

VACANT AND ABANDONED PROPERTY LEGISLATION

AN ACT concerning vacant and abandoned property.

WHEREAS, There is a continuing need to strengthen and revitalize the economy of this state; and

WHEREAS, Vacant and abandoned properties threaten communities around the state because such properties diminish property values, enable crime, and create health hazards; and

WHEREAS, Municipalities are often unaware of which properties are at risk of becoming vacant and abandoned; and

WHEREAS, Municipalities have an interest in knowing the status of the housing stock located in their jurisdictions; and

WHEREAS, Local governments should be empowered to acquire, develop, maintain, and dispose of vacant and abandoned properties that present a threat to communities around the state; and

WHEREAS, Municipalities lack many of the tools necessary to ensure adequate property maintenance; and

WHEREAS, Municipalities are unable to recover the reasonable costs of their property maintenance activity; therefore

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

This Shall be Cited as “The Illinois Vacant and Abandoned Properties Act”

Section 1. Short title. This Act shall be known and may be cited as the Illinois Land Banking Act.

Section 5. Definitions

“Authority” means the land bank authority created pursuant to this act.

“Intergovernmental agreement” means a contractual agreement between one or more governmental agencies, including, but not limited to, an agreement to jointly exercise any power, privilege, or authority that agencies share in common and that each might exercise separately under this act.

Section 10. Authorization

VACANT AND ABANDONED PROPERTY LEGISLATION

A municipality may create a land bank authority with the powers and restrictions specified in this act.

In creating an authority, the municipality shall provide for all of the following:

- (1) The incorporation of the authority as a public body, corporate and politic;
- (2) Articles of incorporation for the authority, which must specify a list of permissible purposes for authority activity under this act which may be prioritized in any way the municipality chooses;
- (3) The size of the board of directors for the authority, which shall be composed of an odd number of members;
- (4) The qualifications, methods of selection, and terms of office of the board members.

Section 15: Election of Tax Remittance

A municipality may authorize a portion of the taxes collected on real property pursuant to 35 ILCS 200/1-1 et seq. that when an authority sells or conveys property under this Act may be remitted to the authority that sold or conveyed such real property in order to further the purposes of the this Act. The municipality may elect to have up to 50 percent of such taxes remitted to the authority for up to five years after the land bank has completed the sale or conveyance of the property.

Section 20. Board of Directors

The board of the authority shall meet from time to time as required, and the presence of a majority of the board of directors shall constitute a quorum.

A chairperson shall be elected from among the members, and he or she shall execute all deeds, leases, and contracts of the authority when authorized by the board.

The board of the authority shall conduct meetings in accordance with the Illinois Open Meetings Act, 5 ILCS 120/1 et seq.

The board of the authority shall adopt a code of ethics for its directors, officers, and employees.

Members of the board of directors of an authority shall serve without compensation.

The board of the authority shall establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The governing body of the authority shall require that any member of the governing body with a direct or indirect interest in any matter disclose the member's interest to the governing body before the board takes any action on that matter.

Section 25. Powers

VACANT AND ABANDONED PROPERTY LEGISLATION

Except as otherwise provided in this act, an authority may do all things necessary or convenient to implement the purposes, objectives, and provisions of this act, including but not limited to all of the following:

- (a) Acquire property pursuant to Section 30 of this Act;
- (b) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business;
- (c) Sue and be sued in its own name and plead and be impleaded, including, but not limited to, defending the authority in an action to clear title to property conveyed by the authority;
- (d) Take any action, provide any notice, or institute any proceeding required to clear or quiet title to property held by the authority in order to establish ownership by and vest title to property in the authority;
- (e) Be made party to and defend any action or proceeding concerning title claims against property held by the authority;
- (f) Borrow money and issue bonds and notes according to the provisions of this act;
- (g) Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, intergovernmental agreements, for the joint exercise of power under this act. Enter into contracts for the management of, the collection of rent from, and the sale of real property held by an authority. Enter into contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the authority;
- (h) Solicit and accept gifts, grants, labor, loans, and other aid from any person, or the federal government, this state, or a political subdivision of this state or any agency of the federal government, this state, a political subdivision of this state, or an intergovernmental entity created under the laws of this state or participate in any other way in a program of the federal government, this state, a political subdivision of this state, or an intergovernmental entity created under the laws of this state;
- (i) Procure insurance against loss in connection with the property, assets, or activities of the authority;
- (j) Control, hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, demolish, and take all other actions necessary to preserve the value of the property it holds or owns;
- (k) Remediate environmental contamination on any property held by the authority;
- (l) Fix, charge, and collect rents, fees, and charges for use of property under the control of the authority or for services provided by the authority;
- (m) Grant or acquire a license, easement, or option with respect to property as the authority determines is reasonably necessary to achieve the purposes of the act;
- (n) Pay any tax or special assessment due on property acquired or owned by the authority;

