

# Three Key Mortgage Enforcement Developments for Lenders in Illinois

Recent Court Decisions and New Bill Could Reshape Lender Rights

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By: Stephanie N. Mulcahy

Illinois mortgage lenders face a period of significant uncertainty as two pending appellate decisions and a legislative bill could fundamentally change how and when lenders can enforce notes and mortgages in the state. The following post explains what lenders need to know about each of these recent developments.

## First Development: How Long Does a Lender Have to Foreclose a HELOC?

In *BMO Bank N.A. v. Zbrozczyk*, 2025 IL App (1st) 241333, an Illinois appellate court held that a home equity line of credit (HELOC) secured by a mortgage was subject to only a 5-year filing deadline, rather than the 10-year deadline that typically applies to mortgage-related debts.

The court reasoned that because a HELOC is a revolving credit product—where the amount owed cannot be determined from the loan agreement alone—it did not qualify for the longer 10-year period that applies to notes and written contracts.

**As a result, the court upheld the dismissal of the lender’s foreclosure complaint.** The Illinois Supreme Court denied the Petition for Leave to Appeal.

## The Legislative Fix: Senate Bill 2951

In response, the Illinois Legislature has passed **Senate Bill 2951**, which would make clear that any debt secured by a mortgage—regardless of whether it is a traditional loan, a HELOC, or any other type of credit—is subject to a uniform 10-year filing deadline. Under the bill, the fact that a mortgage secures the debt is enough to trigger the 10-year period, eliminating the distinction the court drew in *Zbrozczyk*.

SB 2951 has passed both houses of the Illinois General Assembly and is currently pending action by the Governor. **It is not yet a law.** However, if signed, the bill would overrule the *Zbroszczyk* decision and confirm that lenders have 10 years—not 5—to bring a foreclosure action on HELOCs and other revolving credit products secured by real estate.

The bill provides important certainty by applying one consistent deadline to all mortgage-secured debts, regardless of how the underlying loan is structured. Although the sponsor of SB 2951 indicated that he intended this amendment to clarify existing law and, therefore, be retroactive, the final version of SB 2951 does not specify how it will be applied.

## Second Development: Can a Mortgage Be Extinguished After the Ten-Year Statute of Limitations Expires?

In *Chicago Title Land Trust Co. v. Watkin*, 2025 IL App (1st) 241354, an Illinois appellate court considered whether a mortgage lien is extinguished once the statute of limitations on a note and mortgage has expired.

**The court held that the mortgage lien survives, reasoning that the statute of limitations only bars the lender's ability to foreclose**—it does not wipe out the underlying debt or the lien on the property.

The court pointed to a separate Illinois statute that provides its own mechanism for eliminating a mortgage lien: under that law, a lien automatically ceases to exist 20 years after the last payment is due, unless the lender takes steps to extend it. Because the legislature created this specific 20-year rule to extinguish liens, the court concluded that the general ten-year statute of limitations was not intended to have the same effect.

### The Appeal to the Illinois Supreme Court

The Illinois Supreme Court held oral argument at the end of May 2026. If the Supreme Court reverses the lower court and rules that the mortgage lien is eliminated upon expiration of the statute of limitations, **the consequences for lenders could be significant.**

Under the current rule, even after the 10-year statute of limitations expires, the mortgage lien stays on the property—preserving the lender's security interest and giving it leverage to negotiate voluntary repayment. If a borrower later makes a payment or acknowledges the debt, the deadline can restart, allowing the lender to enforce the lien.

**A reversal would eliminate this protection.** Borrowers could go to court between the 10-year and 20-year marks to have the lien removed from their properties, rather than negotiating repayment or risking restarting the deadline by making payments. This would strip away the residual value that the lien provides lenders during the gap between the expiration of the 10-year enforcement window and the 20-year point at which the lien ceases to exist by statute.

# Third Development: Can a Lender's Right to Enforce a Note and Mortgage Expire While a Foreclosure Case is Still Pending?

In *Bank of New York Mellon v. Bartelstein*, No. 1-24-2136, the lender filed a single-count foreclosure suit in December 2007 after declaring the loan in default in October 2007. The lender followed the statutory form foreclosure complaint and did not include a separate count for a suit on the note.

**After nearly 16 years of litigation, the trial court granted summary judgment in favor of the borrower, holding that:**

- The ten-year statute of limitations to sue on the note expired on October 17, 2017.
- Filing a foreclosure lawsuit did not pause or extend the statute of limitations on the note because a foreclosure and a suit on a note are legally separate proceedings.
- Once the note became unenforceable, the mortgage—which exists only to secure the note—was extinguished as well.

The court ordered the lender to release the mortgage and awarded the borrower \$160,492.52 in attorney fees.

## The Appeal

Oral argument was held on June 2, 2026. If the appellate court agrees with the trial court, **the consequences for mortgage lenders and borrowers would be far-reaching indeed:**

- Lenders who file a statutory form foreclosure complaint would risk having the statute of limitations on the note expire during prolonged litigation, barring enforcement of the mortgage even though the foreclosure was timely filed.
- Borrowers would have a strong incentive to use delay tactics to run out the clock.

The ruling would effectively force lenders to include a separate claim on the note in their foreclosure suits to protect their rights. The substantial fee award also highlights the potential exposure for lenders with cases that have been pending for more than 10 years.

## What Do These Developments Mean for Lenders?

Both *Watkin* and *Bartelstein* have been taken under advisement following oral argument, and we expect decisions in both cases within the next 6 to 12 months. We are also monitoring SB 2951 for the Governor's signature; if signed, the bill would take effect immediately.

Any combination of these decisions could significantly change how and when lenders can enforce a note and mortgage in Illinois. Lenders should evaluate their current portfolios, particularly long-pending foreclosure cases

and HELOC-secured loans, in light of these potential changes. We will continue to monitor these developments and provide further guidance as they unfold.

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## Authors



**Stephanie N. Mulcahy**

Partner

☎ 312-704-3220

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