



Sen. Jacqueline Y. Collins

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1 AMENDMENT TO HOUSE BILL 3863

2 AMENDMENT NO. _____. Amend House Bill 3863 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 changing Sections 15-1701, 15-1703, and 15-1704 and by adding
6 Sections 15-1202.5 and 15-1508.5 as follows:

7 (735 ILCS 5/15-1202.5 new)

8 Sec. 15-1202.5. Dwelling unit. For the purposes of Sections
9 15-1508.5, 15-1703, and 15-1704 only, "dwelling unit" means a
10 room or suite of rooms providing complete, independent living
11 facilities for at least one person, including permanent
12 provisions for sanitation, cooking, eating, sleeping, and
13 other activities routinely associated with daily life.

14 (735 ILCS 5/15-1508.5 new)

15 Sec. 15-1508.5. Notice by holder or purchaser to known

1 occupants of dwelling units of mortgaged real estate.

2 (a) The holder of the certificate of sale or deed issued
3 pursuant to that certificate or, if no certificate or deed was
4 issued, the purchaser, shall:

5 (1) following the judicial sale under Section 15-1507,
6 but no later than 21 days after the confirmation of sale
7 under Section 15-1508, make a good faith effort to
8 ascertain the identities and addresses of all occupants of
9 dwelling units of the mortgaged real estate; and

10 (2) following the order confirming sale under Section
11 15-1508, but no later than 21 days after the order
12 confirming sale, notify all known occupants of dwelling
13 units of the mortgaged real estate that the holder or
14 purchaser has acquired the mortgaged real estate. The
15 notice shall be in writing and shall:

16 (i) identify the occupant being served by the name
17 known to the holder or purchaser;

18 (ii) inform the occupant that the mortgaged real
19 estate at which the dwelling unit is located is the
20 subject of a foreclosure and that control of the
21 mortgaged real estate has changed;

22 (iii) provide the name, address, and telephone
23 number of an individual or entity whom the occupants
24 may contact with concerns about the mortgaged real
25 estate or to request repairs of that property;

26 (iv) include the following language, or language

1 that is substantially similar: "This is NOT a notice to
2 vacate the premises. You may wish to contact a lawyer
3 or your local legal aid or housing counseling agency to
4 discuss any rights that you may have."; and

5 (v) include the name of the case, the case number,
6 and the court where the order confirming the sale has
7 been entered.

8 (b) The written notice required by subsection (a) of this
9 Section shall be served by delivering a copy thereof to the
10 known occupant, or by leaving the same with some person of the
11 age of 13 years or upwards who is residing on or in possession
12 of the premises, or by sending a copy of the notice to the
13 known occupant by first-class mail, addressed to the occupant
14 by the name known to the holder or purchaser.

15 (c) In the event that the holder or purchaser ascertains
16 the identity and address of an occupant of a dwelling unit of
17 the mortgaged real estate more than 21 days after the
18 confirmation of sale under Section 15-1508, the holder or
19 purchaser shall provide the notice required by subparagraph (2)
20 of subsection (a) within 7 days of ascertaining the identity
21 and address of the occupant.

22 (d)(i) A holder or purchaser who fails to comply with
23 subsections (a), (b), and (c) may not collect any rent due and
24 owing from a known occupant, or terminate a known occupant's
25 tenancy for non-payment of such rent, until the holder or
26 purchaser has served the notice described in paragraph (2) of

1 subsection (a) of this Section upon the known occupant. After
2 providing such notice, the holder or purchaser may collect any
3 and all rent otherwise due and owing the holder or purchaser
4 from the known occupant and may terminate the known occupant's
5 tenancy for non-payment of such rent if the holder or purchaser
6 otherwise has such right to terminate.

7 (ii) An occupant who previously paid rent for the current
8 rental period to the mortgagor, or other entity with the
9 authority to operate, manage, and conserve the mortgaged real
10 estate at the time of payment, shall not be held liable for
11 that rent by the holder or purchaser, and the occupant's
12 tenancy shall not be terminated for non-payment of rent for
13 that rental period.

