Getting Started

Motion to Stay Foreclosure Sale

IMPORTANT: This getting started guide and the instructions are not legal advice. They are only meant to help you learn how to ask the court to delay the foreclosure sale of your property. Your use of the forms does not guarantee you will be successful in court.

To learn how to fill out the forms and file them with the court, read the HOW TO ASK THE COURT TO DELAY A FORECLOSURE SALE instruction sheet and the instructions on the forms.

Names of forms:	 Motion to Stay Foreclosure Sale Additional Defendant Signatures, Names, & Addresses (if needed) Notice of Motion to Stay Foreclosure Sale Order to Stay Foreclosure Sale
Purpose of the forms:	 Ask the court to delay the foreclosure sale of your property. Tell everyone else in the court case that you have asked the court to delay the foreclosure sale of your property. Tell everyone the date and time of the court hearing on your <i>Motion to Stay Foreclosure Sale</i>.
Types of cases the forms CAN be used for:	Mortgage foreclosure cases.
Types of cases the forms CANNOT be used for:	Any other types of cases.
Special information or papers needed to complete the forms:	Mortgage Foreclosure Complaint and Summons;Judgment of Foreclosure; andNotice of Sale you received.
Statutes covering the forms:	735 Illinois Compiled Statutes, section 5/15-1101 through section 5/15-1706.
Where to find the forms and instruction sheet:	http://www.illinoiscourts.gov/Forms/approved/.
For more information:	Read the HOW TO ASK THE COURT TO STAY A FORECLOSURE SALE instruction sheet that comes with these forms. You may also find more information, resources, and the location of your local county self-help center at www.illinoislegalaid.org/foreclosure .

HOW TO ASK THE COURT TO DELAY A FORECLOSURE SALE

What do these terms mean?

- Order: A direction given by a judge requiring or allowing a person to do or not do something.
- Judgment of Foreclosure: A court document that a judge signs allowing the bank to sell the property.
- Foreclosure Sale: A sale of property and an auction ordered by a judge following a foreclosure case.
- Stay a Foreclosure Sale: a delay of the foreclosure sale allowed by a judge. Staying a sale does not undo the Judgment of Foreclosure. The sale will likely still happen at a later date. The judge will decide whether to delay the sale.

When should I file a Motion to Stay a Foreclosure Sale?

- A "Judgment of Foreclosure" was entered against you;
- You received a "Notice of Foreclosure Sale" or know that the sale is going to happen;
- You wish to delay a foreclosure sale; AND
- You have a loan modification application pending, a short sale contract for the property being sold as a result of a foreclosure, or a good reason for asking to delay the foreclosure sale.

What forms do I fill out to ask the judge to stay a foreclosure sale?

- Motion to Stay a Foreclosure Sale asks the judge to delay the sale of the property; AND
- Notice of Motion to Stay a Foreclosure Sale tells all parties in the court case that you are asking the judge to delay the sale of the property and the hearing date and time.
- If you think a document would be helpful to your case, attach the document to your *Motion to Stay a* Foreclosure Sale, behind the *Motion*.

Where can I find the forms that I need?

You can find the forms at:

SS-I 910.3

http://www.illinoiscourts.gov/Forms/approved/.

What costs will I need to pay to ask the court to stay a foreclosure sale?

There are no additional costs to file a Motion to Stay a Foreclosure Sale if you have already paid to file an Appearance with the court or received a court fee waiver. If you need a court fee waiver, fill out and file an Application for Waiver of Court Fees found at: http://www.illinoiscourts.gov/Forms/approved/.

What do I do after I fill out my *Motion to Stay a Foreclosure Sale?*

Step 1: File your forms with the Circuit Clerk in the county where the court case is filed.

- You must electronically file (e-file) court documents unless (1) you are an inmate in a prison or jail and you do not have a lawyer, or (2) you qualify for an exemption from e-filing.
 - You will qualify for an exemption if: (1) you do not have internet or computer access at home and it would be difficult for you to travel to a place where you could use a computer, (2) you have a disability that keeps you from e-filing, or (3) you have trouble reading or speaking in English.
 - Fill out a Certification for Exemption from E-Filing found here: www.illinoiscourts.gov/Forms/approved/default.asp.
 - File the original and 1 copy of your Motion to Stay a Foreclosure Sale, and the Certification, with the Circuit Clerk's office in person or by mail.
- To e-file, create an account with an e-filing service provider.
 - Visit http://efile.illinoiscourts.gov/service-providers.htm to select a service provider. Some service providers are free while others charge a processing fee. For instructions on how to e-file for free with Odyssey eFileIL, see the self-help user guides here:
 - http://www.illinoiscourts.gov/CivilJustice/Resources/Self-Represented Litigants/self-represented.asp
- If you do not have access to a computer or if you need help e-filing, take your *Motion* to the Circuit Clerk's office where you can use a public computer terminal to e-file your form.
 - You can bring your form on paper or on a flash drive.
 - The terminal will have a scanner and computer that you can use to e-file your form.

