

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 1961 is amended by changing
5 Section 21-3 as follows:

6 (720 ILCS 5/21-3) (from Ch. 38, par. 21-3)

7 Sec. 21-3. Criminal trespass to real property.

8 (a) Except as provided in subsection (a-5), whoever:

9 (1) knowingly and without lawful authority enters or
10 remains within or on a building; or

11 (2) enters upon the land of another, after receiving,
12 prior to such entry, notice from the owner or occupant that
13 such entry is forbidden; or

14 (3) remains upon the land of another, after receiving
15 notice from the owner or occupant to depart; or

16 (3.5) presents false documents or falsely represents
17 his or her identity orally to the owner or occupant of a
18 building or land in order to obtain permission from the
19 owner or occupant to enter or remain in the building or on
20 the land; or

21 (4) intentionally removes a notice posted on
22 residential real estate as required by subsection (1) of
23 Section 15-1505.8 of Article XV of the Code of Civil

1 Procedure before the date and time set forth in the notice;

2 commits a Class B misdemeanor.

3 For purposes of item (1) of this subsection, this Section
4 shall not apply to being in a building which is open to the
5 public while the building is open to the public during its
6 normal hours of operation; nor shall this Section apply to a
7 person who enters a public building under the reasonable belief
8 that the building is still open to the public.

9 (a-5) Except as otherwise provided in this subsection,
10 whoever enters upon any of the following areas in or on a motor
11 vehicle (including an off-road vehicle, motorcycle, moped, or
12 any other powered two-wheel vehicle) after receiving, prior to
13 that entry, notice from the owner or occupant that the entry is
14 forbidden or remains upon or in the area after receiving notice
15 from the owner or occupant to depart commits a Class A
16 misdemeanor:

17 (1) A field that is used for growing crops or that is
18 capable of being used for growing crops.

19 (2) An enclosed area containing livestock.

20 (3) An orchard.

21 (4) A barn or other agricultural building containing
22 livestock.

23 (b) A person has received notice from the owner or occupant
24 within the meaning of Subsection (a) if he has been notified
25 personally, either orally or in writing including a valid court
26 order as defined by subsection (7) of Section 112A-3 of the

1 Code of Criminal Procedure of 1963 granting remedy (2) of
2 subsection (b) of Section 112A-14 of that Code, or if a printed
3 or written notice forbidding such entry has been conspicuously
4 posted or exhibited at the main entrance to such land or the
5 forbidden part thereof.

6 (b-5) Subject to the provisions of subsection (b-10), as an
7 alternative to the posting of real property as set forth in
8 subsection (b), the owner or lessee of any real property may
9 post the property by placing identifying purple marks on trees
10 or posts around the area to be posted. Each purple mark shall
11 be:

12 (1) A vertical line of at least 8 inches in length and
13 the bottom of the mark shall be no less than 3 feet nor
14 more than 5 feet high. Such marks shall be placed no more
15 than 100 feet apart and shall be readily visible to any
16 person approaching the property; or

17 (2) A post capped or otherwise marked on at least its
18 top 2 inches. The bottom of the cap or mark shall be not
19 less than 3 feet but not more than 5 feet 6 inches high.
20 Posts so marked shall be placed not more than 36 feet apart
21 and shall be readily visible to any person approaching the
22 property. Prior to applying a cap or mark which is visible
23 from both sides of a fence shared by different property
24 owners or lessees, all such owners or lessees shall concur
25 in the decision to post their own property.

26 Nothing in this subsection (b-5) shall be construed to

1 authorize the owner or lessee of any real property to place any
2 purple marks on any tree or post or to install any post or
3 fence if doing so would violate any applicable law, rule,
4 ordinance, order, covenant, bylaw, declaration, regulation,
5 restriction, contract, or instrument.

6 (b-10) Any owner or lessee who marks his or her real
7 property using the method described in subsection (b-5) must
8 also provide notice as described in subsection (b) of this
9 Section. The public of this State shall be informed of the
10 provisions of subsection (b-5) of this Section by the Illinois
11 Department of Agriculture and the Illinois Department of
12 Natural Resources. These Departments shall conduct an
13 information campaign for the general public concerning the
14 interpretation and implementation of subsection (b-5). The
15 information shall inform the public about the marking
16 requirements and the applicability of subsection (b-5)
17 including information regarding the size requirements of the
18 markings as well as the manner in which the markings shall be
19 displayed. The Departments shall also include information
20 regarding the requirement that, until the date this subsection
21 becomes inoperative, any owner or lessee who chooses to mark
22 his or her property using paint, must also comply with one of
23 the notice requirements listed in subsection (b). The
24 Departments may prepare a brochure or may disseminate the
25 information through agency websites. Non-governmental
26 organizations including, but not limited to, the Illinois

1 Forestry Association, Illinois Tree Farm and the Walnut Council
2 may help to disseminate the information regarding the
3 requirements and applicability of subsection (b-5) based on
4 materials provided by the Departments. This subsection (b-10)
5 is inoperative on and after January 1, 2013.

6 (b-15) Subsections (b-5) and (b-10) do not apply to real
7 property located in a municipality of over 2,000,000
8 inhabitants.

9 (c) This Section does not apply to any person, whether a
10 migrant worker or otherwise, living on the land with permission
11 of the owner or of his agent having apparent authority to hire
12 workers on such land and assign them living quarters or a place
13 of accommodations for living thereon, nor to anyone living on
14 such land at the request of, or by occupancy, leasing or other
15 agreement or arrangement with the owner or his agent, nor to
16 anyone invited by such migrant worker or other person so living
17 on such land to visit him at the place he is so living upon the
18 land.

