

AN ACT concerning civil law.

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

Section 5. The Code of Civil Procedure is amended by changing Sections 9-121, 9-205, 9-207, 15-1202.5, 15-1501, 15-1506, 15-1508, 15-1508.5, 15-1701, 15-1703, and 15-1704 and by adding Sections 9-207.5, 15-1224, and 15-1225 as follows:

(735 ILCS 5/9-121)

Sec. 9-121. Sealing of court file.

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

(b) Discretionary sealing of court file. The court may order that a court file in a forcible entry and detainer action be placed under seal if the court finds that the plaintiff's action is sufficiently without a basis in fact or law, which may include a lack of jurisdiction, that placing the court file under seal is clearly in the interests of justice, and that those interests are not outweighed by the public's interest in knowing about the record.

(c) Mandatory sealing of court file. The court file relating to a forcible entry and detainer action brought against a tenant under Section 9-207.5 of this Code or as set

forth in subdivision (h)(6) of Section 15-1701 of this Code shall be placed under seal ~~who would have lawful possession of the premises but for the foreclosure on the property shall be sealed pursuant to Section 15-1701.~~

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

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

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

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

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

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

(a) Except as provided in Section 9-207.5 of this Code, in ~~in~~ all cases of tenancy from week to week, where the tenant holds over without special agreement, the landlord may terminate the tenancy by 7 days' notice, in writing, and may maintain an action for forcible entry and detainer or ejection.

(b) Except as provided in Section 9-207.5 of this Code, in ~~in~~ all cases of tenancy for any term less than one year, other

than tenancy from week to week, where the tenant holds over without special agreement, the landlord may terminate the tenancy by 30 days' notice, in writing, and may maintain an action for forcible entry and detainer or ejectment.

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

(735 ILCS 5/9-207.5 new)

Sec. 9-207.5. Termination of bona fide leases in residential real estate in foreclosure.

(a) A mortgagee, receiver, holder of the certificate of sale, holder of the deed issued pursuant to that certificate, or, if no certificate or deed was issued, the purchaser at a judicial sale under Section 15-1507 of this Code, who assumes control of the residential real estate in foreclosure, as defined in Section 15-1225 of this Code, may terminate a bona fide lease, as defined in Section 15-1224 of this Code, only: (i) at the end of the term of the bona fide lease, by no less than 90 days' written notice or (ii) in the case of a bona fide lease that is for a month-to-month or week-to-week term, by no less than 90 days' written notice.

(b) Notwithstanding the provisions of subsection (a) of this Section, an individual who assumes control of residential real estate in foreclosure pursuant to a judicial sale and who will occupy a dwelling unit of the residential real estate in foreclosure as his or her primary residence may terminate the bona fide lease for the dwelling unit subject to the 90-day

notice requirement of subsection (a) of this Section.

(c) Nothing in this Section or Section 15-1224 of this Code shall abrogate the rights of a mortgagee, receiver, holder of the certificate of sale, holder of the deed issued pursuant to that certificate, or, if no certificate or deed was issued, the purchaser at a judicial sale, who assumes control of the residential real estate in foreclosure to terminate a bona fide lease of a dwelling unit in residential real estate in foreclosure under Section 9-118, 9-119, 9-120, 9-201, 9-202, 9-203, 9-204, 9-209, or 9-210 of this Code.

(735 ILCS 5/15-1202.5)

Sec. 15-1202.5. Dwelling unit. For the purposes of Sections 9-207.5, 15-1224, 15-1225, 15-1506, 15-1508, 15-1508.5, 15-1701, 15-1703, and 15-1704 only, "dwelling unit" means a room or suite of rooms providing complete, independent living facilities for at least one person, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life.

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

(735 ILCS 5/15-1224 new)

Sec. 15-1224. Bona fide lease.

(a) For purposes of Sections 9-207.5, 15-1225, 15-1506, 15-1508, and 15-1701 of this Code only, the term "bona fide lease" means a lease of a dwelling unit in residential real

estate in foreclosure for which:

(1) the mortgagor or the child, spouse, or parent of the mortgagor is not the tenant;

(2) the lease was the result of an arms-length transaction;

(3) the lease requires the receipt of rent that is not substantially less than fair market rent for the property or the rent is reduced or subsidized pursuant to a federal, State, or local subsidy; and

(4) either (i) the lease was entered into or renewed on or before the date of the filing of the lis pendens on the residential real estate in foreclosure pursuant to Section 2-1901 of this Code or (ii) the lease was entered into or renewed after the date of the filing of the lis pendens on the residential real estate in foreclosure and before the date of the judicial sale of the residential real estate in foreclosure, and the term of the lease is for one year or less.