VACANT AND ABANDONED PROPERTY LEGISLATION

- (o) Invest money of the authority, at the discretion of the board of directors of the authority, in instruments, obligations, securities, or property determined proper by the board of directors of the authority, and name and use depositories for its money;
- (p) Employ its own employees or utilize employees of the authorizing municipality or employees of the parties to intergovernmental agreements.
- (q) Employ legal and technical experts, other officers, agents, or employees pay them from the funds of the authority and determine the qualifications, duties, and compensation of those it employs. The board of directors of an authority may delegate to one or more of its members, officers, agents, or employees any powers or duties it considers proper.
- (r) Reimburse members of the board of directors of the authority for actual and necessary expenses subject to available appropriations;
- (s) Contract for goods and services and engage personnel as necessary and engage the services of private consultants, managers, legal counsel, engineers, accounts, and auditors for rendering professional financial assistance and advice payable out of any money available to the authority;
- (t) Prepare the reports or plans the authority considers necessary to assist it in the exercise of its powers under this act and to monitor and evaluate progress under this act;
- (u) Do all other things necessary or convenient to achieve the objectives and purposes of the authority or other laws that relate to the purposes and responsibility of the authority.

The enumeration of a power in this act shall not be construed as a limitation upon the general powers of an authority. The powers granted by this act are in addition to those powers granted by any other statute or charter.

Section 30. Acquisition of Property

An authority may acquire by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the authority considers proper, real property within the authority's jurisdiction, or rights or interests in real property within the authority's jurisdiction.

An authority may acquire by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the authority considers proper, real property outside of the authority's jurisdiction pursuant to an intergovernmental agreement, or rights or interests in real property outside of the authority's jurisdiction pursuant to an intergovernmental agreement.

An authority may acquire by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the authority considers proper, personal property, or rights or interests in personal property.

VACANT AND ABANDONED PROPERTY LEGISLATION

Real property acquired by an authority by purchase may be by purchase contract, lease purchase agreement, installment sales contract, land contract, or otherwise.

An authority may hold and own in its name any property acquired by it or conveyed to it by this state, a foreclosing governmental unit, a local unit of government, an intergovernmental entity created under the laws of this state, or any other public or private person, including, but not limited to, property without clear title.

All deeds, mortgages, contracts, leases, purchases, or other agreements regarding property of an authority, including agreements to acquire or dispose of real property, shall be approved by and executed in the name of the authority.

The authority shall have the right to purchase properties at tax sales conducted in accordance with 35 ILCS § 200/21-150 et. seq.

- (a) The authority may tender a bid at tax sale which is a credit bid, consisting of the obligation of the authority to satisfy the component parts of the bid by payments to the respective political subdivisions.
- (b) A bid by the authority at a tax sale for the minimum amount shall take priority over all other bids for the same property.

Section 35. Taxes

When a property is acquired by the authority, the authority shall have the power to extinguish all outstanding county and city or consolidated government taxes, including school district taxes, at the time it sells or otherwise disposes of property.

Property of an authority is public property devoted to an essential public and governmental function and purpose. Income of the authority is considered to be for a public and governmental purpose. The property of the authority and its income and operation are exempt from all taxes and special assessments of this state and all local units of government of this state. Bonds or notes issued by the authority, and the interest on and income from those bonds and notes, are exempt from all taxation of this state or a local unit of government.

Section 40. Disposition

The authority may convey, sell, transfer, exchange, lease as lessor, or otherwise dispose of property or rights or interests in property to which the authority holds a legal interest to any public or private person for value determined by the authority.

Section 45. Receipt of Taxes

All monies received by an authority as payment of taxes, penalties, or interest, or from the redemption or sale of property subject to a tax lien of any taxing unit shall be returned to the appropriate local tax collecting unit in which the property is located.