19 (d) A person shall be exempt from prosecution under this
20 Section if he beautifies unoccupied and abandoned residential
21 and industrial properties located within any municipality. For
22 the purpose of this subsection, "unoccupied and abandoned
23 residential and industrial property" means any real estate (1)
24 in which the taxes have not been paid for a period of at least 2
25 years; and (2) which has been left unoccupied and abandoned for
26 a period of at least one year; and "beautifies" means to

1 landscape, clean up litter, or to repair dilapidated conditions
2 on or to board up windows and doors.

3 (e) No person shall be liable in any civil action for money
4 damages to the owner of unoccupied and abandoned residential
5 and industrial property which that person beautifies pursuant
6 to subsection (d) of this Section.

7 (e-5) (i) A mortgagee or agent of the mortgagee shall be
8 exempt from prosecution for criminal trespass for entering,
9 securing, or maintaining an abandoned residential property.

10 (ii) No mortgagee or agent of the mortgagee shall be
11 liable to the mortgagor or other owner of an abandoned
12 residential property in any civil action for negligence or
13 civil trespass in connection with entering, securing, or
14 maintaining the abandoned residential property.

15 (iii) For the purpose of this subsection (e-5) only,
16 "abandoned residential property" means mortgaged real
17 estate that the mortgagee or agent of the mortgagee
18 determines in good faith meets the definition of abandoned
19 residential property set forth in Section 15-1200.5 of
20 Article XV of the Code of Civil Procedure.

21 (f) This Section does not prohibit a person from entering a
22 building or upon the land of another for emergency purposes.
23 For purposes of this subsection (f), "emergency" means a
24 condition or circumstance in which an individual is or is
25 reasonably believed by the person to be in imminent danger of
26 serious bodily harm or in which property is or is reasonably

1 believed to be in imminent danger of damage or destruction.

2 (g) Paragraph (3.5) of subsection (a) does not apply to a
3 peace officer or other official of a unit of government who
4 enters a building or land in the performance of his or her
5 official duties.

6 (h) A person may be liable in any civil action for money
7 damages to the owner of the land he or she entered upon with a
8 motor vehicle as prohibited under subsection (a-5) of this
9 Section. A person may also be liable to the owner for court
10 costs and reasonable attorney's fees. The measure of damages
11 shall be: (i) the actual damages, but not less than \$250, if
12 the vehicle is operated in a nature preserve or registered area
13 as defined in Sections 3.11 and 3.14 of the Illinois Natural
14 Areas Preservation Act; (ii) twice the actual damages if the
15 owner has previously notified the person to cease trespassing;
16 or (iii) in any other case, the actual damages, but not less
17 than \$50. If the person operating the vehicle is under the age
18 of 16, the owner of the vehicle and the parent or legal
19 guardian of the minor are jointly and severally liable. For the
20 purposes of this subsection (h):

21 "Land" includes, but is not limited to, land used for
22 crop land, fallow land, orchard, pasture, feed lot, timber
23 land, prairie land, mine spoil nature preserves and
24 registered areas. "Land" does not include driveways or
25 private roadways upon which the owner allows the public to
26 drive.

1 "Owner" means the person who has the right to
2 possession of the land, including the owner, operator or
3 tenant.

4 "Vehicle" has the same meaning as provided under
5 Section 1-217 of the Illinois Vehicle Code.

6 (i) This Section does not apply to the following persons
7 while serving process:

8 (1) a person authorized to serve process under Section
9 2-202 of the Code of Civil Procedure; or

10 (2) a special process server appointed by the circuit
11 court.

12 (Source: P.A. 97-184, eff. 7-22-11; 97-477, eff. 8-22-11;
13 revised 9-14-11.)

14 Section 10. The Code of Civil Procedure is amended by
15 changing Sections 15-1219, 15-1504, and 15-1508, changing and
16 renumbering Section 15-1507.1, and by adding Sections
17 15-1200.5, 15-1200.7, and 15-1505.8 as follows:

18 (735 ILCS 5/15-1200.5 new)

19 Sec. 15-1200.5. Abandoned residential property. "Abandoned
20 residential property" means residential real estate that:

21 (a) either:

22 (1) is not occupied by any mortgagor or lawful occupant
23 as a principal residence; or

24 (2) contains an incomplete structure if the real estate

1 is zoned for residential development, where the structure
2 is empty or otherwise uninhabited and is in need of
3 maintenance, repair, or securing; and

4 (b) with respect to which either:

5 (1) two or more of the following conditions are shown
6 to exist:

7 (A) construction was initiated on the property and
8 was discontinued prior to completion, leaving a
9 building unsuitable for occupancy, and no construction
10 has taken place for at least 6 months;

11 (B) multiple windows on the property are boarded up
12 or closed off or are smashed through, broken off, or
13 unhinged, or multiple window panes are broken and
14 unrepaired;

15 (C) doors on the property are smashed through,
16 broken off, unhinged, or continuously unlocked;

17 (D) the property has been stripped of copper or
18 other materials, or interior fixtures to the property
19 have been removed;

20 (E) gas, electrical, or water services to the
21 entire property have been terminated;

22 (F) there exist one or more written statements of
23 the mortgagor or the mortgagor's personal
24 representative or assigns, including documents of
25 conveyance, which indicate a clear intent to abandon
26 the property;

1 (G) law enforcement officials have received at
2 least one report of trespassing or vandalism or other
3 illegal acts being committed at the property in the
4 last 6 months;

5 (H) the property has been declared unfit for
6 occupancy and ordered to remain vacant and unoccupied
7 under an order issued by a municipal or county
8 authority or a court of competent jurisdiction;

9 (I) the local police, fire, or code enforcement
10 authority has requested the owner or other interested
11 or authorized party to secure or winterize the property
12 due to the local authority declaring the property to be
13 an imminent danger to the health, safety, and welfare
14 of the public;

15 (J) the property is open and unprotected and in
16 reasonable danger of significant damage due to
17 exposure to the elements, vandalism, or freezing; or

18 (K) there exists other evidence indicating a clear
19 intent to abandon the property; or

20 (2) the real estate is zoned for residential
21 development and is a vacant lot that is in need of
22 maintenance, repair, or securing.