(b) A written lease for a term exceeding one year that is entered into or renewed after the date of the filing of the lis pendens on the residential real estate in foreclosure pursuant to Section 2-1901 of this Code and before the date of the judicial sale of the residential real estate in foreclosure that otherwise meets the requirements of subsection (a) of this Section shall be deemed to be a bona fide lease for a term of one year.

(c) An oral lease entered into at any time before the date of the judicial sale of the residential real estate in foreclosure that otherwise meets the requirements of subsection (a) of this Section shall be deemed to be a bona fide lease for a month-to-month term, unless the lessee proves by a preponderance of evidence that the oral lease is for a longer term. In no event shall an oral lease be deemed to be a bona fide lease for a term of more than one year.

(d) A written or oral lease entered into on or after the date of the judicial sale of the residential real estate in foreclosure and before the date of the court order confirming the judicial sale that otherwise meets the requirements of subsection (a) of this Section shall be deemed to be a bona fide lease for a month-to-month term.

(e) Notwithstanding paragraph (1) of subsection (a) of this Section, a child, spouse, or parent of the mortgagor may prove by a preponderance of evidence that a written or oral lease that otherwise meets the requirements of subsection (a) of this Section is a bona fide lease.

(735 ILCS 5/15-1225 new)

Sec. 15-1225. Residential real estate in foreclosure. For purposes of Sections 9-207.5, 15-1224, 15-1506, 15-1508, and 15-1701 of this Code only, the term "residential real estate in foreclosure" means any real estate, except a single tract of agricultural real estate consisting of more than 40 acres,

which is improved with a single family residence or residential condominium units or a multiple dwelling structure containing single family dwelling units for one or more families living independently of one another, for which an action to foreclose the real estate: (1) has commenced and is pending; (2) was pending when the bona fide lease was entered into or renewed; or (3) was commenced after the bona fide lease was entered into or renewed.

(735 ILCS 5/15-1501) (from Ch. 110, par. 15-1501)

Sec. 15-1501. Parties.

(a) Necessary Parties. For the purposes of Section 2-405 of the Code of Civil Procedure, only (i) the mortgagor and (ii) other persons (but not guarantors) who owe payment of indebtedness or the performance of other obligations secured by the mortgage and against whom personal liability is asserted shall be necessary parties defendant in a foreclosure. The court may proceed to adjudicate their respective interests, but any disposition of the mortgaged real estate shall be subject to (i) the interests of all other persons not made a party or (ii) interests in the mortgaged real estate not otherwise barred or terminated in the foreclosure.

(b) Permissible Parties. Any party may join as a party any other person, although such person is not a necessary party, including, without limitation, the following:

(1) All persons having a possessory interest in the

mortgaged real estate;

(2) A mortgagor's spouse who has waived the right of homestead;

(3) A trustee holding an interest in the mortgaged real estate or a beneficiary of such trust;

(4) The owner or holder of a note secured by a trust deed;

(5) Guarantors, provided that in a foreclosure any such guarantor also may be joined as a party in a separate count in an action on such guarantor's guaranty;

(6) The State of Illinois or any political subdivision thereof, where a foreclosure involves real estate upon which the State or such subdivision has an interest or claim for lien, in which case "An Act in relation to immunity for the State of Illinois", approved December 10, 1971, as amended, shall not be effective;

(7) The United States of America or any agency or department thereof where a foreclosure involves real estate upon which the United States of America or such agency or department has an interest or a claim for lien;

(8) Any assignee of leases or rents relating to the mortgaged real estate;

(9) Any person who may have a lien under the Mechanic's Lien Act; and

(10) Any other mortgagee or claimant.

(c) Unknown Owners. Any unknown owner may be made a party

in accordance with Section 2-413 of the Code of Civil Procedure.

