97TH GENERAL ASSEMBLY
State of Illinois
2011 and 2012

HB5456

Introduced 2/15/2012, by Rep. Luis Arroyo

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Banking Act and the Illinois Savings and Loan Act of 1985. Provides that upon the conviction of a director or officer of a bank or savings and loan association, or the conviction of a bank or savings and loan association, of the offense of wrongful inducement of abandonment of a residence, the Secretary of the Department of Financial and Professional Regulation shall take control of the financial institution. Amends the Residential Mortgage License Act of 1987. Provides that if a licensee is convicted of wrongful inducement of abandonment, the person's license shall be revoked. Amends the Code of Civil Procedure. Amends provisions setting forth the elements of the offense of wrongful inducement of abandonment (a Class B misdemeanor) by adding language making it a Class A misdemeanor for a mortgagee or a person acting on behalf of a mortgagee to engage in specified prohibited conduct with the intent of inducing a mortgagor or occupant to abandon mortgaged residential real estate or with the intent of obtaining a finding of abandonment of residential real estate. Makes additions to provisions concerning a notice that is required to be sent to mortgagors whose loans are past due. Authorizes a fast-track foreclosure procedure for abandoned residential real estate under specified circumstances. Makes other changes. Effective immediately.
AN ACT concerning foreclosure.

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

Section 5. The Illinois Banking Act is amended by adding Section 48.01 as follows:

(205 ILCS 5/48.01 new)

Sec. 48.01. Revocation of bank charter. Notwithstanding any other provision of this Act, upon the conviction of a bank or any director or officer of a bank of a violation of subsection (b) of Section 15-1104 of the Code of Civil Procedure, the Commissioner shall revoke the charter of the bank and take possession and control of the bank pursuant to Section 53.

Section 10. The Illinois Savings and Loan Act of 1985 is amended by adding Section 7-3.3 and by changing Section 10-15 as follows:

(205 ILCS 105/7-3.3 new)

Sec. 7-3.3. Dissolution for wrongful inducement of abandonment. Notwithstanding any other provision of this Act, upon the conviction of an association or of a director, officer, or controlling person of an association of a violation
of subsection (b) of Section 15-1104 of the Code of Civil Procedure, the Secretary shall, pursuant to Article 10 of this Act, file a complaint for the dissolution or involuntary liquidation of the association, and take possession and control of the association pursuant Section 10-30.

(205 ILCS 105/10-15)

Sec. 10-15. Secretary's proceedings exclusive. Except by the authority of the Secretary, represented by the Attorney General, or the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act, no complaint shall be filed or proceedings commenced in any court for the dissolution of, the winding up of the affairs of, or the appointment of a receiver for any association on the grounds that:

(1) it is insolvent;

(2) its capital is impaired or it is otherwise in an unsound condition;

(3) its business is being conducted in an unlawful, fraudulent, or unsafe manner;

(4) it is unable to continue operations; or

(5) its examination has been obstructed or impaired; or

(6) it, or a director, officer, or controlling person of the association, is convicted of a violation of subsection (b) of Section 15-1104 of the Code of Civil Procedure.
Section 15. The Residential Mortgage License Act of 1987 is amended by changing Section 4-1 as follows:

(205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

Sec. 4-1. Commissioner of Banks and Real Estate; functions, powers, and duties. The functions, powers, and duties of the Commissioner of Banks and Real Estate shall include the following:

(a) to issue or refuse to issue any license as provided by this Act;

(b) to revoke or suspend for cause any license issued under this Act;

(b-5) to revoke any license issued pursuant to this Act upon the conviction of a licensee for a violation of subsection (b) of Section 15-1104 of the Code of Civil Procedure;

(c) to keep records of all licenses issued under this Act;

(d) to receive, consider, investigate, and act upon complaints made by any person in connection with any residential mortgage licensee in this State;

(e) to consider and act upon any recommendations from the Residential Mortgage Board;

(f) to prescribe the forms of and receive:
(1) applications for licenses; and

(2) all reports and all books and records required to be made by any licensee under this Act, including annual audited financial statements and annual reports of mortgage activity;

(g) to adopt rules and regulations necessary and proper for the administration of this Act;

(h) to subpoena documents and witnesses and compel their attendance and production, to administer oaths, and to require the production of any books, papers, or other materials relevant to any inquiry authorized by this Act;

(h-1) to issue orders against any person, if the Commissioner has reasonable cause to believe that an unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur, if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Commissioner, or for the purpose of administering the provisions of this Act and any rule adopted in accordance with the Act;

