



An Bille um Athchóiriú an Dlí Talún agus Tíolactha (Leasú), 2013
Land and Conveyancing Law Reform (Amendment) Bill 2013

Mar a tionscnaíodh

As initiated



AN BILLE UM ATHCHÓIRIÚ AN DLÍ TALÚN AGUS TÍOLACHTA (LEASÚ), 2013
LAND AND CONVEYANCING LAW REFORM (AMENDMENT) BILL 2013

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ACTS REFERRED TO

Land and Conveyancing Law Reform Act 2013 (No. 30)

Personal Insolvency Act 2012 (No. 44)



AN BILLE UM ATHCHÓIRIÚ AN DLÍ TALÚN AGUS TÍOLACHTA (LEASÚ), 2013
LAND AND CONVEYANCING LAW REFORM (AMENDMENT) BILL 2013

Bill

entitled

An Act to amend the Land and Conveyancing Law Reform Act 2013 to afford greater protection to mortgagors where faced with an order of possession by placing additional obligations on the mortgagee. 5

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act— 10
- “the Principal Act” means the Land and Conveyancing Law Reform Act 2013;
- “Act of 2012” means the Personal Insolvency Act 2012.

Amendments

2. (1) Section 2(2) of the Principal Act is hereby amended to read as follows:
- “(2) In any proceedings brought by a mortgagee seeking an order for possession of land to which the mortgage relates in a case to which this section applies, and where no previous engagement with a personal insolvency practitioner has taken place the court, shall: 15
- (a) adjourn proceedings for a period of at least six months;
- (b) instruct the mortgagor to consult with a personal insolvency practitioner with a view to the making of a proposal for a Personal Insolvency Arrangement; 20
- (c) instruct the personal insolvency practitioner to make a proposal for a Personal Insolvency Arrangement under the Act of 2012; and
- (d) instruct the mortgagee to cover the initial costs of the personal insolvency practitioner from its own resources, including any costs arising from consulting with the personal insolvency practitioner with a view to making an application for a personal insolvency agreement and any costs resulting for the mortgagee rejecting a proposal from the personal insolvency practitioner.”. 25 30
- (2) Section 2(7) of the Principal Act is hereby amended by inserting the following

definition:

“ ‘Court’ means the Circuit Court;”.

(3) The Principal Act is hereby amended by inserting the following section:

“Procedures for order of possession

- 3A. (1) In any proceedings brought by a mortgagee seeking an order for possession of land to which the mortgage relates in a case to which this section applies the Court, when making its decision whether to grant a possession order shall consider:
- (a) whether a mortgagee has fully complied with the Central Bank’s Code of Conduct on Mortgage Arrears; 10
 - (b) whether a mortgagee has behaved in a manner deemed reasonable by the Court. In determining whether the mortgagee has behaved reasonably the Court will consider any responses by the mortgagee to proposals from the mortgagor or a personal insolvency practitioner aimed at resolving outstanding arrears; 15
 - (c) whether, in cases where the mortgagee has rejected a proposal from a personal insolvency practitioner, the mortgagor has been given adequate opportunity to appeal the substantive decision of the mortgagee to reject the proposal; and
 - (d) the intentions of the mortgagee with respect to the residual portion of the debt that remains after any possession and sale of the property and the impact this plan may have on the financial circumstances of the mortgagor. 20
- (2) Where the Court grants an order of possession the Court shall instruct the mortgagee to abide by the full terms of any tenancy agreement in place with respect to the property and for the mortgagee to assume the full responsibilities of the landlord as stipulated in that tenancy agreement. 25
- (3) Where the Court grants an order of possession the Court shall provide for a stay of at least six months where there are adults living in the property and of at least nine months where there are children resident in the property. 30
- (4) Where a possession order is granted by the Court to land which is the principal private residence of the mortgagor the mortgagee assumes full liability for all debts relating to the mortgage on that property and agrees not to pursue the mortgagor for any outstanding liabilities on that mortgage. 35
- (5) Where a possession order is granted by the Court to land which is the principal private residence of the mortgagor the mortgagee assumes full liability for all costs related to the repossession of the property and any costs related to the subsequent sale of the property.”. 40

Short title and collective citation

3. (1) This Act may be cited as the Land and Conveyancing Law Reform (Amendment) Act 2013.
- (2) This Act shall come into force upon the date on which this Act is enacted.

An Bille um Athchóiriú an Dlí Talún agus
Tíolactha (Leasú), 2013

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do leasú an Achta um Athchóiriú an Dlí Talún agus Tíolactha, 2013 chun cosaint níos mó a thabhairt do mhorgáisteoirí i gcás go bhfuil ordú seilbhe rompu trí oibleagáidí breise a chur ar an morgáistí.

An Teachta Piaras Ó Dochartaigh a thug isteach,
10 Deireadh Fómhair, 2013

Land and Conveyancing Law Reform
(Amendment) Bill 2013

BILL

(as initiated)

entitled

An Act to amend the Land and Conveyancing Law Reform Act 2013 to afford greater protection to mortgagors where faced with an order of possession by placing additional obligations on the mortgagee.

Introduced by Deputy Pearse Doherty,
10th October, 2013

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