14 (e) Within 21 days of the confirmation of sale under
15 Section 15-1508, the holder or purchaser shall post a written
16 notice on the primary entrance of each dwelling unit subject to
17 the foreclosure action. This notice shall:

18 (i) inform occupant that the dwelling unit is the
19 subject of a foreclosure action and that control of the
20 mortgaged real estate has changed;

21 (ii) include the following language: "This is NOT a
22 notice to vacate the premises."; and

23 (iii) provide the name, address, and telephone number
24 of the individual or entity whom occupants may contact with
25 concerns about the mortgaged real estate or to request
26 repairs of the property;

1 (f)(i) The provisions of subsection (d) of this Section
2 shall be the exclusive remedy for the failure of a holder or
3 purchaser to provide notice to a known occupant under this
4 Section.

5 (ii) This Section shall not abrogate any right that a
6 holder or purchaser may have to possession of the mortgaged
7 real estate and to maintain a proceeding against an occupant of
8 a dwelling unit for possession under Article 9 of this Code or
9 subsection (h) of Section 15-1701.

10 (iii) In the event that the holder or purchaser is a
11 mortgagee in possession of the mortgaged real estate pursuant
12 to Section 15-1703 at the time of the confirmation of sale and
13 has complied with requirements of subsection (a-5) of Section
14 15-1703, the holder or purchaser is excused from the
15 requirements of subsections (a) and (e) of this Section.

16 (iv) A holder or purchaser is not required to provide the
17 notice required by this Section to a mortgagor or party against
18 whom an order of possession has been entered authorizing the
19 removal of the mortgagor or party pursuant to subsection (g) of
20 Section 15-1508.

21 (735 ILCS 5/15-1701) (from Ch. 110, par. 15-1701)

22 Sec. 15-1701. Right to possession.

23 (a) General. The provisions of this Article shall govern
24 the right to possession of the mortgaged real estate during
25 foreclosure. Possession under this Article includes physical

1 possession of the mortgaged real estate to the same extent to
2 which the mortgagor, absent the foreclosure, would have been
3 entitled to physical possession. For the purposes of Part 17,
4 real estate is residential real estate only if it is
5 residential real estate at the time the foreclosure is
6 commenced.

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

9 (1) In the case of residential real estate, the
10 mortgagor shall be entitled to possession of the real
11 estate except if (i) the mortgagee shall object and show
12 good cause, (ii) the mortgagee is so authorized by the
13 terms of the mortgage or other written instrument, and
14 (iii) the court is satisfied that there is a reasonable
15 probability that the mortgagee will prevail on a final
16 hearing of the cause, the court shall upon request place
17 the mortgagee in possession. If the residential real estate
18 consists of more than one dwelling unit, then for the
19 purpose of this Part residential real estate shall mean
20 only that dwelling unit or units occupied by persons
21 described in clauses (i), (ii) and (iii) of Section
22 15-1219.

23 (2) In all other cases, if (i) the mortgagee is so
24 authorized by the terms of the mortgage or other written
25 instrument, and (ii) the court is satisfied that there is a
26 reasonable probability that the mortgagee will prevail on a

1 final hearing of the cause, the mortgagee shall upon
2 request be placed in possession of the real estate, except
3 that if the mortgagor shall object and show good cause, the
4 court shall allow the mortgagor to remain in possession.

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

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

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

1 paid by the mortgagor pursuant to this subsection shall be
2 credited against the amounts due from the mortgagor.

3 (d) After 30 Days After Sale Confirmation. The holder of
4 the certificate of sale or deed issued pursuant to that
5 certificate or, if no certificate or deed was issued, the
6 purchaser, except to the extent the holder or purchaser may
7 consent otherwise, shall be entitled to possession of the
8 mortgaged real estate, as of the date 30 days after the order
9 confirming the sale is entered, against those parties to the
10 foreclosure whose interests the court has ordered terminated,
11 without further notice to any party, further order of the
12 court, or resort to proceedings under any other statute other
13 than this Article. This right to possession shall be limited by
14 the provisions governing entering and enforcing orders of
15 possession under subsection (g) of Section 15-1508. If the
16 holder or purchaser determines that there are occupants of the
17 mortgaged real estate who have not been made parties to the
18 foreclosure and had their interests terminated therein, the
19 holder or purchaser may bring a proceeding under subsection (h)
20 of this Section or under Article 9 of this Code to terminate
21 the rights of possession of any such occupants. The holder or
22 purchaser shall not be entitled to proceed against any such
23 occupant under Article 9 of this Code until after 30 days after
24 the order confirming the sale is entered.

