

# Getting Started

## Mortgage Foreclosure Appearance & Answer

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**IMPORTANT:** This getting started guide and the instructions are not legal advice. They are only meant to help you learn how to answer a Mortgage Foreclosure Complaint. 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 RESPOND TO A MORTGAGE FORECLOSURE COMPLAINT* instruction sheet and the instructions on the forms.

<b>Names of forms:</b>	<ul style="list-style-type: none"><li>• <i>Mortgage Foreclosure Appearance &amp; Answer</i></li><li>• <i>Additional Defendant Signatures, Names, &amp; Addresses</i> (If needed)</li><li>• <i>Additional Paragraphs for Mortgage Foreclosure Appearance &amp; Answer</i> (If needed)</li><li>• <i>Additional Defenses for Mortgage Foreclosure Appearance &amp; Answer</i> (If needed)</li></ul>
<b>Purpose of the forms:</b>	<ul style="list-style-type: none"><li>• Tell the court you know about the foreclosure case.</li><li>• Respond to the Mortgage Foreclosure Complaint.</li></ul>
<b>Types of cases the forms CAN be used for:</b>	Cases in which you are being sued to foreclose on a home mortgage.
<b>Types of cases the forms CANNOT be used for:</b>	The forms may not be appropriate for: <ul style="list-style-type: none"><li>• cases involving commercial properties; OR</li><li>• cases with additional counts other than foreclosure such as "breach of contract," "reformation," or "quiet title."</li></ul>
<b>Special information or papers needed to complete the forms:</b>	<ul style="list-style-type: none"><li>• The Mortgage Foreclosure Complaint and Summons you received.</li><li>• Your personal records about your payments on the mortgage.</li></ul>
<b>Statutes covering the forms:</b>	<a href="#">735 Illinois Compiled Statutes</a> , section 5/15-1101 through section 5/15-1706.
<b>Where to find the forms and instruction sheet:</b>	<a href="http://www.illinoiscourts.gov/Forms/approved/">http://www.illinoiscourts.gov/Forms/approved/</a>
<b>For more information:</b>	Read the <i>How to Respond to a Mortgage Foreclosure Complaint</i> 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 <a href="http://www.illinoislegalaid.org/foreclosure">www.illinoislegalaid.org/foreclosure</a> .

# HOW TO RESPOND TO A MORTGAGE FORECLOSURE COMPLAINT

## Who can use the *Mortgage Foreclosure Appearance & Answer*?

- You can use the Mortgage Foreclosure Appearance & Answer if your name is listed on the Summons and the Mortgage Foreclosure Complaint as a Defendant.
- **NOTE:** a Mortgage Foreclosure Complaint might also be called “Complaint to Foreclose Mortgage” or “Complaint for Foreclosure.”

## What form may I fill out and file with the court to respond to a Mortgage Foreclosure Complaint?

- You may fill out the *Mortgage Foreclosure Appearance & Answer* form.
- If you and the other Defendants want to answer differently from each other, you may each file a separate *Mortgage Foreclosure Appearance & Answer*.
- **NOTE:** If you think the Complaint or the way you received it is defective in some way and you want to ask the court to dismiss the case or take other action, talk to an attorney before filing this form.

## What is a *Mortgage Foreclosure Appearance & Answer*?

- The *Mortgage Foreclosure Appearance & Answer* tells the court you know about the foreclosure case and whether you agree or disagree with what was stated in the Mortgage Foreclosure Complaint.
- It also allows you to tell the court what defenses you have to the complaint.
- If you do not file a *Mortgage Foreclosure Appearance & Answer*, the foreclosure case can go ahead without you and the court might rule against you.

## Where can I find the form I need?

You can find the form at:

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

## Is there a deadline for filing the *Mortgage Foreclosure Appearance & Answer*?

You must file within 30 days after you were properly served with the Mortgage Foreclosure Complaint. If you miss this deadline you can ask the court for an extension of time by filing a *Motion to Extend Time to File*.

