



Sen. Jacqueline Y. Collins

Filed: 5/27/2009

09600HB1195sam002

LRB096 09041 JDS 27556 a

1 AMENDMENT TO HOUSE BILL 1195

2 AMENDMENT NO. _____. Amend House Bill 1195, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Municipal Code is amended by
6 changing Sections 11-20-7, 11-20-8, 11-20-12, and 11-20-13 and
7 by adding Sections 11-20-15, 11-20-15.1, and 11-31-1.01 as
8 follows:

9 (65 ILCS 5/11-20-7) (from Ch. 24, par. 11-20-7)

10 Sec. 11-20-7. Cutting and removal of neglected weeds,
11 grass, trees, and bushes.

12 (a) The corporate authorities of each municipality may
13 provide for the removal of nuisance greenery from any parcel of
14 private property within ~~cutting of weeds or grass, the trimming~~
15 ~~of trees or bushes, and the removal of nuisance bushes or trees~~
16 ~~in~~ the municipality if, when the owners of that parcel, after

1 reasonable notice, ~~real estate~~ refuse or neglect to remove the
2 nuisance greenery. The municipality may ~~cut, trim, or remove~~
3 ~~them and to collect,~~ from the owners of that parcel, private
4 property the reasonable removal cost thereof.

5 (b) The municipality's removal cost under this Section is a
6 lien upon the underlying parcel in accordance with Section
7 11-20-15.

8 (c) For the purpose of this Section:

9 "Removal of nuisance greenery" or "removal activities"
10 means the cutting of weeds or grass, the trimming of trees or
11 bushes, and the removal of nuisance bushes or trees.

12 "Removal cost" means the total cost of the removal
13 activity.

14 (d) In the case of an abandoned residential property as
15 defined in Section 11-20-15.1, the municipality may elect to
16 obtain a lien for the removal cost pursuant to Section
17 11-20-15.1, in which case the provisions of Section 11-20-15.1
18 shall be the exclusive remedy for the removal cost.

19 The provisions of this subsection (d), other than this
20 sentence, are inoperative on the earlier of December 31, 2013,
21 or upon certification by the Secretary of the Illinois
22 Department of Financial and Professional Regulation, after
23 consultation with the United States Department of Housing and
24 Urban Development, that the Mortgage Electronic Registration
25 System program is effectively registering substantially all
26 mortgaged residential properties located in the State of

1 Illinois, is available for access by all municipalities located
2 in the State of Illinois without charge to them, and such
3 registration includes the telephone number for the mortgage
4 servicer.

5 ~~This cost is a lien upon the real estate affected, superior~~
6 ~~to all other liens and encumbrances, except tax liens; provided~~
7 ~~that within 60 days after such cost and expense is incurred the~~
8 ~~municipality, or person performing the service by authority of~~
9 ~~the municipality, in his or its own name, files notice of lien~~
10 ~~in the office of the recorder in the county in which such real~~
11 ~~estate is located or in the office of the Registrar of Titles~~
12 ~~of such county if the real estate affected is registered under~~
13 ~~the Torrens system. The notice shall consist of a sworn~~
14 ~~statement setting out (1) a description of the real estate~~
15 ~~sufficient for identification thereof, (2) the amount of money~~
16 ~~representing the cost and expense incurred or payable for the~~
17 ~~service, and (3) the date or dates when such cost and expense~~
18 ~~was incurred by the municipality. However, the lien of such~~
19 ~~municipality shall not be valid as to any purchaser whose~~
20 ~~rights in and to such real estate have arisen subsequent to the~~
21 ~~cutting of weeds or grass, the trimming of trees or bushes, or~~
22 ~~the removal of nuisance bushes or trees and prior to the filing~~
23 ~~of such notice, and the lien of such municipality shall not be~~
24 ~~valid as to any mortgagee, judgment creditor or other lienor~~
25 ~~whose rights in and to such real estate arise prior to the~~
26 ~~filing of such notice. Upon payment of the cost and expense by~~

1 ~~the owner of or persons interested in such property after~~
2 ~~notice of lien has been filed, the lien shall be released by~~
3 ~~the municipality or person in whose name the lien has been~~
4 ~~filed and the release may be filed of record as in the case of~~
5 ~~filing notice of lien.~~

6 ~~The cost of the cutting, trimming, or removal of weeds,~~
7 ~~grass, trees, or bushes shall not be lien on the real estate~~
8 ~~affected unless a notice is personally served on, or sent by~~
9 ~~certified mail to, the person to whom was sent the tax bill for~~
10 ~~the general taxes on the property for the last preceding year.~~
11 ~~The notice shall be delivered or sent after the cutting,~~
12 ~~trimming, or removal of weeds, grass, trees, or bushes on the~~
13 ~~property. The notice shall state the substance of this Section~~
14 ~~and the substance of any ordinance of the municipality~~
15 ~~implementing this Section and shall identify the property, by~~
16 ~~common description, and the location of the weeds to be cut.~~

17 (Source: P.A. 95-183, eff. 8-14-07.)

