



Sen. Jacqueline Y. Collins

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LRB098 09678 HEP 44569 a

1 AMENDMENT TO SENATE BILL 1602

2 AMENDMENT NO. _____. Amend Senate Bill 1602 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 9-121, 9-205, 9-207, 15-1202.5, 15-1506,
6 15-1508, 15-1508.5, 15-1701, 15-1703, and 15-1704 and by adding
7 Section 9-207.5 as follows:

8 (735 ILCS 5/9-121)

9 Sec. 9-121. Sealing of court file.

10 (a) Definition. As used in this Section, "court file" means
11 the court file created when a forcible entry and detainer
12 action is filed with the court.

13 (b) Discretionary sealing of court file. The court may
14 order that a court file in a forcible entry and detainer action
15 be placed under seal if the court finds that the plaintiff's
16 action is sufficiently without a basis in fact or law, which

1 may include a lack of jurisdiction, that placing the court file
2 under seal is clearly in the interests of justice, and that
3 those interests are not outweighed by the public's interest in
4 knowing about the record.

5 (c) Mandatory sealing of court file. The court file
6 relating to a forcible entry and detainer action brought
7 against a tenant under Section 9-207.5 of this Code or as set
8 forth in subdivision (h) (5) of Section 15-1701 of this Code
9 shall be placed under seal ~~who would have lawful possession of~~
10 ~~the premises but for the foreclosure on the property shall be~~
11 ~~sealed pursuant to Section 15-1701.~~

12 (Source: P.A. 96-1131, eff. 7-20-10.)

13 (735 ILCS 5/9-205) (from Ch. 110, par. 9-205)

14 Sec. 9-205. Notice to terminate tenancy from year to year.
15 Except as provided in Section 9-206 and Section 9-207.5 of this
16 Act, in all cases of tenancy from year to year, 60 days'
17 notice, in writing, shall be sufficient to terminate the
18 tenancy at the end of the year. The notice may be given at any
19 time within 4 months preceding the last 60 days of the year.

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

21 (735 ILCS 5/9-207) (from Ch. 110, par. 9-207)

22 Sec. 9-207. Notice to terminate tenancy for less than a
23 year.

24 (a) Except as provided in Section 9-207.5 of this Code, in

1 ~~In~~ all cases of tenancy from week to week, where the tenant
2 holds over without special agreement, the landlord may
3 terminate the tenancy by 7 days' notice, in writing, and may
4 maintain an action for forcible entry and detainer or
5 ejectment.

6 (b) Except as provided in Section 9-207.5 of this Code, in
7 ~~In~~ all cases of tenancy for any term less than one year, other
8 than tenancy from week to week, where the tenant holds over
9 without special agreement, the landlord may terminate the
10 tenancy by 30 days' notice, in writing, and may maintain an
11 action for forcible entry and detainer or ejectment.

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

13 (735 ILCS 5/9-207.5 new)

14 Sec. 9-207.5. Termination of tenancies after foreclosure.

15 (a) A landlord who assumes control of the premises as a
16 result of a foreclosure pursuant to Article XV of this Code may
17 terminate a tenancy established prior to the confirmation of
18 sale under Section 15-1508 of this Code only (i) at the end of
19 the term of the lease agreement by no less than 90 days'
20 written notice; or (ii) in the case of a month to month or week
21 to week tenancy, by 90 days' written notice. Nothing in this
22 Section shall abrogate the rights of a landlord to terminate a
23 tenancy under Sections 9-118, 9-119, 9-120, 9-209, or 9-210 of
24 this Code.

25 (b) Notwithstanding the provisions of subsection (a) of

1 this Section, a landlord who assumes control of the premises as
2 a result of a foreclosure pursuant to Article XV of this Code
3 and will occupy the unit as his or her primary residence may
4 terminate a tenancy established prior to the confirmation of
5 sale under Section 15-1508 of Article XV of this Code under
6 Section 9-205 and 9-207 of this Code, subject to the terms of
7 any lease agreement.

8 (735 ILCS 5/15-1202.5)

9 Sec. 15-1202.5. Dwelling unit. For the purposes of Sections
10 15-1506, 15-1508, 15-1508.5, 15-1701, 15-1703, and 15-1704
11 only, "dwelling unit" means a room or suite of rooms providing
12 complete, independent living facilities for at least one
13 person, including permanent provisions for sanitation,
14 cooking, eating, sleeping, and other activities routinely
15 associated with daily life.

16 (Source: P.A. 96-111, eff. 10-29-09; 97-575, eff. 8-26-11.)

17 (735 ILCS 5/15-1506) (from Ch. 110, par. 15-1506)

18 Sec. 15-1506. Judgment.

19 (a) Evidence. In the trial of a foreclosure, the evidence
20 to support the allegations of the complaint shall be taken in
21 open court, except:

22 (1) where an allegation of fact in the complaint is not
23 denied by a party's verified answer or verified
24 counterclaim, or where a party pursuant to subsection (b)

1 of Section 2-610 of the Code of Civil Procedure states, or
2 is deemed to have stated, in its pleading that it has no
3 knowledge of such allegation sufficient to form a belief
4 and attaches the required affidavit, a sworn verification
5 of the complaint or a separate affidavit setting forth such
6 fact is sufficient evidence thereof against such party and
7 no further evidence of such fact shall be required; and

8 (2) where all the allegations of fact in the complaint
9 have been proved by verification of the complaint or
10 affidavit, the court upon motion supported by an affidavit
11 stating the amount which is due the mortgagee, shall enter
12 a judgment of foreclosure as requested in the complaint.

13 (b) Instruments. In all cases the evidence of the
14 indebtedness and the mortgage foreclosed shall be exhibited to
15 the court and appropriately marked, and copies thereof shall be
16 filed with the court.

17 (c) Summary and Default Judgments. Nothing in this Section
18 15-1506 shall prevent a party from obtaining a summary or
19 default judgment authorized by Article II of the Code of Civil
20 Procedure.

21 (d) Notice of Entry of Default. When any judgment in a
22 foreclosure is entered by default, notice of such judgment
23 shall be given in accordance with Section 2-1302 of the Code of
24 Civil Procedure.

