



Rep. Daniel J. Burke

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09500HB1478ham001

LRB095 06755 MJR 34978 a

1 AMENDMENT TO HOUSE BILL 1478

2 AMENDMENT NO. _____. Amend House Bill 1478 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Residential Mortgage License Act of 1987 is
5 amended by adding Sections 4-15, 4-16, 5-6, 5-7, 5-8, 5-9,
6 5-10, 5-11, 5-12, 5-13, 5-14, 5-15, 5-16, and 5-17 as follows:

7 (205 ILCS 635/4-15 new)

8 Sec. 4-15. Enforcement under the Consumer Fraud and
9 Deceptive Business Practices Act. The Attorney General may
10 enforce any violation of Section 5-6, 5-7, 5-8, 5-9, 5-10,
11 5-11, 5-12, 5-13, 5-14, 5-15, or 5-16 of this Act as an
12 unlawful practice under the Consumer Fraud and Deceptive
13 Business Practices Act.

14 (205 ILCS 635/4-16 new)

15 Sec. 4-16. Private right of action. A borrower injured by a

1 violation of the standards, duties, prohibitions, or
2 requirements of Sections 5-6, 5-7, 5-8, 5-9, 5-10, 5-11, 5-12,
3 5-13, 5-14, 5-15, and 5-16 of this Act shall have a private
4 right of action. The remedies and rights provided for in this
5 Act are not exclusive, but cumulative, and all other applicable
6 claims are specifically preserved.

7 (205 ILCS 635/5-6 new)

8 Sec. 5-6. Verification of borrower's ability to repay.

9 (a) No lender or loan broker may make, provide, or arrange
10 for a residential mortgage loan without verifying the
11 borrower's reasonable ability to pay the principal and interest
12 on the loan, real estate taxes, homeowner's insurance,
13 assessments, and mortgage insurance premiums, if applicable.

14 For residential mortgage loans in which the interest rate
15 may vary, the reasonable ability to pay the principal and
16 interest on the loan shall be determined based on a fully
17 indexed rate, which rate shall be calculated by using the index
18 rate prevailing at the time of origination of the loan plus the
19 margin that will apply when calculating the adjustable rate
20 under the terms of the loan, assuming a fully amortizing
21 repayment schedule based on the term of the loan.

22 For loans that allow for negative amortization, the
23 principal amount of the loan shall be calculated by including
24 the maximum amount the principal balance may increase due to
25 negative amortization under the terms of the loan.

1 (b) For all residential mortgage loans, the borrower's
2 income and financial resources must be verified by tax returns,
3 payroll receipts, bank records, or other similarly reliable
4 documents. A statement by the borrower to the broker or lender
5 of the borrower's income and resources is not sufficient to
6 establish the existence of the income or resources when
7 verifying the reasonable ability to pay.

8 (c) This Section does not apply to exempt persons or
9 entities as defined in subsection (d) of Section 1-4 of this
10 Act, except for those listed in item (v) of subdivision (1) of
11 subsection (d) of Section 1-4 of this Act and their employees,
12 notwithstanding item (1.5) of subsection (d) of Section 1-4 of
13 this Act.

14 (205 ILCS 635/5-7 new)

15 Sec. 5-7. Broker fiduciary duty. Any person, partnership,
16 association, corporation, or limited liability company engaged
17 in conduct described in subsection (o) of Section 1-4 of this
18 Act shall be considered to have created a fiduciary
19 relationship with the borrower in all cases and shall comply
20 with the duties imposed upon fiduciaries by statute or common
21 law. This Section does not apply to exempt persons or entities
22 as defined in subsection (d) of Section 1-4 of this Act, except
23 for those listed in item (v) of subdivision (1) of subsection
24 (d) of Section 1-4 of this Act and their employees,
25 notwithstanding item (1.5) of subsection (d) of Section 1-4 of

1 this Act.

2 (205 ILCS 635/5-8 new)

3 Sec. 5-8. Prepayment penalties prohibited. No lender, or
4 person, partnership, association, corporation, or other entity
5 who engages in the business of originating residential mortgage
6 loans shall enter into a mortgage loan that contains a
7 provision requiring or permitting the imposition of a penalty,
8 fee, premium, or other charge in the event the residential
9 mortgage loan is prepaid in whole or in part.

10 (205 ILCS 635/5-9 new)

11 Sec. 5-9. Notice of change in loan terms.

12 (a) No lender or loan broker may fail to do either of the
13 following:

14 (1) Provide timely notice to the borrower of any
15 material change in the terms of the residential mortgage
16 loan. For purposes of this Section, a material change means
17 any of the following:

18 (A) A change in the type of loan being offered,
19 such as a fixed or variable rate loan or a loan with a
20 balloon payment.

21 (B) A change in the term of the loan, as reflected
22 in the number of monthly payments due before a final
23 payment is scheduled to be made.

24 (C) A change in the interest rate of more than

1 0.15%, or an equivalent increase in the amount of
2 discount points charged.

3 (D) A change in the regular monthly payment of
4 principal and interest of more than 5%.

5 (E) A change regarding the escrow of taxes or
6 insurance.

7 (F) A change regarding the payment of private
8 mortgage insurance.

9 (2) Timely inform the borrower if any fees payable by
10 the borrower to the lender or broker increase by more than
11 10% or \$100, whichever is greater.

12 (b) The disclosures required by this Section shall be
13 deemed timely if the lender or broker provides the borrower
14 with the revised information not later than 24 hours after the
15 change occurs or 24 hours before the residential mortgage loan
16 is closed, whichever is earlier.

17 (c) If an increase in the total amount of the fee to be
18 paid by the borrower to the lender or broker is not disclosed
19 in accordance with this Section, the lender or broker, whoever
20 received the increased fee, shall refund to the borrower the
21 amount by which the fee was increased. If the fee is financed
22 into the residential mortgage loan, the lender or broker shall
23 also refund to the borrower the interest that would accrue over
24 the term of the loan on that excess amount.