VACANT AND ABANDONED PROPERTY LEGISLATION

Section 50. Proceeds

Except as otherwise provided in this act, as required by other law, as required under the provisions of a deed, or as an authority otherwise agrees, any proceeds received by the authority may be retained by the authority for the purposes of this act.

Section 55: Record Maintenance

The authority shall maintain a written inventory of all property held by the authority. The property shall be inventoried and classified by the authority according to title status and suitability for use. The inventory shall be available for public inspection during regular business hours.

For each property held, the authority shall establish and maintain itemized records and accounts reflecting all transactions, expenditures, and revenues relating to all property held by the authority.

VACANT AND ABANDONED PROPERTY LEGISLATION

Section 21. The Property Tax Code is amended by adding Section 21-231 as follows:

(35 ILCS 200/21-231) (from Chap. 35, par. 21-231)

Sec. 21-231. Notice of Sales and Redemptions

When any property is sold, the county clerk shall send notice of the sale to the municipal clerk of the jurisdiction where the property is located of the name of the purchaser and the amount of the final bid. When any property is redeemed from sale, the county clerk shall send notice to the municipal clerk of the jurisdiction where the property is located of the name of the person redeeming and the redemption date. These notices must be sent by registered or certified mail within 30 days of sale or redemption.

Section 22. The Property Tax Code is amended by changing Section 22-240 as follows:

(35 ILCS 200/22-40) (from Chap. 35, par. 22-40)

Sec. 22-240. Issuance of deed; possession

(a) If the redemption period expires and the property has not been redeemed and all taxes and special assessments which became due and payable subsequent to the sale have been paid and all forfeitures and sales which occur subsequent to the sale have been redeemed and the notices required by law have been given and all advancements of public funds under the police power made by a city, village or town under Section 22-35 [35 ILCS 200/22-35] have been paid and the petitioner has complied with all the provisions of law entitling him or her to a deed, the court shall so find and shall enter an order directing the county clerk on the production of the certificate of purchase and a certified copy of the order, to issue to the purchaser or his or her assignee a tax deed. The court shall insist on strict compliance with Section 22-10 through 22-25 [35 ILCS 200/22-10 through 35 ILCS 200/22-25]. Prior to the entry of an order directing the issuance of a tax deed, the petitioner shall furnish the court with a report of proceedings of the evidence received on the application for tax deed and the report of proceedings shall be filed and made a part of the court record.

(b) If taxes for years prior to the year or years sold are or become delinquent subsequent to the date of sale, the court shall find that the lien of those delinquent taxes has been or will be merged into the tax deed grantee's title if the court determines that the tax deed grantee or any prior holder of the certificate of purchase, or any person or entity under common ownership or control with any such grantee or prior holder of the certificate of purchase, was at no time the holder of any certificate of purchase for the years sought to be merged. If delinquent taxes are merged into the tax deed pursuant to this subsection, the court shall enter an order declaring which specific taxes have been or will be merged into the tax deed title and directing the county treasurer and county clerk to reflect that declaration in the warrant and judgment records; provided, that no such order shall be effective until a tax deed has been issued and timely recorded. Nothing contained in this

VACANT AND ABANDONED PROPERTY LEGISLATION

Section shall relieve any owner liable for delinquent property taxes under this Code from the payment of the taxes that have been merged into the title upon issuance of the tax deed.

(c) The county clerk is entitled to a fee of \$ 10 in counties of 3,000,000 or more inhabitants and \$ 5 in counties with less than 3,000,000 inhabitants for the issuance of the tax deed. The clerk may not include in a tax deed more than one property as listed, assessed and sold in one description, except in cases where several properties are owned by one person.

Upon application the court shall, enter an order to place the tax deed grantee or the grantee's successor in interest in possession of the property and may enter orders and grant relief as may be necessary or desirable to maintain the grantee or the grantee's successor in interest in possession.

(d) The court shall retain jurisdiction to enter orders pursuant to subsections (b) and (c) of this Section. This amendatory Act of the 92nd General Assembly [P.A. 92-223] and this amendatory Act of the 95th General Assembly [P.A. 95-477] shall be construed as being declarative of existing law and not as a new enactment.

(e) When the deed is issued, the county clerk shall send notice to the municipal clerk where the property is located of the full names and the true post office address and residence of the grantee. Such notice must be sent by registered or certified mail within 30 days of the issuance of the deed.

