

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 15-1401.1 as follows:

(735 ILCS 5/15-1401.1)

Sec. 15-1401.1. Short sale in foreclosure.

(a) As used in ~~For purposes of~~ this Section:⁷

"Certified community development financial institution" means a community development financial institution that is certified by the Community Development Financial Institutions Fund in the U.S. Department of Treasury under 12 U.S.C. 4701 et seq.

"Short ~~short~~ sale" means the sale of real estate that is subject to a mortgage for an amount that is less than the amount owed to the mortgagee on the outstanding mortgage note.

"Residential property" means real property on which there is a dwelling unit with accommodations for 4 or fewer separate households and occupied, or to be occupied, in whole or in part, by the mortgagor; however:

(i) "residential property" is limited to the primary residence of a person;

(ii) "residential property" does not include an

investment property or residence other than a primary residence; and

(iii) "residential property" does not include residential property taken in whole or in part as collateral for a commercial loan.

(b) In a foreclosure of residential real estate, if (i) the mortgagor presents to the mortgagee a bona fide written offer from a third party to purchase the property that is the subject of the foreclosure proceeding, (ii) the written offer to purchase is for an amount which constitutes a short sale of the property, and (iii) the mortgagor makes a written request to the mortgagee to approve the sale on the terms of the offer to purchase, the mortgagee must respond to the mortgagor within 90 days after receipt of the written offer and written request.

(c) The mortgagee shall determine whether to accept the mortgagor's short sale offer. Failure to accept the offer shall not impair or abrogate in any way the rights of the mortgagee or affect the status of the foreclosure proceedings. The 90-day period shall not operate as a stay of the proceedings.

(d) If an offer to purchase either a mortgage or residential property is made by an entity with a tax-exempt filing status under Section 501(c)(3) of the Internal Revenue Code for the purpose of reselling that mortgage or residential property to the mortgagor, and financing for the repurchase will be provided by a certified community development financial institution, an affidavit, statement, agreement, or addendum

limiting ownership or occupancy of the residential property by the mortgagor shall not provide a basis to avoid a sale or transfer, nor is it enforceable against the acquiring entity or any real estate broker, mortgagor, or settlement agent named in the affidavit, statement, agreement, or addendum. At the time of the offer, the following disclosures shall be made to the mortgagee by the mortgagor in connection with any purchase or sale under this subsection: (i) the entity seeking to purchase shall disclose its tax-exempt status; (ii) the entity that will finance the sale following the purchase shall disclose its status as a certified community development financial institution; and (iii) the disclosure shall state whether the residential property is to be sold back to the mortgagor. Upon request by the mortgagee, a certified community development financial institution shall provide documentation evidencing its current certification status. Nothing in this subsection shall impair, abrogate, or abridge in any manner the rights of the mortgagee pursuant to subsection (c) to accept or reject an offer to purchase either a mortgage or residential property, nor shall it give rise to a cause of action.

(Source: P.A. 97-666, eff. 1-13-12.)

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