25 (e) Matters Required in Judgment. A judgment of foreclosure
26 shall include the last date for redemption and all rulings of

1 the court entered with respect to each request for relief set
2 forth in the complaint. The omission of the date for redemption
3 shall not extend the time for redemption or impair the validity
4 of the judgment.

5 (f) Special Matters in Judgment. Without limiting the
6 general authority and powers of the court, special matters may
7 be included in the judgment of foreclosure if sought by a party
8 in the complaint or by separate motion. Such matters may
9 include, without limitation:

10 (1) a manner of sale other than public auction;

11 (2) a sale by sealed bid;

12 (3) an official or other person who shall be the
13 officer to conduct the sale other than the one customarily
14 designated by the court;

15 (4) provisions for non-exclusive broker listings or
16 designating a duly licensed real estate broker nominated by
17 one of the parties to exclusively list the real estate for
18 sale;

19 (5) the fees or commissions to be paid out of the sale
20 proceeds to the listing or other duly licensed broker, if
21 any, who shall have procured the accepted bid;

22 (6) the fees to be paid out of the sale proceeds to an
23 auctioneer, if any, who shall have been authorized to
24 conduct a public auction sale;

25 (7) whether and in what manner and with what content
26 signs shall be posted on the real estate;

1 (8) a particular time and place at which such bids
2 shall be received;

3 (9) a particular newspaper or newspapers in which
4 notice of sale shall be published;

5 (10) the format for the advertising of such sale,
6 including the size, content and format of such advertising,
7 and additional advertising of such sale;

8 (11) matters or exceptions to which title in the real
9 estate may be subject at the sale;

10 (12) a requirement that title insurance in a specified
11 form be provided to a purchaser at the sale, and who shall
12 pay for such insurance;

13 (13) whether and to what extent bids with mortgage or
14 other contingencies will be allowed;

15 (14) such other matters as approved by the court to
16 ensure sale of the real estate for the most commercially
17 favorable price for the type of real estate involved.

18 (g) Agreement of the Parties. If all of the parties agree
19 in writing on the minimum price and that the real estate may be
20 sold to the first person who offers in writing to purchase the
21 real estate for such price, and on such other commercially
22 reasonable terms and conditions as the parties may agree, then
23 the court shall order the real estate to be sold on such terms,
24 subject to confirmation of the sale in accordance with Section
25 15-1508.

26 (h) Postponement of Proving Priority. With the approval of

1 the court prior to the entry of the judgment of foreclosure, a
2 party claiming an interest in the proceeds of the sale of the
3 mortgaged real estate may defer proving the priority of such
4 interest until the hearing to confirm the sale.

5 (i) Effect of Judgment and Lien.

6 (1) Upon the entry of the judgment of foreclosure, all
7 rights of a party in the foreclosure against the mortgagor
8 provided for in the judgment of foreclosure or this Article
9 shall be secured by a lien on the mortgaged real estate,
10 which lien shall have the same priority as the claim to
11 which the judgment relates and shall be terminated upon
12 confirmation of a judicial sale in accordance with this
13 Article.

14 (2) Upon the entry of the judgment of foreclosure, the
15 rights in the real estate subject to the judgment of
16 foreclosure of (i) all persons made a party in the
17 foreclosure and (ii) all nonrecord claimants given notice
18 in accordance with paragraph (2) of subsection (c) of
19 Section 15-1502, shall be solely as provided for in the
20 judgment of foreclosure and in this Article.

21 (3) Entry of a judgment of foreclosure does not
22 terminate or otherwise affect the rights or interest of any
23 occupant of a dwelling unit who has a lease or tenancy
24 resulting from an arm's length transaction and who is not
25 the mortgagor, whether or not the occupant has been made a
26 party in the foreclosure.

1 (Source: P.A. 85-907.)

2 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

3 (Text of Section before amendment by P.A. 97-1164)

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

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

8 (b) Hearing. Upon motion and notice in accordance with
9 court rules applicable to motions generally, which motion shall
10 not be made prior to sale, the court shall conduct a hearing to
11 confirm the sale. Unless the court finds that (i) a notice
12 required in accordance with subsection (c) of Section 15-1507
13 was not given, (ii) the terms of sale were unconscionable,
14 (iii) the sale was conducted fraudulently, or (iv) justice was
15 otherwise not done, the court shall then enter an order
16 confirming the sale. The confirmation order shall include a
17 name, address, and telephone number of the holder of the
18 certificate of sale or deed issued pursuant to that certificate
19 or, if no certificate or deed was issued, the purchaser, whom a
20 municipality or county may contact with concerns about the real
21 estate. The confirmation order may also:

22 (1) approve the mortgagee's fees and costs arising
23 between the entry of the judgment of foreclosure and the
24 confirmation hearing, those costs and fees to be allowable
25 to the same extent as provided in the note and mortgage and

1 in Section 15-1504;

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

4 (3) determine the priority of the judgments of parties
5 who deferred proving the priority pursuant to subsection
6 (h) of Section 15-1506, but the court shall not defer
7 confirming the sale pending the determination of such
8 priority.

9 (b-5) Notice with respect to residential real estate. With
10 respect to residential real estate, the notice required under
11 subsection (b) of this Section shall be sent to the mortgagor
12 even if the mortgagor has previously been held in default. In
13 the event the mortgagor has filed an appearance, the notice
14 shall be sent to the address indicated on the appearance. In
15 all other cases, the notice shall be sent to the mortgagor at
16 the common address of the foreclosed property. The notice shall
17 be sent by first class mail. Unless the right to possession has
18 been previously terminated by the court, the notice shall
19 include the following language in 12-point boldface
20 capitalized type:

21 IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO
22 REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF
23 POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE
24 ILLINOIS MORTGAGE FORECLOSURE LAW.