25 (d) This Section does not apply to exempt persons or
26 entities as defined in subsection (d) of Section 1-4 of this

1 Act, except for those listed in item (v) of subdivision (1) of
2 subsection (d) of Section 1-4 of this Act and their employees,
3 notwithstanding item (1.5) of subsection (d) of Section 1-4 of
4 this Act.

5 (205 ILCS 635/5-10 new)

6 Sec. 5-10. Comparable monthly payment quotes. Any lender or
7 broker, when informing a borrower of the anticipated or actual
8 periodic payment amount for a first lien residential mortgage
9 loan orally or in writing, must inform the borrower that an
10 additional amount will be due for taxes and insurance and, if
11 known, disclose to the borrower the amount of the anticipated
12 or actual periodic escrow payments. Compliance with federal
13 laws requiring disclosure of a periodic payment amount
14 constitutes compliance with this Section, but only for purposes
15 of the particular disclosure required under federal law. This
16 Section does not apply to exempt persons or entities as defined
17 in subsection (d) of Section 1-4 of this Act, except for those
18 listed in item (v) of subdivision (1) of subsection (d) of
19 Section 1-4 of this Act and their employees, notwithstanding
20 item (1.5) of subsection (d) of Section 1-4 of this Act.

21 (205 ILCS 635/5-11 new)

22 Sec. 5-11. Requirement to provide borrower with a copy of
23 all appraisals. Lenders must provide to the borrower a complete
24 copy of any appraisal, including any appraisal generated using

1 the Automated Valuation Model, obtained by the lender or loan
2 broker for use in underwriting the residential mortgage loan
3 not less than 14 days before the residential mortgage loan is
4 closed. This Section does not apply to exempt persons or
5 entities as defined in subsection (d) of Section 1-4 of this
6 Act, except for those listed in item (v) of subdivision (1) of
7 subsection (d) of Section 1-4 of this Act and their employees,
8 notwithstanding item (1.5) of subsection (d) of Section 1-4 of
9 this Act.

10 (205 ILCS 635/5-12 new)

11 Sec. 5-12. Prohibition on verbal promise to refinance on
12 more favorable terms. No lender or loan broker shall, in order
13 to induce a borrower to close a residential mortgage loan,
14 represent to the borrower that the lender or broker promises or
15 will be able to refinance the loan at a later date with more
16 favorable terms, unless the representation is set forth in
17 writing, states that the lender or broker is contractually
18 bound to refinance the loan at a later date, specifies the more
19 favorable terms, and is initialed by the borrower. This Section
20 does not apply to exempt persons or entities as defined in
21 subsection (d) of Section 1-4 of this Act, except for those
22 listed in item (v) of subdivision (1) of subsection (d) of
23 Section 1-4 of this Act and their employees, notwithstanding
24 item (1.5) of subsection (d) of Section 1-4 of this Act.

1 (205 ILCS 635/5-13 new)

2 Sec. 5-13. Cap on delinquency charges allowed. A lender or
3 any person, partnership, association, corporation, or limited
4 liability company engaged in servicing may not collect, in the
5 case of any residential mortgage loan providing for the payment
6 thereof in 2 or more periodic installments, (i) for any loan
7 installment in default, more than one delinquency charge on
8 such loan installment regardless of the period during which it
9 remains in default or (ii) any delinquency charge for any
10 payment timely received by the lender or person engaged in
11 servicing under a written extension or deferral agreement.

12 (205 ILCS 635/5-14 new)

13 Sec. 5-14. Prohibition on equity stripping and loan
14 flipping. No loan broker may engage in equity stripping or loan
15 flipping, as those terms are defined in the Illinois Fairness
16 in Lending Act.

17 (205 ILCS 635/5-15 new)

18 Sec. 5-15. Prohibition on financing certain insurance
19 premiums. No lender may make, provide, or arrange for a
20 residential mortgage loan that finances, directly or
21 indirectly, any credit life, credit disability, or credit
22 unemployment insurance or any other life or health insurance
23 premiums; however, insurance premiums calculated and paid on a
24 monthly basis shall not be considered to be financed by the

1 lender.

2 (205 ILCS 635/5-16 new)

3 Sec. 5-16. Prohibition on encouraging default. A lender or
4 broker or any person, partnership, association, corporation,
5 or limited liability company engaged in servicing may not
6 recommend or encourage default or the failure to make timely
7 payments on an existing residential mortgage loan or other debt
8 prior to and in connection with the closing or planned closing
9 of a residential mortgage loan that refinances all or any
10 portion of the existing loan or debt. This Section does not
11 apply to exempt persons or entities as defined in subsection
12 (d) of Section 1-4 of this Act, except for those listed in item
13 (v) of subdivision (1) of subsection (d) of Section 1-4 of this
14 Act and their employees, notwithstanding item (1.5) of
15 subsection (d) of Section 1-4 of this Act.

16 (205 ILCS 635/5-17 new)

17 Sec. 5-17. Severability. If any provision of this Act or
18 its application to any person or circumstance is held invalid,
19 the invalidity of that provision or application does not affect
20 other provisions or applications of this Act that can be given
21 effect without the invalid provision or application.

22 Section 10. The Code of Civil Procedure is amended by
23 changing Sections 2-606, 15-1504, 15-1507, 15-1508, 15-1510,

1 and 15-1604 and by adding Sections 15-1224, 15-1500, 15-1502.5,
2 15-1503.5, 15-1513, and 15-1514 as follows:

3 (735 ILCS 5/2-606) (from Ch. 110, par. 2-606)

4 Sec. 2-606. Exhibits.

5 (a) If a claim or defense is founded upon a written
6 instrument, a copy thereof, or of so much of the same as is
7 relevant, must be attached to the pleading as an exhibit or
8 recited therein, unless the pleader attaches to his or her
9 pleading an affidavit stating facts showing that the instrument
10 is not accessible to him or her. In pleading any written
11 instrument a copy thereof may be attached to the pleading as an
12 exhibit. In either case the exhibit constitutes a part of the
13 pleading for all purposes.