18 (65 ILCS 5/11-20-8) (from Ch. 24, par. 11-20-8)

19 Sec. 11-20-8. Pest extermination; liens.

20 (a) The corporate authorities of each municipality may
21 provide pest-control activities on any parcel of private
22 property ~~for the extermination of pests~~ in the municipality if,
23 ~~and charge to and collect from the owners of and persons~~
24 ~~interested in private property the reasonable cost and expense~~
25 ~~of preventing ingress of pests to their property and of pest~~

1 ~~extermination therein,~~ after reasonable notice, the owners of
2 that parcel refuse or neglect to prevent the ingress of pests
3 to their property or to exterminate pests on their property.
4 The municipality may collect, from the owners of the underlying
5 parcel, the reasonable removal cost ~~notice to such owners or~~
6 ~~persons as provided by ordinance and failures of such owners or~~
7 ~~persons to comply.~~

8 (b) The municipality's removal cost under this Section is a
9 lien upon the underlying parcel in accordance with Section
10 11-20-15. ~~This cost and expense is a lien upon the real estate~~
11 ~~affected, superior to all other existing liens and~~
12 ~~encumbrances, except tax liens if within 60 days after such~~
13 ~~cost and expense is incurred the municipality, or person~~
14 ~~performing the service by authority of the municipality, in his~~
15 ~~or its own name, files notice of lien in the office of the~~
16 ~~recorder in the county in which the real estate is located or~~
17 ~~in the office of the Registrar of Titles of such county if the~~
18 ~~real estate affected is registered under "An Act concerning~~
19 ~~land titles", approved May 1, 1897, as amended. The notice~~
20 ~~shall consist of a sworn statement setting out (1) a~~
21 ~~description of the real estate sufficient for identification~~
22 ~~thereof, (2) the amount of money representing the cost and~~
23 ~~expense incurred or payable for the service, and (3) the date~~
24 ~~or dates when such cost and expense was incurred by the~~
25 ~~municipality. However, the lien of such municipality shall not~~
26 ~~be valid as to any purchaser, mortgagee, judgment creditor, or~~

1 ~~other lienor whose rights in and to the real estate arise~~
2 ~~subsequent to the pest extermination and prior to the filing of~~
3 ~~the notice of such lien in the office of the recorder, or in~~
4 ~~the office of the Registrar of Titles, as aforesaid. Upon~~
5 ~~payment of the cost and expense by the owner of or persons~~
6 ~~interested in the property after notice of lien has been filed,~~
7 ~~the lien shall be released by the municipality or person in~~
8 ~~whose name the lien has been filed and the release may be filed~~
9 ~~of record as in the case of filing notice of lien. The lien may~~
10 ~~be enforced by proceedings to foreclose as in case of mortgages~~
11 ~~or mechanics' liens. Actions to foreclose this lien shall be~~
12 ~~commenced within one year after the date of filing notice of~~
13 ~~lien.~~

14 (c) For the purpose of this Section:

15 "Pests", ~~as used in this Section 11-20-8,~~ means undesirable
16 arthropods (including certain insects, spiders, mites, ticks,
17 and related organisms), wood infesting organisms, rats, mice,
18 and other obnoxious undesirable animals, but does not include a
19 feral cat, a "companion animal" as that term is defined in the
20 Humane Care for Animals Act (510 ILCS 70/), "animals" as that
21 term is defined in the Illinois Diseased Animals Act (510 ILCS
22 50/), or animals protected by the Wildlife Code (520 ILCS 5/).

23 "Pest-control activity" means the extermination of pests
24 or the prevention of the ingress of pests.

25 "Removal cost" means the total cost of the pest-control
26 activity.

1 (d) In the case of an abandoned residential property as
2 defined in Section 11-20-15.1, the municipality may elect to
3 obtain a lien for the removal cost pursuant to Section
4 11-20-15.1, in which case the provisions of Section 11-20-15.1
5 shall be the exclusive remedy for the removal cost.