Step 2: Send a copy of your *Motion to Stay a Foreclosure Sale* to the other parties.

- You must send your form to the other parties in the case. If a party has a lawyer, send the forms to the lawyer.
- o You may send your form to the other parties personally, by mail, third-party commercial carrier (e.g., FedEx or UPS), or through the court's electronic filing manager or an approved e-filing service provider. You may send your form to a party by email if they have listed their email address on a court document. Complete the proof of delivery with information of how you sent the forms to each party. It has room for 3 parties. If you are sending forms to more than 3 parties, fill out and file one or more Additional Proof of Service forms with the Motion form.

(02/18)

- Check with court staff to see if you need to deliver another copy to the judge's office.
- You must send your copies by 5:00 p.m. on the date you file your forms even if you are filing by mail or online
- Keep one copy of the forms that were stamped by the Circuit Clerk for your own records.

Step 3: Ask for a court date.

- Ask the Circuit Clerk if you have to schedule a court date or if one will be scheduled automatically.
- If you need to schedule the court date, ask the Circuit Clerk how to do so. The Circuit Clerk may schedule the court date or you may have to speak with other court staff.
- If you need to have your motion heard soon because of an upcoming sale date, let the court know this.
- When you get your court date, ask if the court will send notice of the court date to the other parties or if you need to.
- Enter the date and time in section 1 of the Notice of Motion to Stay a Foreclosure Sale.

Step 4: Get ready for your court date.

- Decide and write down:
 - What you want to ask the judge to do for you; AND
 - What you will say to the judge if asked to tell your side of the case.
- Gather and make copies of pictures and documents you want the judge to see. Bring the original for the judge and one copy for you and each of the people in the case.

Step 5: Go to your court date.

- Bring these items with you to court:
 - A copy of the Mortgage Foreclosure Complaint and Summons;
 - Two copies of your completed and stamped Motion to Stay Foreclosure Sale and Notice of Motion to Stay a Foreclosure Sale;
 - Order to Stay Foreclosure Sale; AND
 - Other papers related to your mortgage or home such as: proof of your payment history, loan modification packet, information from a housing counselor, real estate sale contract, proof of employment or other income.
- Get to the courthouse at least 30 minutes early.
- Go to the courtroom number listed on your court form. If your forms do not have a courtroom number look for a list of cases at the courthouse or ask the Circuit Clerk.
- Check in with the courtroom staff and wait for your name and case number to be called.
- When your case is called, walk to the judge and introduce yourself and briefly tell the judge what you are asking for. The judge will let you know what will happen next.

How do I present my case to the judge? Step 1: Tell the judge your side of the case and answer questions.

- Bring any important documents relating to your foreclosure including documents mentioned above.
 - Give a copy to the judge and a copy to the other parties. Be prepared to explain why the document is important.
- The judge decides what materials can be considered in making a decision about your case.

Step 2: What do I do when the other parties present their case?

- The other parties will also get to present their case.
- Write down your questions while they are speaking to the judge.

Step 3: What happens after both sides present their case?

- The judge has to make a decision. The decision is called a court order.
- If the judge needs more information to make a decision, the judge may set up another court date. Make sure you understand what information is needed and get it before the new court date.
- If the judge needs to think about it more, the judge may let you know the decision later by mailing a court order or at another court date.
- If the judge has enough information, the judge may decide right then and fill out a court order.
 - Get a copy of the order that has the court stamp on it.

If the other party was not in court to get a copy, you must send them a copy by 5:00 p.m. on the date you get the order. Fill out and file a *Proof of Delivery* court form with the Circuit Clerk to show that you sent the copy. You may find the *Proof of Delivery* at:

http://www.illinoiscourts.gov/Forms/approved/.