14 (b) If any note is required to be attached to a complaint
15 filed pursuant to subsection (a) of Section 15-1504 of this
16 Code, the affidavit filed by the pleader must state the
17 following:

18 (1) all the holders of the note;

19 (2) the time each note holder held the note identified
20 by the day, month, and year; and

21 (3) the reasonable efforts of the pleader to contact
22 the note holder, which shall at minimum include the name of
23 the representative, phone number, and address of each note
24 holder; the date each was contacted by the pleader to
25 ascertain whether the note holder was in possession of the

1 note; and the reason provided by the representative that
2 explains why the note cannot be located.

3 (Source: P.A. 82-280.)

4 (735 ILCS 5/15-1224 new)

5 Sec. 15-1224. Servicer. "Servicer" means any individual or
6 entity that collects or remits or has the right or obligation
7 to collect or remit for any lender, noteowner, noteholder, or
8 itself payments, interest, principal, and trust items (such as
9 hazard insurance and taxes on a residential real estate loan)
10 in accordance with the terms of the residential real estate
11 loan; and includes loan payment follow-up, delinquency loan
12 follow-up, loan analysis, and any notifications to the borrower
13 that are necessary to enable the borrower to keep the loan
14 current and in good standing.

15 (735 ILCS 5/15-1500 new)

16 Sec. 15-1500. Purpose. Both the mortgagee and the servicer
17 of a residential real estate loan owe a duty of good faith and
18 fair dealing to the mortgagor in all dealings related to the
19 residential real estate loan. This duty includes, but is not
20 limited to, an obligation to avoid foreclosure on a residential
21 real estate, unless there is no other reasonable mechanism to
22 collect on the loan secured by the mortgage. For the purposes
23 of this Article, the servicer is the agent of the lender.

1 (735 ILCS 5/15-1502.5 new)

2 Sec. 15-1502.5. Pre-foreclosure right to cure residential
3 real estate mortgage default.

4 (a) A mortgagor shall have the right to a pre-foreclosure
5 cure of a residential real estate loan default. A mortgagor
6 shall not be required to pay any charge, fee, or penalty
7 attributable to the exercise of the right to cure a default as
8 provided for in this Section. The mortgagor's payment of all
9 amounts past due for principal, interest, escrow, and late
10 charges, as specifically permitted in the residential real
11 estate loan and under this Article, shall cure a default.

12 (b) A mortgagee or servicer must send a written notice of
13 the pre-foreclosure right to cure, which includes the
14 information listed in subsection (c) of this Section, to the
15 mortgagor at least 30 days prior to accelerating a loan or
16 filing a complaint for judicial foreclosure, whichever comes
17 first.

18 (c) The notice shall clearly and conspicuously state to the
19 mortgagor all of the following:

20 (1) The name and address of the mortgagee or servicer.

21 (2) The nature of the default claimed on the
22 residential real estate loan and the mortgagor's right to
23 cure the default.

24 (3) The sum of money required to cure the default. If
25 the amount necessary to cure the default will change during
26 the pre-foreclosure right to cure period due to the

1 application of a daily interest rate or the addition of
2 late fees as allowed by this Article, the notice shall
3 contain an accounting that provides sufficient information
4 to enable the mortgagor to calculate the amount at any
5 point during the 30-day period.

6 (4) The name, address, and telephone number of the
7 mortgagee or servicer whom the mortgagor may contact to
8 request this assistance, a repayment plan, forbearance,
9 loan modification, or another workout tool, if available.

10 (5) The name and telephone number of a representative
11 of the mortgagee or servicer whom the mortgagor may contact
12 if the mortgagor disagrees with the assertion that a
13 default has occurred or with the calculation of the amount
14 required to cure the default.

15 (6) The name, address, and phone number of a person to
16 whom the payment or tender curing the default may be made.

17 (7) The mortgagee or servicer may take steps to
18 accelerate the loan or terminate the mortgagor's ownership
19 in the property by commencing a foreclosure suit in a court
20 of competent jurisdiction if the mortgagor does not cure
21 the default.

22 (8) Upon expiration of the pre-foreclosure right to
23 cure period, the mortgagor shall still have the right to
24 cure the default if the mortgagee or servicer commences a
25 foreclosure action pursuant to Section 15-1602, 15-1603,
26 or 15-1604 of this Code, but the mortgagor may be

1 responsible for the mortgagee's or servicer's court costs
2 and reasonable attorney's fees, as determined by a court of
3 competent jurisdiction.

4 (9) The right, if any, of the mortgagor to transfer the
5 real estate to another person subject to the security
6 interest and that the transferee may have the right to cure
7 the default as provided in this Section or Article, subject
8 to the mortgage documents.

9 (10) The mortgagor is advised to seek counsel from an
10 attorney of the mortgagor's own choosing concerning the
11 mortgagor's residential real estate mortgage default. The
12 mortgagor may be able to find assistance at, among others,
13 the United States Department of Housing and Urban
14 Development, the Legal Assistance Foundation of
15 Metropolitan Chicago, the Land of Lincoln Legal Assistance
16 Foundation, Prairie State Legal Services, the Illinois
17 State Bar Association, or a county bar association by
18 visiting the entity's website or calling its telephone
19 number.

20 (11) Even if the mortgagor does not participate in the
21 judicial proceeding, a judgment may still be entered
22 against the residential real estate.

23 (d) The notice required by this Section shall be in writing
24 or sent to the mortgagor's last known address by both first
25 class mail and registered or certified mail, return receipt
26 requested. The notice must also be sent by registered or

1 certified mail, return receipt requested, to the address of the
2 property that is the subject of the residential real estate
3 mortgage, if different from the mortgagor's last known address.
4 The notice is deemed to have been effectuated on the date the
5 notice is mailed to the mortgagor.