23 (735 ILCS 5/15-1200.7 new)

24 Sec. 15-1200.7. Abandoned residential property;
25 exceptions. A property shall not be considered abandoned

1 residential property if: (i) there is an unoccupied building
2 which is undergoing construction, renovation, or
3 rehabilitation that is proceeding diligently to completion,
4 and the building is in substantial compliance with all
5 applicable ordinances, codes, regulations, and laws; (ii)
6 there is a building occupied on a seasonal basis, but otherwise
7 secure; (iii) there is a secure building on which there are
8 bona fide rental or sale signs; (iv) there is a building that
9 is secure, but is the subject of a probate action, action to
10 quiet title, or other ownership dispute; or (v) there is a
11 building that is otherwise secure and in substantial compliance
12 with all applicable ordinances, codes, regulations and laws.

13 (735 ILCS 5/15-1219) (from Ch. 110, par. 15-1219)

14 Sec. 15-1219. Residential Real Estate. "Residential real
15 estate" means any real estate, except a single tract of
16 agricultural real estate consisting of more than 40 acres,
17 which is improved with a single family residence or residential
18 condominium units or a multiple dwelling structure containing
19 single family dwelling units for six or fewer families living
20 independently of each other, which residence, or at least one
21 of which condominium or dwelling units, is occupied as a
22 principal residence either (i) if a mortgagor is an individual,
23 by that mortgagor, that mortgagor's spouse or that mortgagor's
24 descendants, or (ii) if a mortgagor is a trustee of a trust or
25 an executor or administrator of an estate, by a beneficiary of

1 that trust or estate or by such beneficiary's spouse or
2 descendants or (iii) if a mortgagor is a corporation, by
3 persons owning collectively at least 50 percent of the shares
4 of voting stock of such corporation or by a spouse or
5 descendants of such persons. The use of a portion of
6 residential real estate for non-residential purposes shall not
7 affect the characterization of such real estate as residential
8 real estate. For purposes of the definition of the term
9 "abandoned residential property" in Section 15-1200.5 of this
10 Article, "abandoned residential property" shall not include
11 the requirement that the real estate be occupied, or if zoned
12 for residential development, improved with a dwelling
13 structure.

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

15 (735 ILCS 5/15-1504) (from Ch. 110, par. 15-1504)

16 Sec. 15-1504. Pleadings and service.

17 (a) Form of Complaint. A foreclosure complaint may be in
18 substantially the following form:

19 (1) Plaintiff files this complaint to foreclose the
20 mortgage (or other conveyance in the nature of a mortgage)
21 (hereinafter called "mortgage") hereinafter described and
22 joins the following person as defendants: (here insert
23 names of all defendants).

24 (2) Attached as Exhibit "A" is a copy of the mortgage
25 and as Exhibit "B" is a copy of the note secured thereby.

1 (3) Information concerning mortgage:

2 (A) Nature of instrument: (here insert whether a
3 mortgage, trust deed or other instrument in the nature
4 of a mortgage, etc.)

5 (B) Date of mortgage:

6 (C) Name of mortgagor:

7 (D) Name of mortgagee:

8 (E) Date and place of recording:

9 (F) Identification of recording: (here insert book
10 and page number or document number)

11 (G) Interest subject to the mortgage: (here insert
12 whether fee simple, estate for years, undivided
13 interest, etc.)

14 (H) Amount of original indebtedness, including
15 subsequent advances made under the mortgage:

16 (I) Both the legal description of the mortgaged
17 real estate and the common address or other information
18 sufficient to identify it with reasonable certainty:

19 (J) Statement as to defaults, including, but not
20 necessarily limited to, date of default, current
21 unpaid principal balance, per diem interest accruing,
22 and any further information concerning the default:

23 (K) Name of present owner of the real estate:

24 (L) Names of other persons who are joined as
25 defendants and whose interest in or lien on the
26 mortgaged real estate is sought to be terminated:

1 (M) Names of defendants claimed to be personally
2 liable for deficiency, if any:

3 (N) Capacity in which plaintiff brings this
4 foreclosure (here indicate whether plaintiff is the
5 legal holder of the indebtedness, a pledgee, an agent,
6 the trustee under a trust deed or otherwise, as
7 appropriate):

8 (O) Facts in support of redemption period shorter
9 than the longer of (i) 7 months from the date the
10 mortgagor or, if more than one, all the mortgagors (I)
11 have been served with summons or by publication or (II)
12 have otherwise submitted to the jurisdiction of the
13 court, or (ii) 3 months from the entry of the judgment
14 of foreclosure, if sought (here indicate whether based
15 upon the real estate not being residential, ~~7~~
16 ~~abandonment,~~ or real estate value less than 90% of
17 amount owed, etc.):

18 (P) Statement that the right of redemption has been
19 waived by all owners of redemption, if applicable:

20 (Q) Facts in support of request for attorneys' fees
21 and of costs and expenses, if applicable:

22 (R) Facts in support of a request for appointment
23 of mortgagee in possession or for appointment of
24 receiver, and identity of such receiver, if sought:

25 (S) Offer to mortgagor in accordance with Section
26 15-1402 to accept title to the real estate in

1 satisfaction of all indebtedness and obligations
2 secured by the mortgage without judicial sale, if
3 sought:

4 (T) Name or names of defendants whose right to
5 possess the mortgaged real estate, after the
6 confirmation of a foreclosure sale, is sought to be
7 terminated and, if not elsewhere stated, the facts in
8 support thereof:

9 REQUEST FOR RELIEF

10 Plaintiff requests:

11 (i) A judgment of foreclosure and sale.