Section 11. The Illinois Municipal Code is amended by adding Section 11-153 and Section 11-154 as follows:

(65 ILCS 5/11-153) (from Chap. 65, par. 11-153)

Sec. 11-153 Vacant and Abandoned Property Rules, Regulations, and Ordinances

For the purposes of minimizing the hazards to persons and property resulting from vacant and abandoned property, the corporate authority of each municipality may prescribe rules, regulations, or ordinances for the maintenance of vacant and abandoned property.

The rules, regulations, or ordinances under this section may include registration fees for vacant and abandoned property and fines for failure to comply with the rules, regulations, or ordinances pursuant to this section.

(65 ILCS 5/11-154) (from Chap. 65, par. 11-154)

Sec. 11-154 Mortgage Beneficiary Responsibility For Violations of Municipal Law

VACANT AND ABANDONED PROPERTY LEGISLATION

Municipalities may hold responsible for any failure to comply with rules, regulations, or ordinances for the maintenance of vacant and abandoned property (1) any beneficiary / trustee, who holds a deed of trust on a neglected property located within the municipality, or (2) any mortgagee who holds a mortgage on an neglected property located within the municipality, and has filed a notice of default under 735 ILCS 5/15-1503.

If a beneficiary / trustee, who holds a deed of trust on an neglected property, or a mortgagee who holds a mortgage on an neglected property, is held responsible for any failure to comply with municipal law, that beneficiary / trustee or mortgagee may enter the property, after proper notice, to remedy any violation of the rules, regulations, or ordinances for the maintenance of vacant and abandoned property. The beneficiary / trustee or mortgagee may only enter the property if, 15 days after the beneficiary / trustee or mortgagee sent proper notice, the property owners and occupants have failed to comply with the rules, regulations, or ordinances at issue.

"Neglected" means that there has been no occupant in the property for a period of six months and two or more of the following criteria have been met:

- (a) Construction was initiated on the property and was discontinued prior to completion, leaving the building unsuitable for occupancy, and no construction has taken place for at least six months;
- (b) At least one installment of property tax is unpaid and delinquent;
- (c) The property has had more than one uncorrected municipal code violation over the past year;
- (d) Gas, electric, or water service to the premises has been terminated;
- (e) Windows or entrances to the premises are boarded up or closed off, or multiple window panes are broken and unrepaired;
- (f) Doors to the premises are smashed through, broken off, unhinged, or continuously unlocked;
- (g) Rubbish, trash, or debris has accumulated on the premises;
- (h) The police or sheriff's office has received at least two reports of trespassers on the premises, or of vandalism or other illegal acts being committed on the premises in the past six months;
- (i) The property is a nuisance.

"Mortgagee" means (i) the holder of an indebtedness or obligee of a non-monetary obligation secured by a mortgage or any person designated or authorized to act on behalf of such holder and (ii) any person claiming through a mortgagee as successor.

"Proper notice" means notice to all property owners and occupants by certified or registered mail stating the beneficiary / trustee or mortgagee's intent to enter the property; such notice must be sent at least 15 days before the beneficiary / trustee or mortgagee enters the property. The notice must specify the municipal law violations the beneficiary / trustee or mortgagee has been held responsible for by a municipality.

"Occupant" means a person in lawful physical possession of all or part of the mortgaged real estate.

VACANT AND ABANDONED PROPERTY LEGISLATION

"Nuisance" means any property which because of its physical condition or use is a public nuisance, or any property which constitutes a blight on the surrounding area, or any property which is not fit for human habitation under the applicable fire, building and housing codes. "Nuisance" also means any property on which any illegal activity involving controlled substances, methamphetamine, or cannabis takes place or any property on which any streetgang-related takes place.

Section 13. The Illinois Municipal Code is amended by changing Section 11-20-13 and on 11-20-7 and adding Section 11-20-7.5 as follows:

(65 ILCS 5/11-20-13) (from Chap. 65, par. 11-20-13)