6 (e) The notice required to be provided pursuant to this
7 Section is not required if the mortgagor has voluntarily
8 surrendered the property that is the subject of the residential
9 real estate mortgage.

10 (f) The duty of the mortgagee or servicer under this
11 Section to serve notice of the pre-foreclosure right to cure is
12 independent of any other duty to give notice under the common
13 law, principles of equity, State or federal statute, or a rule
14 of court and of any other right or remedy the mortgagor may
15 have as a result of the failure to give such notice.

16 (g) If a default is cured prior to the filing of a notice
17 of foreclosure pursuant to Section 15-1505 of this Code or the
18 initiation of any action to foreclose or to seize or transfer
19 residential real estate as allowed under this Article, the
20 mortgagee or servicer may not file a notice of foreclosure or
21 institute the foreclosure proceeding or other action for that
22 default. If a default is cured after the filing of notice of
23 foreclosure or initiation of any action to foreclose, the
24 mortgagee or servicer shall take such steps as are necessary to
25 terminate the foreclosure proceeding or other action.

1 (735 ILCS 5/15-1503.5 new)

2 Sec. 15-1503.5. Payoff demands.

3 (a) For purposes of this Section:

4 "Deliver" or "delivery" means depositing or causing to be
5 deposited into the United States mail an envelope with postage
6 prepaid that contains a copy of the documents to be delivered
7 and that is addressed to the person whose name and address are
8 provided in the payoff demand. Delivery includes transmitting
9 those documents by telefacsimile machine to the person.
10 Delivery includes transmitting those documents electronically
11 if the payoff demand specifically requests and authorizes that
12 the documents be transmitted in electronic form.

13 "Payoff demand" means a written demand for a payoff demand
14 statement made by a mortgagor.

15 "Payoff demand statement" means a written statement that is
16 prepared in response to a written demand made by a mortgagor
17 that sets forth the amounts required by the mortgagee or
18 servicer to fully satisfy all of the obligations secured by the
19 loan that is the subject of the demand.

20 (b) On the written demand of a mortgagor, a mortgagee or
21 servicer shall prepare and deliver a payoff demand statement to
22 the person who has requested it within 5 business days after
23 receipt of the demand.

24 (c) The payoff demand statement shall provide the amounts
25 required to cure the default as of the date of preparation and
26 shall include the information reasonably necessary to

1 calculate the payoff amount on a per diem basis.

2 (d) The mortgagor may rely on a payoff demand statement for
3 the purpose of establishing the amount necessary to pay the
4 obligation in full and obtain a release of the mortgage or deed
5 of trust that secures the obligation through and including the
6 time set forth in the payoff demand statement.

7 (e) Any sums that were due the mortgagor and that were not
8 included in the payoff demand statement or in any amended
9 statement constitute an unsecured obligation of the obligor and
10 are recoverable by the mortgagor pursuant to the terms of the
11 note and as otherwise provided by law.

12 (f) A mortgagee or servicer who fails to prepare and
13 deliver a payoff demand statement for 6 or more business days
14 after receipt of a written demand is liable to the mortgagor
15 for all damages sustained for failure to deliver the statement.

16 (g) Each failure of the mortgagee or servicer to prepare
17 and deliver the payoff demand statement when required to do so
18 pursuant to this Section constitutes a separate cause of
19 action. A judgment that awards a mortgagor a forfeiture or
20 damages or both for any failure to prepare and deliver a payoff
21 demand statement bars recovery of any other damages or
22 forfeiture for any other failure to prepare and deliver a
23 statement with respect to the same obligation, if the other
24 demand for the statement was made within 6 months before or
25 after the demand was made that resulted in the award.

26 (h) If the mortgagee or servicer has more than one branch,

1 office, or other place of business, the payoff demand statement
2 shall be made to the branch or office address provided in the
3 payment billing notice or payment book. Unless the payoff
4 demand statement provides otherwise, the statement is deemed to
5 apply only to the unpaid balance of the single obligation that
6 is named in the demand and that is secured by the mortgage or
7 deed of trust that is payable at the address that is provided
8 in the payment billing notice or payment book.

9 (i) The demand for and preparation and delivery of a payoff
10 demand statement pursuant to this Section does not change any
11 date or time period that is prescribed in the note or that is
12 otherwise provided by law.

13 (j) The mortgage or servicer may assess a fee of no more
14 than \$1.50 for furnishing each payoff demand statement. This is
15 conclusively presumed to be reasonable.

16 (735 ILCS 5/15-1504) (from Ch. 110, par. 15-1504)

17 Sec. 15-1504. Pleadings and service.

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

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

25 (2) The following exhibits and documents shall be

1 attached to the complaint:

2 (A) a copy of the mortgage (Exhibit "A");

3 (B) a copy of the note secured by the mortgage
4 (Exhibit "B");

5 (C) the HUD 1 Settlement Statement reflecting the
6 closing transaction for the loan secured by the
7 property (Exhibit "C");

8 (D) a statement that identifies all prior holders
9 of the note and the time each note holder held the note
10 identified by the day, month, and year (Exhibit "D");

11 (E) a statement that identifies current and all the
12 prior servicers of the note and the time each servicer
13 served the note identified by the day, month, and year
14 (Exhibit "E"); and

15 (F) a statement that documents all debits and
16 credits to the mortgage account during the period of
17 time, including, but not limited to, the application
18 and disbursement of all payments received from or for
19 the benefit of the mortgagor (Exhibit "F"). This
20 statement shall also include an index of all digital or
21 numerical codes associated with the loan history along
22 with all definitions associated with each such code so
23 as to make the history legible and understandable. The
24 statement shall itemize the amount and basis for the
25 following fees:

26 (i) the past due scheduled principal payments;

1 (ii) the interest due;

2 (iii) past due taxes;

3 (iv) hazard insurance;

4 (v) inspection fees;

5 (vi) mortgage insurance premiums;

6 (vii) late fees;

7 (viii) homeowners' association dues or

8 assessments; and

9 (ix) filing fees. ~~Attached as Exhibit "A" is a~~

10 ~~copy of the mortgage and as Exhibit "B" is a copy~~

11 ~~of the note secured thereby.~~

12 (3) Information concerning mortgage:

13 (A) Nature of instrument: (here insert whether a
14 mortgage, trust deed or other instrument in the nature
15 of a mortgage, etc.)

