

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:	<ul style="list-style-type: none"> • <i>Motion to Stay Foreclosure Sale</i> • <i>Additional Defendant Signatures, Names, & Addresses (if needed)</i> • <i>Notice of Motion to Stay Foreclosure Sale</i> • <i>Order to Stay Foreclosure Sale</i>
Purpose of the forms:	<ul style="list-style-type: none"> • 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:	<ul style="list-style-type: none"> • Mortgage Foreclosure Complaint and Summons; • Judgment of Foreclosure; and • Notice 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:

<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.
- 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 e-mail 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.

- 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 ▼ 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.	_____ Plaintiff <i>(Name of Bank or Mortgage Company)</i> v. _____ _____ Defendants	_____ _____ 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.

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.

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 **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:

Date
8. A foreclosure sale of the property is scheduled for: _____
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](#).

/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*

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.

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

Enter the Case Number given by the Circuit Clerk: _____

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

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 *Motion*.

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

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

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.

STATE OF ILLINOIS, CIRCUIT COURT _____ COUNTY	NOTICE OF MOTION TO STAY FORECLOSURE SALE	For Court Use Only
Instructions ▼	_____ Plaintiff <i>(Name of Bank or Mortgage Company)</i> v. _____ _____ Defendants	
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.	_____ 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

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: _____

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.

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 *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](#).

/s/ _____ <i>Your Signature</i>	_____ <i>Street Address</i>
_____ <i>Print Your Name</i>	_____ <i>City, State, ZIP</i>
	_____ <i>Telephone</i>

PROOF OF DELIVERY

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.

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

- 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

STATE OF ILLINOIS, CIRCUIT COURT _____ COUNTY	ADDITIONAL DEFENDANT SIGNATURES, NAMES, & ADDRESSES	<i>For Court Use Only</i>
Instructions ▼ 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.	_____ Plaintiff <i>(Name of Bank or Mortgage Company)</i> v. _____ _____ Defendants	_____ _____ Case Number

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.

Each additional Defendant must sign and print their name, current addresses and phone number. You may not sign on behalf of another Defendant.

Defendants certify that everything on 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](#).

_____ <i>Defendant Signature</i>	_____ <i>Defendant Printed Name</i>		
_____ <i>Street Address, Apt #</i>			
_____ <i>City</i>	_____ <i>State</i>	_____ <i>ZIP</i>	_____ <i>Phone</i>
_____ <i>Defendant Signature</i>	_____ <i>Defendant Printed Name</i>		
_____ <i>Street Address, Apt #</i>			
_____ <i>City</i>	_____ <i>State</i>	_____ <i>ZIP</i>	_____ <i>Phone</i>
_____ <i>Defendant Signature</i>	_____ <i>Defendant Printed Name</i>		
_____ <i>Street Address, Apt #</i>			
_____ <i>City</i>	_____ <i>State</i>	_____ <i>ZIP</i>	_____ <i>Phone</i>

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.