**NOTE:** If you have legal reason to challenge (quash) service of process you need to file a *Motion* before you file your *Foreclosure Answer*. You can find the *Motion* form at: <http://www.illinoiscourts.gov/Forms/approved/>. You may want to consult with a lawyer about whether you have a legal reason to challenge (quash) service [735 ILCS 5/2-301](#).

## What costs will I need to pay to file a *Mortgage Foreclosure Answer & Appearance*?

- There is a fee for each *Mortgage Foreclosure Appearance & Answer* filed with the Circuit Clerk.

- If you cannot afford the fee, you can ask the court to file for free. Fill out and file an *Application for Waiver of Court Fees* to ask the court for a fee waiver. This is a separate set of forms you can find at: <http://www.illinoiscourts.gov/Forms/approved/>.

## What if I think I have a defense to the foreclosure lawsuit?

- In Section C of the *Mortgage Foreclosure Appearance & Answer*, enter any defenses you have. You must state facts that support your defenses.
- If any of the following applies, you may wish to contact a lawyer:
  - Your lender violated any of the Making Home Affordable Program (HAMP) guidelines; for more information go to <http://www.makinghomeaffordable.gov>;
  - Your mortgage company wrongfully denied your application for a loan modification;
  - Your mortgage company failed to respond to your request for a mortgage modification;
  - You had a loan modification application under review with your mortgage company when the foreclosure case was filed;
  - Your refinance or home equity loan is less than 3 years old and the lender did not accurately tell you information about the loan's Annual Percentage Rate (APR), finance charges, amount financed, total of payments or schedule of payments;
  - Your broker received an unreasonable lump-sum payment (commission) for brokering the loan;
  - A contractor started the loan as part of a home repair contract;
  - You have your own insurance, and the lender has added an insurance premium to your account (force-placed insurance). In certain circumstances, forced insurance may be legal; OR
  - Your lender has not applied all of your payments to your account.
  - These situations do not necessarily mean you have a defense to your mortgage foreclosure case. Also, you might have a defense not listed here.
- When you use the form *Answer*, you may be automatically admitting that certain facts are true, like that you were given all the required notices about the default on the mortgage. This is because if the Plaintiff uses an approved form foreclosure complaint, these facts do not have to be listed in the complaint.

A complete list of the facts that do not have to be listed in the approved form complaint can be found at [735 ILCS 5/15- 1504\(c\)](#). If you want to deny any of these facts, do not use this form.

- Visit <http://www.illinoislegalaid.org/foreclosure> for more information about mortgage foreclosure defense or to apply for legal help.

#### **What do I do if I want to try to refinance my loan?**

- Check with your local courthouse to see if your county has a mediation program to assist foreclosure defendants.
- See a HUD counselor for advice on your options. Call 800-569-4287 or visit <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm> for a list of HUD counselors in your area.

#### **What do I do after I fill out the *Mortgage Foreclosure Appearance & Answer*?**

##### **Step 1: File your form 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](http://www.illinoiscourts.gov/Forms/approved/default.asp).
  - File the original and 1 copy of your *Mortgage Foreclosure Appearance & Answer*, 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 eFileLL, see the self-help user guides here: [http://www.illinoiscourts.gov/CivilJustice/Resources/Self-Represented\\_Litigants/self-represented.asp](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 form 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 saved 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 *Mortgage Foreclosure Appearance & Answer* to the other party.**

- You must send your forms to the other parties in the case. If a party has a lawyer, send the forms to the lawyer.
- You may send forms to the other parties by personal hand delivery, by mail, third-party commercial carrier (for example, FedEx or UPS), or through the court's electronic filing manager or an approved e-filing service provider. You may e-mail your form to a party if they have listed their e-mail address on a court document. Complete the proof of delivery with information to show 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 Delivery* forms with the main form.

##### **Step 3: 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 4: Go to your court date.**

- You should have received a court date and time from the Circuit Clerk when you filed your court forms OR on a written notice from the other party or Circuit Clerk. If you cannot find your court date and time, call the Circuit Clerk.
- Bring these items with you to court:
  - A copy of the Mortgage Foreclosure Complaint and Summons;
  - Two copies of your completed and stamped *Mortgage Foreclosure Appearance & Answer*; 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 party. 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 party presents their case?

