



NEW BILL A 'STEP IN THE RIGHT DIRECTION' *HB 1960 Will Reduce the Filing of Motions to Quash for the Wrong Reasons*

By John Gerrity and Sarah Lash, Freedman Anselmo Lindberg

AT A TIME when lawmakers across the nation are introducing legislation directed at punishing lenders for pursuing residential foreclosures (see AB 935 from Assembly member Bob Blumenfeld of Van Nuys, California), some legislation is pending in Illinois that will allow lenders to breathe a small sigh of relief.

On April 14, 2011, HB 1960 was easily passed in the Illinois House of Representatives without any opposition.¹ This bill provides that a motion to dismiss or to quash service that objects to the court's jurisdiction over the person must be filed within 60 days after the earlier of either 1) the date the moving party filed an appearance or 2) the date the moving party participated in a hearing without filing an appearance. Furthermore, if the defendant files a responsive pleading or motion (other than a motion for extension of time to answer or otherwise plead) prior to participating in a hearing, objections to jurisdiction over the defendant are waived.

The bill moved to the Illinois Senate on

April 14 and was set for a third reading on May 13. It is sponsored by Sen. Kirk W. Dillard. The enactment of this bill will not only reduce the 11th-hour motions to quash based on lack



of service, but also the high volume of motions to quash in Cook County based on the appointment of a special process server pursuant to General Administrative Order 2007-3.ii

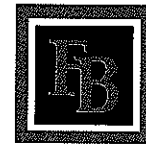
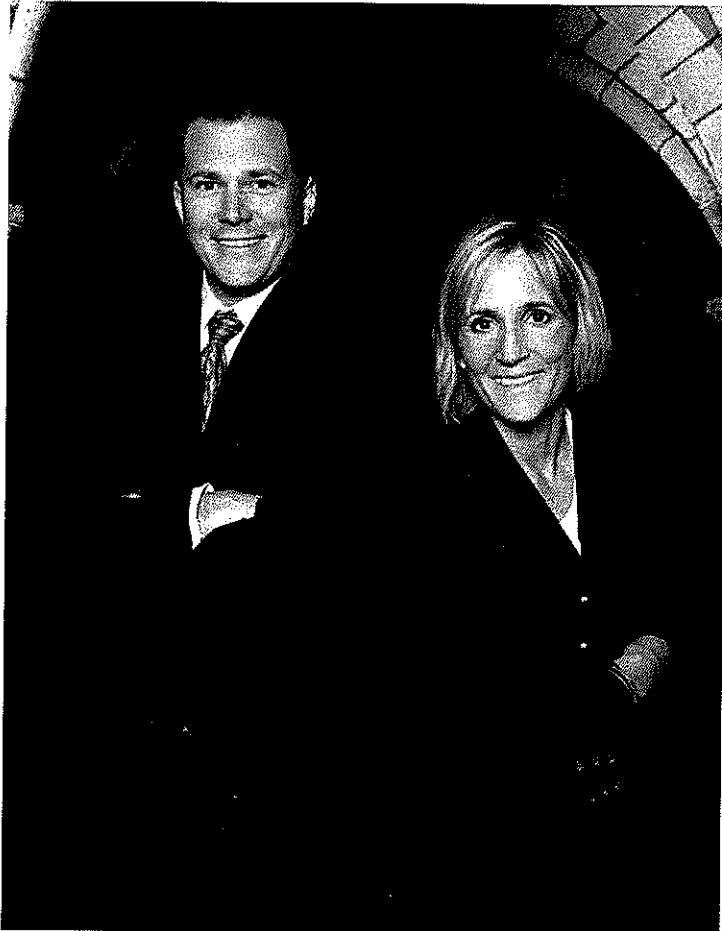
Often we see mortgagors come into court early on during the foreclosure proceedings and file an appearance. Months later when the

harsh reality of losing their home is imminent, they consult with a defense attorney, who files a motion in an attempt to lengthen the foreclosure process and allow the mortgagors to stay in the home longer. One of the ways they can buy time is by challenging the service on their client.

The bill does allow for the 60-day period to be extended "for good cause shown," which we can assume will be interpreted many different ways. Regardless, this legislation is a step in the right direction in preventing challenges to jurisdiction over the borrower years after service was effectuated and after they have appeared multiple times in court. ©2011 (pending)

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1 Ill. HB 1960 was co-sponsored by Reps. Franco Coladigierno and Michael G. Connolly and is set to amend the Illinois Code of Civil Procedure at 735 ILCS 5/15-1504.6. In 2007, Judge Kanevitz issued General Administrative Order 2007-3, allowing mortgage foreclosure firms to seek a standing order appointing a designated special process server in three-month increments.



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