25 (b-10) Notice of confirmation order sent to municipality or
26 county. A copy of the confirmation order required under

1 subsection (b) shall be sent to the municipality in which the
2 foreclosed property is located, or to the county within the
3 boundary of which the foreclosed property is located if the
4 foreclosed property is located in an unincorporated territory.
5 A municipality or county must clearly publish on its website a
6 single address to which such notice shall be sent. If a
7 municipality or county does not maintain a website, then the
8 municipality or county must publicly post in its main office a
9 single address to which such notice shall be sent. In the event
10 that a municipality or county has not complied with the
11 publication requirement in this subsection (b-10), then such
12 notice to the municipality or county shall be provided pursuant
13 to Section 2-211 of the Code of Civil Procedure.

14 (c) Failure to Give Notice. If any sale is held without
15 compliance with subsection (c) of Section 15-1507 of this
16 Article, any party entitled to the notice provided for in
17 paragraph (3) of that subsection (c) who was not so notified
18 may, by motion supported by affidavit made prior to
19 confirmation of such sale, ask the court which entered the
20 judgment to set aside the sale. Any such party shall guarantee
21 or secure by bond a bid equal to the successful bid at the
22 prior sale, unless the party seeking to set aside the sale is
23 the mortgagor, the real estate sold at the sale is residential
24 real estate, and the mortgagor occupies the residential real
25 estate at the time the motion is filed. In that event, no
26 guarantee or bond shall be required of the mortgagor. Any

1 subsequent sale is subject to the same notice requirement as
2 the original sale.

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

17 (d-5) Making Home Affordable Program. The court that
18 entered the judgment shall set aside a sale held pursuant to
19 Section 15-1507, upon motion of the mortgagor at any time prior
20 to the confirmation of the sale, if the mortgagor proves by a
21 preponderance of the evidence that (i) the mortgagor has
22 applied for assistance under the Making Home Affordable Program
23 established by the United States Department of the Treasury
24 pursuant to the Emergency Economic Stabilization Act of 2008,
25 as amended by the American Recovery and Reinvestment Act of
26 2009, and (ii) the mortgaged real estate was sold in material

1 violation of the program's requirements for proceeding to a
2 judicial sale. The provisions of this subsection (d-5), except
3 for this sentence, shall become inoperative on January 1, 2014
4 for all actions filed under this Article after December 31,
5 2013, in which the mortgagor did not apply for assistance under
6 the Making Home Affordable Program on or before December 31,
7 2013.

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

23 (f) Satisfaction. Upon confirmation of the sale, the
24 judgment stands satisfied to the extent of the sale price less
25 expenses and costs. If the order confirming the sale includes a
26 deficiency judgment, the judgment shall become a lien in the

1 manner of any other judgment for the payment of money.

2 (g) The order confirming the sale shall include,
3 notwithstanding any previous orders awarding possession during
4 the pendency of the foreclosure, an award to the purchaser of
5 possession of the mortgaged real estate, as of the date 30 days
6 after the entry of the order, against the parties to the
7 foreclosure whose interests have been terminated.

8 An order of possession authorizing the removal of a person
9 from possession of the mortgaged real estate shall be entered
10 and enforced only against those persons personally named as
11 individuals in the complaint or the petition under subsection
12 (h) of Section 15-1701. However, no order of possession issued
13 under this Section shall be entered against an occupant of a
14 dwelling unit of the mortgaged real estate who has been
15 personally named in the foreclosure if that occupant is not the
16 mortgagor and has a lease or tenancy resulting from an arm's
17 length transaction. An ~~and in the order of possession and~~ shall
18 not be entered and enforced against any person who is only
19 generically described as an unknown owner or nonrecord claimant
20 or by another generic designation in the complaint.

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

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

8 (h) With respect to mortgaged real estate containing 5 or
9 more dwelling units, the order confirming the sale shall also
10 provide that (i) the mortgagor shall transfer to the purchaser
11 the security deposits, if any, that the mortgagor received to
12 secure payment of rent or to compensate for damage to the
13 mortgaged real estate from any current occupant of a dwelling
14 unit of the mortgaged real estate, as well as any statutory
15 interest that has not been paid to the occupant, and (ii) the
16 mortgagor shall provide an accounting of the security deposits
17 that are transferred, including the name and address of each
18 occupant for whom the mortgagor holds the deposit and the
19 amount of the deposit and any statutory interest.

20 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;
21 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.
22 8-26-11; 97-1159, eff. 1-29-13.)

23 (Text of Section after amendment by P.A. 97-1164)

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

25 (a) Report. The person conducting the sale shall promptly

1 make a report to the court, which report shall include a copy
2 of all receipts and, if any, certificate of sale.

3 (b) Hearing. Upon motion and notice in accordance with
4 court rules applicable to motions generally, which motion shall
5 not be made prior to sale, the court shall conduct a hearing to
6 confirm the sale. Unless the court finds that (i) a notice
7 required in accordance with subsection (c) of Section 15-1507
8 was not given, (ii) the terms of sale were unconscionable,
9 (iii) the sale was conducted fraudulently, or (iv) justice was
10 otherwise not done, the court shall then enter an order
11 confirming the sale. The confirmation order shall include a
12 name, address, and telephone number of the holder of the
13 certificate of sale or deed issued pursuant to that certificate
14 or, if no certificate or deed was issued, the purchaser, whom a
15 municipality or county may contact with concerns about the real
16 estate. The confirmation order may also:

17 (1) approve the mortgagee's fees and costs arising
18 between the entry of the judgment of foreclosure and the
19 confirmation hearing, those costs and fees to be allowable
20 to the same extent as provided in the note and mortgage and
21 in Section 15-1504;

22 (2) provide for a personal judgment against any party
23 for a deficiency; and

24 (3) determine the priority of the judgments of parties
25 who deferred proving the priority pursuant to subsection
26 (h) of Section 15-1506, but the court shall not defer

1 confirming the sale pending the determination of such
2 priority.

3 (b-3) Hearing to confirm sale of abandoned residential
4 property. Upon motion and notice by first-class mail to the
5 last known address of the mortgagor, which motion shall be made
6 prior to the sale and heard by the court at the earliest
7 practicable time after conclusion of the sale, and upon the
8 posting at the property address of the notice required by
9 paragraph (2) of subsection (1) of Section 15-1505.8, the court
10 shall enter an order confirming the sale of the abandoned
11 residential property, unless the court finds that a reason set
12 forth in items (i) through (iv) of subsection (b) of this
13 Section exists for not approving the sale, or an order is
14 entered pursuant to subsection (h) of Section 15-1505.8. The
15 confirmation order also may address the matters identified in
16 items (1) through (3) of subsection (b) of this Section. The
17 notice required under subsection (b-5) of this Section shall
18 not be required.

