

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:

<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 forms?

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

- Make copies of your forms for yourself and each party in the case.
- File your forms with the Circuit Clerk in person. You may be able to file by mail or online depending on the county where the court case is filed.
- The Circuit Clerk will stamp your forms. This stamp is your proof that the forms were filed with the court.
- How to File in Person
 - Go to the courthouse in the county where your court case is filed.
 - Give the Circuit Clerk your original forms and the copies to stamp.
 - The Circuit Clerk will keep the original forms and give back your copies.
- How to File By Mail
 - Mail your original forms and one copy to the Circuit Clerk to stamp.
 - Include the *Letter to the Circuit Clerk* found at: <http://www.illinoiscourts.gov/Forms/approved/>.
 - Include a self-addressed and stamped envelope for the Circuit Clerk to mail the copy to you.
- How to File Online
 - Check your local Circuit Clerk’s website to see if online filing is an option for you at: <http://www.ilcircuitclerks.org/illinois-court-clerks/>.
 - Follow the instructions for filing online provided by the Circuit Clerk.

Step 2: Send a copy of your forms to the other parties.

- After filing, you must send a copy of your forms to each party in the case.
- If a party has a lawyer, send the copies to the lawyer.
- You may hand deliver or mail your forms to the other parties. If they have agreed, you may email your forms. The *Proof of Delivery* on your forms must state the way you sent them.
- 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/>.

STATE OF ILLINOIS, CIRCUIT COURT _____ COUNTY	MOTION TO STAY FORECLOSURE SALE	<i>For Court Use Only</i>
Instructions ▼ Enter above the county name where this case was filed. Enter the name of the bank or mortgage company as Plaintiff. Enter your names as Defendants. Enter the Case Number from the Complaint you received.	_____ Plaintiff <i>(Name of Bank or Mortgage Company)</i> v. _____ _____ Defendants	_____ - CH - _____ Case Number

Enter your full names as Defendants. You will be called "Defendants" on 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 other Defendants listed in the Complaint you received.

Defendants: _____
Your Names

A. Defendants are providing the following information:

1. The address of the property involved in this foreclosure case:

Street Address, Apt #

City State ZIP

2. Defendants are the borrowers of a mortgage loan on the property involved in this foreclosure case:

Yes No

3. Defendants live in the property involved in this foreclosure case and it is their main home:

Yes No

4. The property involved in this foreclosure case is a single family home or has 1 to 4 residential units:

Yes No

5. Defendants have already been in front of a judge about this foreclosure case:

Yes No

In **A1**, enter the complete address of the property involved in this foreclosure case.

In **A2**, check "Yes" if you have a mortgage loan for the property involved in this foreclosure case.

In **A3**, check "Yes" if you live in the property involved in this foreclosure case.

In **A4**, check "Yes" if the property involved in this foreclosure case is a single family home or has 1 to 4 separate units where people live.

In **A5**, check "Yes" if you went to court and 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.

In **A7**, enter the date the judge signed the Judgment of Foreclosure and Sale you received.

In **A8**, enter the date the property is going to be sold.

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.

In **B2**, check "Yes" if you have a contract to sell the property as a short sale.

In **B3**, check "Yes" if you need more time to explore your options or seek advice.

In **B4**, enter any other reason you are asking to delay the foreclosure sale.

6. Defendants already have a foreclosure stay in this case:

Yes No

Defendants have attached all prior foreclosure stay orders.

7. The judge signed the order for a Judgment of Foreclosure and Sale on:

_____, 20 _____
Date

8. A foreclosure sale of the property is scheduled for: _____, 20 _____

Date

B. Defendants are asking to delay the foreclosure sale because:

1. Defendants have a loan modification application pending:

Yes No Do Not Know

It is a HAMP loan modification?:

Yes No Do Not Know

Under the terms of the modification, the lender is not permitted to go forward with the sale at this time (attach a copy of the modification contract to this *Motion*).

Yes No Do Not Know

2. Defendants have a sale contract for the property being sold as a result of a foreclosure (attach a copy of the sale contract to this *Motion*):

Yes No Do Not Know

3. Defendants need additional time to explore their options or seek advice.

Yes No Do Not Know

4. Other: _____

C. Defendants ask the Court to:

1. Delay the foreclosure sale of the property being sold as a result of a judgment of foreclosure and sale; AND
2. Award other such relief as the Court deems just and equitable.

Defendants certify that everything in the *Motion to Stay Foreclosure Sale* is true and correct. Defendants understand that making a false statement on this form is perjury and has penalties provided by law under [735 ILCS 5/1-109](#).

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.

After you finish this form, each Defendant on the form must sign and print their name, current addresses and phone number.

Defendant Signature

Defendant Printed Name

Street Address, Apt #

City

State

ZIP

Phone

Name: _____
First Middle Last

Address: _____
Street, Apt # City State ZIP

Email: _____

- By: Hand Delivery
 Regular, First-Class Mail, deposited into the U.S. Mail with postage paid
 Email

<p>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.</p>
<p>After you finish this form, sign and print your name.</p>

I certify that everything in the Proof of Delivery is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under [735 ILCS 5/1-109](#).

Your Signature

Print Your Name

STATE OF ILLINOIS, CIRCUIT COURT _____ COUNTY	NOTICE OF MOTION TO STAY FORECLOSURE SALE	<i>For Court Use Only</i>
Instructions ▼ Enter above the county name where this case was filed. Enter the name of the bank or mortgage company as Plaintiff. Enter your names as Defendants. Enter the Case Number from the Complaint you received.	_____ Plaintiff <i>(Name of Bank or Mortgage Company)</i> v. _____ _____ Defendants	_____ - CH - _____ Case Number

In 1a, enter the date and time of your hearing. The Circuit Clerk will give you the date and time of the hearing when you file your *Motion*.

In 1b, enter the address of the court and court room number for the hearing.

1. Hearing Information

I filed a *Motion to Stay Foreclosure Sale* with the court.

The hearing for the *Motion* I filed is scheduled for:

a. Date: _____, 20____ Time: _____ a.m. p.m.

b. Address: _____
Street *City* *State* *ZIP*

Court Room: _____

I certify that everything in the *Notice of Motion to Stay Foreclosure Sale* is true and correct.

I understand that making a false statement on this form is perjury and has penalties provided by law under [735 ILCS 5/1-109](#).

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.

After you finish this form, sign and print your name.

Enter your complete current address and telephone number.

Your Signature

Street Address

Print Your Name

City, State, ZIP

Telephone

In 2, enter the date you send this form to the other parties. You must send this form by 5:00 p.m. on the same day it was filed with the Circuit Clerk.

Proof of Delivery

1. I sent the *Notice of Motion* and *Motion to Stay Foreclosure Sale*

2. At or before 5:00 P.M. on: _____, 20____
Date

In 3, enter the full name and address of the parties or lawyers you are sending a copy of this form, and check if you will send copies of this form by hand, by mail, or by email.

If a party has a lawyer, you must send a copy of this form to the lawyer.

CAUTION: You may only send this form by email if the other party has agreed to receive documents in the lawsuit by email.

3. To:

Name: _____
First Middle Last

Address: _____
Street, Apt # City State ZIP

Email: _____

- By: Hand Delivery
 Regular, First-Class Mail, deposited into the U.S. Mail with postage paid
 Email

Name: _____
First Middle Last

Address: _____
Street, Apt # City State ZIP

Email: _____

- By: Hand Delivery
 Regular, First-Class Mail, deposited into the U.S. Mail with postage paid
 Email

Name: _____
First Middle Last

Address: _____
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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.

After you finish this form, sign and print your name.

Your Signature

Print Your Name