(d) Right to Become Party. Any person who has or claims an interest in real estate which is the subject of a foreclosure or an interest in any debt secured by the mortgage shall have an unconditional right to appear and become a party in such foreclosure in accordance with subsection (e) of Section 15-1501, provided, that neither such appearance by a lessee whose interest in the real estate is subordinate to the interest being foreclosed, nor the act of making such lessee a party, shall result in the termination of the lessee's lease unless the termination of the lease or lessee's interest in the mortgaged real estate is specifically ordered by the court in the judgment of foreclosure.

(e) Time of Intervention.

(1) Of Right. A person not a party, other than a nonrecord claimant given notice in accordance with paragraph (2) of subsection (c) of Section 15-1502, who has or claims an interest in the mortgaged real estate may appear and become a party at any time prior to the entry of judgment of foreclosure. A nonrecord claimant given such notice may appear and become a party at any time prior to the earlier of (i) the entry of a judgment of foreclosure or (ii) 30 days after such notice is given.

(2) In Court's Discretion. After the right to intervene expires and prior to the sale in accordance with the

judgment, the court may permit a person who has or claims an interest in the mortgaged real estate to appear and become a party on such terms as the court may deem just.

(3) Later Right. After the sale of the mortgaged real estate in accordance with a judgment of foreclosure and prior to the entry of an order confirming the sale, a person who has or claims an interest in the mortgaged real estate, may appear and become a party, on such terms as the court may deem just, for the sole purpose of claiming an interest in the proceeds of sale. Any such party shall be deemed a party from the commencement of the foreclosure, and the interest of such party in the real estate shall be subject to all orders and judgments entered in the foreclosure.

(4) Termination of Interest. Except as provided in Section 15-1501(d), the interest of any person who is allowed to appear and become a party shall be terminated, and the interest of such party in the real estate shall attach to the proceeds of sale.

(f) Separate Actions. Any mortgagee or claimant, other than the mortgagee who commences a foreclosure, whose interest in the mortgaged real estate is recorded prior to the filing of a notice of foreclosure in accordance with this Article but who is not made a party to such foreclosure, shall not be barred from filing a separate foreclosure (i) as an intervening defendant or counterclaimant in accordance with subsections

(d) and (e) of Section 15-1501 if a judgment of foreclosure has not been entered in the original foreclosure or (ii) in a new foreclosure subsequent to the entry of a judgment of foreclosure in the original foreclosure.

(g) Service on the State of Illinois. When making the State of Illinois a party to a foreclosure, summons may be served by sending, by registered or certified mail, a copy of the summons and the complaint to the Attorney General. The complaint shall set forth with particularity the nature of the interest or lien of the State of Illinois. If such interest or lien appears in a recorded instrument, the complaint must state the document number of the instrument and the office wherein it was recorded.

(h) Special Representatives. The court is not required to appoint a special representative for a deceased mortgagor for the purpose of defending the action, if there is a living person that holds a 100% interest in the property that is the subject of the action, by virtue of being the deceased mortgagor's surviving joint tenant or surviving tenant by the entirety. In no event may a deficiency judgment be sought or entered in the foreclosure case pursuant to subsection (e) of Section 15-1508 against a deceased mortgagor.

(Source: P.A. 88-265.)

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

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

(1) where an allegation of fact in the complaint is not denied by a party's verified answer or verified counterclaim, or where a party pursuant to subsection (b) of Section 2-610 of the Code of Civil Procedure states, or is deemed to have stated, in its pleading that it has no knowledge of such allegation sufficient to form a belief and attaches the required affidavit, a sworn verification of the complaint or a separate affidavit setting forth such fact is sufficient evidence thereof against such party and no further evidence of such fact shall be required; and

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

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

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

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

(e) Matters Required in Judgment. A judgment of foreclosure shall include the last date for redemption and all rulings of the court entered with respect to each request for relief set forth in the complaint. The omission of the date for redemption shall not extend the time for redemption or impair the validity of the judgment.

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

- (1) a manner of sale other than public auction;
- (2) a sale by sealed bid;
- (3) an official or other person who shall be the officer to conduct the sale other than the one customarily designated by the court;
- (4) provisions for non-exclusive broker listings or designating a duly licensed real estate broker nominated by one of the parties to exclusively list the real estate for sale;
- (5) the fees or commissions to be paid out of the sale proceeds to the listing or other duly licensed broker, if

any, who shall have procured the accepted bid;

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

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

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

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

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

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

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

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

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

(g) Agreement of the Parties. If all of the parties agree in writing on the minimum price and that the real estate may be sold to the first person who offers in writing to purchase the

real estate for such price, and on such other commercially reasonable terms and conditions as the parties may agree, then the court shall order the real estate to be sold on such terms, subject to confirmation of the sale in accordance with Section 15-1508.