(h-2) to address any inquiries to any licensee, or the officers thereof, in relation to its activities and conditions, or any other matter connected with its affairs, and it shall be the duty of any licensee or person so addressed, to promptly reply in writing to such inquiries. The Commissioner may also require reports from any licensee at any time the Commissioner may deem desirable;
(i) to require information with regard to any license applicant as he or she may deem desirable, with due regard to the paramount interests of the public as to the experience, background, honesty, truthfulness, integrity, and competency of the license applicant as to financial transactions involving primary or subordinate mortgage financing, and where the license applicant is an entity other than an individual, as to the honesty, truthfulness, integrity, and competency of any officer or director of the corporation, association, or other entity, or the members of a partnership;

(j) to examine the books and records of every licensee under this Act at intervals as specified in Section 4-2;

(k) to enforce provisions of this Act;

(l) to levy fees, fines, and charges for services performed in administering this Act; the aggregate of all fees collected by the Commissioner on and after the effective date of this Act shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the Savings and Residential Finance Regulatory Fund; the amounts deposited into that Fund shall be used for the ordinary and contingent expenses of the Office of Banks and Real Estate. Nothing in this Act shall prevent continuing the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance of State officers by appropriation
from the General Revenue Fund.

(m) to appoint examiners, supervisors, experts, and special assistants as needed to effectively and efficiently administer this Act;

(n) to conduct hearings for the purpose of:
   (1) appeals of orders of the Commissioner;
   (2) suspensions or revocations of licenses, or fining of licensees;
   (3) investigating:
      (i) complaints against licensees; or
      (ii) annual gross delinquency rates; and
   (4) carrying out the purposes of this Act;

(o) to exercise exclusive visitorial power over a licensee unless otherwise authorized by this Act or as vested in the courts, or upon prior consultation with the Commissioner, a foreign residential mortgage regulator with an appropriate supervisory interest in the parent or affiliate of a licensee;

(p) to enter into cooperative agreements with state regulatory authorities of other states to provide for examination of corporate offices or branches of those states and to accept reports of such examinations;

(q) to assign an examiner or examiners to monitor the affairs of a licensee with whatever frequency the Commissioner determines appropriate and to charge the licensee for reasonable and necessary expenses of the
Commissioner, if in the opinion of the Commissioner an
emergency exists or appears likely to occur;

(r) to impose civil penalties of up to $50 per day
against a licensee for failing to respond to a regulatory
request or reporting requirement; and

(s) to enter into agreements in connection with the
Nationwide Mortgage Licensing System and Registry.
(Source: P.A. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10.)

Section 20. The Code of Civil Procedure is amended by
changing Sections 15-1104, 15-1502.5, 15-1504, 15-1504.1,
15-1507.1, 15-1508, 15-1603, 15-1701, and 15-1706 and by adding
Sections 15-1200.5 and 15-1505.8 as follows:

(735 ILCS 5/15-1104) (from Ch. 110, par. 15-1104)
Sec. 15-1104. Wrongful Inducement of Abandonment.

(a) Any person who willfully misrepresents to the Court any
fact resulting in a finding of abandonment of mortgaged real
estate in connection with subsection (b) of Section 15-1603 or
subsection (d) of Section 15-1706 of this Article or who
threatens to injure the person or property of occupants of
mortgaged real estate, or who knowingly gives such occupants
false and misleading information, or who harasses or
intimidates such occupants, with the intent of inducing such
occupants to abandon the mortgaged premises, in order to obtain
a finding of abandonment under subsection (b) of Section
15-1603 or under subsection (c) or (d) of Section 15-1706 of this Article, shall be guilty of a Class B misdemeanor.

(b) Any mortgagee or any person acting on behalf of a mortgagee who, with respect to mortgaged residential real estate:

   (1) willfully misrepresents to the court any fact concerning the mortgagor or any occupant that results in a finding that the real estate is abandoned residential real estate under this Article;

   (2) threatens to injure the mortgagor or any occupant or threatens to damage or destroy any personal property of the mortgagor or any occupant;

   (3) misappropriates, or threatens to misappropriate, any assets or resources of a mortgagor or any occupant by undue influence, breach of a fiduciary relationship, fraud, deception, extortion, or the use of any assets or resources in a manner contrary to law;

   (4) knowingly gives the mortgagor or any occupant false and misleading information;

   (5) knowingly engages in conduct with the mortgagor or any occupant which is not necessary to accomplish a purpose that is reasonable under the circumstances; would cause a reasonable person emotional distress; and does cause emotional distress to the mortgagor or any occupant. Unless the presumption is rebutted by a preponderance of the evidence, the following types of conduct shall be presumed...
to cause emotional distress:

(i) creating a disturbance at the mortgaged residential real estate or at the place of employment of the mortgagor or any occupant; or

(ii) repeatedly telephoning the mortgagor or any occupant at his or her cellular telephone number or at his or her place of employment or residence;