6 The provisions of this subsection (d), other than this
7 sentence, are inoperative on the earlier of December 31, 2013,
8 or upon certification by the Secretary of the Illinois
9 Department of Financial and Professional Regulation, after
10 consultation with the United States Department of Housing and
11 Urban Development, that the Mortgage Electronic Registration
12 System program is effectively registering substantially all
13 mortgaged residential properties located in the State of
14 Illinois, is available for access by all municipalities located
15 in the State of Illinois without charge to them, and such
16 registration includes the telephone number for the mortgage
17 servicer.

18 (Source: P.A. 94-572, eff. 8-12-05.)

19 (65 ILCS 5/11-20-12) (from Ch. 24, par. 11-20-12)

20 Sec. 11-20-12. Removal of infected trees.

21 (a) The corporate authorities of each municipality may
22 provide for the removal of elm trees infected with Dutch elm
23 disease or ash trees infected with the emerald ash borer
24 (Agrilus planipennis Fairmaire) from any parcel of private
25 property within the municipality if the owners of that parcel,

1 after reasonable notice, refuse or neglect to remove the
2 infected trees. The municipality may collect, from the owners
3 of the parcel, not owned by the municipality or dedicated for
4 public use when the owner of such property refuses or neglects
5 to remove any such tree, and to collect from the property owner
6 the reasonable removal cost thereof.

7 (b) The municipality's removal cost under this Section is a
8 lien upon the underlying parcel in accordance with Section
9 11-20-15.

10 (c) For the purpose of this Section, "removal cost" means
11 the total cost of the removal of the infected trees.

12 (d) In the case of an abandoned residential property as
13 defined in Section 11-20-15.1, the municipality may elect to
14 obtain a lien for the removal cost pursuant to Section
15 11-20-15.1, in which case the provisions of Section 11-20-15.1
16 shall be the exclusive remedy for the removal cost.

17 The provisions of this subsection (d), other than this
18 sentence, are inoperative on the earlier of December 31, 2013,
19 or upon certification by the Secretary of the Illinois
20 Department of Financial and Professional Regulation, after
21 consultation with the United States Department of Housing and
22 Urban Development, that the Mortgage Electronic Registration
23 System program is effectively registering substantially all
24 mortgaged residential properties located in the State of
25 Illinois, is available for access by all municipalities located
26 in the State of Illinois without charge to them, and such

1 registration includes the telephone number for the mortgage
2 servicer.

3 ~~This cost is a lien upon the real estate affected, superior~~
4 ~~to all other liens and encumbrances, except tax liens; provided~~
5 ~~that notice has been given as hereinafter described, and~~
6 ~~further provided that within 60 days after such cost and~~
7 ~~expense is incurred the municipality, or person performing the~~
8 ~~service by authority of the municipality, in his or its own~~
9 ~~name, files notice of lien in the office of the recorder in the~~
10 ~~county in which such real estate is located or in the office of~~
11 ~~the Registrar of Titles of such county if the real estate~~
12 ~~affected is registered under "An Act concerning land titles",~~
13 ~~approved May 1, 1897, as amended. The notice shall consist of a~~
14 ~~sworn statement setting out (1) a description of the real~~
15 ~~estate sufficient for identification thereof, (2) the amount of~~
16 ~~money representing the cost and expense incurred or payable for~~
17 ~~the service, and (3) the date or dates when such cost and~~
18 ~~expense was incurred by the municipality. However, the lien of~~
19 ~~such municipality shall not be valid as to any purchaser whose~~
20 ~~rights in and to such real estate have arisen subsequent to the~~
21 ~~tree removal and prior to the filing of such notice, and the~~
22 ~~lien of such municipality shall not be valid as to any~~
23 ~~mortgagee, judgment creditor or other lienor whose rights in~~
24 ~~and to such real estate arise prior to the filing of such~~
25 ~~notice. Upon payment of the cost and expense by the owner of or~~
26 ~~persons interested in such property after notice of lien has~~

1 ~~been filed, the lien shall be released by the municipality or~~
2 ~~person in whose name the lien has been filed and the release~~
3 ~~may be filed of record as in the case of filing notice of lien.~~

4 ~~The cost of such tree removal shall not be a lien upon the~~
5 ~~real estate affected unless a notice shall be personally served~~
6 ~~or sent by registered mail to the person to whom was sent the~~
7 ~~tax bill for the general taxes for the last preceding year on~~
8 ~~the property, such notice to be delivered or sent not less than~~
9 ~~30 days prior to the removal of the tree or trees located~~
10 ~~thereon. The notice shall contain the substance of this~~
11 ~~section, and of any ordinance of the municipality implementing~~
12 ~~its provisions, and identify the property, by common~~
13 ~~description, and the tree or trees affected.~~

14 (Source: P.A. 95-183, eff. 8-14-07.)