(h) Postponement of Proving Priority. With the approval of the court prior to the entry of the judgment of foreclosure, a party claiming an interest in the proceeds of the sale of the mortgaged real estate may defer proving the priority of such interest until the hearing to confirm the sale.

(i) Effect of Judgment and Lien.

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

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

(3) Entry of a judgment of foreclosure does not terminate or otherwise affect a bona fide lease of a dwelling unit in residential real estate in foreclosure, whether or not the lessee has been made a party in the foreclosure.

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

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

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

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

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

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

estate. The confirmation order may also:

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

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

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

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

IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO

REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE ILLINOIS MORTGAGE FORECLOSURE LAW.

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

(c) Failure to Give Notice. If any sale is held without compliance with subsection (c) of Section 15-1507 of this Article, any party entitled to the notice provided for in paragraph (3) of that subsection (c) who was not so notified may, by motion supported by affidavit made prior to confirmation of such sale, ask the court which entered the judgment to set aside the sale. Any such party shall guarantee or secure by bond a bid equal to the successful bid at the

prior sale, unless the party seeking to set aside the sale is the mortgagor, the real estate sold at the sale is residential real estate, and the mortgagor occupies the residential real estate at the time the motion is filed. In that event, no guarantee or bond shall be required of the mortgagor. Any subsequent sale is subject to the same notice requirement as the original sale.

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

(d-5) Making Home Affordable Program. The court that entered the judgment shall set aside a sale held pursuant to Section 15-1507, upon motion of the mortgagor at any time prior to the confirmation of the sale, if the mortgagor proves by a preponderance of the evidence that (i) the mortgagor has

applied for assistance under the Making Home Affordable Program established by the United States Department of the Treasury pursuant to the Emergency Economic Stabilization Act of 2008, as amended by the American Recovery and Reinvestment Act of 2009, and (ii) the mortgaged real estate was sold in material violation of the program's requirements for proceeding to a judicial sale. The provisions of this subsection (d-5), except for this sentence, shall become inoperative on January 1, 2014 for all actions filed under this Article after December 31, 2013, in which the mortgagor did not apply for assistance under the Making Home Affordable Program on or before December 31, 2013.

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

appearance in the foreclosure action.

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

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

An order of possession authorizing the removal of a person from possession of the mortgaged real estate shall be entered and enforced only against those persons personally named as individuals in the complaint or the petition under subsection (h) of Section 15-1701. No order of possession issued under this Section shall be entered against a lessee with a bona fide lease of a dwelling unit in residential real estate in foreclosure, whether or not the lessee has been made a party in the foreclosure. An ~~and in the order of possession and~~ shall not be entered and enforced against any person who is only generically described as an unknown owner or nonrecord claimant or by another generic designation in the complaint.

Notwithstanding the preceding paragraph, the failure to personally name, include, or seek an award of possession of the

mortgaged real estate against a person in the confirmation order shall not abrogate any right that the purchaser may have to possession of the mortgaged real estate and to maintain a proceeding against that person for possession under Article IX 9 of this Code or, if applicable, under subsection (h) of Section 15-1701; and possession against a person who (1) has not been personally named as a party to the foreclosure and (2) has not been provided an opportunity to be heard in the foreclosure proceeding may be sought only by maintaining a proceeding under Article IX 9 of this Code or, if applicable, under subsection (h) of Section 15-1701.

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

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

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

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

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

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

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

(2) provide for a personal judgment against any party

for a deficiency; and

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

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

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

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

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

(b-10) Notice of confirmation order sent to municipality or county. A copy of the confirmation order required under subsection (b) shall be sent to the municipality in which the foreclosed property is located, or to the county within the boundary of which the foreclosed property is located if the foreclosed property is located in an unincorporated territory. A municipality or county must clearly publish on its website a single address to which a copy of the order shall be sent. If a municipality or county does not maintain a website, then the municipality or county must publicly post in its main office a single address to which a copy of the order shall be sent. In the event that a municipality or county has not complied with the publication requirement in this subsection (b-10), then a copy of the order shall be sent by first class mail, postage

prepaid, to the chairperson of the county board or county clerk in the case of a county, to the mayor or city clerk in the case of a city, to the president of the board of trustees or village clerk in the case of a village, or to the president or town clerk in the case of a town.

