



Sen. Iris Y. Martinez

**Filed: 5/2/2017**

10000SB0568sam002

LRB100 04829 JLS 25757 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10 been internally repealed, and make additional changes to  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. ~~If 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 U.S. mail a notice advising the mortgagor that  
5 he or she may wish to seek approved housing counseling.  
6 Notwithstanding anything to the contrary in this Section,  
7 nothing shall preclude the mortgagor and mortgagee from  
8 communicating with each other during the initial 30 days of  
9 delinquency or reaching agreement on a sustainable loan workout  
10 plan, or both.

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

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

24 The notice required in this subsection (c) shall state the  
25 date on which the notice was mailed, shall be headed in bold  
26 14-point type "GRACE PERIOD NOTICE", and shall state the

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

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

21 The sending of the notice required under this subsection  
22 (c) means depositing or causing to be deposited into the United  
23 States mail an envelope with first class postage prepaid that  
24 contains the document to be delivered. The envelope shall be  
25 addressed to the mortgagor at the common address of the  
26 residential real estate securing the mortgage.

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

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

24 The agreed sustainable loan workout plan and any  
25 modifications thereto must be in writing and signed by the  
26 mortgagee and the mortgagor.

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

4           (f) If the mortgagor fails to comply with the sustainable  
5 loan workout plan, then nothing in this Section shall be  
6 construed to impair the legal rights of the mortgagee to  
7 enforce the contract.

8           (g) A counselor employed by a housing counseling agency or  
9 the housing counseling agency that in good faith provides  
10 counseling shall not be liable to a mortgagee or mortgagor for  
11 civil damages, except for willful or wanton misconduct on the  
12 part of the counselor in providing the counseling.

13           (h) There shall be no waiver of any provision of this  
14 Section.

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

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

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

24           (l) This reenacted Section with changes made to subsections  
25 (a) through (k) applies to causes of action that arise on or  
26 after the effective date of this amendatory Act of the 100th

1 General Assembly.

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

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.".