

# Foreclosure Report

## Survey of State Foreclosure Laws

State: **Illinois**

Statutory citation: 735 Ill. Comp. Stat. 5/15-1501 to 1605; 815 Ill. Comp. Stat. 137/100 and 137/105 (High Risk Home Loans)

Most Common Method of Foreclosure: **Judicial**

Consumer Protection Provisions	Statutory Cite & Description	Comments
1. Do borrowers have easy access to the courts prior to sale?	Yes.	
(a) most commonly used residential mortgage instrument is required to be foreclosed judicially? <b>OR</b>	Yes. All mortgages. 735 Ill. Comp. Stat. § 5/15-1405.	
(b) specific procedure exists in non-judicial foreclosure state for borrower to easily access judicial review.	n/a	
2. Is there a state law right to cure the default before loan is accelerated?	No, except for high risk home loans.	
(a) is the servicer/ holder prohibited from imposing legal fees and foreclosure costs during the cure period?		For high risk home loans, creditor must advise borrower who is 30 days late of availability of credit counseling, hold off on foreclosure if a debt management plan is worked out, and must give 30 days notice of right to cure before accelerating the loan. May not charge fees or penalty for exercise of cure, except those fees permitted by statute. Borrower not liable for any attorney fees or costs prior to or during cure period, and no fees in excess of \$100 incurred by holder after expiration of the 30-day period but before holder files a foreclosure action 815 Ill. Comp. Stat. § 137/100 and 137/105.

Consumer Protection Provisions	Statutory Cite & Description	Comments
(b) Is there a statutory limit on fees and costs that may be imposed during the cure period?		
3. Is there a state law right to cure the default and reinstate the loan before the foreclosure sale?	Yes.	
(a) How long is the reinstate period or when does the right expire?	90 days after service of summons. § 5/15-1602.	
(b) Do borrowers receive a written notice of the right to reinstate?	No.	
(c) does the notice include an itemization of all fees and other amounts necessary to reinstate?	No.	
(d) Are there any limitations on right to reinstate?	If court specifically finds that borrower has exercised right to reinstate, the right may not be exercised again for five years from date of dismissal of earlier foreclosure. § 5/15-1602.	
4. Is the servicer/ holder required to engage in loss mitigation before the loan is foreclosed?	No.	
5. Is personal service of the Notice of Sale or Foreclosure Complaint required?	Yes. Complaint in foreclosure action is treated like that in any other civil action. 735 ILCS 5/2-203 (a) states that “except as otherwise expressly provided” the summons must be personally served.	
6. Is there a State emergency fund or similar program available to assist borrowers in default?	No.	
7. Does the state statute provide any protection for consumers after the foreclosure sale:		
(a) Right of redemption?	Yes. In general until the later of 7 months after service of complaint or 3 months after judgment. Special right of redemption for home mortgage if purchaser is the mortgagee, and sale price is less than amount specified in § 1603(d). 735 Ill.	

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	Comp. Stat. §§5/15-1603 and 1604.	
(b) Limitations on deficiency judgments?	No. Deficiency is explicitly permitted. § 5/15-1508.	
(c) Accounting or other procedure for foreclosure sale proceeds and return of surplus?		
i. Accounting for sales proceeds?	Person who conducts sale must report to court; court confirms sale and directs the disposition of proceeds. § 5/15 - 1508.	
ii. Prompt return of surplus proceeds?	Court must review conduct of sale “promptly” after it occurs; order distribution of proceeds. § 5/15 - 1512.	