(6) knowingly interferes with the personal liberty of the mortgagor or any occupant by means of committing or threatening physical abuse, harassment, or intimidation so as to compel that person to engage in conduct concerning the mortgaged residential real estate from which she or he has a right to abstain or to refrain from conduct in which she or he has a right to engage;

(7) knowingly denies the mortgagor or any occupant of the use of the mortgaged residential real estate or the utilities or other services previously available to that mortgaged residential real estate; or

(8) knowingly communicates to another, directly or indirectly by any means, a threat to perform without lawful authority any of the following acts:

(i) commit a felony or Class A misdemeanor that harms the person or property of the mortgagor or any occupant;

(ii) accuse the mortgagor or an occupant of a criminal offense; or
(ii) take action without lawful authority as a public official against the mortgagor or any occupant, or withhold official action, or cause such action or withholding; with the intent of inducing the mortgagor or any occupant to abandon the mortgaged residential real estate for any reason or with the intent of obtaining a finding of abandonment under subsection (b) of Section 15-1603 or subsection (c) or (d) of Section 15-1706 or obtaining a finding of abandoned residential real estate under this Article is guilty of a Class A misdemeanor.

(Source: P.A. 84-1462.)

(735 ILCS 5/15-1200.5 new)

Sec. 15-1200.5. Abandoned residential real estate. "Abandoned residential real estate" means residential real estate with respect to which the court has found the following:

(a) the mortgaged real estate is not actually occupied; and

(b) the mortgagee has presented credible evidence (through copies of printed documents or correspondence that were sent to the mortgagor that are admitted into evidence, or through other means) that the mortgagee did not coerce the mortgagor to abandon the residential real estate; and

(c) at least one of the following applies:

(1) more than 3 attempts to contact the mortgagor have been made, at least one by certified mail and one by
telephone, if there is a working telephone number for the mortgagor; and at least 2 of the following supporting facts are true:

(A) construction was initiated on the real estate and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least 4 months;

(B) the real estate has had more than one uncorrected municipal code or other applicable zoning ordinance violation during the past 12 months, or is unfit for occupancy and has been ordered to remain vacant and unoccupied by the municipal authorities or other authorities with jurisdiction over the real estate;

(C) gas, electric, or water service to the entire premises has been terminated;

(D) windows or entrances to the premises are boarded up or closed off or multiple window panes are broken and un repaired;

(E) doors to the premises are smashed through, broken off, unhinged, or continuously unlocked;

(F) the police or sheriff's office received at least 2 reports of a trespasser on the premises or of vandalism or other illegal acts being committed on the premises in the past 4 months;

(2) two or more attempts to contact the mortgagor have
been made and there exist written statements of the mortgagor or the mortgagor's personal representatives or assigns, including documents of conveyance, which indicate a clear intent to abandon the premises; or

(3) two or more attempts to contact the mortgagor have been made and the real estate is a vacant lot.

(735 ILCS 5/15-1502.5)

(Section scheduled to be repealed on July 1, 2013)

Sec. 15-1502.5. Homeowner protection.

(a) As used in this Section:

"Approved counseling agency" means a housing counseling agency approved by the U.S. Department of Housing and Urban Development.

"Approved Housing Counseling" means in-person counseling provided by a counselor employed by an approved counseling agency to all borrowers, or documented telephone counseling where a hardship would be imposed on one or more borrowers. A hardship shall exist in instances in which the borrower is confined to his or her home due to medical conditions, as verified in writing by a physician or the borrower resides 50 miles or more from the nearest approved counseling agency. In instances of telephone counseling, the borrower must supply all necessary documents to the counselor at least 72 hours prior to the scheduled telephone counseling session.

"Delinquent" means past due with respect to a payment on a
mortgage secured by residential real estate.

"Department" means the Department of Financial and Professional Regulation.

"Secretary" means the Secretary of Financial and Professional Regulation or other person authorized to act in the Secretary's stead.

"Sustainable loan workout plan" means a plan that the mortgagor and approved counseling agency believe shall enable the mortgagor to stay current on his or her mortgage payments for the foreseeable future when taking into account the mortgagor income and existing and foreseeable debts. A sustainable loan workout plan may include, but is not limited to, (1) a temporary suspension of payments, (2) a lengthened loan term, (3) a lowered or frozen interest rate, (4) a principal write down, (5) a repayment plan to pay the existing loan in full, (6) deferred payments, or (7) refinancing into a new affordable loan.

(b) Except in the circumstance in which a mortgagor has filed a petition for relief under the United States Bankruptcy Code, no mortgagee shall file a complaint to foreclose a mortgage secured by residential real estate until the requirements of this Section have been satisfied.