12 (ii) An order granting a shortened redemption period,
13 if sought.

14 (iii) A personal judgment for a deficiency, if sought.

15 (iv) An order granting possession, if sought.

16 (v) An order placing the mortgagee in possession or
17 appointing a receiver, if sought.

18 (vi) A judgment for attorneys' fees, costs and
19 expenses, if sought.

20 (b) Required Information. A foreclosure complaint need
21 contain only such statements and requests called for by the
22 form set forth in subsection (a) of Section 15-1504 as may be
23 appropriate for the relief sought. Such complaint may be filed
24 as a counterclaim, may be joined with other counts or may
25 include in the same count additional matters or a request for

1 any additional relief permitted by Article II of the Code of
2 Civil Procedure.

3 (c) Allegations. The statements contained in a complaint in
4 the form set forth in subsection (a) of Section 15-1504 are
5 deemed and construed to include allegations as follows:

6 (1) on the date indicated the obligor of the
7 indebtedness or other obligations secured by the mortgage
8 was justly indebted in the amount of the indicated original
9 indebtedness to the original mortgagee or payee of the
10 mortgage note;

11 (2) that the exhibits attached are true and correct
12 copies of the mortgage and note and are incorporated and
13 made a part of the complaint by express reference;

14 (3) that the mortgagor was at the date indicated an
15 owner of the interest in the real estate described in the
16 complaint and that as of that date made, executed and
17 delivered the mortgage as security for the note or other
18 obligations;

19 (4) that the mortgage was recorded in the county in
20 which the mortgaged real estate is located, on the date
21 indicated, in the book and page or as the document number
22 indicated;

23 (5) that defaults occurred as indicated;

24 (6) that at the time of the filing of the complaint the
25 persons named as present owners are the owners of the
26 indicated interests in and to the real estate described;

1 (7) that the mortgage constitutes a valid, prior and
2 paramount lien upon the indicated interest in the mortgaged
3 real estate, which lien is prior and superior to the right,
4 title, interest, claim or lien of all parties and nonrecord
5 claimants whose interests in the mortgaged real estate are
6 sought to be terminated;

7 (8) that by reason of the defaults alleged, if the
8 indebtedness has not matured by its terms, the same has
9 become due by the exercise, by the plaintiff or other
10 persons having such power, of a right or power to declare
11 immediately due and payable the whole of all indebtedness
12 secured by the mortgage;

13 (9) that any and all notices of default or election to
14 declare the indebtedness due and payable or other notices
15 required to be given have been duly and properly given;

16 (10) that any and all periods of grace or other period
17 of time allowed for the performance of the covenants or
18 conditions claimed to be breached or for the curing of any
19 breaches have expired;

20 (11) that the amounts indicated in the statement in the
21 complaint are correctly stated and if such statement
22 indicates any advances made or to be made by the plaintiff
23 or owner of the mortgage indebtedness, that such advances
24 were, in fact, made or will be required to be made, and
25 under and by virtue of the mortgage the same constitute
26 additional indebtedness secured by the mortgage; and

1 (12) that, upon confirmation of the sale, the holder of
2 the certificate of sale or deed issued pursuant to that
3 certificate or, if no certificate or deed was issued, the
4 purchaser at the sale will be entitled to full possession
5 of the mortgaged real estate against the parties named in
6 clause (T) of paragraph (3) of subsection (a) of Section
7 15-1504 or elsewhere to the same effect; the omission of
8 any party indicates that plaintiff will not seek a
9 possessory order in the order confirming sale unless the
10 request is subsequently made under subsection (h) of
11 Section 15-1701 or by separate action under Article 9 of
12 this Code.

13 (d) Request for Fees and Costs. A statement in the
14 complaint that plaintiff seeks the inclusion of attorneys' fees
15 and of costs and expenses shall be deemed and construed to
16 include allegations that:

17 (1) plaintiff has been compelled to employ and retain
18 attorneys to prepare and file the complaint and to
19 represent and advise the plaintiff in the foreclosure of
20 the mortgage and the plaintiff will thereby become liable
21 for the usual, reasonable and customary fees of the
22 attorneys in that behalf;

23 (2) that the plaintiff has been compelled to advance or
24 will be compelled to advance, various sums of money in
25 payment of costs, fees, expenses and disbursements
26 incurred in connection with the foreclosure, including,

1 without limiting the generality of the foregoing, filing
2 fees, stenographer's fees, witness fees, costs of
3 publication, costs of procuring and preparing documentary
4 evidence and costs of procuring abstracts of title, Torrens
5 certificates, foreclosure minutes and a title insurance
6 policy;

7 (3) that under the terms of the mortgage, all such
8 advances, costs, attorneys' fees and other fees, expenses
9 and disbursements are made a lien upon the mortgaged real
10 estate and the plaintiff is entitled to recover all such
11 advances, costs, attorneys' fees, expenses and
12 disbursements, together with interest on all advances at
13 the rate provided in the mortgage, or, if no rate is
14 provided therein, at the statutory judgment rate, from the
15 date on which such advances are made;