19 (b-5) Notice with respect to residential real estate. With
20 respect to residential real estate, the notice required under
21 subsection (b) of this Section shall be sent to the mortgagor
22 even if the mortgagor has previously been held in default. In
23 the event the mortgagor has filed an appearance, the notice
24 shall be sent to the address indicated on the appearance. In
25 all other cases, the notice shall be sent to the mortgagor at
26 the common address of the foreclosed property. The notice shall

1 be sent by first class mail. Unless the right to possession has
2 been previously terminated by the court, the notice shall
3 include the following language in 12-point boldface
4 capitalized type:

5 IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO
6 REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF
7 POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE
8 ILLINOIS MORTGAGE FORECLOSURE LAW.

9 (b-10) Notice of confirmation order sent to municipality or
10 county. A copy of the confirmation order required under
11 subsection (b) shall be sent to the municipality in which the
12 foreclosed property is located, or to the county within the
13 boundary of which the foreclosed property is located if the
14 foreclosed property is located in an unincorporated territory.
15 A municipality or county must clearly publish on its website a
16 single address to which a copy of the order shall be sent. If a
17 municipality or county does not maintain a website, then the
18 municipality or county must publicly post in its main office a
19 single address to which a copy of the order shall be sent. In
20 the event that a municipality or county has not complied with
21 the publication requirement in this subsection (b-10), then a
22 copy of the order shall be sent by first class mail, postage
23 prepaid, to the chairperson of the county board or county clerk
24 in the case of a county, to the mayor or city clerk in the case
25 of a city, to the president of the board of trustees or village
26 clerk in the case of a village, or to the president or town

1 clerk in the case of a town.

2 (b-15) Notice of confirmation order sent to known insurers.
3 With respect to residential real estate, the party filing the
4 complaint shall send a copy of the confirmation order required
5 under subsection (b) by first class mail, postage prepaid, to
6 the last known property insurer of the foreclosed property.
7 Failure to send or receive a copy of the order shall not impair
8 or abrogate in any way the rights of the mortgagee or purchaser
9 or affect the status of the foreclosure proceedings.

10 (c) Failure to Give Notice. If any sale is held without
11 compliance with subsection (c) of Section 15-1507 of this
12 Article, any party entitled to the notice provided for in
13 paragraph (3) of that subsection (c) who was not so notified
14 may, by motion supported by affidavit made prior to
15 confirmation of such sale, ask the court which entered the
16 judgment to set aside the sale. Any such party shall guarantee
17 or secure by bond a bid equal to the successful bid at the
18 prior sale, unless the party seeking to set aside the sale is
19 the mortgagor, the real estate sold at the sale is residential
20 real estate, and the mortgagor occupies the residential real
21 estate at the time the motion is filed. In that event, no
22 guarantee or bond shall be required of the mortgagor. Any
23 subsequent sale is subject to the same notice requirement as
24 the original sale.

25 (d) Validity of Sale. Except as provided in subsection (c)
26 of Section 15-1508, no sale under this Article shall be held

1 invalid or be set aside because of any defect in the notice
2 thereof or in the publication of the same, or in the
3 proceedings of the officer conducting the sale, except upon
4 good cause shown in a hearing pursuant to subsection (b) of
5 Section 15-1508. At any time after a sale has occurred, any
6 party entitled to notice under paragraph (3) of subsection (c)
7 of Section 15-1507 may recover from the mortgagee any damages
8 caused by the mortgagee's failure to comply with such paragraph
9 (3). Any party who recovers damages in a judicial proceeding
10 brought under this subsection may also recover from the
11 mortgagee the reasonable expenses of litigation, including
12 reasonable attorney's fees.

13 (d-5) Making Home Affordable Program. The court that
14 entered the judgment shall set aside a sale held pursuant to
15 Section 15-1507, upon motion of the mortgagor at any time prior
16 to the confirmation of the sale, if the mortgagor proves by a
17 preponderance of the evidence that (i) the mortgagor has
18 applied for assistance under the Making Home Affordable Program
19 established by the United States Department of the Treasury
20 pursuant to the Emergency Economic Stabilization Act of 2008,
21 as amended by the American Recovery and Reinvestment Act of
22 2009, and (ii) the mortgaged real estate was sold in material
23 violation of the program's requirements for proceeding to a
24 judicial sale. The provisions of this subsection (d-5), except
25 for this sentence, shall become inoperative on January 1, 2014
26 for all actions filed under this Article after December 31,

1 2013, in which the mortgagor did not apply for assistance under
2 the Making Home Affordable Program on or before December 31,
3 2013.

4 (e) Deficiency Judgment. In any order confirming a sale
5 pursuant to the judgment of foreclosure, the court shall also
6 enter a personal judgment for deficiency against any party (i)
7 if otherwise authorized and (ii) to the extent requested in the
8 complaint and proven upon presentation of the report of sale in
9 accordance with Section 15-1508. Except as otherwise provided
10 in this Article, a judgment may be entered for any balance of
11 money that may be found due to the plaintiff, over and above
12 the proceeds of the sale or sales, and enforcement may be had
13 for the collection of such balance, the same as when the
14 judgment is solely for the payment of money. Such judgment may
15 be entered, or enforcement had, only in cases where personal
16 service has been had upon the persons personally liable for the
17 mortgage indebtedness, unless they have entered their
18 appearance in the foreclosure action.

19 (f) Satisfaction. Upon confirmation of the sale, the
20 judgment stands satisfied to the extent of the sale price less
21 expenses and costs. If the order confirming the sale includes a
22 deficiency judgment, the judgment shall become a lien in the
23 manner of any other judgment for the payment of money.

24 (g) The order confirming the sale shall include,
25 notwithstanding any previous orders awarding possession during
26 the pendency of the foreclosure, an award to the purchaser of

1 possession of the mortgaged real estate, as of the date 30 days
2 after the entry of the order, against the parties to the
3 foreclosure whose interests have been terminated.