15 (65 ILCS 5/11-20-13) (from Ch. 24, par. 11-20-13)

16 Sec. 11-20-13. Removal of garbage, debris, and graffiti.

17 (a) The corporate authorities of each municipality may
18 provide for the removal of garbage, debris, and graffiti from
19 any parcel of private property within the municipality if ~~when~~
20 the owner of that parcel ~~such property~~, after reasonable
21 notice, refuses or neglects to remove the ~~such~~ garbage, debris,
22 and graffiti. The municipality ~~and~~ may collect, from the ~~such~~
23 owner of the parcel, the reasonable removal cost ~~thereof except~~
24 ~~in the case of graffiti.~~

25 (b) The municipality's removal cost under this Section is a

1 lien upon the underlying parcel in accordance with Section
2 11-20-15. ~~This cost is a lien upon the real estate affected,~~
3 ~~superior to all subsequent liens and encumbrances, except tax~~
4 ~~liens, if within 60 days after such cost and expense is~~
5 ~~incurred the municipality, or person performing the service by~~
6 ~~authority of the municipality, in his or its own name, files~~
7 ~~notice of lien in the office of the recorder in the county in~~
8 ~~which such real estate is located or in the office of the~~
9 ~~Registrar of Titles of such county if the real estate affected~~
10 ~~is registered under "An Act concerning land titles", approved~~
11 ~~May 1, 1897, as amended. The notice shall consist of a sworn~~
12 ~~statement setting out (1) a description of the real estate~~
13 ~~sufficient for identification thereof, (2) the amount of money~~
14 ~~representing the cost and expense incurred or payable for the~~
15 ~~service, and (3) the date or dates when such cost and expense~~
16 ~~was incurred by the municipality. However, the lien of such~~
17 ~~municipality shall not be valid as to any purchaser whose~~
18 ~~rights in and to such real estate have arisen subsequent to~~
19 ~~removal of the garbage and debris and prior to the filing of~~
20 ~~such notice, and the lien of such municipality shall not be~~
21 ~~valid as to any mortgagee, judgment creditor or other lienor~~
22 ~~whose rights in and to such real estate arise prior to the~~
23 ~~filing of such notice. Upon payment of the cost and expense by~~
24 ~~the owner of or persons interested in such property after~~
25 ~~notice of lien has been filed, the lien shall be released by~~
26 ~~the municipality or person in whose name the lien has been~~

1 ~~filed and the release may be filed of record as in the case of~~
2 ~~filing notice of lien. The lien may be enforced by proceedings~~
3 ~~to foreclose as in case of mortgages or mechanics' liens. An~~
4 ~~action to foreclose this lien shall be commenced within 2 years~~
5 ~~after the date of filing notice of lien.~~

6 (c) This amendatory Act of 1973 does not apply to any
7 municipality which is a home rule unit.

8 (d) For the purpose of this Section, "removal cost" means
9 the total cost of the removal of garbage and debris. The term
10 "removal cost" does not include any cost associated with the
11 removal of graffiti.

12 (e) In the case of an abandoned residential property as
13 defined in Section 11-20-15.1, the municipality may elect to
14 obtain a lien for the removal cost pursuant to Section
15 11-20-15.1, in which case the provisions of Section 11-20-15.1
16 shall be the exclusive remedy for the removal cost.

17 The provisions of this subsection (e), other than this
18 sentence, are inoperative on the earlier of December 31, 2013,
19 or upon certification by the Secretary of the Illinois
20 Department of Financial and Professional Regulation, after
21 consultation with the United States Department of Housing and
22 Urban Development, that the Mortgage Electronic Registration
23 System program is effectively registering substantially all
24 mortgaged residential properties located in the State of
25 Illinois, is available for access by all municipalities located
26 in the State of Illinois without charge to them, and such

1 registration includes the telephone number for the mortgage
2 servicer.

3 (Source: P.A. 90-292, eff. 1-1-98.)

4 (65 ILCS 5/11-20-15 new)

5 Sec. 11-20-15. Lien for removal costs.

6 (a) If the municipality incurs a removal cost under Section
7 11-20-7, 11-20-8, 11-20-12, or 11-20-13 with respect to any
8 underlying parcel, then that cost is a lien upon that
9 underlying parcel. This lien is superior to all other liens and
10 encumbrances, except tax liens and as otherwise provided in
11 subsection (c) of this Section.