For Court Use Only STATE OF ILLINOIS, **CIRCUIT COURT MOTION TO** STAY FORECLOSURE SALE COUNTY **Instructions ▼** Directly above, enter the name of the county Plaintiff (Name of Bank or Mortgage Company) where the case was filed. Enter the name of the bank or mortgage ٧. company as Plaintiff. Enter your names as Defendants. Enter the Case Number **Defendants Case Number** from the Complaint you received. Enter your full names as Defendants. You will be **Defendants:** called "Defendants" on Your Names the rest of this form even if there is only one person using this form. You can file this Motion by yourself or with any A. Defendants are providing the following information: other Defendants listed in the Complaint you 1. The address of the property involved in this foreclosure case: received. In A1, enter the complete address of the Street Address, Apt # property involved in this foreclosure case. City ZIP State In A2, check "Yes" if you have a mortgage 2. Defendants are the borrowers of a mortgage loan on the property involved in this loan for the property foreclosure case: involved in this foreclosure case. ☐ Yes ☐ No In A3. check "Yes" if you live in the property 3. Defendants live in the property involved in this foreclosure case and it is their involved in this main home: foreclosure case. ☐ Yes ☐ No In A4, check "Yes" if the property involved in 4. The property involved in this foreclosure case is a single family home or has 1 to 4 this foreclosure case is a residential units: single family home or ☐ Yes ☐ No has 1 to 4 separate units where people live. In A5, check "Yes" if 5. Defendants have already been in front of a judge about this foreclosure case: you went to court and ☐ Yes ☐ No saw a judge about the property involved in this

foreclosure case.

In A6 , check "Yes" if you went to court before and gotten a foreclosure stay in this case. If you check yes, attach all related orders.	_		lo e attached all p	rior foreclos	sure stay orders.		
In A7, enter the date the judge signed the Judgment of Foreclosure and Sale you received.	7. 8.	Date A foreclosure sa		_	t of Foreclosure an	id Sale on:	
In A8 , enter the date the property is going to be sold.	B. De	fendants are asl	king to delay to e a loan modific	he foreclos	Date sure sale because	: :	
In B1 , check "Yes" in the first part if you have applied to get your mortgage loan changed so that you can keep the property. In the second part, check the box about whether the modification is under the HAMP program.	2.	It is a HAMP loa Yes N Under the terms at this time (atta Yes N Defendants have	n modification? No	ot Know tion, the ler modification t Know t for the pro	nder is not permitte on contract to this operty being sold a ract to this <i>Motion</i>)	as a result of a	he sale
In B2 , check "Yes" if you have a contract to sell the property as a short sale.	3.	Defendants need	d additional tim	ot Know e to explore ot Know	e their options or s	eek advice.	
In B3 , check "Yes" if you need more time to explore your options or seek advice.		Other:	e Court to:				
In B4 , enter any other reason you are asking to delay the foreclosure sale.	1.	Delay the foreclosure and	osure sale of the sale; AND		peing sold as a res s just and equitabl	sult of a judgment of e.	
Under the Code of Civil Procedure, 735 ILCS 5/1-109, making a statement on this form that you know to be false is perjury, a Class 3 Felony.	corr has /s/	=	understand th	at making	a false statement	losure Sale is true and on this form is perjudent	
If you are completing this form on a computer, sign your name by typing it. If		et Address, Apt #					
you are completing it by hand, sign and print your name.	City			State	ZIP	Phone	
After you finish this form, each Defendant on the form must sign		ndant Signature et Address, Apt #			Defendant Printed	Name	
and print their name, current addresses and phone number.	City			State	ZIP	Phone	
	Defe	ndant Signature			Defendant Printed	Name	

Enter the Case Number given by the Circuit Clerk: ____

			Enterti	ne Case Numbe	r given by the C	ircuit Cierk		
	Stre	et Address, Ap	t #					
Check if you need more room and fill out and file the <i>Additional</i>	City			S	tate	ZIP	Phone	
Defendant Signatures, Names, & Addresses form with this form.		Defendants h	ave attached	d the <i>Additior</i>	al Defendan	t Signatures, I	Names, & Address	es Form
	PR	OOF OF DE	ELIVERY					
In 1a, enter the name, mailing address, and email address of the party or lawyer to whom you sent the document.	1.	I sent this doo a. To: Name:						
In 1b , check the box to		Address:	First		Middle		Last	
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a , b , and c . Otherwise leave 2 blank.		a. To: Name:						
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service provider (EFSP)

