



Illinois Supreme Court Issues New Timeframe Guidelines for Illinois Foreclosures

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FOR THOSE WHO ROUTINELY service and foreclose on loans in Illinois, most of us have become numb to what can seem like insurmountable delays when it comes to completing foreclosures. Alas—help has arrived!

On March 25, 2022, the Illinois Supreme Court entered Order M.R. 31228, which sets time standards for case closures (i.e., *the time to fully resolve a case*) in all Illinois trial courts. The Illinois Supreme Court noted that “[i]mplementing time standards establishes a statewide expectation for judges, litigants, and attorneys. These time standards require each court to evaluate its actual performance compared to a statewide expectation.” These guidelines became effective July 1, 2022, and the Illinois Supreme Court established these guidelines for all cases and all judges across Illinois.

WHAT DO YOU NEED TO KNOW?

Based on these new guidelines, the expectation is that most foreclosure cases—from the date of filing the complaint to date of entry of the final order approving sale or any other final order—should be completed within three (3) years. The guidelines take into account that there will be many cases completed well within the timeframe and also some cases that will not be disposed of before three (3) years, but the latter should be the exceptions to the rule. Furthermore, the guidelines come with scant specifics on precisely *how* judges should strive to meet these expectations, meaning that each judge will have the freedom to craft their own respective plans.

To comply with this 3-year time standard, at least one foreclosure judge in Cook County (*which includes Chicago and is the largest county in Illinois with the highest foreclosure volume across the state*) has implemented a new standing order and a new case management order with strict discovery deadlines to be entered in every case moving forward, and it is likely that more judges will follow suit in Cook County and throughout the state in the coming months.

WHAT DOES THIS MEAN FOR OUR INDUSTRY?

We have all seen cases go on lengthy loss mitigation,

or bankruptcy holds over the years, but with these tighter guidelines, judges might push the parties to wrap up foreclosures more quickly. Conversely, we have also seen borrowers (*both through their counsel and on their own*) find “creative” ways to delay and prolong foreclosure proceedings far longer than is reasonable; hopefully, these guidelines will provide more judges with the incentive and basis to quickly dispense with some of the more baseless or frivolous arguments and claims that are often asserted as delay tactics. Moreover, effective litigators will be able to artfully craft arguments reminding judges and opposing counsel of this requirement in an effort to further this initiative and reduce unnecessary delays and combat these tactics.

HOW CAN YOU HELP?

Review your processes to ensure delays in procuring and executing documents, especially during litigation, are identified and resolved promptly. Ensure the transition of loans between departments (*bankruptcy, litigation, etc.*) is as seamless as possible to avoid unnecessary delays, of which judges may be more aware than in the past. Direct your foreclosure and litigation teams to partner with your Illinois attorney network and encourage them to aggressively push cases towards judgment and sale, as judges are likely to be more receptive to move cases along than they were in the past.

Though outliers will inevitably always exist, and not all cases will be resolved within the three (3) year preferred timeframe, this is a long sought-after perspective change from the Illinois court system. While foreclosure alternatives, such as loss mitigation, consent judgments, and settlements, are always the preferred course of action, when contested litigation is the only alternative, the Illinois Supreme Court has finally taken an aggressive posture to help justice move more swiftly. **a**