



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3360

by Rep. Arthur Turner

SYNOPSIS AS INTRODUCED:

735 ILCS 5/15-1504.1
735 ILCS 5/15-1507.1

Amends the Mortgage Foreclosure Article of the Code of Civil Procedure. Provides that until January 1, 2023 (rather than 2020), at the time of the filing of a foreclosure complaint, the plaintiff shall pay a fee for the Foreclosure Prevention Program Graduated Fund and the Abandoned Residential Property Municipality Relief Fund. Provides that until January 1, 2023 (rather than 2020), the plaintiff or plaintiff's representative shall file a verified statement that states which additional fee is due, unless the court has established another process to certify which additional fee is due. Provides that a specific provision is inoperative on and after January 1, 2023 (rather than 2020). Reenacts a provision regarding the judicial sale fee for the Abandoned Residential Property Municipality Relief Fund. Provides that the provisions are inoperative on January 1, 2023 (rather than 2017) and repealed on March 2, 2023 (rather than 2017). Provides that all actions taken in the collection remittance of fees before the effective date of the Act are ratified, validated, and confirmed. Effective immediately.

LRB101 09884 LNS 54986 b

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 Code of Civil Procedure is amended by
5 changing Sections 15-1504.1 and by reenacting and changing
6 Section 15-1507.1 as follows:

7 (735 ILCS 5/15-1504.1)

8 Sec. 15-1504.1. Filing fee for Foreclosure Prevention
9 Program Fund, Foreclosure Prevention Program Graduated Fund,
10 and Abandoned Residential Property Municipality Relief Fund.

11 (a) Fee paid by all plaintiffs with respect to residential
12 real estate. With respect to residential real estate, at the
13 time of the filing of a foreclosure complaint, the plaintiff
14 shall pay to the clerk of the court in which the foreclosure
15 complaint is filed a fee of \$50 for deposit into the
16 Foreclosure Prevention Program Fund, a special fund created in
17 the State treasury. The clerk shall remit the fee collected
18 pursuant to this subsection (a) to the State Treasurer to be
19 expended for the purposes set forth in Section 7.30 of the
20 Illinois Housing Development Act. All fees paid by plaintiffs
21 to the clerk of the court as provided in this subsection (a)
22 shall be disbursed within 60 days after receipt by the clerk of
23 the court as follows: (i) 98% to the State Treasurer for

1 deposit into the Foreclosure Prevention Program Fund, and (ii)
2 2% to the clerk of the court to be retained by the clerk for
3 deposit into the Circuit Court Clerk Operation and
4 Administrative Fund to defray administrative expenses related
5 to implementation of this subsection (a). Notwithstanding any
6 other law to the contrary, the Foreclosure Prevention Program
7 Fund is not subject to sweeps, administrative charge-backs, or
8 any other fiscal maneuver that would in any way transfer any
9 amounts from the Foreclosure Prevention Program Fund into any
10 other fund of the State.

11 (a-5) Additional fee paid by plaintiffs with respect to
12 residential real estate.

13 (1) Until January 1, 2023 ~~2020~~, with respect to
14 residential real estate, at the time of the filing of a
15 foreclosure complaint and in addition to the fee set forth
16 in subsection (a) of this Section, the plaintiff shall pay
17 to the clerk of the court in which the foreclosure
18 complaint is filed a fee for the Foreclosure Prevention
19 Program Graduated Fund and the Abandoned Residential
20 Property Municipality Relief Fund as follows:

21 (A) The fee shall be \$500 if:

22 (i) the plaintiff, together with its
23 affiliates, has filed a sufficient number of
24 foreclosure complaints so as to be included in the
25 first tier foreclosure filing category and is
26 filing the complaint on its own behalf as the

1 holder of the indebtedness; or

2 (ii) the plaintiff, together with its
3 affiliates, has filed a sufficient number of
4 foreclosure complaints so as to be included in the
5 first tier foreclosure filing category and is
6 filing the complaint on behalf of a mortgagee that,
7 together with its affiliates, has filed a
8 sufficient number of foreclosure complaints so as
9 to be included in the first tier foreclosure filing
10 category; or

11 (iii) the plaintiff is not a depository
12 institution and is filing the complaint on behalf
13 of a mortgagee that, together with its affiliates,
14 has filed a sufficient number of foreclosure
15 complaints so as to be included in the first tier
16 foreclosure filing category.