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

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

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

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

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

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

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

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

manner of any other judgment for the payment of money.

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

An order of possession authorizing the removal of a person from possession of the mortgaged real estate shall be entered and enforced only against those persons personally named as individuals in the complaint or the petition under subsection (h) of Section 15-1701. No order of possession issued under this Section shall be entered against a lessee with a bona fide lease of a dwelling unit in residential real estate in foreclosure, whether or not the lessee has been made a party in the foreclosure. ~~An and in the order of possession and~~ shall not be entered and enforced against any person who is only generically described as an unknown owner or nonrecord claimant or by another generic designation in the complaint.

Notwithstanding the preceding paragraph, the failure to personally name, include, or seek an award of possession of the mortgaged real estate against a person in the confirmation order shall not abrogate any right that the purchaser may have to possession of the mortgaged real estate and to maintain a proceeding against that person for possession under Article IX ~~9~~ of this Code or, if applicable, under subsection (h) of

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

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

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

(735 ILCS 5/15-1508.5)

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

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

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

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

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

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

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

(iv) include the following language, or language that is substantially similar: "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."; ~~and~~

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

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

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

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

(d)(i) A holder or purchaser who fails to comply with subsections (a), (b), and (c) may not collect any rent due and owing from a known occupant, or terminate a known occupant's tenancy for non-payment of such rent, until the holder or

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

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

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

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

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

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

repairs of the property; ~~and-~~

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

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

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

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

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

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

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

Sec. 15-1701. Right to possession.

(a) General. The provisions of this Article shall govern the right to possession of the mortgaged real estate during foreclosure. Possession under this Article includes physical possession of the mortgaged real estate to the same extent to which the mortgagor, absent the foreclosure, would have been entitled to physical possession. For the purposes of Part 17, real estate is residential real estate only if it is residential real estate at the time the foreclosure is commenced.

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

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

(2) In all other cases, if (i) the mortgagee is so authorized by the terms of the mortgage or other written instrument, and (ii) the court is satisfied that there is a reasonable probability that the mortgagee will prevail on a final hearing of the cause, the mortgagee shall upon request be placed in possession of the real estate, except that if the mortgagor shall object and show good cause, the court shall allow the mortgagor to remain in possession.

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

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

(2) Notwithstanding paragraph (1) of subsection (b) and paragraph (1) of subsection (c) of Section 15-1701, upon request of the mortgagee, a mortgagor of residential real estate shall not be allowed to remain in possession between the expiration of the redemption period and through the 30th day after sale confirmation unless (i) the mortgagor pays to the mortgagee or such holder or purchaser, whichever is applicable, monthly the lesser of

the interest due under the mortgage calculated at the mortgage rate of interest applicable as if no default had occurred or the fair rental value of the real estate, or (ii) the mortgagor otherwise shows good cause. Any amounts paid by the mortgagor pursuant to this subsection shall be credited against the amounts due from the mortgagor.

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

proceed against any such occupant under Article IX 9 of this Code until after 30 days after the order confirming the sale is entered.

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

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

(g) Certain Leases. Leases of the mortgaged real estate entered into by a mortgagee in possession or a receiver and approved by the court in a foreclosure shall be binding on all parties, including the mortgagor after redemption, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the mortgaged real estate

after entry of a judgment of foreclosure in accordance with Sections 15-1402 and 15-1403.

(h) Proceedings Against Certain Occupants.

(1) The mortgagee-in-possession of the mortgaged real estate under Section 15-1703, a receiver appointed under Section 15-1704, a holder of the certificate of sale or deed, or the purchaser may, at any time during the pendency of the foreclosure and up to 90 days after the date of the order confirming the sale, file a supplemental petition for possession against a person not personally named as a party to the foreclosure. This subsection (h) does not apply to any lessee with a bona fide lease of a dwelling unit in residential real estate in foreclosure.

(2) The supplemental petition for possession shall name each such occupant against whom possession is sought and state the facts upon which the claim for relief is premised.

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

notice.

