

1 AN ACT concerning foreclosure.

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

4 Section 5. The Code of Civil Procedure is amended by
5 changing Section 15-1504 as follows:

6 (735 ILCS 5/15-1504) (from Ch. 110, par. 15-1504)
7 Sec. 15-1504. Pleadings and service.

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

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

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

18 (3) Information concerning mortgage:

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

22 (B) Date of mortgage:

23 (C) Name of mortgagor:

24 (D) Name of mortgagee:

25 (E) Date and place of recording:

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

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

31 (H) Amount of original indebtedness, including

1 subsequent advances made under the mortgage:

2 (I) Both the legal description of the
3 mortgaged real estate and the common address or
4 other information sufficient to identify it with
5 reasonable certainty:

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

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

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

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

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

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

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

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

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

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

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

17 REQUEST FOR RELIEF

18 Plaintiff requests:

19 (i) A judgment of foreclosure and sale.

20 (ii) An order granting a shortened redemption
21 period, if sought.

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

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

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

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

29 (U) The name of the original lender providing
30 financing to the borrower.

31 (V) The name of the residential mortgage
32 licensee under the Residential Mortgage Licensing
33 Act of 1987 receiving compensation relating to the
34 financing by the mortgagor and the name of the

1 residential mortgage licensee's loan officer who
2 signed the mortgage loan application on behalf of
3 the residential mortgage licensee.

4 (W) The name of the real estate appraiser who
5 provided the appraisal on which the financing by the
6 mortgagor was based or the name of the appraisal
7 company if an electronic appraisal was submitted to
8 the original lender or residential mortgage licensee
9 in regard to the financing.

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

18 (c) Allegations. The statements contained in a
19 complaint in the form set forth in subsection (a) of Section
20 15-1504 are deemed and construed to include allegations as
21 follows:

22 (1) on the date indicated the obligor of the
23 indebtedness or other obligations secured by the mortgage
24 was justly indebted in the amount of the indicated
25 original indebtedness to the original mortgagee or payee
26 of the mortgage note;

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

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

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

5 (5) that defaults occurred as indicated;

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

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

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

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

25 (10) that any and all periods of grace or other
26 period of time allowed for the performance of the
27 covenants or conditions claimed to be breached or for the
28 curing of any breaches have expired;

29 (11) that the amounts indicated in the statement in
30 the complaint are correctly stated and if such statement
31 indicates any advances made or to be made by the
32 plaintiff or owner of the mortgage indebtedness, that
33 such advances were, in fact, made or will be required to
34 be made, and under and by virtue of the mortgage the same

1 constitute additional indebtedness secured by the
2 mortgage; and

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

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

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

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

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

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

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

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

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

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

4 (2) that the defendants be ordered to pay to the
5 plaintiff before expiration of any redemption period (or,
6 if no redemption period, before a short date fixed by the
7 court) whatever sums may appear to be due upon the taking
8 of such account, together with attorneys' fees and costs
9 of the proceedings (to the extent provided in the
10 mortgage or by law);

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

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

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

32 (6) that if no redemption is made prior to such
33 sale, a deed may be issued to the purchaser thereat
34 according to law and such purchaser be let into

1 possession of the mortgaged real estate in accordance
2 with Part 17 of this Article.

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

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

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

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