- The other party will also get to present their case.
- Write down your questions while they are speaking to the other party or 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/>.

### Step 4: Watch your mail

As the case goes on, you may receive important notices about new court dates and other matters.

<b>STATE OF ILLINOIS, CIRCUIT COURT</b>  _____ COUNTY	<b>MORTGAGE FORECLOSURE APPEARANCE &amp; ANSWER</b>	<i>For Court Use Only</i>
<b>Instructions ▼</b> Directly above, enter the name of the county where the 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.	_____ <b>Plaintiff</b> <i>(Name of Bank or Mortgage Company)</i>  v.  _____ <b>Defendants</b>	_____ <b>Case Number</b>

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 Appearance & Answer by yourself or with any other Defendants listed in the Complaint you received.

In **A1**, enter the complete address of the property listed in the Complaint.

In **A2**, check "Yes" if you are working with your bank to try to get your mortgage loan changed so that you can keep your house.

In **A3**, check "Yes" if the bank has already changed your mortgage loan.

In **A4**, check "Yes" if you are working with a housing counselor to work through your options in this mortgage foreclosure case. Also list the name of the company the housing counselor works for and the name of the housing counselor.

**Defendants:** \_\_\_\_\_  
*Your Names*

**submit an Appearance and Answer to the Mortgage Foreclosure Complaint as follows:**

**A. Defendants provide the following information:**

1. The address of the property that is being foreclosed is:

\_\_\_\_\_ *Street Address, Apt #*

\_\_\_\_\_ *City State ZIP*

2. Defendants are working with a lender on getting a loan modification:

Yes  No

3. Defendants already have an approved loan modification:

Yes  No

4. Defendants are working with a housing counselor:

Yes  No

The housing counselor works for: \_\_\_\_\_  
*Housing Counseling Agency Name*

The housing counselor's name is: \_\_\_\_\_  
*Housing Counselor's Name*



**D. Defendants ask the Court to:**

1. Order the Plaintiff to pay us for the money we spent on court costs in this case; AND
2. Award other such relief as the court deems just and equitable; OR
3. Set a date for Defendants to appear before the judge.

**If the Complaint/Petition is verified by oath, then Defendants certify that their answers above are true and correct understand that making a false statement on this form is perjury and has penalties provided by law under [735 ILCS 5/1-109](#).**

**Where Defendants answer "Do Not Know" to paragraphs in section 2, above, Defendants certify that they do not have enough information to admit or deny the statements in these paragraphs. Defendants understand that making a false statement on this form is perjury and has penalties provided by law under [735 ILCS 5/1-109](#).**

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.

Each 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 the Answer must also be verified.

[735 ILCS §5/2-610\(b\)](#) requires that you swear to a lack of knowledge if you cannot admit or deny any of the statements in the Complaint/Petition.

[IL Supreme Court Rule 137](#) requires Answer/Response be signed.

If you need more room fill out and file the *Additional Defendant Signatures, Names, & Addresses* form with this form.

/s/ \_\_\_\_\_  
*Defendant Signature* *Defendant Printed Name*

\_\_\_\_\_  
*Street Address, Apt #*

\_\_\_\_\_  
*City* *State* *ZIP* *Phone*

\_\_\_\_\_  
*Defendant Signature* *Defendant Printed Name*

\_\_\_\_\_  
*Street Address, Apt #*

\_\_\_\_\_  
*City* *State* *ZIP* *Phone*

\_\_\_\_\_  
*Defendant Signature* *Defendant Printed Name*

\_\_\_\_\_  
*Street Address, Apt #*

\_\_\_\_\_  
*City* *State* *ZIP* *Phone*

Defendants have completed the *Additional Defendant Signatures, Names, & Addresses* form.