12 (b) To perfect a lien under this Section, the municipality
13 must, within one year after the removal cost is incurred, file
14 notice of lien in the office of the recorder in the county in
15 which the underlying parcel is located or, if the underlying
16 parcel is registered under the Torrens system, in the office of
17 the Registrar of Titles of that county. The notice must consist
18 of a sworn statement setting out:

19 (1) a description of the underlying parcel that
20 sufficiently identifies the parcel;

21 (2) the amount of the removal cost; and

22 (3) the date or dates when the removal cost was
23 incurred by the municipality.

24 If, for any one parcel, the municipality engaged in any
25 removal activity on more than one occasion during the course of

1 one year, then the municipality may combine any or all of the
2 costs of each of those activities into a single notice of lien.

3 (c) A lien under this Section is not valid as to: (i) any
4 purchaser whose rights in and to the underlying parcel arose
5 after the removal activity but before the filing of the notice
6 of lien; or (ii) any mortgagee, judgment creditor, or other
7 lienor whose rights in and to the underlying parcel arose
8 before the filing of the notice of lien.

9 (d) The removal cost is not a lien on the underlying parcel
10 unless a notice is personally served on, or sent by certified
11 mail to, the person to whom was sent the tax bill for the
12 general taxes on the property for the taxable year immediately
13 preceding the removal activities. The notice must be delivered
14 or sent after the removal activities have been performed, and
15 it must: (i) state the substance of this Section and the
16 substance of any ordinance of the municipality implementing
17 this Section; (ii) identify the underlying parcel, by common
18 description; and (iii) describe the removal activity.

19 (e) A lien under this Section may be enforced by
20 proceedings to foreclose as in case of mortgages or mechanics'
21 liens. An action to foreclose a lien under this Section must be
22 commenced within 2 years after the date of filing notice of
23 lien.

24 (f) Any person who performs a removal activity by the
25 authority of the municipality may, in his or her own name, file
26 a lien and foreclose on that lien in the same manner as a

1 municipality under this Section.

2 (g) A failure to file a foreclosure action does not, in any
3 way, affect the validity of the lien against the underlying
4 parcel.

5 (h) Upon payment of the lien cost by the owner of the
6 underlying parcel after notice of lien has been filed, the
7 municipality (or its agent under subsection (f)) shall release
8 the lien, and the release may be filed of record by the owner
9 at his or her sole expense as in the case of filing notice of
10 lien.

11 (i) This Section shall not apply to a lien filed pursuant
12 to Section 11-20-15.1.

13 (65 ILCS 5/11-20-15.1 new)

14 Sec. 11-20-15.1. Lien for costs of removal, securing, and
15 enclosing on abandoned residential property.

16 (a) If the municipality elects to incur a removal cost
17 pursuant to subsection (d) of Section 11-20-7, subsection (d)
18 of Section 11-20-8, subsection (d) of Section 11-20-12, or
19 subsection (e) of Section 11-20-13, or a securing or enclosing
20 cost pursuant to Section 11-31-1.01 with respect to an
21 abandoned residential property, then that cost is a lien upon
22 the underlying parcel of that abandoned residential property.
23 This lien is superior to all other liens and encumbrances,
24 except tax liens and as otherwise provided in this Section.

25 (b) To perfect a lien under this Section, the municipality

1 must, within one year after the cost is incurred for the
2 activity, file notice of the lien in the office of the recorder
3 in the county in which the abandoned residential property is
4 located or, if the abandoned residential property is registered
5 under the Torrens system, in the office of the Registrar of
6 Titles of that county, a sworn statement setting out:

7 (1) a description of the abandoned residential
8 property that sufficiently identifies the parcel;

9 (2) the amount of the cost of the activity;

10 (3) the date or dates when the cost for the activity
11 was incurred by the municipality; and

12 (4) a statement that the lien has been filed pursuant
13 to subsection (d) of Section 11-20-7, subsection (d) of
14 Section 11-20-8, subsection (d) of Section 11-20-12,
15 subsection (e) of Section 11-20-13, or 11-31-1.01, as
16 applicable.

17 If, for any abandoned residential property, the
18 municipality engaged in any activity on more than one occasion
19 during the course of one year, then the municipality may
20 combine any or all of the costs of each of those activities
21 into a single notice of lien.