(c) Notwithstanding any other provision to the contrary, with respect to a particular mortgage secured by residential real estate, the procedures and forbearances described in this Section apply only once per subject mortgage.
Except for mortgages secured by residential real estate in which any mortgagor has filed for relief under the United States Bankruptcy Code, if a mortgage secured by residential real estate becomes delinquent by more than 30 days the mortgagor shall send via U.S. mail a notice advising the mortgagor that he or she may wish to seek approved housing counseling. Notwithstanding anything to the contrary in this Section, nothing shall preclude the mortgagor and mortgagee from communicating with each other during the initial 30 days of delinquency or reaching agreement on a sustainable loan workout plan, or both.

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

The notice required in this subsection (c) shall state the date on which the notice was mailed, shall be headed in bold 14-point type "GRACE PERIOD AND ILLEGAL COERCION NOTICE", and shall state the following in 14-point type: "YOUR LOAN IS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED HOUSING COUNSELING. YOU HAVE A GRACE PERIOD OF 30 DAYS FROM THE DATE OF THIS NOTICE TO OBTAIN APPROVED HOUSING COUNSELING. DURING THE GRACE PERIOD, THE LAW PROHIBITS US FROM TAKING ANY LEGAL ACTION AGAINST YOU. YOU MAY BE ENTITLED TO AN ADDITIONAL 30 DAY GRACE PERIOD IF YOU OBTAIN HOUSING COUNSELING FROM AN
APPROVED HOUSING COUNSELING AGENCY. A LIST OF APPROVED COUNSELING AGENCIES MAY BE OBTAINED FROM THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION."

"YOU SHOULD BE AWARE THAT YOU HAVE PROTECTION FROM SOMEONE ACTING ILLEGALLY TO FORCE YOU TO ABANDON YOUR PROPERTY. THE LAW MAKES IT A CRIME FOR SOMEONE TO ACT OUTSIDE OF THE APPROVED LEGAL FORECLOSURE PROCEDURES TO FORCE YOU TO ABANDON YOUR PROPERTY. MORE INFORMATION ABOUT YOUR RIGHT TO BE PROTECTED FROM ACTIONS THAT ILLEGALLY FORCE YOU TO ABANDON YOUR HOME IS AVAILABLE FROM THE STATE OF ILLINOIS ON A WEBSITE (www.idfpr.com/Consumers.asp) AND IN WRITTEN MATERIALS. IF YOU FEEL THAT YOU ARE BEING ILLEGALLY FORCED TO ABANDON YOUR HOME, YOU MAY REPORT THIS TO THE STATE OF ILLINOIS BY CALLING THIS TOLL-FREE HOTLINE: 1-888-473-4858 (THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION)."

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

In order to educate mortgagors about their rights to be protected from actions that attempt to illegally coerce
mortgagors to abandon their homes, the Department shall make
available information on the Department's website and furnish
educational materials to appropriate persons or entities. The
Department, upon reasonable inquiry, may forward an apparent
violation of Section 15-1104 of the Code of Civil Procedure to
the appropriate law enforcement agency or to the State's
Attorney's office for the county in which the real estate is
located.

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

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

(e) If, within the 30-day period provided under subsection
(d) of this Section, an approved counseling agency provides
written notice to the mortgagee that the mortgagor is seeking
approved counseling services, then no legal action under Part
15 of Article XV of the Code of Civil Procedure shall be
instituted for 30 days after the date of that notice. The date
that such notice is sent shall be stated in the notice, and
shall be sent to the address or fax number contained in the
Grace Period Notice required under subsection (c) of this Section. During the 30-day period provided under this subsection (e), the mortgagor or counselor or both may prepare and proffer to the mortgagee a proposed sustainable loan workout plan. The mortgagee will then determine whether to accept the proposed sustainable loan workout plan. If the mortgagee and the mortgagor agree to a sustainable loan workout plan, then no legal action under Part 15 of Article XV of the Code of Civil Procedure shall be instituted for as long as the sustainable loan workout plan is complied with by the mortgagor.

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

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

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

(g) A counselor employed by a housing counseling agency or the housing counseling agency that in good faith provides counseling shall not be liable to a mortgagee or mortgagor for civil damages, except for willful or wanton misconduct on the part of the counselor in providing the counseling.
(h) There shall be no waiver of any provision of this Section.

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

(j) This Section shall not apply, or shall cease to apply, to residential real estate that is not occupied as a principal residence by the mortgagor.

(k) This Section is repealed July 1, 2013.

(Source: P.A. 95-1047, eff. 4-6-09; 96-1419, eff. 10-1-10.)

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

Sec. 15-1504. Pleadings and service.

