



Sen. Iris Y. Martinez

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LRB100 04829 HEP 24836 a

1 AMENDMENT TO SENATE BILL 568

2 AMENDMENT NO. _____. Amend Senate Bill 568 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Purpose.

5 (a) The General Assembly finds and declares that:

6 (1) Section 15-1502.5 of the Code of Civil Procedure
7 contained an internal repealer date of July 1, 2016.

8 (2) It is the purpose of this Act to reenact Section
9 15-1502.5 of the Code of Civil Procedure as if it had never
10 been internally repealed, and make additional changes to
11 that Section. The reenacted material is shown as existing
12 text; striking and underscoring have been used only to show
13 the changes being made by this Act in the reenacted text.

14 (3) This Act is not intended to supersede any other
15 Public Act of the 100th General Assembly.

16 (4) This Act is intended to validate the requirements
17 arising under Section 15-1502.5 of the Code of Civil

1 Procedure and actions taken in compliance with those
2 requirements.

3 Section 5. The Code of Civil Procedure is amended by
4 reenacting and changing Section 15-1502.5 as follows:

5 (735 ILCS 5/15-1502.5)

6 Sec. 15-1502.5. Homeowner protection.

7 (a) As used in this Section:

8 "Approved counseling agency" means a housing counseling
9 agency approved by the U.S. Department of Housing and Urban
10 Development.

11 "Approved Housing Counseling" means in-person counseling
12 provided by a counselor employed by an approved counseling
13 agency to all borrowers, or documented telephone counseling
14 where a hardship would be imposed on one or more borrowers. A
15 hardship shall exist in instances in which the borrower is
16 confined to his or her home due to medical conditions, as
17 verified in writing by a physician or the borrower resides 50
18 miles or more from the nearest approved counseling agency. In
19 instances of telephone counseling, the borrower must supply all
20 necessary documents to the counselor at least 72 hours prior to
21 the scheduled telephone counseling session.

22 "Delinquent" means past due with respect to a payment on a
23 mortgage secured by residential real estate.

24 "Department" means the Department of Financial and

1 Professional Regulation.

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

5 "Sustainable loan workout plan" means a plan that the
6 mortgagor and approved counseling agency believe shall enable
7 the mortgagor to stay current on his or her mortgage payments
8 for the foreseeable future when taking into account the
9 mortgagor income and existing and foreseeable debts. A
10 sustainable loan workout plan may include, but is not limited
11 to, (1) a temporary suspension of payments, (2) a lengthened
12 loan term, (3) a lowered or frozen interest rate, (4) a
13 principal write down, (5) a repayment plan to pay the existing
14 loan in full, (6) deferred payments, or (7) refinancing into a
15 new affordable loan.

16 (b) ~~No Except in the circumstance in which a mortgagor has~~
17 ~~filed a petition for relief under the United States Bankruptcy~~
18 ~~Code, no~~ mortgagor shall file an action under this Part ~~a~~
19 ~~complaint to foreclose a mortgage secured by residential real~~
20 ~~estate~~ until the requirements of this Section have been
21 satisfied.

22 (c) Notwithstanding any other provision to the contrary,
23 with respect to a particular mortgage secured by residential
24 real estate, ~~the procedures and forbearances described in this~~
25 ~~Section apply only once per subject mortgage. Except for~~
26 ~~mortgages secured by residential real estate in which any~~

1 ~~mortgagor has filed for relief under the United States~~
2 ~~Bankruptcy Code,~~ if a mortgage secured by residential real
3 estate becomes delinquent by more than 30 days the mortgagee
4 shall send via certified first class postage prepaid U.S. mail,
5 return receipt requested, a notice advising the mortgagor that
6 he or she may wish to seek approved housing counseling.
7 Notwithstanding anything to the contrary in this Section,
8 nothing shall preclude the mortgagor and mortgagee from
9 communicating with each other during the initial 30 days of
10 delinquency or reaching agreement on a sustainable loan workout
11 plan, or both.

12 The duty to provide a notice and subsequent grace period
13 under this Section prior to filing a legal action under this
14 Part arises when a delinquency of 30 days exists and shall not
15 be waived. This Section does not supersede an automatic stay
16 under the United States Bankruptcy Code that exists concurrent
17 with any of the time frames outlined in this Section. The duty
18 under this Section and any associated time frames shall be
19 tolled if an automatic stay under the United States Bankruptcy
20 Code is in place until the stay is no longer in place.

21 ~~No foreclosure action under Part 15 of Article XV of the~~
22 ~~Code of Civil Procedure shall be instituted on a mortgage~~
23 ~~secured by residential real estate before mailing the notice~~
24 ~~described in this subsection (c).~~

25 The notice required in this subsection (c) shall state the
26 date on which the notice was mailed, shall be headed in bold

1 14-point type "GRACE PERIOD NOTICE", and shall state the
2 following in 14-point type: "YOUR LOAN IS MORE THAN 30 DAYS
3 PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY
4 BE IN YOUR BEST INTEREST TO SEEK APPROVED HOUSING COUNSELING.
5 YOU HAVE A GRACE PERIOD OF 30 DAYS FROM THE DATE OF THIS NOTICE
6 TO OBTAIN APPROVED HOUSING COUNSELING. DURING THE GRACE PERIOD,
7 THE LAW PROHIBITS US FROM TAKING ANY LEGAL ACTION AGAINST YOU.
8 YOU MAY BE ENTITLED TO AN ADDITIONAL 30 DAY GRACE PERIOD IF YOU
9 OBTAIN HOUSING COUNSELING FROM AN APPROVED HOUSING COUNSELING
10 AGENCY. A LIST OF APPROVED COUNSELING AGENCIES MAY BE OBTAINED
11 FROM THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL
12 REGULATION."