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

(5) ~~(4)~~ In a case of foreclosure where the occupant is current on his or her rent, or where timely written notice of to whom and where the rent is to be paid has not been provided to the occupant, or where the occupant has made good-faith efforts to make rental payments in order to keep current, any order of possession must allow the occupant to retain possession of the property covered in his or her rental agreement (i) for 120 days following the notice of the hearing on the supplemental petition that has been properly served upon the occupant, or (ii) through the duration of his or her lease, whichever is shorter, provided that if the duration of his or her lease is less than 30 days from the date of the order, the order shall allow the occupant to retain possession for 30 days from

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

(6) ~~(5)~~ The court records relating to a supplemental petition for possession filed under this subsection (h) against an occupant who is entitled to notice under item (5) ~~(4)~~ of this subsection (h), or relating to a forcible entry and detainer action brought against an occupant who would have lawful possession of the premises but for the foreclosure of a mortgage on the property, shall be ordered sealed and shall not be disclosed to any person, other than

a law enforcement officer or any other representative of a governmental entity, except upon further order of the court.

(i) Termination of bona fide leases. The holder of the certificate of sale, the holder of the deed issued pursuant to that certificate, or, if no certificate or deed was issued, the purchaser at the sale shall not terminate a bona fide lease of a dwelling unit in residential real estate in foreclosure except pursuant to Article IX of this Code.

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

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

Sec. 15-1703. Mortgagee in Possession.

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

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

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

(3) the same powers, duties and liabilities as a

receiver appointed for the real estate in accordance with this Article. If an order placing a mortgagee in possession is modified, revoked or set aside, the mortgagee shall not be liable for any damages to the extent such damages arise solely out of the fact that the mortgagor was removed from possession or that the mortgagee was placed in possession.

(a-5) Notice to occupants.

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

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

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

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

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

(iv) include the following language, or language that is substantially similar: "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."; ~~and~~

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

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

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

(4) In the event that a mortgagee in possession ascertains the identity and address of an occupant of a dwelling unit of the mortgaged real estate more than 21 days after being placed in possession of the mortgaged real

estate pursuant to Section 15-1703, the mortgagee in possession shall provide the notice required by item (2) of this subsection (a-5) within 7 days of ascertaining the identity and address of the occupant.

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

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

(6) Within 21 days of the order placing the mortgagee in possession of the mortgaged real estate, the mortgagee

in possession shall post a written notice on the primary entrance of each dwelling unit subject to the foreclosure action that informs the occupants that the mortgagee in possession is now operating and managing the mortgaged real estate. This notice shall:

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

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

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

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

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

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

(b) Fees and Expenses. A mortgagee in possession shall not

be entitled to any fees for so acting, but shall be entitled to reimbursement for reasonable costs, expenses and third party management fees incurred in connection with such possession.

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

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

Sec. 15-1704. Receivers.

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

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

(1) secure tenants and execute leases for the real estate, the duration and terms of which are reasonable and customary for the type of use involved, and such leases shall have the same priority as if made by the owner of the real estate; but, unless approved by the Court, the receiver shall not execute oil, gas or other mineral leases, or (even if otherwise allowed by law) leases

extending beyond the time of the receiver's possession; provided, however, with respect to residential real estate leased by the receiver, nothing in this Section shall affect the legal rights of any lessee with respect to the safety and habitability of the residential real estate;

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

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

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

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

(c) Duties. A receiver appointed pursuant to this Article must manage the mortgaged real estate as would a prudent person, taking into account the effect of the receiver's management on the interest of the mortgagor. A receiver may, without an order of the court, delegate managerial functions to a person in the business of managing real estate of the kind involved who is financially responsible, not related to the mortgagee or receiver and prudently selected. However, the receiver shall remain responsible to the mortgagor or other persons for the acts or omissions of such management agent. When fees are paid to such a management agent, the receiver's fees may be adjusted to the extent the court deems appropriate. In managing the mortgaged real estate and other property

subject to the mortgage, a receiver or receiver's delegate, to the extent the receiver receives sufficient receipts from the mortgaged real estate, such other property or other sources, except to the extent ordered otherwise by the court:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Notice to occupants.

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

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

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

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

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

(iv) include the following language, or language that is substantially similar: "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."; ~~and~~

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

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

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

addressed to the occupant by the name known to the receiver.

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

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

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

of rent for that rental period.

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

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

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

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

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

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

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

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

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

accordance with subsection (b) of Section 15-1702 and subsection (a) of Section 15-1704.

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

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

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