4 An order of possession authorizing the removal of a person
5 from possession of the mortgaged real estate shall be entered
6 and enforced only against those persons personally named as
7 individuals in the complaint or the petition under subsection
8 (h) of Section 15-1701. However, no order of possession issued
9 under this Section shall be entered against an occupant of a
10 dwelling unit of the mortgaged real estate who has been
11 personally named in the foreclosure if that occupant is not the
12 mortgagor and has a lease or tenancy resulting from an arm's
13 length transaction. An and in the order of possession and shall
14 not be entered and enforced against any person who is only
15 generically described as an unknown owner or nonrecord claimant
16 or by another generic designation in the complaint.

17 Notwithstanding the preceding paragraph, the failure to
18 personally name, include, or seek an award of possession of the
19 mortgaged real estate against a person in the confirmation
20 order shall not abrogate any right that the purchaser may have
21 to possession of the mortgaged real estate and to maintain a
22 proceeding against that person for possession under Article IX
23 ~~9~~ of this Code or, if applicable, under subsection (h) of
24 Section 15-1701; and possession against a person who (1) has
25 not been personally named as a party to the foreclosure and (2)
26 has not been provided an opportunity to be heard in the

1 foreclosure proceeding may be sought only by maintaining a
2 proceeding under Article IX ~~9~~ of this Code or, if applicable,
3 under subsection (h) of Section 15-1701.

4 (h) With respect to mortgaged real estate containing 5 or
5 more dwelling units, the order confirming the sale shall also
6 provide that (i) the mortgagor shall transfer to the purchaser
7 the security deposits, if any, that the mortgagor received to
8 secure payment of rent or to compensate for damage to the
9 mortgaged real estate from any current occupant of a dwelling
10 unit of the mortgaged real estate, as well as any statutory
11 interest that has not been paid to the occupant, and (ii) the
12 mortgagor shall provide an accounting of the security deposits
13 that are transferred, including the name and address of each
14 occupant for whom the mortgagor holds the deposit and the
15 amount of the deposit and any statutory interest.

16 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;
17 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.
18 8-26-11; 97-1159, eff. 1-29-13; 97-1164, eff. 6-1-13; revised
19 2-22-13.)

20 (735 ILCS 5/15-1508.5)

21 Sec. 15-1508.5. Notice by holder or purchaser to known
22 occupants of dwelling units of mortgaged real estate.

23 (a) The holder of the certificate of sale or deed issued
24 pursuant to that certificate or, if no certificate or deed was
25 issued, the purchaser, shall:

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

6 (2) following the order confirming sale under Section
7 15-1508, but no later than 21 days after the order
8 confirming sale, notify all known occupants of dwelling
9 units of the mortgaged real estate that the holder or
10 purchaser has acquired the mortgaged real estate. The
11 notice shall be in writing and shall:

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

14 (ii) inform the occupant that the mortgaged real
15 estate at which the dwelling unit is located is the
16 subject of a foreclosure and that control of the
17 mortgaged real estate has changed;

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

22 (iv) include the following language, or language
23 that is substantially similar: "This is NOT a notice to
24 vacate the premises. You may wish to contact a lawyer
25 or your local legal aid or housing counseling agency to
26 discuss any rights that you may have."; ~~and~~

1 (v) include the name of the case, the case number,
2 and the court where the order confirming the sale has
3 been entered; and-

4 (vi) provide instructions on the method of payment
5 of future rent, if applicable.

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

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

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

1 and all rent accruing after service of the notice ~~otherwise due~~
2 and owing the holder or purchaser from the known occupant and
3 may terminate the known occupant's tenancy for non-payment of
4 such rent if the holder or purchaser otherwise has such right
5 to terminate.

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

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

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

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

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

26 (iv) provide instructions on the method of payment of

1 future rent, if applicable.

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

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

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

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

22 (Source: P.A. 96-111, eff. 10-29-09.)

23 (735 ILCS 5/15-1701) (from Ch. 110, par. 15-1701)

24 Sec. 15-1701. Right to possession.

25 (a) General. The provisions of this Article shall govern

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

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

11 (1) In the case of residential real estate, the
12 mortgagor shall be entitled to possession of the real
13 estate except if (i) the mortgagee shall object and show
14 good cause, (ii) the mortgagee is so authorized by the
15 terms of the mortgage or other written instrument, and
16 (iii) the court is satisfied that there is a reasonable
17 probability that the mortgagee will prevail on a final
18 hearing of the cause, the court shall upon request place
19 the mortgagee in possession. If the residential real estate
20 consists of more than one dwelling unit, then for the
21 purpose of this Part residential real estate shall mean
22 only that dwelling unit or units occupied by persons
23 described in clauses (i), (ii) and (iii) of Section
24 15-1219.

25 (2) In all other cases, if (i) the mortgagee is so
26 authorized by the terms of the mortgage or other written

1 instrument, and (ii) the court is satisfied that there is a
2 reasonable probability that the mortgagee will prevail on a
3 final hearing of the cause, the mortgagee shall upon
4 request be placed in possession of the real estate, except
5 that if the mortgagor shall object and show good cause, the
6 court shall allow the mortgagor to remain in possession.

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

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

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

1 occurred or the fair rental value of the real estate, or
2 (ii) the mortgagor otherwise shows good cause. Any amounts
3 paid by the mortgagor pursuant to this subsection shall be
4 credited against the amounts due from the mortgagor.

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

1 entered.

2 (e) Termination of Leases. A lease of all or any part of
3 the mortgaged real estate shall not be terminated automatically
4 solely by virtue of the entry into possession by (i) a
5 mortgagee or receiver prior to the entry of an order confirming
6 the sale, (ii) the holder of the certificate of sale, (iii) the
7 holder of the deed issued pursuant to that certificate, or (iv)
8 if no certificate or deed was issued, the purchaser at the
9 sale.

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

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

1 (h) Proceedings Against Certain Occupants.