Name (for example, FedEx or UPS) and office address

☐ The court's electronic filing manager (EFM) or an approved electronic filing

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STATE OF ILLINOIS, CIRCUIT COURT COUNTY		ORDER TO				
		STAY FORECLOSURE SALE				
Instructions ▼		<u> </u>	<u>-</u>			
Enter above the county name where this case was filed.	Plaintiff (Nam	ne of Bank or Mortgage Company)				
Enter the name of the bank or mortgage company as Plaintiff.	v.					
Enter your names as Defendants.						
Enter the Case Number from the Complaint you received.	Defendants		Case Number			
Fill in your names and date of the foreclosure sale.	The Court had Defendents,	As reviewed the Motion to Stay Foreclosure	Sale and finds:			
		Motion to Stay Foreclosure Sale.	, 20			
DO NOT check any more boxes or fill in any more blanks on this form.	Date IT IS HEREBY ORDERED: ☐ The Motion to Stay Foreclosure Sale is DENIED. The foreclosure sale may proceed on or after the date listed above.					
The judge will decide if your <i>Motion to Stay Foreclosure Sale</i> is granted or denied and complete the rest of this form.	The Motion	r stay will be granted. In to Stay Foreclosure Sale is GRANTED. Directorer sale is stayed up to and including:				
		oreclosure sale may go forward on or after	, 20			
	☐ Notice	e of the foreclosure sale does not need to be pu	ıblished again.			
		iles another motion for a stay, Defendant must y Foreclosure Sale.	attach a copy of this order to that			
	Plaintiff must i	mmediately give a copy of this Order to Stay the	Foreclosure Sale to the:			
DO NOT complete this section. The judge will sign and date		officer sheriff				
here.	Judge		ate			

STATE OF ILLINOIS, CIRCUIT COURT COUNTY			NOTICE OF MOTION TO STAY FORECLOSURE SALE			
Instructions ▼ Directly above, enter		<u> </u>				
the name of the county where the case was filed.	Plaintiff (Nam	e of Bank or Mortgage C	ompany)	_		
Enter the name of the bank or mortgage company as Plaintiff.	V.					
Enter your names as Defendants.				_		
Enter the Case Number from the Complaint you received.	Defendants			Case N	lumber	
The Circuit Clerk will give you the date and time of the hearing when you file your In 1b, enter the address of the court and court room number for the		ng for the <i>Motion</i> I filed ss: Street			a.m.	p.m.
hearing.	Court	Room:		City	State	ZIP
Under the Code of Civil Procedure, 735 ILCS 5/1-109, making a statement on this form that you know to be false is perjury, a Class 3 Felony.	I understand provided by /s/	everything in the <i>No</i> I that making a false s law under <u>735 ILCS 5</u>	statement on this f 5/1-109.	form is perjury a		
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your name. Enter your complete current address and	Print Your Nam	ne		State, ZIP		
If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign and print your name.			Telep	ohone		_

PROOF OF DELIVERY

1.

2.

In 1a, enter the name, mailing address, and email address of the party or lawyer to whom you sent the document.

In 1b, check the box to show how you sent the document, and fill in any other information required on the blank lines.

CAUTION: If the other party does not have a lawyer, you may send the document by email only if the other party has listed their email address on a court document.

In **c**, fill in the date and time that you sent the document.

In 2, if you sent the document to more than 1 party or lawyer, fill in a, b, and c. Otherwise leave 2 blank.

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Third-party commercial carrier, with delivery paid for at:

Name (for example, FedEx or UPS) and office address

The court's electronic filing manager (EFM) or an approved electronic filing

Address of Post Office or Mailbox

service provider (EFSP)

Email (not through an EFM or EFSP)

Mail from a prison or jail at:

Name of prison or jail

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Under the Code of Civil Procedure, 735 ILCS 5/1-109, making a statement on this form that you know to be false is perjury, a Class 3 Felony.	a false 735 II	-	nt on this form is p	oof of Delivery is true perjury and has pena	llties provided		t making
After you finish this	YOUR S	signature		Street	Address		
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this form on a computer, sign your name by typing it. If you are completing it by hand, sign and print your name.	Teleph	none					

