

2023 Illinois Senate Bill No. 201, Illinois One Hundred Third General Assembly - First Regular Session


ILLINOIS BILL TEXT

TITLE: FORECLOSURE-SEAL FILE-COVID19

VERSION: Adopted

June 09, 2023

Senate, Sen. Laura M. Murphy,, (Rep. Lakesia Collins and Dagmara Avelar)

 [Image 1 within document in PDF format.](#)

SUMMARY: Amends the Mortgage Foreclosure Article of the Code of Civil Procedure. Requires a court file to be sealed upon the commencement of any foreclosure action during the COVID-19 emergency and economic recovery period. Provides that if a residential eviction action filed during the COVID-19 emergency and economic recovery period is pending on the effective date of the amendatory Act and is not sealed, the court shall order the sealing of the court file. Provides that the amendatory Act applies to any action to foreclose a mortgage relating to (i) residential real estate, and (ii) real estate improved with a dwelling structure containing dwelling units for 6 or fewer families living independently of each other in which the mortgagor is a natural person landlord renting the dwelling units, even if the mortgagor does not occupy any of the dwelling units as the mortgagor's personal residence. Effective immediately.

TEXT:

Public Act 103-0061

AN ACT concerning civil law.

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

Section 5. The Code of Civil Procedure is amended by changing Section [15-1503](#)

and

by adding Section 15-1515 as follows: (735 ILCS 5/15-1503) (from Ch. 110, par. 15-1503)

Sec. 15-1503. Notice of foreclosure.

(a) A notice of foreclosure, whether the foreclosure is initiated by complaint or counterclaim, made in accordance with this Section and recorded in the county in which the mortgaged real estate is located shall be constructive notice of the pendency of the foreclosure to every person claiming an interest in or lien on the mortgaged real estate, whose interest or lien has not been recorded prior to the recording of such notice of foreclosure. Such notice of foreclosure must be executed by any party or any party's attorney and 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 and (vi) identification of the mortgage sought to be foreclosed. An incorrect common address or description of the location, or an immaterial error in the identification of a plaintiff or title holder of record, shall not invalidate the lis pendens effect of the notice under this Section. A notice which complies with this Section shall be deemed to comply with Section 2-1901 of the Code of Civil Procedure and shall have the same effect as a notice filed pursuant to that Section; however, a notice which complies with Section 2-1901 shall not be constructive notice unless it also complies with the requirements of this Section.

(b) **(Blank)**. With respect to residential real estate, a copy of the notice of foreclosure described in subsection (a) of Section 15-1503 shall be sent by first class mail, postage prepaid, to the municipality within the boundary of which the mortgaged real estate is located, or to the county within the boundary of which the mortgaged real estate is located if the mortgaged real estate 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), then the copy of the notice to the municipality or county shall be sent by first class mail, postage prepaid, to the chairperson of the county board or county clerk in the case of a county, to the mayor or city clerk in the case of a city, to the president of the board of trustees or village clerk in the case of a village, or to the president or town clerk in the case of a town. Additionally, if the real estate is located in a city with a population of more than 2,000,000, regardless of whether that city has complied with the publication requirement in this subsection (b), the party must, within 10 days after filing the complaint or counterclaim: (i) send by first class mail, postage prepaid, a copy of the notice of foreclosure to the alderperson for the ward in which the real estate is located and (ii) file an affidavit with the court attesting to the fact that the notice was sent to the alderperson for the ward in which the real estate is located. The failure to send a copy of the notice to the alderperson or to file an affidavit as required shall result in a stay of the foreclosure action on a motion of a party or the court. If the foreclosure action has been stayed by an order of the court, the plaintiff or the plaintiff's representative shall send the notice by certified mail, return receipt requested, or by private carrier that provides proof of delivery, and tender the return receipt or the proof of delivery to the court. After proof of delivery is tendered to the court, the court shall lift the stay of the foreclosure action. (Source: P.A. 101-399, eff. 8-16-19; 102-15, eff. 6-17-21.) (735 ILCS 5/15-1515 new)

Sec. 15-1515. COVID-19 emergency sealing of court file.

(a) As used in this Section: "Court file" means the court file created when a foreclosure action is filed with the court.

"COVID-19 emergency and economic recovery period" means the period beginning on March 9, 2020, when the Governor issued the first disaster proclamation for the State to address the circumstances related to COVID-19 and ending on December 31, 2021.

(b) The court may seal the file, upon motion of a mortgagor, of any foreclosure action filed during the COVID-19 emergency and economic recovery period if the action was not subject to the moratoria enacted by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, or the Department of Veterans Affairs. If an action was filed during the COVID-19 emergency and economic recovery period because it qualified under an exception to one of the above moratoria, the action is not subject to being sealed under this Section. If a residential eviction action filed during the COVID-19 emergency and economic recovery period is pending on the effective date of this amendatory Act of the 103rd General Assembly and is not sealed, the court shall order the sealing of the court file.

(c) This Section applies to any action to foreclose a mortgage relating to: (i) residential real estate as defined in Section 15-1219; and (ii) real estate improved with a dwelling structure containing dwelling units for 6 or fewer families living independently of each other in which the mortgagor is a natural person landlord renting the dwelling units, even if the mortgagor does not occupy any of the dwelling units as the mortgagor's personal residence.

(d) This Section is repealed on June 1, 2025.

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