16 (B) Date of mortgage:

17 (C) Name of mortgagor:

18 (D) Name of mortgagee:

19 (E) Date and place of recording:

20 (F) Identification of recording: (here insert book
21 and page number or document number)

22 (G) Interest subject to the mortgage: (here insert
23 whether fee simple, estate for years, undivided
24 interest, etc.)

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

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

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

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

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

12 ~~(M) Names of defendants claimed to be personally~~
13 ~~liable for deficiency, if any:~~

14 (M) The specific capacity ~~(N) Capacity~~ in which
15 plaintiff brings this foreclosure (here indicate
16 whether plaintiff is the legal holder of the
17 indebtedness, a pledgee, an agent, the trustee under a
18 trust deed or otherwise, as appropriate):

19 (N) ~~(O)~~ Facts in support of redemption period
20 shorter than the longer of (i) 7 months from the date
21 the mortgagor or, if more than one, all the mortgagors
22 (I) have been served with summons or by publication or
23 (II) have otherwise submitted to the jurisdiction of
24 the court, or (ii) 3 months from the entry of the
25 judgment of foreclosure, if sought (here indicate
26 whether based upon the real estate not being

1 residential, abandonment, or real estate value less
2 than 90% of amount owed, etc.):

3 (O) ~~(P)~~ Statement that the right of redemption has
4 been waived by all owners of redemption, if applicable:

5 (P) ~~(Q)~~ Facts in support of request for attorneys'
6 fees and of costs and expenses, if applicable:

7 (Q) ~~(R)~~ Facts in support of a request for
8 appointment of mortgagee in possession or for
9 appointment of receiver, and identity of such
10 receiver, if sought:

11 (R) ~~(S)~~ Offer to mortgagor in accordance with
12 Section 15-1402 to accept title to the real estate in
13 satisfaction of all indebtedness and obligations
14 secured by the mortgage without judicial sale, if
15 sought:

16 (S) ~~(T)~~ Name or names of defendants whose right to
17 possess the mortgaged real estate, after the
18 confirmation of a foreclosure sale, is sought to be
19 terminated and, if not elsewhere stated, the facts in
20 support thereof:

21 REQUEST FOR RELIEF

22 Plaintiff requests:

23 (i) A judgment of foreclosure and sale.

24 (ii) An order granting a shortened redemption period,
25 if sought.

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

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

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

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

7 (a-5) Facts. Compliance with Section 15-1502.5 of this Code
8 shall be set forth with facts stated in the complaint filed
9 pursuant to this Section. If the mortgagee in any complaint
10 seeking foreclosure of a residential real estate mortgage
11 alleges that the property subject to the residential real
12 estate mortgage has been abandoned or voluntarily surrendered,
13 the mortgagee shall plead the specific facts upon which this
14 allegation is based.

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

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

1 (1) on the date indicated the obligor of the
2 indebtedness or other obligations secured by the mortgage
3 was justly indebted in the amount of the indicated original
4 indebtedness to the original mortgagee or payee of the
5 mortgage note;

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

9 (3) that the mortgagor was at the date indicated an
10 owner of the interest in the real estate described in the
11 complaint and that as of that date made, executed and
12 delivered the mortgage as security for the note or other
13 obligations;

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

18 (5) that defaults occurred as indicated;

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

22 (7) that the mortgage constitutes a valid, prior and
23 paramount lien upon the indicated interest in the mortgaged
24 real estate, which lien is prior and superior to the right,
25 title, interest, claim or lien of all parties and nonrecord
26 claimants whose interests in the mortgaged real estate are

1 sought to be terminated;

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

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

11 (10) that any and all periods of grace or other period
12 of time allowed for the performance of the covenants or
13 conditions claimed to be breached or for the curing of any
14 breaches have expired;

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

22 (12) that, upon confirmation of the sale, the holder of
23 the certificate of sale or deed issued pursuant to that
24 certificate or, if no certificate or deed was issued, the
25 purchaser at the sale will be entitled to full possession
26 of the mortgaged real estate against the parties named in

1 clause (T) of paragraph (3) of subsection (a) of Section
2 15-1504 or elsewhere to the same effect; the omission of
3 any party indicates that plaintiff will not seek a
4 possessory order in the order confirming sale unless the
5 request is subsequently made under subsection (h) of
6 Section 15-1701 or by separate action under Article 9 of
7 this Code.

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

12 (1) plaintiff has been compelled to employ and retain
13 attorneys to prepare and file the complaint and to
14 represent and advise the plaintiff in the foreclosure of
15 the mortgage and the plaintiff will thereby become liable
16 for the usual, reasonable and customary fees of the
17 attorneys in that behalf;

18 (2) that the plaintiff has been compelled to advance or
19 will be compelled to advance, various sums of money in
20 payment of costs, fees, expenses and disbursements
21 incurred in connection with the foreclosure, including,
22 without limiting the generality of the foregoing, filing
23 fees, stenographer's fees, witness fees, costs of
24 publication, costs of procuring and preparing documentary
25 evidence and costs of procuring abstracts of title, Torrens
26 certificates, foreclosure minutes and a title insurance

1 policy;

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

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

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

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

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

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

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

18 (3) that in default of such payment in accordance with
19 the judgment, the mortgaged real estate be sold as directed
20 by the court, to satisfy the amount due to the plaintiff as
21 set forth in the judgment, together with the interest
22 thereon at the statutory judgment rate from the date of the
23 judgment;

24 (4) that in the event the plaintiff is a purchaser of
25 the mortgaged real estate at such sale, the plaintiff may
26 offset against the purchase price of such real estate the

1 amounts due under the judgment of foreclosure and order
2 confirming the sale;

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

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

18 (f) Request for Deficiency Judgment. A request for a
19 personal judgment for a deficiency in a foreclosure complaint
20 if the sale of the mortgaged real estate fails to produce a
21 sufficient amount to pay the amount found due, the plaintiff
22 may have a personal judgment against any party in the
23 foreclosure indicated as being personally liable therefor and
24 the enforcement thereof be had as provided by law.