25 (e) Termination of Leases. A lease of all or any part of
26 the mortgaged real estate shall not be terminated automatically

1 solely by virtue of the entry into possession by (i) a
2 mortgagee or receiver prior to the entry of an order confirming
3 the sale, (ii) the holder of the certificate of sale, (iii) the
4 holder of the deed issued pursuant to that certificate, or (iv)
5 if no certificate or deed was issued, the purchaser at the
6 sale.

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

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

24 (h) Proceedings Against Certain Occupants.

25 (1) The mortgagee-in-possession of the mortgaged real
26 estate under Section 15-1703, a receiver appointed under

1 Section 15-1704, a holder of the certificate of sale or
2 deed, or the purchaser may, at any time during the pendency
3 of the foreclosure and up to 90 days after the date of the
4 order confirming the sale, file a supplemental petition for
5 possession against a person not personally named as a party
6 to the foreclosure. The supplemental petition for
7 possession shall name each such occupant against whom
8 possession is sought and state the facts upon which the
9 claim for relief is premised.

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

20 (3) The supplemental petition shall be heard as part of
21 the foreclosure proceeding and without the payment of
22 additional filing fees. An order for possession obtained
23 under this Section shall name each occupant whose interest
24 has been terminated, shall recite that it is only effective
25 as to the occupant so named and those holding under them,
26 and shall be enforceable for no more than 90 days after its

1 entry, except that the 90-day period may be extended to the
2 extent and in the manner provided in Section 9-117 of
3 Article 9 and except as provided in item (4) of this
4 subsection (h).

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

1 ~~tenant~~ continues to pay his or her rent in full during the
2 120-day period or has made good-faith efforts to pay the
3 rent in full during that period. No
4 mortgagee-in-possession, receiver or holder of a
5 certificate of sale or deed, or purchaser who fails to file
6 a supplemental petition under this subsection during the
7 pendency of a mortgage foreclosure shall file a forcible
8 entry and detainer action against an occupant ~~a tenant~~ of
9 the mortgaged real estate until 90 days after a notice of
10 intent to file such action has been properly served upon
11 the occupant ~~tenant~~.

12 (5) The court records relating to a supplemental
13 petition for possession filed under this subsection (h)
14 against an occupant ~~a tenant~~ who is entitled to notice
15 under item (4) of this subsection (h), or relating to a
16 forcible entry and detainer action brought against an
17 occupant ~~a tenant~~ who would have lawful possession of the
18 premises but for the foreclosure of a mortgage on the
19 property, shall be ordered sealed and shall not be
20 disclosed to any person, other than a law enforcement
21 officer or any other representative of a governmental
22 entity, except upon further order of the court.

23 (Source: P.A. 95-262, eff. 1-1-08; 95-933, eff. 8-26-08.)

24 (735 ILCS 5/15-1703) (from Ch. 110, par. 15-1703)

25 Sec. 15-1703. Mortgagee in Possession. (a) Powers and

1 Duties. A mortgagee placed in possession of the real estate
2 pursuant to Section 15-1701 or Section 15-1702 shall have:

3 (1) such power and authority with respect to the real
4 estate and other property subject to the mortgage,
5 including the right to receive the rents, issues and
6 profits thereof, as may have been conferred upon the
7 mortgagee by the terms of the mortgage or other written
8 instrument authorizing the taking of possession;

9 (2) all other rights and privileges of a mortgagee in
10 possession under law not inconsistent herewith; and

11 (3) the same powers, duties and liabilities as a
12 receiver appointed for the real estate in accordance with
13 this Article. If an order placing a mortgagee in possession
14 is modified, revoked or set aside, the mortgagee shall not
15 be liable for any damages to the extent such damages arise
16 solely out of the fact that the mortgagor was removed from
17 possession or that the mortgagee was placed in possession.