2 (1) The mortgagee-in-possession of the mortgaged real
3 estate under Section 15-1703, a receiver appointed under
4 Section 15-1704, a holder of the certificate of sale or
5 deed, or the purchaser may, at any time during the pendency
6 of the foreclosure and up to 90 days after the date of the
7 order confirming the sale, file a supplemental petition for
8 possession against a person not personally named as a party
9 to the foreclosure. The supplemental petition for
10 possession shall name each such occupant against whom
11 possession is sought and state the facts upon which the
12 claim for relief is premised. This subsection (h) does not
13 apply to any occupant of a dwelling unit of the mortgaged
14 real estate who has a lease or tenancy resulting from an
15 arm's length transaction and who is not the mortgagor.

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

26 (3) The supplemental petition shall be heard as part of

1 the foreclosure proceeding and without the payment of
2 additional filing fees. An order for possession obtained
3 under this Section shall name each occupant whose interest
4 has been terminated, shall recite that it is only effective
5 as to the occupant so named and those holding under them,
6 and shall be enforceable for no more than 120 days after
7 its entry, except that the 120-day period may be extended
8 to the extent and in the manner provided in Section 9-117
9 of Article IX ~~9~~ and except as provided in item (4) of this
10 subsection (h).

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

1 the judicial sale, who asserts that the occupant is not
2 current in rent, shall file an affidavit to that effect in
3 the supplemental petition proceeding. If the occupant has
4 been given timely written notice of to whom and where the
5 rent is to be paid, this item (4) shall only apply if the
6 occupant continues to pay his or her rent in full during
7 the 120-day period or has made good-faith efforts to pay
8 the rent in full during that period. ~~No~~
9 ~~mortgagee in possession, receiver or holder of a~~
10 ~~certificate of sale or deed, or purchaser who fails to file~~
11 ~~a supplemental petition under this subsection during the~~
12 ~~pendency of a mortgage foreclosure shall file a forcible~~
13 ~~entry and detainer action against an occupant of the~~
14 ~~mortgaged real estate until 90 days after a notice of~~
15 ~~intent to file such action has been properly served upon~~
16 ~~the occupant.~~

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

1 court.

2 (i) Occupants of Dwelling Units.

3 (1) The holder of the certificate of sale, the holder
4 of the deed issued pursuant to that certificate, or if no
5 certificate or deed was issued, the purchaser at the sale
6 shall not terminate the lease or tenancy of any occupant of
7 a dwelling unit who has a lease or tenancy resulting from
8 an arm's length transaction entered into prior to the
9 confirmation of sale under Section 15-1508 of this Code and
10 who is not the mortgagor except pursuant to Article IX of
11 this Code.

12 (2) The holder of the certificate of sale, the holder
13 of the deed issued pursuant to that certificate, or if no
14 certificate or deed was issued, the purchaser at the sale
15 shall: (i) assume the lease or tenancy of the mortgaged
16 real estate resulting from an arm's length transaction
17 entered into prior to the confirmation of sale under
18 Section 15-1508 of this Code and who is not the mortgagor;
19 (ii) assume his or her interest in the mortgaged real
20 estate subject to the rights of any occupant; and (iii)
21 assume any federal, state, or local housing subsidy
22 contract for the dwelling unit for the duration of the
23 contract or the assumed lease, whichever is shorter.

24 (3) A receiver, mortgagee, or holder of the certificate
25 of sale, the holder of the deed issued pursuant to that
26 certificate, or if no certificate or deed was issued, the

1 purchaser at the sale who offers any money or other
2 valuable consideration to an occupant of a dwelling unit as
3 an incentive to vacate the premises shall tender the offer
4 in writing along with a notice in the manner set forth in
5 paragraph (4) of this subsection (i). The offer shall not:
6 (i) require an occupant to vacate the premises earlier than
7 14 days after acceptance of the offer; (ii) require the
8 occupant to perform any other obligation that is not
9 already required under the law or any lease or tenancy in
10 existence prior to the offer; (iii) demand the waiver or
11 forfeiture of any other rights or remedies the occupant may
12 have under the law; or (iv) misrepresent the occupant's
13 right to continued possession of the dwelling unit.

14 (4) A notice accompanying an offer tendered under
15 paragraph (3) of this subsection shall be headed
16 "CASH-FOR-KEYS OFFER", shall be in at least 14-point type,
17 and shall be in substantially the following form: "THIS IS
18 AN OFFER FOR A MONETARY PAYMENT IN EXCHANGE FOR VACATING
19 THE PREMISES. THIS IS NOT A DEMAND TO VACATE, AND YOU DO
20 NOT HAVE TO ACCEPT THESE TERMS. You cannot be asked to
21 vacate sooner than 14 days from the date you accept any
22 offer, and you cannot be asked to do more than your lease
23 or tenancy already requires. If you choose not to accept
24 this offer, only a judge can end your lease or tenancy. You
25 may wish to contact a lawyer or your local legal aid agency
26 to discuss any rights that you may have."

1 (5) A person whose rights have been violated under this
2 subsection may bring an action seeking: (i) actual damages;
3 and (ii) reasonable attorney's fees and costs.

4 (6) This subsection does not apply to the mortgagor or
5 other person whose possessory interest in the property is
6 terminated under Section 15-1508 of this Article.

7 (Source: P.A. 95-262, eff. 1-1-08; 95-933, eff. 8-26-08; 96-60,
8 eff. 7-23-09; 96-111, eff. 10-29-09; 96-1000, eff. 7-2-10.)

9 (735 ILCS 5/15-1703) (from Ch. 110, par. 15-1703)

10 Sec. 15-1703. Mortgagee in Possession.

11 (a) Powers and Duties. A mortgagee placed in possession of
12 the real estate pursuant to Section 15-1701 or Section 15-1702
13 shall have:

14 (1) such power and authority with respect to the real
15 estate and other property subject to the mortgage,
16 including the right to receive the rents, issues and
17 profits thereof, as may have been conferred upon the
18 mortgagee by the terms of the mortgage or other written
19 instrument authorizing the taking of possession;

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

22 (3) the same powers, duties and liabilities as a
23 receiver appointed for the real estate in accordance with
24 this Article. If an order placing a mortgagee in possession
25 is modified, revoked or set aside, the mortgagee shall not

1 be liable for any damages to the extent such damages arise
2 solely out of the fact that the mortgagor was removed from
3 possession or that the mortgagee was placed in possession.