Sec. 11-20-13 Removal of garbage, debris, and graffiti from private property

Sec. 11-20-13. The corporate authorities of each municipality may provide for the removal of garbage, debris, and graffiti from private property when the owner of such property, after reasonable notice, refuses or neglects to remove such garbage, debris, and graffiti and may collect from such owner the reasonable cost thereof except in the case of graffiti. This cost, including any associated fees and other costs related to the enforcement of this Section, is a lien upon the real estate affected, superior to all subsequent liens and encumbrances, except tax liens, if within 60 days after such cost and expense is incurred the municipality, or person performing the service by authority of the municipality, in his or its own name, files notice of lien in the office of the recorder in the county in which such real estate is located or in the office of the Registrar of Titles of such county if the real estate affected is registered under "An Act concerning land titles", approved May 1, 1897, as amended [765 ILCS 35/1 et seq.]. The notice shall consist of a sworn statement setting out (1) a description of the real estate sufficient for identification thereof, (2) the amount of money representing the cost and expense incurred or payable for the service, and (3) the date or dates when such cost and expense was incurred by the municipality. However, the lien of such municipality shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to removal of the garbage and debris and prior to the filing of such notice, ~~and the lien of such municipality shall not be valid as to any mortgagee, judgment creditor or other lienor whose rights in and to such real estate arise prior to the filing of such notice.~~ Upon payment of the cost and expense by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the municipality or person in whose name the lien has been filed and the release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in case of mortgages or mechanics' liens. An action to foreclose this lien shall be commenced within 2 years after the date of filing notice of lien.

(65 ILCS 5/11-20-7) (from Chap. 65, par. 11-20-7)

VACANT AND ABANDONED PROPERTY LEGISLATION

Sec. 11-20-7. Cutting of weeds

Sec. 11-20-7. The corporate authorities of each municipality may provide for the cutting of weeds or grass, the trimming of trees or bushes, and the removal of nuisance bushes or trees in the municipality, when the owners of real estate refuse or neglect to cut, trim, or remove them and to collect from the owners of private property the reasonable cost thereof. This cost, including any associated fees and other costs related to the enforcement of this Section, is a lien upon the real estate affected, superior to all subsequent liens and encumbrances, except tax liens; provided that within 60 days after such cost and expense is incurred the municipality, or person performing the service by authority of the municipality, in his or its own name, files notice of lien in the office of the recorder in the county in which such real estate is located or in the office of the Registrar of Titles of such county if the real estate affected is registered under the Torrens system. The notice shall consist of a sworn statement setting out (1) a description of the real estate sufficient for identification thereof, (2) the amount of money representing the cost and expense incurred or payable for the service, and (3) the date or dates when such cost and expense was incurred by the municipality. However, the lien of such municipality shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to the cutting of weeds or grass, the trimming of trees or bushes, or the removal of nuisance bushes or trees and prior to the filing of such notice, ~~and the lien of such municipality shall not be valid as to any mortgagee, judgment creditor or other lienor whose rights in and to such real estate arise prior to the filing of such notice.~~ Upon payment of the cost and expense by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the municipality or person in whose name the lien has been filed and the release may be filed of record as in the case of filing notice of lien.

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

(65 ILCS 5/11-20-7.5) (from Chap. 65, par. 11-20-7.5)

Sec. 11-20-7.5. Care for Vacant and Abandoned Buildings

Sec. 11-20-7.5. The corporate authorities of each municipality may (1) provide for property maintenance required to correct violations of municipal vacant and abandoned property rules, regulations and ordinances that would fall within such rules, regulations and ordinances contemplated by 65 ILCS 5/11-153, when the owners of real estate refuse or neglect to correct such violations and (2) collect from the owners of private property the reasonable cost thereof. This cost, including any associated fees and other costs

VACANT AND ABANDONED PROPERTY LEGISLATION

related to the enforcement of this Section, is a lien upon the real estate affected, superior to all subsequent liens and encumbrances, except tax liens; provided that within 60 days after such cost and expense is incurred the municipality, or person performing the service by authority of the municipality, in his or its own name, files notice of lien in the office of the recorder in the county in which such real estate is located or in the office of the Registrar of Titles of such county if the real estate affected is registered under the Torrens system. The notice shall consist of a sworn statement setting out (1) a description of the real estate sufficient for identification thereof, (2) the amount of money representing the cost and expense incurred or payable for the service, and (3) the date or dates when such cost and expense was incurred by the municipality. However, the lien of such municipality shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to the property maintenance and prior to the filing of such notice. Upon payment of the cost and expense by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the municipality or person in whose name the lien has been filed and the release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in case of mortgages or mechanics' liens. An action to foreclose this lien shall be commenced within 2 years after the date of filing notice of lien.