18 (a-5) Notice to occupants.

19 (1) Following the order placing the mortgagee in
20 possession of the mortgaged real estate, but no later than
21 21 days after the entry of such order, the mortgagee in
22 possession shall make a good faith effort to ascertain the
23 identities and addresses of all occupants of dwelling units
24 of the mortgaged real estate.

25 (2) Following the order placing the mortgagee in
26 possession of the mortgaged real estate, but no later than

1 21 days after the entry of such order, the mortgagee in
2 possession shall notify all known occupants of dwelling
3 units of the mortgaged real estate that the mortgagee has
4 taken possession of the mortgaged real estate. The notice
5 shall be in writing and shall:

6 (i) identify the occupant being served by the name
7 known to the mortgagee in possession;

8 (ii) inform the occupant that the mortgaged real
9 estate at which the dwelling unit is located is the
10 subject of a foreclosure action and that control of the
11 mortgaged real estate has changed;

12 (iii) provide the name, address, and telephone
13 number of the individual or entity whom occupants may
14 contact with concerns about the mortgaged real estate
15 or to request repairs of that property;

16 (iv) include the following language, or language
17 that is substantially similar: "This is NOT a notice to
18 vacate the premises. You may wish to contact a lawyer
19 or your local legal aid or housing counseling agency to
20 discuss any rights that you may have."; and

21 (v) include the name of the case, the case number,
22 and the court where the foreclosure action is pending.

23 (3) The written notice required by item (2) of this
24 subsection (a-5) shall be served by delivering a copy
25 thereof to the known occupant, or by leaving the same with
26 some person of the age of 13 years or upwards, who is

1 residing on or in possession of the premises; or by sending
2 a copy of the notice to the known occupant by first-class
3 mail, addressed to the occupant by the name known to the
4 mortgagee in possession.

5 (4) In the event that a mortgagee in possession
6 ascertains the identity and address of an occupant of a
7 dwelling unit of the mortgaged real estate more than 21
8 days after being placed in possession of the mortgaged real
9 estate pursuant to Section 15-1703, the mortgagee in
10 possession shall provide the notice required by item (2) of
11 this subsection (a-5) within 7 days of ascertaining the
12 identity and address of the occupant.

13 (5)(i) A mortgagee in possession who fails to comply
14 with items (1), (2), (3), and (4) of this subsection (a-5)
15 may not collect any rent due and owing from a known
16 occupant, or terminate a known occupant's tenancy for
17 non-payment of such rent, until the mortgagee in possession
18 has served the notice described in item (2) of this
19 subsection (a-5) upon the known occupant. After providing
20 such notice, the mortgagee in possession may collect any
21 and all rent otherwise due and owing the mortgagee in
22 possession from the known occupant and may terminate the
23 known occupant's tenancy for non-payment of such rent if
24 the mortgagee in possession otherwise has such right to
25 terminate.

26 (ii) An occupant who previously paid rent for the

1 current rental period to the mortgagor, or other entity
2 with the authority to operate, manage, and conserve the
3 mortgaged real estate at the time of payment, shall not be
4 held liable for that rent by the mortgagee in possession,
5 and the occupant's tenancy shall not be terminated for
6 non-payment of rent for that rental period.

7 (6) Within 21 days of the order placing the mortgagee
8 in possession of the mortgaged real estate, the mortgagee
9 in possession shall post a written notice on the primary
10 entrance of each dwelling unit subject to the foreclosure
11 action that informs the occupants that the mortgagee in
12 possession is now operating and managing the mortgaged real
13 estate. This notice shall:

14 (i) inform occupant that the dwelling unit is the
15 subject of a foreclosure action and that control of the
16 mortgaged real estate has changed;

17 (ii) include the following language: "This is NOT a
18 notice to vacate the premises;" and

19 (iii) provide the name, address, and telephone
20 number of the individual or entity whom occupants may
21 contact with concerns about the mortgaged real estate
22 or to request repairs of the property.