4 (a-5) Notice to occupants.

5 (1) Following the order placing the mortgagee in
6 possession of the mortgaged real estate, but no later than
7 21 days after the entry of such order, the mortgagee in
8 possession shall make a good faith effort to ascertain the
9 identities and addresses of all occupants of dwelling units
10 of the mortgaged real estate.

11 (2) Following the order placing the mortgagee in
12 possession of the mortgaged real estate, but no later than
13 21 days after the entry of such order, the mortgagee in
14 possession shall notify all known occupants of dwelling
15 units of the mortgaged real estate that the mortgagee has
16 taken possession of the mortgaged real estate. The notice
17 shall be in writing and shall:

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

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

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

1 or to request repairs of that property;

2 (iv) include the following language, or language
3 that is substantially similar: "This is NOT a notice to
4 vacate the premises. You may wish to contact a lawyer
5 or your local legal aid or housing counseling agency to
6 discuss any rights that you may have."; ~~and~~

7 (v) include the name of the case, the case number,
8 and the court where the foreclosure action is pending;
9 and-

10 (vi) provide instructions on the method of payment
11 of future rent, if applicable.

12 (3) The written notice required by item (2) of this
13 subsection (a-5) shall be served by delivering a copy
14 thereof to the known occupant, or by leaving the same with
15 some person of the age of 13 years or upwards, who is
16 residing on or in possession of the premises; or by sending
17 a copy of the notice to the known occupant by first-class
18 mail, addressed to the occupant by the name known to the
19 mortgagee in possession.

20 (4) In the event that a mortgagee in possession
21 ascertains the identity and address of an occupant of a
22 dwelling unit of the mortgaged real estate more than 21
23 days after being placed in possession of the mortgaged real
24 estate pursuant to Section 15-1703, the mortgagee in
25 possession shall provide the notice required by item (2) of
26 this subsection (a-5) within 7 days of ascertaining the

1 identity and address of the occupant.

2 (5) (i) A mortgagee in possession who fails to comply
3 with items (1), (2), (3), and (4) of this subsection (a-5)
4 may not collect any rent due and owing from a known
5 occupant, or terminate a known occupant's tenancy for
6 non-payment of such rent, until the mortgagee in possession
7 has served the notice described in item (2) of this
8 subsection (a-5) upon the known occupant. After providing
9 such notice, the mortgagee in possession may collect any
10 and all rent accruing after service of the notice ~~otherwise~~
11 ~~due~~ and owing the mortgagee in possession from the known
12 occupant and may terminate the known occupant's tenancy for
13 non-payment of such rent if the mortgagee in possession
14 otherwise has such right to terminate.

15 (ii) An occupant who previously paid rent for the
16 current rental period to the mortgagor, or other entity
17 with the authority to operate, manage, and conserve the
18 mortgaged real estate at the time of payment, shall not be
19 held liable for that rent by the mortgagee in possession,
20 and the occupant's tenancy shall not be terminated for
21 non-payment of rent for that rental period.

22 (6) Within 21 days of the order placing the mortgagee
23 in possession of the mortgaged real estate, the mortgagee
24 in possession shall post a written notice on the primary
25 entrance of each dwelling unit subject to the foreclosure
26 action that informs the occupants that the mortgagee in

1 possession is now operating and managing the mortgaged real
2 estate. This notice shall:

3 (i) inform occupant that the dwelling unit is the
4 subject of a foreclosure action and that control of the
5 mortgaged real estate has changed;

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

8 (iii) provide the name, address, and telephone
9 number of the individual or entity whom occupants may
10 contact with concerns about the mortgaged real estate
11 or to request repairs of the property; ~~and-~~

12 (iv) provide instructions on the method of payment
13 of future rent, if applicable.

14 (7) (i) The provisions of item (5) of this subsection
15 (a-5) shall be the exclusive remedy for the failure of a
16 mortgagee in possession to provide notice to a known
17 occupant under this Section.

18 (ii) This Section shall not abrogate any right that a
19 mortgagee in possession may have to possession of the
20 mortgaged real estate and to maintain a proceeding against
21 an occupant of a dwelling unit for possession under Article
22 IX ~~9~~ of this Code or subsection (h) of Section 15-1701.

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

1 (Source: P.A. 96-111, eff. 10-29-09.)

2 (735 ILCS 5/15-1704) (from Ch. 110, par. 15-1704)

3 Sec. 15-1704. Receivers.

4 (a) Receiver. Notwithstanding the provisions of
5 subsections (b), (c) and (d) of Section 15-1701, and except as
6 provided in Section 15-1702, upon request of any party and a
7 showing of good cause, the court shall appoint a receiver for
8 the mortgaged real estate.

9 (b) Powers. A receiver appointed pursuant to this Article
10 shall have possession of the mortgaged real estate and other
11 property subject to the mortgage during the foreclosure, shall
12 have full power and authority to operate, manage and conserve
13 such property, and shall have all the usual powers of receivers
14 in like cases. Without limiting the foregoing, a receiver shall
15 have the power and authority to:

16 (1) secure tenants and execute leases for the real
17 estate, the duration and terms of which are reasonable and
18 customary for the type of use involved, and such leases
19 shall have the same priority as if made by the owner of the
20 real estate; but, unless approved by the Court, the
21 receiver shall not execute oil, gas or other mineral
22 leases, or (even if otherwise allowed by law) leases
23 extending beyond the time of the receiver's possession;
24 provided, however, with respect to residential real estate
25 leased by the receiver, nothing in this Section shall

1 affect the legal rights of any lessee with respect to the
2 safety and habitability of the residential real estate;

3 (2) collect the rents, issues and profits from the
4 mortgaged real estate;

