

August 26, 2008

To the Honorable Members of the  
Illinois Senate  
95th General Assembly

Pursuant to Article IV, Section 9(e) of the Illinois Constitution of 1970, I hereby return Senate Bill 1879, entitled "AN ACT concerning regulation.", with the following specific recommendations for change:

on page 1, line 5, by replacing "Sections 15-1504.5" with "Sections 15-1501.5, 1504.5,";  
and

on page 1, below line 6, by inserting the following:

“(735 ILCS 5/15-1501.5 new)

Sec. 15-1501.5. Counseling prior to perfecting foreclosure proceedings.

(a) Except for home loans in which any borrower has filed for relief under the United States Bankruptcy Code, if a home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek approved credit counseling.

(b) The notice required in subsection (a) of this Section shall state the date on which the notice was mailed, shall be headed in bold, 14-point type, "GRACE PERIOD NOTICE", and shall state the following in 14-point type: "YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED HOUSING OR CREDIT COUNSELING. YOU HAVE A GRACE PERIOD OF 30 DAYS FROM THE DATE OF THIS FORM TO OBTAIN APPROVED HOUSING OR CREDIT COUNSELING. DURING THE GRACE PERIOD, THE LAW PROHIBITS US FROM TAKING ANY LEGAL ACTION AGAINST YOU. A LIST OF APPROVED COUNSELING AGENCIES MAY BE OBTAINED FROM THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION." The notice shall also list the Department's current consumer hotline, the Department's website, and the telephone number, fax number, and mailing address of the servicer's loss mitigation department. No language, other than the language prescribed in this subsection (b), shall be included in the notice. The requirements of this subsection (b) shall be deemed satisfied if the language and format prescribed in this subsection (b) is included in a counseling notification required under federal law.

(c) Upon mailing the notice provided for under subsection (b) of this Section, neither the lender, servicer, nor lender's agent shall institute legal action under this Part 15 of Article XV for 30 days. Only one such 30-day period of forbearance is allowed under this subsection (c) per subject loan.

(d) If, within the 30-day period provided under subsection (c) of this Section, an approved counseling agency notifies the lender, servicer, or lender's agent that the borrower is seeking approved counseling services, then the lender, servicer, or lender's agent shall not institute legal action under this Part 15 of Article XV for 30 days after the date of that notice. During the 30-day period provided under this subsection (d), the borrower or counselor or both may prepare and proffer to the lender, servicer, or lender's agent a proposed debt management plan. The lender, servicer, or lender's agent shall then determine whether to accept the proposed debt management plan. If the lender, servicer, or lender's agent and the borrower agree to a debt management plan, then the lender, servicer, or lender's agent shall not institute legal action under this Part 15 of Article XV for as long as the debt management plan is complied with by the borrower. The agreed debt management plan and any modifications thereto must be in writing and signed by the lender, servicer, or lender's agent and the borrower. Upon written notice to the lender, servicer, or lender's agent, the borrower may change approved counseling agencies, but such a change does not entitle the borrower to any additional period of forbearance.

(e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Section shall be construed to impair the legal right of the lender, servicer, or lender's agent to enforce the contract.

(f) As used in this Section:

"Approved counseling agency" means a housing counseling agency approved by the U.S. Department of Housing and Urban Development, a credit counseling agency approved by the Secretary, or any other person or entity approved by the Secretary.

"Borrower" means a natural person who seeks or obtains a home loan.

"Delinquent" means past due with respect to payments on a home loan.

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

"Home loan" means a loan to or for the benefit of any natural person made primarily for personal, family, or household use, primarily secured by either a mortgage on residential real property, title to a mobile home, or certificates of stock or other evidence of ownership interests in and proprietary from corporations, partnerships, or limited liability companies formed for the purpose of cooperative ownership of residential real property, all located in this State.

"Lender" means any person, partnership, association, corporation, or any other entity who either transfers, offers, lends, or invests money in home loans.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation or other person authorized to act in the Secretary's stead.

"Servicer" means any entity chartered under the Illinois Banking Act, the Savings Bank Act, the Illinois Credit Union Act, or the Illinois Savings and Loan Act of 1985 and any person or entity licensed under the Residential Mortgage License Act of 1987, the Consumer Installment Loan Act, or the Sales Finance Agency Act who is responsible for the collection or remittance for or has the right or obligation to collect or remit for any lender, note owner, or note holder or for a lender's own account of payments, interest, principal, and escrow items (such as hazard insurance and taxes on a residential mortgage loan) in accordance with the terms of the home loan, including loan payment follow up, delinquency

loan follow up, loan analysis, and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing."

With these changes, Senate Bill 1879 will have my approval. I respectfully request your concurrence.

Sincerely,

ROD R. BLAGOJEVICH  
Governor