16 (4) that in order to protect the lien of the mortgage,
17 it may become necessary for plaintiff to pay taxes and
18 assessments which have been or may be levied upon the
19 mortgaged real estate;

20 (5) that in order to protect and preserve the mortgaged
21 real estate, it may also become necessary for the plaintiff
22 to pay liability (protecting mortgagor and mortgagee),
23 fire and other hazard insurance premiums on the mortgaged
24 real estate, make such repairs to the mortgaged real estate
25 as may reasonably be deemed necessary for the proper
26 preservation thereof, advance for costs to inspect the

1 mortgaged real estate or to appraise it, or both, and
2 advance for premiums for pre-existing private or
3 governmental mortgage insurance to the extent required
4 after a foreclosure is commenced in order to keep such
5 insurance in force; and

6 (6) that under the terms of the mortgage, any money so
7 paid or expended will become an additional indebtedness
8 secured by the mortgage and will bear interest from the
9 date such monies are advanced at the rate provided in the
10 mortgage, or, if no rate is provided, at the statutory
11 judgment rate.

12 (e) Request for Foreclosure. The request for foreclosure is
13 deemed and construed to mean that the plaintiff requests that:

14 (1) an accounting may be taken under the direction of
15 the court of the amounts due and owing to the plaintiff;

16 (2) that the defendants be ordered to pay to the
17 plaintiff before expiration of any redemption period (or,
18 if no redemption period, before a short date fixed by the
19 court) whatever sums may appear to be due upon the taking
20 of such account, together with attorneys' fees and costs of
21 the proceedings (to the extent provided in the mortgage or
22 by law);

23 (3) that in default of such payment in accordance with
24 the judgment, the mortgaged real estate be sold as directed
25 by the court, to satisfy the amount due to the plaintiff as
26 set forth in the judgment, together with the interest

1 thereon at the statutory judgment rate from the date of the
2 judgment;

3 (4) that in the event the plaintiff is a purchaser of
4 the mortgaged real estate at such sale, the plaintiff may
5 offset against the purchase price of such real estate the
6 amounts due under the judgment of foreclosure and order
7 confirming the sale;

8 (5) that in the event of such sale and the failure of
9 any person entitled thereto to redeem prior to such sale
10 pursuant to this Article, the defendants made parties to
11 the foreclosure in accordance with this Article, and all
12 nonrecord claimants given notice of the foreclosure in
13 accordance with this Article, and all persons claiming by,
14 through or under them, and each and any and all of them,
15 may be forever barred and foreclosed of any right, title,
16 interest, claim, lien, or right to redeem in and to the
17 mortgaged real estate; and

18 (6) that if no redemption is made prior to such sale, a
19 deed may be issued to the purchaser thereat according to
20 law and such purchaser be let into possession of the
21 mortgaged real estate in accordance with Part 17 of this
22 Article.

23 (f) Request for Deficiency Judgment. A request for a
24 personal judgment for a deficiency in a foreclosure complaint
25 if the sale of the mortgaged real estate fails to produce a
26 sufficient amount to pay the amount found due, the plaintiff

1 may have a personal judgment against any party in the
2 foreclosure indicated as being personally liable therefor and
3 the enforcement thereof be had as provided by law.

4 (g) Request for Possession or Receiver. A request for
5 possession or appointment of a receiver has the meaning as
6 stated in subsection (b) of Section 15-1706.

7 (h) Answers by Parties. Any party may assert its interest
8 by counterclaim and such counterclaim may at the option of that
9 party stand in lieu of answer to the complaint for foreclosure
10 and all counter complaints previously or thereafter filed in
11 the foreclosure. Any such counterclaim shall be deemed to
12 constitute a statement that the counter claimant does not have
13 sufficient knowledge to form a belief as to the truth or
14 falsity of the allegations of the complaint and all other
15 counterclaims, except to the extent that the counterclaim
16 admits or specifically denies such allegations.

17 (Source: P.A. 91-357, eff. 7-29-99.)

18 (735 ILCS 5/15-1504.3)

19 (Section scheduled to be repealed on March 2, 2016)

20 Sec. 15-1504.3 ~~15-1507.1~~. Filing ~~Judicial sale~~ fee for
21 Abandoned Residential Property Municipality Relief Fund.

22 (a) With respect to residential real estate, at the time of
23 the filing of a foreclosure complaint, the plaintiff shall pay
24 to the clerk of the court in which the foreclosure complaint is
25 filed a fee of \$250 ~~Upon and at the sale of residential real~~

1 ~~estate under Section 15-1507, the purchaser shall pay to the~~
2 ~~person conducting the sale pursuant to Section 15-1507 a fee~~
3 for deposit into the Abandoned Residential Property
4 Municipality Relief Fund, a special fund created in the State
5 treasury. ~~The fee shall be calculated at the rate of \$1 for~~
6 ~~each \$1,000 or fraction thereof of the amount paid by the~~
7 ~~purchaser to the person conducting the sale, as reflected in~~
8 ~~the receipt of sale issued to the purchaser, provided that in~~
9 ~~no event shall the fee exceed \$300. No fee shall be paid by the~~
10 ~~mortgagee acquiring the residential real estate pursuant to its~~
11 ~~credit bid at the sale or by any mortgagee, judgment creditor,~~
12 ~~or other lienor acquiring the residential real estate whose~~
13 ~~rights in and to the residential real estate arose prior to the~~
14 ~~sale. Upon confirmation of the sale under Section 15-1508, the~~
15 ~~person conducting the sale shall remit the fee to the clerk of~~
16 ~~the court in which the foreclosure case is pending. The clerk~~
17 shall remit the fee to the State Treasurer as provided in this
18 Section, to be expended for the purposes set forth in Section
19 7.31 of the Illinois Housing Development Act.