22 (c) To enforce a lien pursuant to this Section, the
23 municipality must maintain contemporaneous records that
24 include, at a minimum: (i) a dated statement of finding by the
25 municipality that the property for which the work is to be
26 performed has become abandoned residential property, which

1 shall include (1) the date when the property was first known or
2 observed to be unoccupied by any lawful occupant or occupants,
3 (2) a description of the actions taken by the municipality to
4 contact the legal owner or owners of the property identified on
5 the recorded mortgage, or, if known, any agent of the owner or
6 owners, including the dates such actions were taken, and (3) a
7 statement that no contacts were made with the legal owner or
8 owners or their agents as a result of such actions, (ii) a
9 dated certification by an authorized official of the
10 municipality of the necessity and specific nature of the work
11 to be performed, (iii) a copy of the agreement with the person
12 or entity performing the work that includes the legal name of
13 the person or entity, the rate or rates to be charged for
14 performing the work, and an estimate of the total cost of the
15 work to be performed, (iv) detailed invoices and payment
16 vouchers for all payments made by the municipality for such
17 work, and (v) a statement as to whether the work was engaged
18 through a competitive bidding process, and if so, a copy of all
19 proposals submitted by the bidders for such work.

20 (d) A lien under this Section shall be enforceable
21 exclusively at the hearing for confirmation of sale of the
22 abandoned residential property that is held pursuant to
23 subsection (b) of Section 15-1508 of the Code of Civil
24 Procedure and shall be limited to a claim of interest in the
25 proceeds of the sale and subject to the requirements of this
26 Section. Any mortgagee who holds a mortgage on the property, or

1 any beneficiary or trustee who holds a deed of trust on the
2 property, may contest the lien or the amount of the lien at any
3 time during the foreclosure proceeding upon motion and notice
4 in accordance with court rules applicable to motions generally.
5 Grounds for forfeiture of the lien or the superior status of
6 the lien granted by subsection (a) of this Section shall
7 include, but not be limited to, a finding by the court that:
8 (i) the municipality has not complied with subsection (b) or
9 (c) of this Section, (ii) the scope of the work was not
10 reasonable under the circumstances, (iii) the work exceeded the
11 authorization for the work to be performed under subsection (a)
12 of Section 11-20-7, subsection (a) of Section 11-20-8,
13 subsection (a) of Section 11-20-12, subsection (a) of Section
14 11-20-13, or subsection (a) of Section 11-31-1.01, as
15 applicable, or (iv) the cost of the services rendered or
16 materials provided was not commercially reasonable. Forfeiture
17 of the superior status of the lien otherwise granted by this
18 Section shall not constitute a forfeiture of the lien as a
19 subordinate lien.

20 (e) Upon payment of the amount of a lien filed under this
21 Section by the mortgagee, servicer, owner, or any other person,
22 the municipality shall release the lien, and the release may be
23 filed of record by the person making such payment at the
24 person's sole expense as in the case of filing notice of lien.

25 (f) Notwithstanding any other provision of this Section, a
26 municipality may not file a lien pursuant to this Section for

1 activities performed pursuant to Section 11-20-7, Section
2 11-20-8, Section 11-20-12, Section 11-20-13, or Section
3 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned
4 residential property has provided notice to the municipality
5 that the mortgagee or servicer has performed or will perform
6 the remedial actions specified in the notice that the
7 municipality otherwise might perform pursuant to subsection
8 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
9 subsection (d) of Section 11-20-12, subsection (e) of Section
10 11-20-13, or Section 11-31-1.01, provided that the remedial
11 actions specified in the notice have been performed or are
12 performed or initiated in good faith within 30 days of such
13 notice; or (ii) the municipality has provided notice to the
14 mortgagee or servicer of a problem with the property requiring
15 the remedial actions specified in the notice that the
16 municipality otherwise would perform pursuant to subsection
17 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
18 subsection (d) of Section 11-20-12, subsection (e) of Section
19 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer
20 has performed or performs or initiates in good faith the
21 remedial actions specified in the notice within 30 days of such
22 notice.

23 (g) This Section and subsection (d) of Section 11-20-7,
24 subsection (d) of Section 11-20-8, subsection (d) of Section
25 11-20-12, subsection (e) of Section 11-20-13, or Section
26 11-31-1.01 shall apply only to activities performed, costs

1 incurred, and liens filed after the effective date of this
2 amendatory Act of the 96th General Assembly.