17 (B) The fee shall be \$250 if:

18 (i) the plaintiff, together with its
19 affiliates, has filed a sufficient number of
20 foreclosure complaints so as to be included in the
21 second tier foreclosure filing category and is
22 filing the complaint on its own behalf as the
23 holder of the indebtedness; or

24 (ii) the plaintiff, together with its
25 affiliates, has filed a sufficient number of
26 foreclosure complaints so as to be included in the

1 first or second tier foreclosure filing category
2 and is filing the complaint on behalf of a
3 mortgagee that, together with its affiliates, has
4 filed a sufficient number of foreclosure
5 complaints so as to be included in the second tier
6 foreclosure filing category; or

7 (iii) the plaintiff, together with its
8 affiliates, has filed a sufficient number of
9 foreclosure complaints so as to be included in the
10 second tier foreclosure filing category and is
11 filing the complaint on behalf of a mortgagee that,
12 together with its affiliates, has filed a
13 sufficient number of foreclosure complaints so as
14 to be included in the first tier foreclosure filing
15 category; or

16 (iv) the plaintiff is not a depository
17 institution and is filing the complaint on behalf
18 of a mortgagee that, together with its affiliates,
19 has filed a sufficient number of foreclosure
20 complaints so as to be included in the second tier
21 foreclosure filing category.

22 (C) The fee shall be \$50 if:

23 (i) the plaintiff, together with its
24 affiliates, has filed a sufficient number of
25 foreclosure complaints so as to be included in the
26 third tier foreclosure filing category and is

1 filing the complaint on its own behalf as the
2 holder of the indebtedness; or

3 (ii) the plaintiff, together with its
4 affiliates, has filed a sufficient number of
5 foreclosure complaints so as to be included in the
6 first, second, or third tier foreclosure filing
7 category and is filing the complaint on behalf of a
8 mortgagee that, together with its affiliates, has
9 filed a sufficient number of foreclosure
10 complaints so as to be included in the third tier
11 foreclosure filing category; or

12 (iii) the plaintiff, together with its
13 affiliates, has filed a sufficient number of
14 foreclosure complaints so as to be included in the
15 third tier foreclosure filing category and is
16 filing the complaint on behalf of a mortgagee that,
17 together with its affiliates, has filed a
18 sufficient number of foreclosure complaints so as
19 to be included in the first tier foreclosure filing
20 category; or

21 (iv) the plaintiff, together with its
22 affiliates, has filed a sufficient number of
23 foreclosure complaints so as to be included in the
24 third tier foreclosure filing category and is
25 filing the complaint on behalf of a mortgagee that,
26 together with its affiliates, has filed a

1 sufficient number of foreclosure complaints so as
2 to be included in the second tier foreclosure
3 filing category; or

4 (v) the plaintiff is not a depository
5 institution and is filing the complaint on behalf
6 of a mortgagee that, together with its affiliates,
7 has filed a sufficient number of foreclosure
8 complaints so as to be included in the third tier
9 foreclosure filing category.

10 (2) The clerk shall remit the fee collected pursuant to
11 paragraph (1) of this subsection (a-5) to the State
12 Treasurer to be expended for the purposes set forth in
13 Sections 7.30 and 7.31 of the Illinois Housing Development
14 Act and for administrative expenses. All fees paid by
15 plaintiffs to the clerk of the court as provided in
16 paragraph (1) shall be disbursed within 60 days after
17 receipt by the clerk of the court as follows:

18 (A) 28% to the State Treasurer for deposit into the
19 Foreclosure Prevention Program Graduated Fund;

20 (B) 70% to the State Treasurer for deposit into the
21 Abandoned Residential Property Municipality Relief
22 Fund; and

23 (C) 2% to the clerk of the court to be retained by
24 the clerk for deposit into the Circuit Court Clerk
25 Operation and Administrative Fund to defray
26 administrative expenses related to implementation of

1 this subsection (a-5).

2 (3) Until January 1, 2023 ~~2020~~, with respect to
3 residential real estate, at the time of the filing of a
4 foreclosure complaint, the plaintiff or plaintiff's
5 representative shall file a verified statement that states
6 which additional fee is due under paragraph (1) of this
7 subsection (a-5), unless the court has established another
8 process for a plaintiff or plaintiff's representative to
9 certify which additional fee is due under paragraph (1) of
10 this subsection (a-5).

11 (4) If a plaintiff fails to provide the clerk of the
12 court with a true and correct statement of the additional
13 fee due under paragraph (1) of this subsection (a-5), and
14 the mortgagor reimburses the plaintiff for any erroneous
15 additional fee that was paid by the plaintiff to the clerk
16 of the court, the mortgagor may seek a refund of any
17 overpayment of the fee in an amount that shall not exceed
18 the difference between the higher additional fee paid under
19 paragraph (1) of this subsection (a-5) and the actual fee
20 due thereunder. The mortgagor must petition the judge
21 within the foreclosure action for the award of any fee
22 overpayment pursuant to this paragraph (4) of this
23 subsection (a-5), and the award shall be determined by the
24 judge and paid by the clerk of the court out of the fund
25 account into which the clerk of the court deposits fees to
26 be remitted to the State Treasurer under paragraph (2) of

1 this subsection (a-5), the timing of which refund payment
2 shall be determined by the clerk of the court based upon
3 the availability of funds in the subject fund account. This
4 refund shall be the mortgagor's sole remedy and a mortgagor
5 shall have no private right of action against the plaintiff
6 or plaintiff's representatives if the additional fee paid
7 by the plaintiff was erroneous.