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

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

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

(3) Information concerning mortgage:

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

(C) Name of mortgagor:

(D) Name of mortgagee:

(E) Date and place of recording:

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

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

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

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

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

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

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

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

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

(O) Facts in support of redemption period shorter 
than the longer of (i) 7 months from the date the 
mortgagor or, if more than one, all the mortgagors (I) 
have been served with summons or by publication or (II) 
have otherwise submitted to the jurisdiction of the 
court, or (ii) 3 months from the entry of the judgment 
of foreclosure, if sought (here indicate whether based 
upon the real estate not being residential 
abandonment, or real estate value less than 90% of 
amount owed, etc.), or (iii) 30 days after the entry of 
the judgment of foreclosure in which the court found 
that the real estate is abandoned residential real 
estate as defined by Section 15-1200.5:

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

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

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

(S) Offer to mortgagor in accordance with Section 
15-1402 to accept title to the real estate in 
satisfaction of all indebtedness and obligations
secured by the mortgage without judicial sale, if sought:

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

REQUEST FOR RELIEF

Plaintiff requests:

(i) A judgment of foreclosure and sale.

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

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

(iv) An order granting possession, if sought.

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

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

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

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

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

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

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

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

(5) that defaults occurred as indicated;

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

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

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

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

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

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

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

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

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

(2) that the plaintiff has been compelled to advance or
will be compelled to advance, various sums of money in
payment of costs, fees, expenses and disbursements
incurred in connection with the foreclosure, including,
without limiting the generality of the foregoing, filing
fees, stenographer's fees, witness fees, costs of publication, costs of procuring and preparing documentary evidence and costs of procuring abstracts of title, Torrens certificates, foreclosure minutes and a title insurance policy;

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

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

(5) that in order to protect and preserve the mortgaged real estate, it may also become necessary for the plaintiff to pay liability (protecting mortgagor and mortgagee), fire and other hazard insurance premiums on the mortgaged real estate, make such repairs to the mortgaged real estate as may reasonably be deemed necessary for the proper preservation thereof, advance for costs to inspect the mortgaged real estate or to appraise it, or both, and
advance for premiums for pre-existing private or governmental mortgage insurance to the extent required after a foreclosure is commenced in order to keep such insurance in force; and

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

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

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

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

(3) that in default of such payment in accordance with the judgment, the mortgaged real estate be sold as directed by the court, to satisfy the amount due to the plaintiff as set forth in the judgment, together with the interest thereon at the statutory judgment rate from the date of the
(4) that in the event the plaintiff is a purchaser of the mortgaged real estate at such sale, the plaintiff may offset against the purchase price of such real estate the amounts due under the judgment of foreclosure and order confirming the sale;

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

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

(f) Request for Deficiency Judgment. A request for a personal judgment for a deficiency in a foreclosure complaint if the sale of the mortgaged real estate fails to produce a sufficient amount to pay the amount found due, the plaintiff may have a personal judgment against any party in the
foreclosure indicated as being personally liable therefor and
the enforcement thereof be had as provided by law.

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

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

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

(735 ILCS 5/15-1505.8 new)

Sec. 15-1505.8. Fast-track judgment and sale procedure for
abandoned residential real estate.

(a) Upon motion and notice, the mortgagee may elect to
utilize the fast-track judgment and sale procedure for
abandoned residential real estate that is set forth in this
Section to obtain a judgment of foreclosure pursuant to Section
15-1506. The motion may be combined with or made part of the
motion requesting a judgment of foreclosure. If service upon
the mortgagor was obtained by publication, then notice of the motion to the mortgagor shall be posted at the real estate address.

(b) A motion requesting a fast-track judgment of foreclosure and sale may be filed by the mortgagee at the time the foreclosure complaint is filed or any time thereafter.

(c) Motion for a fast-track judgment and sale.

(1) If a motion for a fast-track judgment and sale is filed at the time the foreclosure complaint is filed, the motion shall be heard by the court no later than:

(A) 45 days after the date of service of the summons on the mortgagor or, if more than one, no later than 45 days after the date of service on the last served mortgagor;

(B) 45 days after the date of first publication, if service of process is by publication; or

(C) 45 days after the mortgagors have otherwise submitted to the jurisdiction of the court.

(2) If a motion for a fast-track judgment and sale is filed after the foreclosure complaint is filed, the motion shall be heard no later than 15 days after the motion is filed, provided that at least:

(A) 30 days have transpired since service of the summons on the mortgagor, or, if there is more than one mortgagor, 30 days have transpired since service on all mortgagors;
(B) 30 days have transpired since the date of first publication, if service of process is by publication; or

(C) 30 days have transpired since all mortgagors have otherwise submitted to the jurisdiction of the court.