23 (7) (i) The provisions of item (5) of this subsection
24 (a-5) shall be the exclusive remedy for the failure of a
25 mortgagee in possession to provide notice to a known
26 occupant under this Section.

1 (ii) This Section shall not abrogate any right that a
2 mortgagee in possession may have to possession of the
3 mortgaged real estate and to maintain a proceeding against
4 an occupant of a dwelling unit for possession under Article
5 9 of this Code or subsection (h) of Section 15-1701.

6 (b) Fees and Expenses. A mortgagee in possession shall not
7 be entitled to any fees for so acting, but shall be entitled to
8 reimbursement for reasonable costs, expenses and third party
9 management fees incurred in connection with such possession.

10 (Source: P.A. 84-1462.)

11 (735 ILCS 5/15-1704) (from Ch. 110, par. 15-1704)

12 Sec. 15-1704. Receivers. (a) Receiver. Notwithstanding the
13 provisions of subsections (b), (c) and (d) of Section 15-1701,
14 and except as provided in Section 15-1702, upon request of any
15 party and a showing of good cause, the court shall appoint a
16 receiver for the mortgaged real estate.

17 (b) Powers. A receiver appointed pursuant to this Article
18 shall have possession of the mortgaged real estate and other
19 property subject to the mortgage during the foreclosure, shall
20 have full power and authority to operate, manage and conserve
21 such property, and shall have all the usual powers of receivers
22 in like cases. Without limiting the foregoing, a receiver shall
23 have the power and authority to:

24 (1) secure tenants and execute leases for the real
25 estate, the duration and terms of which are reasonable and

1 customary for the type of use involved, and such leases
2 shall have the same priority as if made by the owner of the
3 real estate; but, unless approved by the Court, the
4 receiver shall not execute oil, gas or other mineral
5 leases, or (even if otherwise allowed by law) leases
6 extending beyond the time of the receiver's possession;
7 provided, however, with respect to residential real estate
8 leased by the receiver, nothing in this Section shall
9 affect the legal rights of any lessee with respect to the
10 safety and habitability of the residential real estate;

11 (2) collect the rents, issues and profits from the
12 mortgaged real estate;

13 (3) insure the mortgaged real estate against loss by
14 fire or other casualty;

15 (4) employ counsel, custodians, janitors and other
16 help; and

17 (5) pay taxes which may have been or may be levied
18 against the mortgaged real estate.

19 (c) Duties. A receiver appointed pursuant to this Article
20 must manage the mortgaged real estate as would a prudent
21 person, taking into account the effect of the receiver's
22 management on the interest of the mortgagor. A receiver may,
23 without an order of the court, delegate managerial functions to
24 a person in the business of managing real estate of the kind
25 involved who is financially responsible, not related to the
26 mortgagee or receiver and prudently selected. However, the

1 receiver shall remain responsible to the mortgagor or other
2 persons for the acts or omissions of such management agent.
3 When fees are paid to such a management agent, the receiver's
4 fees may be adjusted to the extent the court deems appropriate.
5 In managing the mortgaged real estate and other property
6 subject to the mortgage, a receiver or receiver's delegate, to
7 the extent the receiver receives sufficient receipts from the
8 mortgaged real estate, such other property or other sources,
9 except to the extent ordered otherwise by the court:

10 (1) shall maintain the existing casualty and liability
11 insurance required in accordance with the mortgage or
12 applicable to the real estate and other property subject to
13 the mortgage at the time the receiver took possession;

14 (2) shall use reasonable efforts to maintain the real
15 estate and other property subject to the mortgage in at
16 least as good condition as existed at the time the receiver
17 took possession, excepting reasonable wear and tear and
18 damage by any casualty;

19 (2.5) shall accept all rental payments from an occupant
20 of the mortgaged property, and any payments from a third
21 party or any rental assistance program in support of an
22 occupant's housing;

23 (3) shall apply receipts to payment of ordinary
24 operating expenses, including royalties, rents and other
25 expenses of management;