8 (5) This subsection (a-5) is inoperative on and after
9 January 1, 2023 ~~2020~~.

10 (b) Not later than March 1 of each year, the clerk of the
11 court shall submit to the Illinois Housing Development
12 Authority a report of the funds collected and remitted pursuant
13 to this Section during the preceding year.

14 (c) As used in this Section:

15 "Affiliate" means any company that controls, is controlled
16 by, or is under common control with another company.

17 "Approved counseling agency" and "approved housing
18 counseling" have the meanings ascribed to those terms in
19 Section 7.30 of the Illinois Housing Development Act.

20 "Depository institution" means a bank, savings bank,
21 savings and loan association, or credit union chartered,
22 organized, or holding a certificate of authority to do business
23 under the laws of this State, another state, or the United
24 States.

25 "First tier foreclosure filing category" is a
26 classification that only applies to a plaintiff that has filed

1 175 or more foreclosure complaints on residential real estate
2 located in Illinois during the calendar year immediately
3 preceding the date of the filing of the subject foreclosure
4 complaint.

5 "Second tier foreclosure filing category" is a
6 classification that only applies to a plaintiff that has filed
7 at least 50, but no more than 174, foreclosure complaints on
8 residential real estate located in Illinois during the calendar
9 year immediately preceding the date of the filing of the
10 subject foreclosure complaint.

11 "Third tier foreclosure filing category" is a
12 classification that only applies to a plaintiff that has filed
13 no more than 49 foreclosure complaints on residential real
14 estate located in Illinois during the calendar year immediately
15 preceding the date of the filing of the subject foreclosure
16 complaint.

17 (d) In no instance shall the fee set forth in subsection
18 (a-5) be assessed for any foreclosure complaint filed before
19 the effective date of this amendatory Act of the 97th General
20 Assembly.

21 (e) Notwithstanding any other law to the contrary, the
22 Abandoned Residential Property Municipality Relief Fund is not
23 subject to sweeps, administrative charge-backs, or any other
24 fiscal maneuver that would in any way transfer any amounts from
25 the Abandoned Residential Property Municipality Relief Fund
26 into any other fund of the State.

1 (Source: P.A. 100-407, eff. 8-25-17.)

2 (735 ILCS 5/15-1507.1)

3 Sec. 15-1507.1. Judicial sale fee for Abandoned
4 Residential Property Municipality Relief Fund.

5 (a) Upon and at the sale of residential real estate under
6 Section 15-1507, the purchaser shall pay to the person
7 conducting the sale pursuant to Section 15-1507 a fee for
8 deposit into the Abandoned Residential Property Municipality
9 Relief Fund, a special fund created in the State treasury. The
10 fee shall be calculated at the rate of \$1 for each \$1,000 or
11 fraction thereof of the amount paid by the purchaser to the
12 person conducting the sale, as reflected in the receipt of sale
13 issued to the purchaser, provided that in no event shall the
14 fee exceed \$300. No fee shall be paid by the mortgagee
15 acquiring the residential real estate pursuant to its credit
16 bid at the sale or by any mortgagee, judgment creditor, or
17 other lienor acquiring the residential real estate whose rights
18 in and to the residential real estate arose prior to the sale.
19 Upon confirmation of the sale under Section 15-1508, the person
20 conducting the sale shall remit the fee to the clerk of the
21 court in which the foreclosure case is pending. The clerk shall
22 remit the fee to the State Treasurer as provided in this
23 Section, to be expended for the purposes set forth in Section
24 7.31 of the Illinois Housing Development Act.

25 (b) All fees paid by purchasers as provided in this Section

1 shall be disbursed within 60 days after receipt by the clerk of
2 the court as follows: (i) 98% to the State Treasurer for
3 deposit into the Abandoned Residential Property Municipality
4 Relief Fund, and (ii) 2% to the clerk of the court to be
5 retained by the clerk for deposit into the Circuit Court Clerk
6 Operation and Administrative Fund to defray administrative
7 expenses related to implementation of this Section.

8 (c) Not later than March 1 of each year, the clerk of the
9 court shall submit to the Illinois Housing Development
10 Authority a report of the funds collected and remitted during
11 the preceding year pursuant to this Section.

12 (d) Subsections (a) and (b) of this Section are operative
13 and shall become inoperative on January 1, 2023 ~~2017~~. This
14 Section is repealed on March 2, 2023 ~~2017~~.

15 (e) All actions taken in the collection and remittance of
16 fees under this Section before the effective date of this
17 amendatory Act of the 101st General Assembly are ratified,
18 validated, and confirmed.

19 (Source: P.A. 98-20, eff. 6-11-13; 99-493, eff. 12-17-15.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.