Enter the Case Number given by the Circuit Clerk: _

STATE OF ILLINOIS, CIRCUIT COURT		ADDITIONAL DEFENDANT SIGNATURES, NAMES,		Court Use Only
	COUNTY	ADDRESSES		
Instructions ▼				
Directly above, enter the name of the county where the case was filed.	Plaintiff (Name	e of Bank or Mortgage Company)		
Enter the name of the bank or mortgage company as Plaintiff.	V.			
Enter your names as Defendants.				
Enter the Case Number from the Complaint you received.	Defendants		Cas	se Number
Each additional Defendant must sign and print their name, current addresses and phone number. You may not sign on behalf of another Defendant. 735 ILCS §5/2-605(a) requires that if the Complaint/Petition is verified by oath that	above are tru perjury and h Where Defen certify that th paragraphs.	nint/Petition is verified by oath, the and correct understand that makes penalties provided by law undants answer "Do Not Know" to bey do not have enough informated Defendants understand that make provided by law under 735	aking a false state der <u>735 ILCS 5/1-1</u> paragraphs in sec ion to admit or de king a false statem	ement on this form is 09. etion 2, above, Defendants ny the statements in thes
the <i>Answer</i> must also be verified.	Defendant Sign	ature	Defendant Printed I	Name
735 ILCS §5/2-610(b) requires that you	Street Address,	Apt #		
swear to a lack of knowledge if you cannot admit or deny any of the statements	City	State	ZIP	Phone
in the Complaint/Petition.	Defendant Sign	ature	Defendant Printed I	Name
IL Supreme Court Rule 137 requires	Street Address,	Apt #		
Answer/Response be signed.	City	State	ZIP	Phone
	Defendant Sign	nature	Defendant Printed I	Name

State

ZIP

Phone

Street Address, Apt #

City

STATE OF I	-	ADDITIONAL PROOF OF DELIVERY		For Court Use	Only
Instructions ▼					
Directly above, enter the name of the county where the case was filed.					
Enter the name of the person or company that filed this case as Plaintiff/Petitioner.	Plaintiff / Peti	tioner (First, middle, last	name or Company)		
Enter the name of the Defendants/ Respondents.	·				
Enter the Case Number given by the Circuit Clerk.	Defendants / business name	Respondents (First, mid	dle, last name, or	Case Numbe	r
In 1, enter the name of each court document you are sending.	1. I am send	ling the following cou	urt document:		
In 1a, enter the name, mailing address, and email address of the party you are sending the document to. If they have a lawyer, you must enter the lawyer's information.	Name Addre Email b. By:	First	Middle	Last City	State ZIP
In 1b, check the box to show how you are sending the document. CAUTION: If you and the person you are sending the document to have an email address, you must use one of the first two options. Otherwise, you may use one of the other options.	Only u	Email (not through a se one of the methods be n you are sending the doc Personal hand del The party	elow if you do not have a cument to does not have ivery to: nily member who is 13 vyer	an email address, or an email address.	
In c , fill in the date and time that you are sending the document.	c. On: _	Date	at:		p.m.

		Enter the Case Nur	mber given by the Circuit Cl	ierk:				
In 2, if you are sending the document to more than 1 party or lawyer, fill in a, b, and c. Otherwise leave 2 blank. In 2a, enter the name,	2. I am sending th a. To: Name:	is document: First	Middle	Last				
mailing address, and email address of the party you are sending the document to. If they have a lawyer, you must enter the lawyer's information.	Address: _ Email addre b. By:		ic filing service provid	City State ZIP Her (EFSP)				
In 2b, check the box to show how you are sending the document. CAUTION: If you and the person you are sending the document to have an email address, you must use one of the first two options. Otherwise, you may use one of the	□ Email (not through an EFSP) Only use one of the methods below if you do not have an email address, or the person you are sending the document to does not have an email address. □ Personal hand delivery to: □ The party □ The party's family member who is 13 or older, at the party's resident □ The party's lawyer □ The party's lawyer's office							
In c , fill in the date and time that you are sending the document.	c. On: Date		at:	_				
Under the Code of Civil Procedure, 735 ILCS 5/1-109, making a statement on this form that you know to be false is perjury, a Class 3 Felony.	=	-	=	d correct. I understand that s provided by law under				
If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign and	Print Your Name		City, State, .	ZIP				
print your name. Enter your complete address, telephone number, and email address, if you have one.	Telephone Attorney # (if any)							
GETTING COURT DO	CUMENTS BY EMAIL.	You should use an emai	Laccount that you do not sl	hare with anyone else and that you check				

GETTING COURT DOCUMENTS BY EMAIL: You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.