13 The notice shall also list the Department's current
14 consumer hotline, the Department's website, and the telephone
15 numbers, fax numbers, and mailing addresses of the mortgagee
16 and the servicer responsible for collecting payments. The
17 notice shall also list the investor of the loan ~~telephone~~
18 ~~number, fax number, and mailing address of the mortgagee.~~ No
19 language, other than language substantially similar to the
20 language prescribed in this subsection (c), shall be included
21 in the notice. Notwithstanding any other provision to the
22 contrary, the grace period notice required by this subsection
23 (c) may be combined with a counseling notification required
24 under federal law.

25 The sending of the notice required under this subsection
26 (c) means depositing or causing to be deposited into the United

1 States mail an envelope with certified first class postage
2 prepaid, return receipt requested, that contains the document
3 to be delivered. ~~An~~ ~~The~~ envelope containing the notice shall be
4 addressed to each individual or entity that is a signatory on
5 the mortgage ~~the mortgagor~~ at the common address of the
6 residential real estate securing the mortgage in addition to
7 the mailing address of record for each individual or entity who
8 is a signatory on the mortgage.

9 (d) Until 30 days after mailing the notice provided for
10 under subsection (c) of this Section, no legal action shall be
11 instituted under this Part ~~15 of Article XV of the Code of~~
12 ~~Civil Procedure~~.

13 (e) If, within the 30-day period provided under subsection
14 (d) of this Section, an approved counseling agency provides
15 written notice to the mortgagee that the mortgagor is seeking
16 approved counseling services, then no legal action under this
17 ~~Part 15 of Article XV of the Code of Civil Procedure~~ shall be
18 instituted for 30 days after the date of that notice. The date
19 that such notice is sent shall be stated in the notice, and
20 shall be sent to the address or fax number contained in the
21 grace period notice required under subsection (c) of this
22 Section. During the 30-day period provided under this
23 subsection (e), the mortgagor or counselor or both may prepare
24 and proffer to the mortgagee a proposed sustainable loan
25 workout plan. The mortgagee will then determine whether to
26 accept the proposed sustainable loan workout plan. If the

1 mortgagee and the mortgagor agree to a sustainable loan workout
2 plan, then no legal action under this Part ~~15 of Article XV of~~
3 ~~the Code of Civil Procedure~~ shall be instituted for as long as
4 the sustainable loan workout plan is complied with by the
5 mortgagor.

6 The agreed sustainable loan workout plan and any
7 modifications thereto must be in writing and signed by the
8 mortgagee and the mortgagor.

9 Upon written notice to the mortgagee, the mortgagor may
10 change approved counseling agencies, but such a change does not
11 entitle the mortgagor to any additional period of forbearance.

12 (e-5) Complying with the requirements of subsections (c),
13 (d), and (e) of this Section is a condition precedent to filing
14 a legal action under this Part. Failure to comply with the
15 requirements of subsections (c), (d), and (e) constitutes an
16 affirmative matter that defeats a legal action under this Part.
17 The requirements of subsections (c), (d), and (e) are not
18 allegations for purposes of subsection (c) of Section 15-1504.

19 (f) If the mortgagor fails to comply with the sustainable
20 loan workout plan, then nothing in this Section shall be
21 construed to impair the legal rights of the mortgagee to
22 enforce the contract.

23 (g) A counselor employed by a housing counseling agency or
24 the housing counseling agency that in good faith provides
25 counseling shall not be liable to a mortgagee or mortgagor for
26 civil damages, except for willful or wanton misconduct on the

1 part of the counselor in providing the counseling.

2 (h) There shall be no waiver of any provision of this
3 Section.

4 (i) It is the General Assembly's intent that compliance
5 with this Section shall not prejudice a mortgagee in ratings of
6 its bad debt collection or calculation standards or policies.

7 (j) This Section does ~~shall~~ not apply, ~~or shall cease to~~
8 ~~apply,~~ to residential real estate that is not occupied as a
9 principal residence by an individual or entity who is a
10 signatory on the mortgage at the time the duty to mail the
11 notice described in subsection (c) arises ~~the mortgagor.~~

12 (k) This Section is repealed July 1, 2027 ~~2016~~.

13 (l) This reenacted Section applies to causes of action that
14 exist on or after July 1, 2016 as if this Section had continued
15 in effect on and after that date and had never been repealed.
16 Actions taken in compliance with this Section on or after July
17 1, 2016 and before the effective date of this amendatory Act of
18 the 100th General Assembly are ratified, validated, and
19 confirmed. The changes made to subsections (a) through (k) of
20 this Section by this amendatory Act of the 100th General
21 Assembly apply to causes of action arising on or after the
22 effective date of this amendatory Act of the 100th General
23 Assembly.

24 (Source: P.A. 98-25, eff. 6-20-13.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".