26 (4) shall pay any shared or common expense assessments

1 due to any association of owners of interests in real
2 estate to the extent that such assessments are or may
3 become a lien against the mortgaged real estate;

4 (5) may pay the amounts due under any mortgage if the
5 mortgagee thereof is not a party in the foreclosure;

6 (6) may carry such additional casualty and liability
7 insurance as is reasonably available and reasonable as to
8 amounts and risks covered;

9 (7) may make other repairs and improvements necessary
10 to comply with building, housing, and other similar codes
11 or with existing contractual obligations affecting the
12 mortgaged real estate;

13 (8) may hold receipts as reserves reasonably required
14 for the foregoing purposes; and

15 (9) may take such other actions as may be reasonably
16 necessary to conserve the mortgaged real estate and other
17 property subject to the mortgage, or as otherwise
18 authorized by the court.

19 (d) Allocation of Receipts. Receipts received from
20 operation of the real estate and other property subject to the
21 mortgage by the receiver shall be applied in the following
22 order of priority.

23 (1) to reimbursement of the receiver for all reasonable
24 costs and expenses incurred by the receiver or the
25 receiver's delegates;

26 (2) to payment of insurance premiums authorized in

1 paragraph (1) of subsection (c) of Section 15-1704;

2 (3) to payment of the receiver's delegates of any
3 reasonable management fees for managing real estate of the
4 type involved;

5 (4) to payment of receiver's fees allowed by the court;

6 (5) to payment of expenses authorized in paragraphs
7 (2), (3) and (4) of subsection (c) of Section 15-1704;

8 (6) to payment of amounts authorized in paragraph (5)
9 of subsection (c) of Section 15-1704;

10 (7) to payment of expenses authorized in paragraphs (6)
11 and (7) of subsection (c) of Section 15-1704; and

12 (8) the balance, if any, shall be held or disbursed as
13 ordered by the court.

14 (e) Non-Liability for Allocations. A receiver shall in no
15 event be liable to any person for the allocation of, or failure
16 to allocate, receipts to possible expenditures within the same
17 priority category.

18 (f) Notice to occupants.

19 (1) Following an order appointing a receiver pursuant
20 to Section 15-1704, but no later than 21 days after the
21 entry of such order, the appointed receiver shall make a
22 good faith effort to ascertain the identities and addresses
23 of all occupants of dwelling units of the mortgaged real
24 estate.

25 (2) Following an order appointing a receiver pursuant
26 to Section 15-1704, but no later than 21 days after the

1 entry of such order, the appointed receiver shall notify
2 all known occupants of dwelling units of the mortgaged real
3 estate that the receiver has been appointed receiver of the
4 mortgaged real estate. Such notice shall be in writing and
5 shall:

6 (i) identify the occupant being served by the name
7 known to the receiver;

8 (ii) inform the occupant that the mortgaged real
9 estate at which the dwelling unit is located is the
10 subject of a foreclosure action and that control of the
11 mortgaged real estate has changed;

12 (iii) provide the name, address, and telephone
13 number of the individual or entity whom occupants may
14 contact with concerns about the mortgaged real estate
15 or to request repairs of that property;

16 (iv) include the following language, or language
17 that is substantially similar: "This is NOT a notice to
18 vacate the premises. You may wish to contact a lawyer
19 or your local legal aid or housing counseling agency to
20 discuss any rights that you may have."; and

21 (v) include the name of the case, the case number,
22 and the court where the foreclosure action is pending;

23 (3) The written notice required by item (2) of this
24 subsection (f) shall be served by delivering a copy thereof
25 to the known occupant, or by leaving the same with some
26 person of the age of 13 years or upwards, who is residing

1 on or in possession of the premises; or by sending a copy
2 of the notice to the known occupant by first-class mail,
3 addressed to the occupant by the name known to the
4 receiver.

5 (4) In the event that a receiver ascertains the
6 identity and address of an occupant of a dwelling unit of
7 the mortgaged real estate more than 21 days after
8 appointment pursuant to Section 15-1704, the receiver
9 shall provide the notice required by item (2) of this
10 subsection (f) within 7 days of ascertaining the identity
11 and address of the occupant.