(d) The hearing shall be given priority by the court and shall be scheduled to be heard pursuant to the applicable time period set forth in subsection (c).

(e) The court may find that the mortgaged real estate is abandoned residential real estate if evidence is presented to support that finding. The court shall not find that the mortgaged real estate is abandoned residential real estate if an appearance has been filed in the proceedings and an objection has been filed to the request for a finding that the real estate is abandoned residential real estate, or if the owner provides evidence that the owner is working with, or making an attempt to work with, the mortgagee to modify the mortgage.

(f) At the hearing on the motion requesting a fast-track judgment and sale, and upon a finding by the court that the mortgaged real estate is abandoned residential real estate, the court shall immediately proceed to enter a judgment of foreclosure as requested in the complaint. The judgment of foreclosure shall include the matters identified in Section 15-1506.
(g) The reinstatement period and redemption period for the abandoned residential real estate shall end in accordance with paragraph (4) of subsection (b) of Section 15-1603, and the real estate shall be sold at the earliest practicable time at a sale as provided in this Article.

(h) Mortgagee responsibility.

(1) A mortgagee or its agent may enter abandoned residential real estate that is the subject of a foreclosure complaint for the purpose of maintaining or securing the real estate, provided that entry is not barred by an automatic stay issued by a bankruptcy court. A mortgagee and its agents shall not be held liable for any claim of negligence, civil trespass, or criminal trespass based upon entering the abandoned residential real estate or maintaining or securing the abandoned residential real estate.

(2) The mortgagee shall be responsible for repairs or other maintenance of the abandoned residential real estate if it purchases the real estate at the foreclosure sale held pursuant to Section 15-1507 and until the sale is confirmed by the court pursuant to Section 15-1508.

(i) Upon confirmation of the sale held pursuant to Section 15-1508, any personal property remaining in or upon the abandoned residential real estate shall be deemed to have been abandoned by the owner of such personal property and may be disposed of or donated by the holder of the certificate of sale.
or, if none, by the purchaser at the sale. In the event of
donation of any such personal property, the holder of the
certificate of sale or, if none, the purchaser at the sale may
transfer the donated personal property with a bill of sale. No
mortgagee or its successors or assigns, holder of a certificate
of sale, or purchaser at the sale shall be liable for any such
disposal or donation of personal property.

(j) No mortgagee shall be held liable for seeking a
judicial determination of abandonment if the mortgagee, upon
information and belief at the time the motion requesting a
fast-track judgment of foreclosure and sale is filed with the
court, makes a good faith assertion through its affidavit that
evidence exists supporting the conclusion that the mortgaged
real estate is abandoned residential real estate.

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

(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 real estate. Upon motion and notice, which motion shall be made prior to the sale and heard by the court upon conclusion of the sale, the court shall enter an order confirming the sale of the abandoned residential real estate, unless the court finds that a reason set forth in items (i) through (iv) of subsection (b)
of this Section 15-1508 exists for not approving the sale. The
confirmation order also may address the matters identified in
item (1), (2), or (3) of subsection (b) of this Section
15-1508. Notwithstanding anything to the contrary in
subsection (g) of this Section 15-1508, the order confirming
the sale of the abandoned residential real estate shall award
to the purchaser possession of the real estate as of the date
of the entry of the order confirming the sale.

(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, 2013 for all actions filed under this Article after December 31, 2012, in which the mortgagor did not apply for assistance under the Making Home Affordable Program on or before December 31, 2012.

(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 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 9 of this Code or 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 9 of this Code or 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.)

(735 ILCS 5/15-1603) (from Ch. 110, par. 15-1603)

Sec. 15-1603. Redemption.

(a) Owner of Redemption. Except as provided in subsection (b) of Section 15-1402, only an owner of redemption may redeem from the foreclosure, and such owner of redemption may redeem only during the redemption period specified in subsection (b) of Section 15-1603 and only if the right of redemption has not been validly waived.

(b) Redemption Period.
(1) In the foreclosure of a mortgage of real estate which is residential real estate at the time the foreclosure is commenced, the redemption period shall end on the later of (i) the date 7 months from the date the mortgagor or, if more than one, all the mortgagors (A) have been served with summons or by publication or (B) have otherwise submitted to the jurisdiction of the court, or (ii) the date 3 months from the date of entry of a judgment of foreclosure.

(2) In all other foreclosures, the redemption period shall end on the later of (i) the date 6 months from the date the mortgagor or, if more than one, all the mortgagors (A) have been served with summons or by publication or (B) have otherwise submitted to the jurisdiction of the court, or (ii) the date 3 months from the date of entry of a judgment of foreclosure.