25 (g) Request for Possession or Receiver. A request for
26 possession or appointment of a receiver has the meaning as

1 stated in subsection (b) of Section 15-1706.

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

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

13 (735 ILCS 5/15-1507) (from Ch. 110, par. 15-1507)

14 Sec. 15-1507. Judicial Sale.

15 (a) In General. Except as provided in Sections 15-1402 and
16 15-1403, upon entry of a judgment of foreclosure, the real
17 estate which is the subject of the judgment shall be sold at a
18 judicial sale in accordance with this Section 15-1507.

19 (b) Sale Procedures. Upon expiration of the reinstatement
20 period and the redemption period in accordance with subsection
21 (b) or (c) of Section 15-1603 or upon the entry of a judgment
22 of foreclosure after the waiver of all rights of redemption,
23 except as provided in subsection (g) of Section 15-1506, the
24 real estate shall be sold at a sale as provided in this
25 Article, on such terms and conditions as shall be specified by

1 the court in the judgment of foreclosure. A sale may be
2 conducted by any judge or sheriff.

3 (c) Notice of Sale. The mortgagee, or such other party
4 designated by the court, in a foreclosure under this Article
5 shall give public notice of the sale as follows:

6 (1) The notice of sale shall include at least the
7 following information, but an immaterial error in the
8 information shall not invalidate the legal effect of the
9 notice:

10 (A) the name, address and telephone number of the
11 person to contact for information regarding the real
12 estate;

13 (B) the common address and other common
14 description (other than legal description), if any, of
15 the real estate;

16 (C) a legal description of the real estate
17 sufficient to identify it with reasonable certainty;

18 (D) a description of the improvements on the real
19 estate;

20 (E) the times specified in the judgment, if any,
21 when the real estate may be inspected prior to sale;

22 (F) the time and place of the sale;

23 (G) the terms of the sale;

24 (H) the case title, case number and the court in
25 which the foreclosure was filed;

26 (H-1) in the case of a condominium unit to which

1 subsection (g) of Section 9 of the Condominium Property
2 Act applies, the statement required by subdivision
3 (g) (5) of Section 9 of the Condominium Property Act;
4 and

5 (I) such other information ordered by the Court.

6 (2) The notice of sale shall be published at least 3
7 consecutive calendar weeks (Sunday through Saturday), once
8 in each week, the first such notice to be published not
9 more than 45 days prior to the sale, the last such notice
10 to be published not less than 7 days prior to the sale, by:

11 (i) (A) advertisements in a newspaper circulated to the
12 general public in the county in which the real estate is
13 located, in the section of that newspaper where legal
14 notices are commonly placed and (B) separate
15 advertisements in the section of such a newspaper, which
16 (except in counties with a population in excess of
17 3,000,000) may be the same newspaper, in which real estate
18 other than real estate being sold as part of legal
19 proceedings is commonly advertised to the general public;
20 provided, that the separate advertisements in the real
21 estate section need not include a legal description and
22 that where both advertisements could be published in the
23 same newspaper and that newspaper does not have separate
24 legal notices and real estate advertisement sections, a
25 single advertisement with the legal description shall be
26 sufficient; and (ii) such other publications as may be

1 further ordered by the court.

2 (3) The party who gives notice of public sale in
3 accordance with subsection (c) of Section 15-1507 shall
4 also give notice to all parties in the action who have been
5 served with a complaint pursuant to Section 15-1504 of this
6 Code ~~appeared and have not theretofore been found by the~~
7 ~~court to be in default for failure to plead.~~ Such notice
8 shall be given in the manner provided in the applicable
9 rules of court for service of papers other than process and
10 complaint, not more than 45 days nor less than 7 days prior
11 to the day of sale. After notice is given as required in
12 this Section a copy thereof shall be filed in the office of
13 the clerk of the court entering the judgment, together with
14 a certificate of counsel or other proof that notice has
15 been served in compliance with this Section.

16 (4) The party who gives notice of public sale in
17 accordance with subsection (c) of Section 15-1507 shall
18 again give notice in accordance with that Section of any
19 adjourned sale; provided, however, that if the adjourned
20 sale is to occur less than 60 days after the last scheduled
21 sale, notice of any adjourned sale need not be given
22 pursuant to this Section. In the event of adjournment, the
23 person conducting the sale shall, upon adjournment,
24 announce the date, time and place upon which the adjourned
25 sale shall be held. Notwithstanding any language to the
26 contrary, for any adjourned sale that is to be conducted

1 more than 60 days after the date on which it was to first
2 be held, the party giving notice of such sale shall again
3 give notice in accordance with this Section.

4 (5) Notice of the sale may be given prior to the
5 expiration of any reinstatement period or redemption
6 period.

7 (6) No other notice by publication or posting shall be
8 necessary unless required by order or rule of the court.

9 (7) The person named in the notice of sale to be
10 contacted for information about the real estate may, but
11 shall not be required, to provide additional information
12 other than that set forth in the notice of sale.

13 (d) Election of Property. If the real estate which is the
14 subject of a judgment of foreclosure is susceptible of
15 division, the court may order it to be sold as necessary to
16 satisfy the judgment. The court shall determine which real
17 estate shall be sold, and the court may determine the order in
18 which separate tracts may be sold.