Section 15. The Code of Civil Procedure is amended by adding Section 15-1503.5 and changing Section 15-1509 as follows:

(735 ILCS 5/15-1503.5) (from Part 15, par. 15-1503.5)

Sec. 15-1503.5. Notice of Foreclosure to Municipalities and Servicer Duties

The municipality within the boundaries of which the property is located shall be provided notice of foreclosure; and all parties shall include the clerk of such municipality in any mailings or notices associated with foreclosure proceedings concerning property within the municipality's boundaries. All notices must be sent by registered or certified mail. The municipality shall not be joined as a party unless they are joined as a party under other provisions of this section.

When notice of foreclosure is sent to a municipality, it shall include (i) the names of all plaintiffs and the case number, (ii) the court in which the action was brought, (iii) the names of title holders of record, (iv) a legal description of the real estate sufficient to identify it with reasonable certainty, (v) a common address or description of the location of the real estate, (vi) identification of the mortgage sought to be foreclosed, (vii) the name, address, and phone number of the servicer, servicer's agent, or servicer's representative and (viii) the name of a natural person, 21 years or age or older who maintains a permanent residence in Illinois and who can be contacted by the municipality to answer questions relating to the maintenance of the property. Such notice must be sent within 10 days of the filing of a notice of foreclosure under § 735 ILCS 5/15-1503 with the county in which the mortgaged real estate is located.

VACANT AND ABANDONED PROPERTY LEGISLATION

If, before a foreclosure sale is completed, there is a change in any of the relevant information above, such as name, phone number, agent, or local representative, new notice must be sent to the municipality informing the municipality of the change. Such notice must be sent within 30 days of the change.

For the purposes of this section, the term “servicer” means the person responsible for servicing of a loan (including the person who makes or holds a loan if such person also services the loan).

For the purposes of this section, the term “servicing” means the collection or remittance or the right or obligation to collect or remit for any lender, noteowner, noteholder, or for a licensee's own account, of payments, interest, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

Servicers have the following duties in replying to municipal inquiries:

- (A) In general. If any servicer of a loan receives a qualified written request from a municipality for information relating to the maintenance of the property covered by the loan, the servicer shall provide a written response acknowledging the receipt of the correspondence within 20 days (excluding public holidays, Saturdays, and Sundays) unless the action requested is taken within such period.
- (B) Qualified Written Request. For the purposes of this subsection, a qualified written request shall be a written correspondence that includes, or otherwise enables the servicer to identify, the name and account of the borrower.
- (C) Action with respect to inquiry. Not later than 60 days (excluding legal public holidays, Saturdays, and Sundays) after the receipt from any municipality of any qualified written request the servicer shall provide the information requested.

Any person, partnership, association, corporation or other entity that violates any provision of this section commits a business offense and shall be fined an amount not to exceed \$ 25,000 by the Commissioner of Banks and Real Estate or a person authorized by the Commissioner, the Office of Banks and Real Estate Act [20 ILCS 3205/0.1 et seq.], or this Act to act in the Commissioner's stead[.]

(735 ILCS 5/15-1509) (from Part 15, par. 15-1509)

Sec. 15-1509. Report of Sale or No Sale and Confirmation of Sale

(a) *Report.*

- (i) 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.

VACANT AND ABANDONED PROPERTY LEGISLATION

- (ii) The person conducting the sale shall promptly make a report to the municipality, which report shall include the name of the party purchasing the property if the property is sold, or the name of the resulting property-holding entity if there is no sale. Such a report must be sent by registered or certified mail within 30 days of the sale proceeding.

(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 [735 ILCS 5/15-1507] was not given, (ii) the terms of sale were unconscionable, (iii) the sale was conducted fraudulently or (iv) that justice was otherwise not done, the court shall then enter an order confirming the sale. 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 [735 ILCS 5/15-1504];

(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 [735 ILCS 5/15-1506], but the court shall not defer confirming the sale pending the determination of such priority.

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

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

(c) *Failure to Give Notice.* If any sale is held without compliance with subsection (c) of Section 15-1507 of this Article [735 ILCS 15-1507], 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, provided that such party shall guarantee or secure by bond a bid equal to the successful bid at the prior sale. Any subsequent sale

VACANT AND ABANDONED PROPERTY LEGISLATION

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 [735 ILCS 5/15-1507] 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.

(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 [735 ILCS 5/15-1701] 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

VACANT AND ABANDONED PROPERTY LEGISLATION

under Article 9 of this Code or subsection (h) of Section 15-1701 [735 ILCS 5/15-1701]; 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 [735 ILCS 5/15-1701].