12 (5)(i) A receiver who fails to comply with items (1),
13 (2), (3), and (4) of this subsection (f) may not collect
14 any rent due and owing from a known occupant, or terminate
15 a known occupant's tenancy for non-payment of such rent,
16 until the receiver has served the notice described in item
17 (2) of this subsection (f) upon the known occupant. After
18 providing such notice, the receiver may collect any and all
19 rent otherwise due and owing the receiver from the known
20 occupant and may terminate the known occupant's tenancy for
21 non-payment of such rent if the receiver otherwise has such
22 right to terminate.

23 (ii) An occupant who previously paid rent for the
24 current rental period to the mortgagor, or other entity
25 with the authority to operate, manage, and conserve the
26 mortgaged real estate at the time of payment, shall not be

1 held liable for that rent by the receiver, and the
2 occupant's tenancy shall not be terminated for non-payment
3 of rent for that rental period.

4 (6) Within 21 days of appointment, the receiver shall
5 post a written notice on the primary entrance of each
6 dwelling unit subject to the foreclosure action that
7 informs occupants that the receiver has been appointed to
8 operate and manage the property. This notice shall:

9 (i) inform occupant that the dwelling unit is the
10 subject of a foreclosure action and that control of the
11 mortgaged real estate has changed;

12 (ii) include the following language: "This is NOT a
13 notice to vacate the premises;" and

14 (iii) provide the name, address, and telephone
15 number of the individual or entity whom occupants may
16 contact with concerns about the mortgaged real estate
17 or to request repairs of the property.

18 (7)(i) The provisions of item (5) of this subsection
19 (f) shall be the exclusive remedy for the failure of a
20 receiver to provide notice to a known occupant under this
21 Section.

22 (ii) This Section shall not abrogate any right that a
23 receiver may have to possession of the mortgaged real
24 estate and to maintain a proceeding against an occupant of
25 a dwelling unit for possession under Article 9 of this Code
26 or subsection (h) of Section 15-1701.

1 (g) Increase of rents. Notwithstanding any other provision
2 of this Article, a receiver shall not charge an occupant of the
3 mortgaged real estate a rental amount above that which the
4 occupant had been paying for use and occupancy of the mortgaged
5 real estate prior the appointment of a receiver without leave
6 of court. The court may allow an increase of rent if, upon
7 motion by the receiver, the court finds by a preponderance of
8 the evidence, that the increase of rent is necessary to
9 operate, manage, and conserve the mortgaged real estate
10 pursuant to this Section. A list of the current rents for each
11 unit in the mortgaged real estate, and a list of the proposed
12 rent increase for each of those units, must be attached to a
13 motion for a rent increase under this subsection (g). All
14 occupants of the mortgaged real estate who may be affected by
15 the motion for a rent increase, if not otherwise entitled to
16 notice, shall be notified in writing of the nature of the
17 motion, the date and time of the motion, and the court where
18 the motion will be heard. Such notice shall be by personal
19 service or first-class mail. In the event that the receiver and
20 an occupant of a dwelling unit agree to a rent increase for
21 that dwelling unit, the receiver is excused from the
22 requirements of this subsection (g) as to that dwelling unit.
23 Nothing in this subsection (g) shall alter the terms of any
24 lease agreement.

25 (h) ~~(f)~~ Removal. The court may remove a receiver upon a
26 showing of good cause, in which case a new receiver may be

1 appointed in accordance with subsection (b) of Section 15-1702
2 and subsection (a) of Section 15-1704.

3 (Source: P.A. 84-1462.)

4 Section 98. Compliance. In a foreclosure action filed on or
5 before the effective date of this Act, a holder or purchaser,
6 receiver, or mortgagee in possession required to serve notice
7 or otherwise comply with Section 15-1508.5, subsection (a-5) of
8 Section 15-1703, and subsection (f) of 15-1704 shall have an
9 additional 60 days to comply with the provisions of this Act.

10 Section 99. Effective date. This Act takes effect 90 days
11 after becoming law.".