

Often times, a bank will act too hastily in filing a foreclosure action in court, and can be forced to start all over again for failing to comply with the grace period that the Illinois Mortgage Foreclosure Law allows for.

Residential borrowers have a grace period of up to 90 days after their mortgage is in default to be allowed to make good on what is past due. This is codified in the law at 735 ILCS 5/15-1502.5. This applies to all residential cases, where the person being sued lives in the property. This period is also referred to as a 30/30/30 term, defined as follows:

The first 30 days after “default” or a payment has not been made on the mortgage note, the lender can take no action toward filing a foreclosure lawsuit but may communicate with the borrower in effort to resolve the situation.

The second 30 days (31-60) term requires the lender to send a “grace-period notice” via US mail to the borrower, which must include 5 things, per law: (1) the contact information for the Illinois Department of Financial and Professional Regulation (IDFPR) hotline, (2) the IDFPR website information, (3) the bank’s phone number and (4) fax number and (5) mailing address. This term allows the borrower to avail him/herself of the right to seek housing counseling, and obtain an additional 30 days if s/he consults with an IDFPR approved counselor.

The final 30 days (61-90) only if the borrower has elected to not seek housing counseling, can the lender file suit during this term.