(3) Notwithstanding paragraphs (1) and (2), the redemption period shall end at the later of the expiration of any reinstatement period provided for in Section 15-1602 or the date 60 days after the date the judgment of foreclosure is entered, if the court finds that (i) the value of the mortgaged real estate as of the date of the judgment is less than 90% of the amount specified pursuant to subsection (d) of Section 15-1603 and (ii) the mortgagee waives any and all rights to a personal judgment for a deficiency against the mortgagor and against all other
persons liable for the indebtedness or other obligations
secured by the mortgage.

(4) Notwithstanding paragraphs (1) and (2), the
redemption period shall end on the date 30 days after the
date the judgment of foreclosure is entered if the court
finds that the mortgaged real estate has been abandoned. In
cases where the redemption period is shortened on account
of abandonment, the reinstatement period shall not extend
beyond the redemption period as shortened.

(5) Notwithstanding paragraphs (1) and (2), the
redemption period shall end on the date 5 days after the
date the judgment of foreclosure is entered if the court
finds that the mortgaged real estate is abandoned
residential real estate. In cases where the redemption
period is shortened on account of the abandonment of
residential real estate, the reinstatement period shall
not extend beyond the redemption period as shortened.

(c) Extension of Redemption Period.

(1) Once expired, the right of redemption provided for
in Sections 15-1603 or 15-1604 shall not be revived. The
period within which the right of redemption provided for in
Sections 15-1603 or 15-1604 may be exercised runs
independently of any action by any person to enforce the
judgment of foreclosure or effect a sale pursuant thereto.
Neither the initiation of any legal proceeding nor the
order of any court staying the enforcement of a judgment of
foreclosure or the sale pursuant to a judgment or the
confirmation of the sale, shall have the effect of tolling
the running of the redemption period.

(2) If a court has the authority to stay, and does
stay, the running of the redemption period, or if the
redemption period is extended by any statute of the United
States, the redemption period shall be extended until the
expiration of the same number of days after the expiration
of the stay order as the number of days remaining in the
redemption period at the time the stay order became
effective, or, if later, until the expiration of 30 days
after the stay order terminates. If the stay order
terminates more than 30 days prior to the expiration of the
redemption period, the redemption period shall not be
extended.

(d) Amount Required to Redeem. The amount required to
redeem shall be the sum of:

(1) The amount specified in the judgment of
foreclosure, which shall consist of (i) all principal and
accrued interest secured by the mortgage and due as of the
date of the judgment, (ii) all costs allowed by law, (iii)
costs and expenses approved by the court, (iv) to the
extent provided for in the mortgage and approved by the
court, additional costs, expenses and reasonable
attorneys' fees incurred by the mortgagee, (v) all amounts
paid pursuant to Section 15-1505 and (vi) per diem interest
from the date of judgment to the date of redemption calculated at the mortgage rate of interest applicable as if no default had occurred; and

(2) The amount of other expenses authorized by the court which the mortgagee reasonably incurs between the date of judgment and the date of redemption, which shall be the amount certified by the mortgagee in accordance with subsection (e) of Section 15-1603.

(e) Notice of Intent to Redeem. An owner of redemption who intends to redeem shall give written notice of such intent to redeem to the mortgagee's attorney of record specifying the date designated for redemption and the current address of the owner of redemption for purposes of receiving notice. Such owner of redemption shall file with the clerk of the court a certification of the giving of such notice. The notice of intent to redeem must be received by the mortgagee's attorney at least 15 days (other than Saturday, Sunday or court holiday) prior to the date designated for redemption. The mortgagee shall thereupon file with the clerk of the court and shall give written notice to the owner of redemption at least three days (other than Saturday, Sunday or court holiday) before the date designated for redemption a certification, accompanied by copies of paid receipts or appropriate affidavits, of any expenses authorized in paragraph (2) of subsection (d) of Section 15-1603. If the mortgagee fails to serve such certification within the time specified herein, then the owner
of redemption intending to redeem may redeem on the date
designated for redemption in the notice of intent to redeem,
and the mortgagee shall not be entitled to payment of any
expenses authorized in paragraph (2) of subsection (d) of
Section 15-1603.

(f) Procedure for Redemption.

(1) An owner of redemption may redeem the real estate
from the foreclosure by paying the amount specified in
subsection (d) of Section 15-1603 to the mortgagee or the
mortgagee's attorney of record on or before the date
designated for redemption pursuant to subsection (e) of
Section 15-1603.

(2) If the mortgagee refuses to accept payment or if
the owner of redemption redeeming from the foreclosure
objects to the reasonableness of the additional expenses
authorized in paragraph (2) of subsection (d) of Section
15-1603 and certified in accordance with subsection (e) of
Section 15-1603, the owner of redemption shall pay the
certified amount to the clerk of the court on or before the
date designated for redemption, together with a written
statement specifying the expenses to which objection is
made. In such case the clerk shall pay to the mortgagee the
amount tendered minus the amount to which the objection
pertains.