3 (h) For the purposes of this Section and subsection (d) of
4 Section 11-20-7, subsection (d) of Section 11-20-8, subsection
5 (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or
6 Section 11-31-1.01:

7 "Abandoned residential property" means any type of
8 permanent residential dwelling unit, including detached single
9 family structures, and townhouses, condominium units and
10 multifamily rental apartments covering the entire property,
11 and manufactured homes treated under Illinois law as real
12 estate and not as personal property, that has been unoccupied
13 by any lawful occupant or occupants for at least 90 days, and
14 for which after such 90 day period, the municipality has made
15 good faith efforts to contact the legal owner or owners of the
16 property identified on the recorded mortgage, or, if known, any
17 agent of the owner or owners, and no contact has been made. A
18 property for which the municipality has been notified pursuant
19 to subsection (b) of Section 15-1503 of the Code of Civil
20 Procedure that a foreclosure action has been filed shall not be
21 deemed to be an abandoned residential property for the purposes
22 of subsection (d) of Section 11-20-7, subsection (d) of Section
23 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of
24 Section 11-20-13, and Section 11-31-1.01 of this Code.

25 "MERS program" means the nationwide Mortgage Electronic
26 Registration System approved by Fannie Mae, Freddie Mac, and

1 Ginnie Mae that has been created by the mortgage banking
2 industry with the mission of registering every mortgage loan in
3 the United States to lawfully make information concerning each
4 residential mortgage loan and the property securing it
5 available by internet access to mortgage originators,
6 servicers, warehouse lenders, wholesale lenders, retail
7 lenders, document custodians, settlement agents, title
8 companies, insurers, investors, county recorders, units of
9 local government, and consumers.

10 (i) Any entity or person who performs a removal, securing,
11 or enclosing activity pursuant to the authority of a
12 municipality under subsection (d) of Section 11-20-7,
13 subsection (d) of Section 11-20-8, subsection (d) of Section
14 11-20-12, subsection (e) of Section 11-20-13, or Section
15 11-31-1.01, may, in its, his, or her own name, file a lien
16 pursuant to subsection (b) of this Section and appear in a
17 foreclosure action on that lien pursuant to subsection (d) of
18 this Section in the place of the municipality, provided that
19 the municipality shall remain subject to subsection (c) of this
20 Section, and such party shall be subject to all of the
21 provisions in this Section as if such party were the
22 municipality.

23 (j) If prior to subsection (d) of Section 11-20-7,
24 subsection (d) of Section 11-20-8, subsection (d) of Section
25 11-20-12, and subsection (e) of Section 11-20-13 becoming
26 inoperative a lien is filed pursuant to any of those

1 subsections, then the lien shall remain in full force and
2 effect after the subsections have become inoperative, subject
3 to all of the provisions of this Section. If prior to the
4 repeal of Section 11-31-1.01 a lien is filed pursuant to
5 Section 11-31-1.01, then the lien shall remain in full force
6 and effect after the repeal of Section 11-31-1.01, subject to
7 all of the provisions of this Section.

8 (65 ILCS 5/11-31-1.01 new)

9 Sec. 11-31-1.01. Securing or enclosing abandoned
10 residential property.

11 (a) In the case of securing or enclosing an abandoned
12 residential property as defined in Section 11-20-15.1, the
13 municipality may elect to secure or enclose the exterior of a
14 building or the underlying parcel on which it is located under
15 this Section without application to the circuit court, in which
16 case the provisions of Section 11-20-15.1 shall be the
17 exclusive remedy for the recovery of the costs of such
18 activity.

19 (b) For the purposes of this Section:

20 (1) "Secure" or "securing" means boarding up, closing
21 off, or locking windows or entrances or otherwise making
22 the interior of a building inaccessible to the general
23 public; and

24 (2) "Enclose" or "enclosing" means surrounding part or
25 all of the abandoned residential property's underlying

1 parcel with a fence or wall or otherwise making part or all
2 of the abandoned residential property's underlying parcel
3 inaccessible to the general public.

4 (c) This Section is repealed on the earlier of December 31,
5 2013, or upon certification by the Secretary of the Illinois
6 Department of Financial and Professional Regulation, after
7 consultation with the United States Department of Housing and
8 Urban Development, that the Mortgage Electronic Registration
9 System program is effectively registering substantially all
10 mortgaged residential properties located in the State of
11 Illinois, is available for access by all municipalities located
12 in the State of Illinois without charge to them, and such
13 registration includes the telephone number for the mortgage
14 servicer.