19 (e) Receipt upon Sale. Upon and at the sale of mortgaged
20 real estate, the person conducting the sale shall give to the
21 purchaser a receipt of sale. The receipt shall describe the
22 real estate purchased and shall show the amount bid, the amount
23 paid, the total amount paid to date and the amount still to be
24 paid therefor. An additional receipt shall be given at the time
25 of each subsequent payment.

26 (f) Certificate of Sale. Upon payment in full of the amount

1 bid, the person conducting the sale shall issue, in duplicate,
2 and give to the purchaser a Certificate of Sale. The
3 Certificate of Sale shall be in a recordable form, describe the
4 real estate purchased, indicate the date and place of sale and
5 show the amount paid therefor. The Certificate of Sale shall
6 further indicate that it is subject to confirmation by the
7 court. The duplicate certificate may be recorded in accordance
8 with Section 12-121. The Certificate of Sale shall be freely
9 assignable by endorsement thereon.

10 (g) Interest after Sale. Any bid at sale shall be deemed to
11 include, without the necessity of a court order, interest at
12 the statutory judgment rate on any unpaid portion of the sale
13 price from the date of sale to the date of payment.

14 (Source: P.A. 94-1049, eff. 1-1-07.)

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

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

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

20 (b) Hearing. Upon motion and notice in accordance with
21 court rules applicable to motions generally, which motion shall
22 not be made prior to sale, the court shall conduct a hearing to
23 confirm the sale. Unless the court finds that (i) a notice
24 required in accordance with subsection (c) of Section 15-1507
25 was not given, (ii) the terms of sale were unconscionable,

1 (iii) the sale was conducted fraudulently or (iv) that justice
2 was otherwise not done, the court shall then enter an order
3 confirming the sale. The confirmation order may also:

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

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

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

16 (c) Failure to Give Notice. If any sale is held without
17 compliance with subsection (c) of Section 15-1507 of this
18 Article, any party entitled to the notice provided for in
19 paragraph (3) of that subsection (c) who was not so notified
20 may, by motion supported by affidavit made prior to
21 confirmation of such sale, ask the court which entered the
22 judgment to set aside the sale, provided that such party shall
23 guarantee or secure by bond a bid equal to the successful bid
24 at the prior sale. Any subsequent sale is subject to the same
25 notice requirement as the original sale.

26 (d) Validity of Sale. Except as provided in subsection (c)

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

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

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

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

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

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

22 Notwithstanding the preceding paragraph, the failure to
23 personally name, include, or seek an award of possession of the
24 mortgaged real estate against a person in the confirmation
25 order shall not abrogate any right that the purchaser may have
26 to possession of the mortgaged real estate and to maintain a

1 proceeding against that person for possession under Article 9
2 of this Code or subsection (h) of Section 15-1701; and
3 possession against a person who (1) has not been personally
4 named as a party to the foreclosure and (2) has not been
5 provided an opportunity to be heard in the foreclosure
6 proceeding may be sought only by maintaining a proceeding under
7 Article 9 of this Code or subsection (h) of Section 15-1701.

8 (Source: P.A. 88-265; 89-203, eff. 7-21-95.)

9 (735 ILCS 5/15-1510) (from Ch. 110, par. 15-1510)

10 Sec. 15-1510. Attorney's Fees and Costs by Written
11 Agreement.

12 (a) Attorneys' fees and other costs incurred in connection
13 with the preparation, filing or prosecution of the foreclosure
14 suit shall be recoverable in a foreclosure only to the extent
15 specifically set forth in the mortgage or other written
16 agreement between the mortgagor and the mortgagee or as
17 otherwise provided in this Article.

18 (b) The mortgagor shall not be liable for any attorney's
19 fees or other costs attributable to providing the notice
20 required by Section 15-1502.5 of this Code.

21 (c) A court of competent jurisdiction may award reasonable
22 attorney's fees to the prevailing party.

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

24 (735 ILCS 5/15-1513 new)

1 Sec. 15-1513. Waiver. No mortgagee of a residential real
2 estate loan may waive any of the rights in Sections 15-1502.5,
3 15-1504, 15-1506, 15-1507, or 15-1510 of this Code.

4 (735 ILCS 5/15-1514 new)

5 Sec. 15-1514. Severability. If any provision of this
6 Article or its application to any person or circumstance is
7 held invalid, the invalidity of that provision or application
8 does not affect other provisions or applications of this
9 Article that can be given effect without the invalid provision
10 or application.

11 (735 ILCS 5/15-1604) (from Ch. 110, par. 15-1604)

12 Sec. 15-1604. Special Right to Redeem.

13 (a) Circumstances. With respect to residential real
14 estate, if (i) the purchaser at the sale was a mortgagee who
15 was a party to the foreclosure or its nominee and (ii) the sale
16 price was less than the amount specified in subsection (d) of
17 Section 15-1603, then, and only in such circumstances, an owner
18 of redemption as specified in subsection (a) of Section 15-1603
19 shall have a special right to redeem, for a period ending 60 ~~30~~
20 days after the date the sale is confirmed, by paying to the
21 mortgagee (i) the sale price, (ii) all additional costs and
22 expenses incurred by the mortgagee set forth in the report of
23 sale and confirmed by the court, and (iii) interest at the
24 statutory judgment rate from the date the purchase price was

1 paid or credited as an offset.