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

7 (4) employ counsel, custodians, janitors and other
8 help; and

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

11 (c) Duties. A receiver appointed pursuant to this Article
12 must manage the mortgaged real estate as would a prudent
13 person, taking into account the effect of the receiver's
14 management on the interest of the mortgagor. A receiver may,
15 without an order of the court, delegate managerial functions to
16 a person in the business of managing real estate of the kind
17 involved who is financially responsible, not related to the
18 mortgagee or receiver and prudently selected. However, the
19 receiver shall remain responsible to the mortgagor or other
20 persons for the acts or omissions of such management agent.
21 When fees are paid to such a management agent, the receiver's
22 fees may be adjusted to the extent the court deems appropriate.
23 In managing the mortgaged real estate and other property
24 subject to the mortgage, a receiver or receiver's delegate, to
25 the extent the receiver receives sufficient receipts from the
26 mortgaged real estate, such other property or other sources,

1 except to the extent ordered otherwise by the court:

2 (1) shall maintain the existing casualty and liability
3 insurance required in accordance with the mortgage or
4 applicable to the real estate and other property subject to
5 the mortgage at the time the receiver took possession;

6 (2) shall use reasonable efforts to maintain the real
7 estate and other property subject to the mortgage in at
8 least as good condition as existed at the time the receiver
9 took possession, excepting reasonable wear and tear and
10 damage by any casualty;

11 (2.5) shall accept all rental payments from an occupant
12 of the mortgaged property, and any payments from a third
13 party or any rental assistance program in support of an
14 occupant's housing;

15 (3) shall apply receipts to payment of ordinary
16 operating expenses, including royalties, rents and other
17 expenses of management;

18 (4) shall pay any shared or common expense assessments
19 due to any association of owners of interests in real
20 estate to the extent that such assessments are or may
21 become a lien against the mortgaged real estate;

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

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

1 (7) may make other repairs and improvements necessary
2 to comply with building, housing, and other similar codes
3 or with existing contractual obligations affecting the
4 mortgaged real estate;

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

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

11 (d) Allocation of Receipts. Receipts received from
12 operation of the real estate and other property subject to the
13 mortgage by the receiver shall be applied in the following
14 order of priority.

15 (1) to reimbursement of the receiver for all reasonable
16 costs and expenses incurred by the receiver or the
17 receiver's delegates;

18 (2) to payment of insurance premiums authorized in
19 paragraph (1) of subsection (c) of Section 15-1704;

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

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

24 (5) to payment of expenses authorized in paragraphs
25 (2), (3) and (4) of subsection (c) of Section 15-1704;

26 (6) to payment of amounts authorized in paragraph (5)

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

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

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

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

10 (f) Notice to occupants.

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

17 (2) Following an order appointing a receiver pursuant
18 to Section 15-1704, but no later than 21 days after the
19 entry of such order, the appointed receiver shall notify
20 all known occupants of dwelling units of the mortgaged real
21 estate that the receiver has been appointed receiver of the
22 mortgaged real estate. Such notice shall be in writing and
23 shall:

24 (i) identify the occupant being served by the name
25 known to the receiver;

26 (ii) inform the occupant that the mortgaged real

1 estate at which the dwelling unit is located is the
2 subject of a foreclosure action and that control of the
3 mortgaged real estate has changed;

4 (iii) provide the name, address, and telephone
5 number of the individual or entity whom occupants may
6 contact with concerns about the mortgaged real estate
7 or to request repairs of that property;

8 (iv) include the following language, or language
9 that is substantially similar: "This is NOT a notice to
10 vacate the premises. You may wish to contact a lawyer
11 or your local legal aid or housing counseling agency to
12 discuss any rights that you may have."; ~~and~~

13 (v) include the name of the case, the case number,
14 and the court where the foreclosure action is pending;
15 and-

16 (vi) provide instructions on the method of payment
17 of future rent, if applicable.

18 (3) The written notice required by item (2) of this
19 subsection (f) shall be served by delivering a copy thereof
20 to the known occupant, or by leaving the same with some
21 person of the age of 13 years or upwards, who is residing
22 on or in possession of the premises; or by sending a copy
23 of the notice to the known occupant by first-class mail,
24 addressed to the occupant by the name known to the
25 receiver.

26 (4) In the event that a receiver ascertains the

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

7 (5) (i) A receiver who fails to comply with items (1),
8 (2), (3), and (4) of this subsection (f) may not collect
9 any rent due and owing from a known occupant, or terminate
10 a known occupant's tenancy for non-payment of such rent,
11 until the receiver has served the notice described in item
12 (2) of this subsection (f) upon the known occupant. After
13 providing such notice, the receiver may collect any and all
14 rent accruing after service of the notice ~~otherwise due~~ and
15 owing the receiver from the known occupant and may
16 terminate the known occupant's tenancy for non-payment of
17 such rent if the receiver otherwise has such right to
18 terminate.

19 (ii) An occupant who previously paid rent for the
20 current rental period to the mortgagor, or other entity
21 with the authority to operate, manage, and conserve the
22 mortgaged real estate at the time of payment, shall not be
23 held liable for that rent by the receiver, and the
24 occupant's tenancy shall not be terminated for non-payment
25 of rent for that rental period.

26 (6) Within 21 days of appointment, the receiver shall

1 post a written notice on the primary entrance of each
2 dwelling unit subject to the foreclosure action that
3 informs occupants that the receiver has been appointed to
4 operate and manage the property. This notice shall:

5 (i) inform occupant that the dwelling unit is the
6 subject of a foreclosure action and that control of the
7 mortgaged real estate has changed;

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

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

14 (iv) provide instructions on the method of payment
15 of future rent, if applicable.

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

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

25 (g) Increase of rents. Notwithstanding any other provision
26 of this Article, a receiver shall not charge an occupant of the

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

23 (h) Removal. The court may remove a receiver upon a showing
24 of good cause, in which case a new receiver may be appointed in
25 accordance with subsection (b) of Section 15-1702 and
26 subsection (a) of Section 15-1704.

1 (Source: P.A. 96-111, eff. 10-29-09.)

2 Section 95. No acceleration or delay. Where this Act makes
3 changes in a statute that is represented in this Act by text
4 that is not yet or no longer in effect (for example, a Section
5 represented by multiple versions), the use of that text does
6 not accelerate or delay the taking effect of (i) the changes
7 made by this Act or (ii) provisions derived from any other
8 Public Act.

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