



## ***Kelley Kronenberg Illinois Client Alert: Cook County Foreclosure Actions May Partially Resume – Effective December 1, 2020***

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### **Chancery Division General Administrative Order No. 2020-13 (Amended 11.20.2020)**

1. Residential Foreclosures may proceed with service of process and may proceed to entry of judgment.
2. Foreclosure sales and evictions remain stayed.

#### **New Notification Requirements:**

1. Plaintiffs must send Notices to Residents of COVID-19 Declaration to each known individual living at a property and to the mortgagor(s) and to any known tenants or sub-lessees. The plaintiff shall also send an additional notice to the property address to "Resident or Tenants of [Property Address]". This Notice includes information needed for a resident to complete and return a Form Declaration attesting that they are a Covered Person under Governor's Executive Order 2020-72 (11.13.2020). A sample Notice Letter and Form Declaration are attached.
2. For cases currently pending, this Notice must be sent out and Plaintiff must wait 30 days before proceeding with a motion for entry of judgment of foreclosure.
3. For newly filed cases, Plaintiff must send the notice within 7 days of service or within 30 days of filing the complaint, whichever date is sooner.

#### **New Affidavit of Compliance Required for Entry of Judgment:**

1. Plaintiff must submit an affidavit of compliance within 7 days of the expiration of the 30 day period. The affidavit must contain proof of compliance with the Notification Requirements and must attach any responses from a defendant or resident. If a resident attests that they are a Covered Person, then the court proceedings shall be stayed until further order of court and the matter shall be set for status.

#### **Commercial Foreclosures:**

1. Commercial foreclosures may proceed through judgment. No sales shall be scheduled or held until further order of the court unless exigent circumstances exist.

#### **Vacant or Abandoned Foreclosures:**

1. Foreclosures of Vacant or Abandoned properties shall proceed as normal to judgment and sale with sufficient proof of vacancy/abandonment.

#### **Change to IL Supreme Court Rule 113 – Notice of Sale**

A. IL Sup Ct. Rule 113 was amended Nov. 19, 2020 as follows, effective Dec. 1, 2020.

1. Paragraph (f)(1) implements a new notice requirement to supplement section 15-1507(c)(3) by mandating a separate notice to a defaulted mortgagor presale while also complementing section 15-1508(b-5) that requires notice post-sale for confirmation.
2. The idea is that Paragraph (f) addresses two issues relating to judicial sales that have become substantial problems throughout the state.
  - The separate notice of sale sent to a defaulted mortgagor avoids the mortgagor learning about the sale on the eve of the sale and filing an emergency motion to stay the sale, or motions to vacate the sale and motions to stay possession.
  - The Court hopes this rule will motions could be avoided and judicial efficiency increased if all parties, including defaulted parties, who were otherwise not receiving notice through any means except sale publication.

B. The amendment reads as follows:

In addition to the requirements for judicial sales set forth in sections 15-1506 and 15-1507 of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1506, 15-1507) the following will apply to mortgage foreclosure sales:

(f) (1) Notice of Sale. Not fewer than 10 business days before the sale, the attorney for the plaintiff shall send notice by electronic service pursuant to Illinois Supreme Court Rule 11(c) to all defendants appearing of record and shall send notice by mail to all defendants not appearing of record. Additionally, a self-represented litigant who has an e-mail address must designate a single e-mail address to which service may be directed under Rule 11. If a self-represented litigant does not designate an e-mail address, then service upon and by that party must be made by a method specified in Rule 11 other than e-mail transmission. The notice shall include mail to all defendants, including defendants in default, of the foreclosure sale date, time, and location of the sale, unless such sale is an adjourned sale occurring less than 60 days after the last scheduled sale, wherein notice of such adjourned sale need not be given in accordance with section 15-1507(c)(4) of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1507(c)(4)).

For more information contact: Kelley Kronenberg Partner, [Jason Vanslette](#)