(3) Upon payment to the clerk, whether or not the owner
of redemption files an objection at the time of payment,
the clerk shall give a receipt of payment to the person
redeeming from the foreclosure, and shall file a copy of
that receipt in the foreclosure record. Upon receipt of the
amounts specified to be paid to the mortgagee pursuant to
this Section, the mortgagee shall promptly furnish the
mortgagor with a release of the mortgage or satisfaction of
the judgment, as appropriate, and the evidence of all
indebtedness secured by the mortgage shall be cancelled.

(g) Procedure Upon Objection. If an objection is filed by
an owner of redemption in accordance with paragraph (2) of
subsection (f) of Section 15-1603, the clerk shall hold the
amount to which the objection pertains until the court orders
distribution of those funds. The court shall hold a hearing
promptly to determine the distribution of any funds held by the
clerk pursuant to such objection. Each party shall pay its own
costs and expenses in connection with any objection, including
attorneys' fees, subject to Section 2-611 of the Code of Civil
Procedure.

(h) Failure to Redeem. Unless the real estate being
foreclosed is redeemed from the foreclosure, it shall be sold
as provided in this Article.

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

(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.

(a-5) Abandoned residential real estate. Notwithstanding anything to the contrary in this Section, the holder of the certificate of sale or deed issued pursuant to that certificate or, if no certificate or deed was issued, the purchaser, of abandoned residential real estate shall be entitled to possession of the real estate as of the date the order confirming the sale of the abandoned residential real estate is entered.

(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 or under Article 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 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. 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.

(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 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.

(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 9 and except as provided in item (4) of this subsection (h).

(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 (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.

(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 (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.
(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 5/15-1706) (from Ch. 110, par. 15-1706)

Sec. 15-1706. Possession.

(a) Request. A request that the mortgagee be placed in
possession or that a receiver be appointed may be made by
motion, whether or not such request is included in the
complaint or other pleading. Any such request shall be
supported by affidavit or other sworn pleading.

(b) Meaning of Request. A request in a motion or in the
complaint or other pleading that the mortgagee be placed in
possession or that a receiver be appointed shall be construed
to mean a mortgagee placed in possession or a receiver
appointed in accordance with, and with powers and duties
specified by, Part 17 of this Article.

(c) Hearing.

(1) After reasonable notice has been given to all other
parties, the court shall promptly hold a hearing and
promptly rule on a request that a mortgagee be placed in
possession or that a receiver be appointed, except that, if
no objection to the request is made prior to the time
specified for the hearing, the court shall rule without a
hearing.

(2) If the court finds that the real estate is
abandoned residential real estate pursuant to Section
15-1200.5, after 5 days' notice has been given to all other
parties, the court shall promptly hold a hearing within 10
days after the filing of the request and promptly rule on a
request that a mortgagee be placed in possession, except
that, if no objection to the request is made prior to the
time specified for the hearing, the court shall rule
without a hearing.

(d) Reasonable Notice. For the purposes of subsection (c)
of Section 15-1706, notice shall be reasonable if given as much
in advance of the hearing as notice of motions generally is
required to be given under applicable court rules, and if
served in the same manner as motions generally are served;
except, if the mortgagor has not been served with the
complaint, the mortgagor must be served in the same manner as
required for service of process. Notwithstanding anything in
the foregoing sentence to the contrary, except with respect to
the mortgagor of residential real estate which has not been
abandoned, the court may rule without service on a party, if
the party is in default or if the party making the request
shows good cause by affidavit or other sworn evidence. If the
mortgagor is not served prior to the hearing, he shall be given
notice of the hearing to the same extent as applicable court
rules may provide for post-hearing notice of emergency and ex
parte motions.
(Source: P.A. 84-1462.)

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

Statutes amended in order of appearance

3 205 ILCS 5/48.01 new
4 205 ILCS 105/7-3.3 new
5 205 ILCS 105/10-15
6 205 ILCS 635/4-1 from Ch. 17, par. 2324-1
7 735 ILCS 5/15-1104 from Ch. 110, par. 15-1104
8 735 ILCS 5/15-1200.5 new
9 735 ILCS 5/15-1502.5
10 735 ILCS 5/15-1504 from Ch. 110, par. 15-1504
11 735 ILCS 5/15-1505.8 new
12 735 ILCS 5/15-1508 from Ch. 110, par. 15-1508
13 735 ILCS 5/15-1603 from Ch. 110, par. 15-1603
14 735 ILCS 5/15-1701 from Ch. 110, par. 15-1701
15 735 ILCS 5/15-1706 from Ch. 110, par. 15-1706