2 (b) Procedure. Upon receipt of such amount, the mortgagee
3 shall assign to the redeeming owner of redemption its
4 certificate of sale or its right to such certificate or to a
5 deed. The mortgagee shall give to the redeeming owner of
6 redemption an executed duplicate of such assignment, marked
7 "Duplicate", which duplicate the owner of redemption shall file
8 with the court. If a deed has been issued to the mortgagee or
9 its nominee, the holder of such deed, or such holder's
10 successor in title, shall execute and deliver a deed conveying
11 the mortgaged real estate to the redeeming owner of redemption
12 subject only to those encumbrances that would normally arise on
13 title if a redemption were made under Section 15-1603,
14 including a deficiency, if any, resulting from the foreclosure
15 sale. Nothing contained herein shall affect the right to a
16 personal or in rem deficiency judgment, and enforcement thereof
17 shall be allowed as provided by law. Any deficiency judgment
18 shall retain the same priority on title as did the mortgage
19 from which it arose. The mortgagee, its nominee or its
20 successors in title shall not permit encumbrances on title
21 arising on or after the date of the deed to the mortgagee or
22 nominee caused by or relating to the mortgagee or its nominee
23 or its successors in title.

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

25 Section 15. The Interest Act is amended by changing Section

1 4.1a as follows:

2 (815 ILCS 205/4.1a) (from Ch. 17, par. 6406)

3 Sec. 4.1a. Charges for and cost of the following items paid
4 or incurred by any lender in connection with any loan shall not
5 be deemed to be charges for or in connection with any loan of
6 money referred to in Section 6 of this Act, or charges by the
7 lender as a consideration for the loan referred to in this
8 Section:

9 (a) hazard, mortgage or life insurance premiums,
10 survey, credit report, title insurance, abstract and
11 attorneys' fees, recording charges, escrow and appraisal
12 fees, and similar charges.

13 (b) in the case of construction loans, in addition to
14 the matters referred to in clause (a) above, the actual
15 cost incurred by the lender for services for making
16 physical inspections, processing payouts, examining and
17 reviewing contractors' and subcontractors' sworn
18 statements and waivers of lien and the like.

19 (c) in the case of any loan made pursuant to the
20 provisions of the Emergency Home Purchase Assistance Act of
21 1974 (Section 313 of the National Housing Act, Chapter B of
22 Title 12 of the United States Code), in addition to the
23 matters referred to in paragraphs (a) and (b) of this
24 Section all charges required or allowed by the Government
25 National Mortgage Association, whether designated as

1 processing fees, commitment fees, loss reserve and
2 marketing fees, discounts, origination fees or otherwise
3 designated.

4 (d) in the case of a single payment loan, made for a
5 period of 6 months or less, a regulated financial
6 institution or licensed lender may contract for and receive
7 a maximum charge of \$15 in lieu of interest. Such charge
8 may be collected when the loan is made, but only one such
9 charge may be contracted for, received, or collected for
10 any such loan, including any extension or renewal thereof.

11 (e) if the agreement governing the loan so provides, a
12 charge not to exceed the rate permitted under Section 3-806
13 of the Uniform Commercial Code-Commercial Paper for any
14 check, draft or order for the payment of money submitted in
15 accordance with said agreement which is unpaid or not
16 honored by a bank or other depository institution.

17 (f) if the agreement governing the loan so provides,
18 for each loan installment in default for a period of not
19 less than 10 days, a charge in an amount not in excess of
20 5% of such loan installment. Only one delinquency charge
21 may be collected on any such loan installment regardless of
22 the period during which it remains in default. Payments
23 timely received by the lender under a written extension or
24 deferral agreement shall not be subject to any delinquency
25 charge.

26 Notwithstanding subdivisions (k) and (l) of subsection (1)

1 of Section 4 of this Act, the provisions of this Section apply
2 to any residential mortgage loan, as defined in Section 1-4 of
3 the Residential Mortgage License Act of 1987.

4 Notwithstanding subsections (k) and (l) of subsection (1)
5 of Section 4 of this Act, the borrower, in the case of any
6 nonexempt residential mortgage loan, as defined in Section 1-4
7 of the Residential Mortgage License Act of 1987, shall have the
8 right to prepay the loan in whole or in part at any time
9 without paying any penalty, fee, premium, or other charge.

10 No lender shall make, provide, or arrange for a residential
11 mortgage loan, as that term is defined in Section 1-4 of the
12 Residential Mortgage License Act of 1987, that finances,
13 directly or indirectly, any credit life, credit disability, or
14 credit unemployment insurance or any other life or health
15 insurance premiums; however, insurance premiums calculated and
16 paid on a monthly basis shall not be considered to be financed
17 by the lender.

18 Where there is a charge in addition to the stated rate of
19 interest payable directly or indirectly by the borrower and
20 imposed directly or indirectly by the lender as a consideration
21 for the loan, or for or in connection with the loan of money,
22 whether paid or payable by the borrower, the seller, or any
23 other person on behalf of the borrower to the lender or to a
24 third party, or for or in connection with the loan of money,
25 other than as hereinabove in this Section provided, whether
26 denominated "points," "service charge," "discount,"

1 "commission," or otherwise, and without regard to declining
2 balances of principal which would result from any required or
3 optional amortization of the principal of the loan, the rate of
4 interest shall be calculated in the following manner:

5 The percentage of the principal amount of the loan
6 represented by all of such charges shall first be computed,
7 which in the case of a loan with an interest rate in excess of
8 8% per annum secured by residential real estate, other than
9 loans described in paragraphs (e) and (f) of Section 4, shall
10 not exceed 3% of such principal amount. Said percentage shall
11 then be divided by the number of years and fractions thereof of
12 the period of the loan according to its stated maturity. The
13 percentage thus obtained shall then be added to the percentage
14 of the stated annual rate of interest.

15 ~~The borrower in the case of nonexempt loan shall have the~~
16 ~~right to prepay the loan in whole or in part at any time, but,~~
17 ~~except as may otherwise be provided by Section 4, the lender~~
18 ~~may require payment of not more than 6 months' advance interest~~
19 ~~on that part of the aggregate amount of all prepayments on a~~
20 ~~loan in one year, which exceeds 20% of the original principal~~
21 ~~amount of the loan.~~

22 (Source: P.A. 87-496.)".