15 Section 10. The Code of Civil Procedure is amended by
16 changing Sections 15-1503 and 15-1508 as follows:

17 (735 ILCS 5/15-1503) (from Ch. 110, par. 15-1503)

18 Sec. 15-1503. Notice of Foreclosure.

19 (a) A notice of foreclosure, whether the foreclosure is
20 initiated by complaint or counterclaim, made in accordance with
21 this Section and recorded in the county in which the mortgaged
22 real estate is located shall be constructive notice of the
23 pendency of the foreclosure to every person claiming an
24 interest in or lien on the mortgaged real estate, whose

1 interest or lien has not been recorded prior to the recording
2 of such notice of foreclosure. Such notice of foreclosure must
3 be executed by any party or any party's attorney and shall
4 include (i) the names of all plaintiffs and the case number,
5 (ii) the court in which the action was brought, (iii) the names
6 of title holders of record, (iv) a legal description of the
7 real estate sufficient to identify it with reasonable
8 certainty, (v) a common address or description of the location
9 of the real estate and (vi) identification of the mortgage
10 sought to be foreclosed. An incorrect common address or
11 description of the location, or an immaterial error in the
12 identification of a plaintiff or title holder of record, shall
13 not invalidate the lis pendens effect of the notice under this
14 Section. A notice which complies with this Section shall be
15 deemed to comply with Section 2-1901 of the Code of Civil
16 Procedure and shall have the same effect as a notice filed
17 pursuant to that Section; however, a notice which complies with
18 Section 2-1901 shall not be constructive notice unless it also
19 complies with the requirements of this Section.

20 (b) With respect to residential real estate, a copy of the
21 notice of foreclosure described in subsection (a) of Section
22 15-1503 shall be sent by first class mail, postage prepaid, to
23 the municipality within the boundary of which the mortgaged
24 real estate is located, or to the county within the boundary of
25 which the mortgaged real estate is located if the mortgaged
26 real estate is located in an unincorporated territory. A

1 municipality or county must clearly publish on its website a
2 single address to which such notice shall be sent. If a
3 municipality or county does not maintain a website, then the
4 municipality or county must publicly post in its main office a
5 single address to which such notice shall be sent. In the event
6 that a municipality or county has not complied with the
7 publication requirement in this subsection (b), then such
8 notice to the municipality or county shall be provided pursuant
9 to Section 2-211 of the Code of Civil Procedure.

10 (Source: P.A. 86-974.)

11 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

16 (b) Hearing. Upon motion and notice in accordance with
17 court rules applicable to motions generally, which motion shall
18 not be made prior to sale, the court shall conduct a hearing to
19 confirm the sale. Unless the court finds that (i) a notice
20 required in accordance with subsection (c) of Section 15-1507
21 was not given, (ii) the terms of sale were unconscionable,
22 (iii) the sale was conducted fraudulently or (iv) that justice
23 was otherwise not done, the court shall then enter an order
24 confirming the sale. The confirmation order shall include a
25 name, address, and telephone number of the holder of the

1 certificate of sale or deed issued pursuant to that certificate
2 or, if no certificate or deed was issued, the purchaser, whom a
3 municipality or county may contact with concerns about the real
4 estate. The confirmation order may also:

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

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

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

17 (b-5) Notice with respect to residential real estate.

18 With respect to residential real estate, the notice
19 required under subsection (b) of this Section shall be sent to
20 the mortgagor even if the mortgagor has previously been held in
21 default. In the event the mortgagor has filed an appearance,
22 the notice shall be sent to the address indicated on the
23 appearance. In all other cases, the notice shall be sent to the
24 mortgagor at the common address of the foreclosed property. The
25 notice shall be sent by first class mail. Unless the right to
26 possession has been previously terminated by the court, the

1 notice shall include the following language in 12-point
2 boldface capitalized type:

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

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

22 (c) Failure to Give Notice. If any sale is held without
23 compliance with subsection (c) of Section 15-1507 of this
24 Article, any party entitled to the notice provided for in
25 paragraph (3) of that subsection (c) who was not so notified
26 may, by motion supported by affidavit made prior to

1 confirmation of such sale, ask the court which entered the
2 judgment to set aside the sale, provided that such party shall
3 guarantee or secure by bond a bid equal to the successful bid
4 at the prior sale. Any subsequent sale is subject to the same
5 notice requirement as the original sale.

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

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

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

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

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

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

1 or by another generic designation in the complaint.

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

14 (Source: P.A. 95-826, eff. 8-14-08.)

15 Section 97. Severability. The provisions of this Act are
16 severable under Section 1.31 of the Statute on Statutes.

17 Section 99. Effective date. This Act takes effect 60 days
18 after becoming law."