**PROOF OF DELIVERY**

1. I sent this document:

a. To:

Name: \_\_\_\_\_  
*First* *Middle* *Last*

Address: \_\_\_\_\_  
*Street, Apt #* *City* *State* *ZIP*

Email address: \_\_\_\_\_

- b. By:  Personal hand delivery  
 Regular, First-Class Mail, put into the U.S. Mail with postage paid at:

\_\_\_\_\_  
*Address of Post Office or Mailbox*

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.

In **3**, if you sent the document to more than 2 parties or lawyers, fill in **a**, **b**, and **c**. Otherwise leave **3** blank.

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 service provider (EFSP)

Email (*not through an EFM or EFSP*)

Mail from a prison or jail at:

\_\_\_\_\_  
*Name of prison or jail*

c. On: \_\_\_\_\_  
*Date*

At: \_\_\_\_\_  a.m.  p.m.  
*Time*

2. I sent this document:

a. To:

Name: \_\_\_\_\_  
*First Middle Last*

Address: \_\_\_\_\_  
*Street, Apt # City State ZIP*

Email address: \_\_\_\_\_

b. By:  Personal hand delivery

Regular, First-Class Mail, put into the U.S. Mail with postage paid at:

\_\_\_\_\_  
*Address of Post Office or Mailbox*

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 service provider (EFSP)

Email (*not through an EFM or EFSP*)

Mail from a prison or jail at:

\_\_\_\_\_  
*Name of prison or jail*

c. On: \_\_\_\_\_  
*Date*

At: \_\_\_\_\_  a.m.  p.m.  
*Time*

3. I sent this document:

a. To:

Name: \_\_\_\_\_  
*First Middle Last*

Address: \_\_\_\_\_  
*Street, Apt # City State ZIP*

Email address: \_\_\_\_\_

b. By:  Personal hand delivery

Regular, First-Class Mail, put into the U.S. Mail with postage paid at:

\_\_\_\_\_  
*Address of Post Office or Mailbox*

Enter the Case Number given by the Circuit Clerk: \_\_\_\_\_

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 service provider (EFSP)

Email (*not through an EFM or EFSP*)

Mail from a prison or jail at:

\_\_\_\_\_  
*Name of prison or jail*

c. On: \_\_\_\_\_  
*Date*

At: \_\_\_\_\_  a.m.  p.m.  
*Time*

I have attached an *Additional Proof of Delivery* form.

If you sent your document to more than 3 parties or lawyers, check the box and file the *Additional Proof of Delivery* form with this form.

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.

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.

**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](#).**

\_\_\_\_\_  
*/s/*  
*Your Signature*

\_\_\_\_\_  
*Street Address*

\_\_\_\_\_  
*Print Your Name*

\_\_\_\_\_  
*City, State, ZIP*

\_\_\_\_\_  
*Telephone*











Enter the Case Number given by the Circuit Clerk: \_\_\_\_\_

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 service provider (EFSP)

Email (*not through an EFM or EFSP*)

Mail from a prison or jail at:

\_\_\_\_\_  
*Name of prison or jail*

c. On: \_\_\_\_\_  
*Date*

At: \_\_\_\_\_  a.m.  p.m.  
*Time*

In 3, if you sent the document to more than 2 parties or lawyers, fill in a, b, and c. Otherwise leave 3 blank.

3. I sent this document:

a. To:

Name: \_\_\_\_\_  
*First Middle Last*

Address: \_\_\_\_\_  
*Street, Apt # City State ZIP*

Email address: \_\_\_\_\_

b. By:  Personal hand delivery

Regular, First-Class Mail, put into the U.S. Mail with postage paid at:

\_\_\_\_\_  
*Address of Post Office or Mailbox*

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 service provider (EFSP)

Email (*not through an EFM or EFSP*)

Mail from a prison or jail at:

\_\_\_\_\_  
*Name of prison or jail*

c. On: \_\_\_\_\_  
*Date*

At: \_\_\_\_\_  a.m.  p.m.  
*Time*

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

/s/ \_\_\_\_\_  
*Your Signature*

\_\_\_\_\_  
*Street Address*

\_\_\_\_\_  
*Print Your Name*

\_\_\_\_\_  
*City, State, ZIP*

\_\_\_\_\_  
*Telephone*

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.