20 (b) All fees paid by plaintiffs to the clerk of the court
21 ~~purchasers~~ as provided in this Section shall be disbursed
22 within 60 days after receipt by the clerk of the court as
23 follows: (i) 98% to the State Treasurer for deposit into the
24 Abandoned Residential Property Municipality Relief Fund, and
25 (ii) 2% to the clerk of the court for administrative expenses
26 related to implementation of this Section.

1 (c) Not later than March 1 of each year, the clerk of the
2 court shall submit to the Illinois Housing Development
3 Authority a report of the funds collected and remitted pursuant
4 to this Section during the preceding year ~~pursuant to this~~
5 ~~Section.~~

6 (d) Subsections (a) and (b) of this Section shall become
7 inoperative on January 1, 2016. This Section is repealed on
8 March 2, 2016.

9 (Source: P.A. 96-1419, eff. 10-1-10.)

10 (735 ILCS 5/15-1505.8 new)

11 Sec. 15-1505.8. Expedited judgment and sale procedure for
12 abandoned residential property.

13 (a) Upon motion and notice, the mortgagee may elect to
14 utilize the expedited judgment and sale procedure for abandoned
15 residential property stated in this Section to obtain a
16 judgment of foreclosure pursuant to Section 15-1506. The motion
17 to expedite the judgment and sale may be combined with or made
18 part of the motion requesting a judgment of foreclosure. The
19 notice of the motion to expedite the judgment and sale shall be
20 sent by first-class mail to the last known address of the
21 mortgagor, and the notice required by paragraph (1) of
22 subsection (1) of this Section shall be posted at the property
23 address.

24 (b) The motion requesting an expedited judgment of
25 foreclosure and sale may be filed by the mortgagee at the time

1 the foreclosure complaint is filed or any time thereafter, and
2 shall set forth the facts demonstrating that the mortgaged real
3 estate is abandoned residential real estate under Section
4 15-1200.5 and shall be supported by affidavit.

5 (c) If a motion for an expedited judgment and sale is filed
6 at the time the foreclosure complaint is filed or before the
7 period to answer the foreclosure complaint has expired, the
8 motion shall be heard by the court no earlier than before the
9 period to answer the foreclosure complaint has expired and no
10 later than 15 days after the period to answer the foreclosure
11 complaint has expired.

12 (d) If a motion for an expedited judgment and sale is filed
13 after the period to answer the foreclosure complaint has
14 expired, the motion shall be heard no later than 15 days after
15 the motion is filed.

16 (e) The hearing shall be given priority by the court and
17 shall be scheduled to be heard within the applicable time
18 period set forth in subsection (c) or (d) of this Section.

19 (f) Subject to subsection (g), at the hearing on the motion
20 requesting an expedited judgment and sale, if the court finds
21 that the mortgaged real estate is abandoned residential
22 property, the court shall grant the motion and immediately
23 proceed to a trial of the foreclosure. A judgment of
24 foreclosure under this Section shall include the matters
25 identified in Section 15-1506.

26 (g) The court may not grant the motion requesting an

1 expedited judgment and sale if: (i) the mortgagor appears in
2 the action in any manner before or at the hearing and objects
3 to a finding of abandonment; (ii) a person other than the
4 mortgagor appears at the hearing and presents evidence
5 establishing to the satisfaction of the court that the
6 mortgagor is working with, or making an attempt to work with,
7 the mortgagee to modify the mortgage; or (iii) a person other
8 than the mortgagor appears at the hearing and presents evidence
9 establishing to the satisfaction of the court that the
10 mortgagor or a lawful occupant has not abandoned the mortgaged
11 real estate.

12 (h) The court shall vacate an order issued pursuant to
13 subsection (f) of this Section if the mortgagor or a lawful
14 occupant appears in the action at any time prior to the court
15 issuing an order confirming the sale pursuant to subsection
16 (b-3) of Section 15-1508 and presents evidence establishing to
17 the satisfaction of the court that the mortgagor or lawful
18 occupant has not abandoned the mortgaged real estate.

19 (i) The reinstatement period and redemption period for the
20 abandoned residential property shall end in accordance with
21 paragraph (4) of subsection (b) of Section 15-1603, and the
22 abandoned residential property shall be sold at the earliest
23 practicable time at a sale as provided in this Article.

24 (j) The mortgagee or its agent may enter, secure, and
25 maintain abandoned residential property subject to subsection
26 (e-5) of Section 21-3 of the Criminal Code of 1961.

1 (k) Personal property.

2 (1) Upon confirmation of the sale held pursuant to
3 Section 15-1507, any personal property remaining in or upon
4 the abandoned residential property shall be deemed to have
5 been abandoned by the owner of such personal property and
6 may be disposed of or donated by the holder of the
7 certificate of sale (or, if none, by the purchaser at the
8 sale). In the event of donation of any such personal
9 property, the holder of the certificate of sale (or, if
10 none, the purchaser at the sale) may transfer such donated
11 property with a bill of sale. No mortgagee or its
12 successors or assigns, holder of a certificate of sale, or
13 purchaser at the sale shall be liable for any such disposal
14 or donation of personal property.

