee having  
4 priority. A receiver shall not be removed solely on account of  
5 being designated by a mortgagee later determined not to have  
6 priority.

7 (e) Determination of Priority. If the court is required to  
8 determine priority for the purposes of subsection (c) of  
9 Section 15-1702, a new determination shall be made each time a  
10 mortgagee is to be placed in possession or a receiver is to be  
11 appointed and shall be an interim determination which shall not  
12 preclude the court from making a contrary determination later  
13 in the foreclosure. If the court subsequently shall make such a  
14 contrary determination, a mortgagee in possession or acting  
15 receiver shall not be removed except in accordance with Part 17  
16 of this Article.

17 (f) Rights to Crops. With respect to any crops growing or  
18 to be grown on the mortgaged real estate, the rights of a  
19 holder of any obligation secured by a collateral assignment of  
20 beneficial interest in a land trust, the rights of a mortgagee  
21 in possession, or the rights of a receiver, including rights by  
22 virtue of an equitable lien, shall be subject to a security  
23 interest properly perfected pursuant to Article 9 of the  
24 Uniform Commercial Code, where the holder of a collateral  
25 assignment, mortgagee in possession, or receiver becomes  
26 entitled to crops by obtaining possession on or after the

1 effective date of this Amendatory Act of 1988.

2 (Source: P.A. 85-1427.)