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Two Key Wins for Mortgage Lenders on Illinois Statute of Limitations

SB 2951 Signed Into Law; Appellate Court Reverses *Bartelstein*

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In our prior post, we identified several developments that could significantly change how and when lenders enforce notes and mortgages in Illinois. Since then, two issues have been resolved—both in favor of lenders. Below is an update on what has happened and what it means.

I. SB 2951 is Now Law

On August 21, 2026, Governor Pritzker signed Senate Bill 2951 into law as Public Act 104-0842, effective immediately. The new law clarifies Sections 13-115 and 13-206 of the Illinois Code of Civil Procedure to provide that indebtedness of any kind secured by a mortgage is subject to a 10-year statute of limitations.

What Does the Law Entail?

As we discussed in our prior blog post, SB 2951 was a direct legislative response to *BMO Bank N.A. v. Zbroszczyk*, 2025 IL App (1st) 241333, in which an Illinois appellate court held that a home equity line of credit (HELOC) secured by a mortgage was subject to only a five-year statute of limitations rather than the 10-year period that typically applies to foreclosure actions on mortgage-related debts.

The new law eliminates the distinction the court had drawn in *Zbroszczyk* by clarifying that the nature of the underlying credit product is irrelevant—what matters is that a mortgage secures the debt.

What Does This Mean for Lenders?

The enactment of SB 2951 provides the certainty that lenders have been seeking. Lenders holding HELOCs secured by real estate can now proceed with confidence, knowing that the 10-year statute of limitations period applies to their foreclosure actions.

Will SB 2951 Apply Retroactively?

Under Illinois law, statutory amendments are generally presumed to apply prospectively unless one of the following exceptions applies:

1. The legislature expressly states retroactive intent,
2. The amendment clarifies existing law, or
3. The amendment is procedural or remedial rather than substantive.

Changing vs. Clarifying an Amendment

The distinction between an amendment that ***changes*** the law and one that ***clarifies*** the law is crucial.

When the legislature enacts an amendment to clarify an ambiguous or misinterpreted statute—rather than to change it—the clarification is treated as a statement of what the law has *always* meant and applies retroactively.

In *First Mortgage Co. v. Dina*, 2017 IL App (2d) 170043, ¶¶ 27-29, the court held that an amendment declared to be "declarative of existing law" "plainly states an intent to give the amendment maximal retroactive effect."

To determine whether an amendment is a *clarification* of existing law, Illinois courts consider

1. whether the legislature expressed an intent to clarify existing law,
2. whether a conflict or ambiguity existed before the amendment, and
3. whether the amendment is consistent with a reasonable interpretation of the prior statute.

Here, the legislative record provides strong support for treating SB 2951 as a clarification that applies retroactively. On the Senate floor, Senator Martwick states that SB 2951 "is a response to the 2 recent appellate court rulings" and that it "clarifies that a ten-year statute of limitations applies."

That word choice is not incidental. In Illinois, the use of "clarifies" by a bill's sponsor is evidence that the legislature viewed the prior law as already encompassing the proposition now being made explicit. Under this framework, SB 2951 does not create a new ten-year limitations period for HELOCs—it confirms that the 10-year period *always* applied to HELOCs, and that the *Zbroszczyk* decision was inconsistent with the legislature's original intent.

Therefore, SB 2951 should apply retroactively to pending cases—including those in which a borrower has raised a *Zbroszczyk*-based limitations defense. That said, borrowers may challenge this interpretation. The final text of SB 2951 does not expressly state that it applies retroactively, and borrowers are likely to argue that the legislation constitutes a substantive change in law rather than a mere clarification—particularly because *Zbroszczyk* was the first Illinois appellate decision to draw the distinction that SB 2951 now eliminates.

Courts will ultimately need to resolve this question. Lenders with HELOC-secured loans where a limitations defense has been raised or may be raised should consult counsel to evaluate their positions in light of the new law.

II. *Bartelstein* Decided: Appellate Court Reverses

On June 30, 2026, the First District Appellate Court issued its opinion in *Bank of New York Mellon v. Bartelstein*, 2026 IL App (1st) 242136, reversing the trial court's grant of summary judgment in favor of the borrower.

As we previously reported, the trial court had ruled that the 10-year statute of limitations to sue on the note expired during the pendency of the foreclosure, extinguishing the mortgage as a matter of law. The appellate court disagreed.

The appellate court held that the trial court erred in finding that the lender was required to file a separate count on the underlying note to prevent the statute of limitations from expiring. The court relied on the Illinois Supreme Court's decision in *First Midwest Bank v. Cobo*, 2018 IL 123038, which held that "for practical purposes, the request for a deficiency judgment asserted a second claim, this one under the note."

Because the lender's initial foreclosure complaint—filed within the 10-year limitations period—sought not only foreclosure and sale but also a personal deficiency judgment, the appellate court found that the statute of limitations on actions to enforce the note did not bar the lender's timely-filed mortgage foreclosure action.

What Does This Mean for Lenders?

Bartelstein is a significant win. The decision confirms that lenders who file a statutory-form foreclosure complaint in Illinois requesting a deficiency judgment have effectively asserted a claim under the note.

This means the statute of limitations on the note does not independently expire while the foreclosure case is pending, eliminating the risk that borrowers could run out the clock through delay tactics.

III. Key Takeaways

The combined effect of SB 2951 and *Bartelstein* resolves two of the three major uncertainties we previously identified—and resolves them favorably.

Lenders should review their HELOC portfolios in light of the new 10-year limitations period and confirm that pending foreclosure complaints include a request for deficiency relief. We will continue to track these developments and monitor for the Illinois Supreme Court's decision in *Watkin*.

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