15 (2) Notwithstanding paragraph (1) of this subsection
16 (k), in the event a lawful occupant is in possession of the
17 mortgaged real estate who has not been made a party to the
18 foreclosure and had his or her interests terminated
19 therein, any personal property of the lawful occupant shall
20 not be deemed to have been abandoned, nor shall the rights
21 of the lawful occupant to any personal property be
22 affected.

23 (l) Notices to be posted at property address.

24 (1) The notice set out in this paragraph (1) of this
25 subsection (l) shall be conspicuously posted at the
26 property address at least 14 days before the hearing on the

1 motion requesting an expedited judgment and sale and shall
2 be in boldface, in at least 12 font type, and in
3 substantially the following form:

4 "NOTICE TO ANY TENANT OR OTHER LAWFUL
5 OCCUPANT OF THIS PROPERTY

6 A lawsuit has been filed to foreclose on this property, and the
7 party asking to foreclose on this property has asked a judge to
8 find that THIS PROPERTY IS ABANDONED.

9 The judge will be holding a hearing to decide whether this
10 property is ABANDONED.

11 IF YOU LAWFULLY OCCUPY ANY PART OF THIS PROPERTY, YOU MAY
12 CHOOSE TO GO TO THIS HEARING and explain to the judge how you
13 are a lawful occupant of this property.

14 You also can ask any other person to go to this hearing for
15 you, and this person does not have to be attorney. If you do
16 have another person who is not an attorney go to this hearing
17 for you, that person will not be authorized to represent you
18 but could help explain to the judge how you are a lawful
19 occupant of this property.

20 If the judge is satisfied that you are a LAWFUL OCCUPANT of

1 this property, the court will find that this property is NOT
2 ABANDONED.

3 This hearing will be held in the courthouse at the following
4 address, date, and time:

5 Court name:

6 Court address:

7 Court room number where hearing will be held:

8 (There should be a person in this room called a CLERK who can
9 help you. Make sure you know THIS PROPERTY'S ADDRESS.)

10 Date of hearing:

11 Time of hearing:

12 MORE INFORMATION

13 Name of lawsuit:

14 Number of lawsuit:

15 Address of this property:

16 IMPORTANT

17 This is NOT a notice to vacate the premises. You may wish to
18 contact a lawyer or your local legal aid or housing counseling
19 agency to discuss any rights that you may have.

1 WARNING

2 INTENTIONAL REMOVAL OF THIS NOTICE BEFORE THE DATE AND TIME
3 STATED IN THIS NOTICE IS A CLASS B MISDEMEANOR, PUNISHABLE BY
4 UP TO 180 DAYS IN JAIL AND A FINE OF UP TO \$1500, UNDER ILLINOIS
5 LAW. 720 ILCS 5/21-3(a).

6 NO TRESPASSING

7 KNOWINGLY ENTERING THIS PROPERTY WITHOUT LAWFUL AUTHORITY IS A
8 CLASS B MISDEMEANOR, PUNISHABLE BY UP TO 180 DAYS IN JAIL AND A
9 FINE OF UP TO \$1500, UNDER ILLINOIS LAW. 720 ILCS 5/21-3(a).".

10 (2) The notice set out in this paragraph (2) of this
11 subsection (1) shall be conspicuously posted at the
12 property address at least 14 days before the hearing to
13 confirm the sale of the abandoned residential property and
14 shall be in boldface, in at least 12 font type, and in
15 substantially the following form:

16 "NOTICE TO ANY TENANT OR OTHER LAWFUL

17 OCCUPANT OF THIS PROPERTY

18 A lawsuit has been filed to foreclose on this property, and the
19 judge has found that THIS PROPERTY IS ABANDONED. As a result,
20 THIS PROPERTY HAS BEEN OR WILL BE SOLD.

1 HOWEVER, there still must be a hearing for the judge to approve
2 the sale. The judge will NOT APPROVE this sale if the judge
3 finds that any person lawfully occupies any part of this
4 property.

5 IF YOU LAWFULLY OCCUPY ANY PART OF THIS PROPERTY, YOU MAY
6 CHOOSE TO GO TO THIS HEARING and explain to the judge how you
7 are a lawful occupant of this property. You also may appear
8 BEFORE this hearing and explain to the judge how you are a
9 lawful occupant of this property.

10 If the judge is satisfied that you are a LAWFUL OCCUPANT of
11 this property, the court will find that this property is NOT
12 ABANDONED, and there will be no sale of the property at this
13 time.

14 This hearing will be held in the courthouse at the following
15 address, date, and time:

16 Court name:

17 Court address:

18 Court room number where hearing will be held:

19 (There should be a person in this room called a CLERK who can
20 help you. Make sure you know THIS PROPERTY'S ADDRESS.)

21 Date of hearing:

22 Time of hearing:

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MORE INFORMATION

Name of lawsuit:

Number of lawsuit:

Address of this property:

IMPORTANT

This is NOT a notice to vacate the premises. You may wish to contact a lawyer or your local legal aid or housing counseling agency to discuss any rights that you may have.

WARNING

INTENTIONAL REMOVAL OF THIS NOTICE BEFORE THE DATE AND TIME STATED IN THIS NOTICE IS A CLASS B MISDEMEANOR, PUNISHABLE BY UP TO 180 DAYS IN JAIL AND A FINE OF UP TO \$1500, UNDER ILLINOIS LAW. 720 ILCS 5/21-3(a).

NO TRESPASSING

KNOWINGLY ENTERING THIS PROPERTY WITHOUT LAWFUL AUTHORITY IS A CLASS B MISDEMEANOR, PUNISHABLE BY UP TO 180 DAYS IN JAIL AND A FINE OF UP TO \$1500, UNDER ILLINOIS LAW. 720 ILCS 5/21-3(a)."

1 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

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

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

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

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

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

22 (b-5) Notice with respect to residential real estate. With
23 respect to residential real estate, the notice required under
24 subsection (b) of this Section shall be sent to the mortgagor
25 even if the mortgagor has previously been held in default. In
26 the event the mortgagor has filed an appearance, the notice

1 shall be sent to the address indicated on the appearance. In
2 all other cases, the notice shall be sent to the mortgagor at
3 the common address of the foreclosed property. The notice shall
4 be sent by first class mail. Unless the right to possession has
5 been previously terminated by the court, the notice shall
6 include the following language in 12-point boldface
7 capitalized type:

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

12 (b-10) Notice of confirmation order sent to municipality or
13 county. A copy of the confirmation order required under
14 subsection (b) shall be sent to the municipality in which the
15 foreclosed property is located, or to the county within the
16 boundary of which the foreclosed property is located if the
17 foreclosed property is located in an unincorporated territory.
18 A municipality or county must clearly publish on its website a
19 single address to which such notice shall be sent. If a
20 municipality or county does not maintain a website, then the
21 municipality or county must publicly post in its main office a
22 single address to which such notice shall be sent. In the event
23 that a municipality or county has not complied with the
24 publication requirement in this subsection (b-10), then such
25 notice to the municipality or county shall be provided pursuant
26 to Section 2-211 of the Code of Civil Procedure.

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

16 (d) Validity of Sale. Except as provided in subsection (c)
17 of Section 15-1508, no sale under this Article shall be held
18 invalid or be set aside because of any defect in the notice
19 thereof or in the publication of the same, or in the
20 proceedings of the officer conducting the sale, except upon
21 good cause shown in a hearing pursuant to subsection (b) of
22 Section 15-1508. At any time after a sale has occurred, any
23 party entitled to notice under paragraph (3) of subsection (c)
24 of Section 15-1507 may recover from the mortgagee any damages
25 caused by the mortgagee's failure to comply with such paragraph
26 (3). Any party who recovers damages in a judicial proceeding

1 brought under this subsection may also recover from the
2 mortgagee the reasonable expenses of litigation, including
3 reasonable attorney's fees.

4 (d-5) Making Home Affordable Program. The court that
5 entered the judgment shall set aside a sale held pursuant to
6 Section 15-1507, upon motion of the mortgagor at any time prior
7 to the confirmation of the sale, if the mortgagor proves by a
8 preponderance of the evidence that (i) the mortgagor has
9 applied for assistance under the Making Home Affordable Program
10 established by the United States Department of the Treasury
11 pursuant to the Emergency Economic Stabilization Act of 2008,
12 as amended by the American Recovery and Reinvestment Act of
13 2009, and (ii) the mortgaged real estate was sold in material
14 violation of the program's requirements for proceeding to a
15 judicial sale. The provisions of this subsection (d-5), except
16 for this sentence, shall become inoperative on January 1, 2013
17 for all actions filed under this Article after December 31,
18 2012, in which the mortgagor did not apply for assistance under
19 the Making Home Affordable Program on or before December 31,
20 2012.

21 (e) Deficiency Judgment. In any order confirming a sale
22 pursuant to the judgment of foreclosure, the court shall also
23 enter a personal judgment for deficiency against any party (i)
24 if otherwise authorized and (ii) to the extent requested in the
25 complaint and proven upon presentation of the report of sale in
26 accordance with Section 15-1508. Except as otherwise provided

1 in this Article, a judgment may be entered for any balance of
2 money that may be found due to the plaintiff, over and above
3 the proceeds of the sale or sales, and enforcement may be had
4 for the collection of such balance, the same as when the
5 judgment is solely for the payment of money. Such judgment may
6 be entered, or enforcement had, only in cases where personal
7 service has been had upon the persons personally liable for the
8 mortgage indebtedness, unless they have entered their
9 appearance in the foreclosure action.

10 (f) Satisfaction. Upon confirmation of the sale, the
11 judgment stands satisfied to the extent of the sale price less
12 expenses and costs. If the order confirming the sale includes a
13 deficiency judgment, the judgment shall become a lien in the
14 manner of any other judgment for the payment of money.

15 (g) The order confirming the sale shall include,
16 notwithstanding any previous orders awarding possession during
17 the pendency of the foreclosure, an award to the purchaser of
18 possession of the mortgaged real estate, as of the date 30 days
19 after the entry of the order, against the parties to the
20 foreclosure whose interests have been terminated.

21 An order of possession authorizing the removal of a person
22 from possession of the mortgaged real estate shall be entered
23 and enforced only against those persons personally named as
24 individuals in the complaint or the petition under subsection
25 (h) of Section 15-1701 and in the order of possession and shall
26 not be entered and enforced against any person who is only

1 generically described as an unknown owner or nonrecord claimant
2 or by another generic designation in the complaint.

3 Notwithstanding the preceding paragraph, the failure to
4 personally name, include, or seek an award of possession of the
5 mortgaged real estate against a person in the confirmation
6 order shall not abrogate any right that the purchaser may have
7 to possession of the mortgaged real estate and to maintain a
8 proceeding against that person for possession under Article 9
9 of this Code or subsection (h) of Section 15-1701; and
10 possession against a person who (1) has not been personally
11 named as a party to the foreclosure and (2) has not been
12 provided an opportunity to be heard in the foreclosure
13 proceeding may be sought only by maintaining a proceeding under
14 Article 9 of this Code or subsection (h) of Section 15-1701.

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

1 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;
2 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.
3 8-26-11.)

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