



Sen. Iris Y. Martinez

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09600HB6113sam001

LRB096 16773 ASK 40761 a

1 AMENDMENT TO HOUSE BILL 6113

2 AMENDMENT NO. _____. Amend House Bill 6113 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 changing Section 15-1508 as follows:

6 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

7 Sec. 15-1508. Report of Sale and Confirmation of Sale.

8 (a) Report. The person conducting the sale shall promptly
9 make a report to the court, which report shall include a copy
10 of all receipts and, if any, certificate of sale.

11 (b) Hearing. Upon motion and notice in accordance with
12 court rules applicable to motions generally, which motion shall
13 not be made prior to sale, the court shall conduct a hearing to
14 confirm the sale. Unless the court finds that (i) a notice
15 required in accordance with subsection (c) of Section 15-1507
16 was not given, (ii) the terms of sale were unconscionable,

1 (iii) the sale was conducted fraudulently or (iv) that justice
2 was otherwise not done, the court shall then enter an order
3 confirming the sale. The confirmation order shall include a
4 name, address, and telephone number of the holder of the
5 certificate of sale or deed issued pursuant to that certificate
6 or, if no certificate or deed was issued, the purchaser, whom a
7 municipality or county may contact with concerns about the real
8 estate. The confirmation order may also:

9 (1) approve the mortgagee's fees and costs arising
10 between the entry of the judgment of foreclosure and the
11 confirmation hearing, those costs and fees to be allowable
12 to the same extent as provided in the note and mortgage and
13 in Section 15-1504;

14 (2) provide for a personal judgment against any party
15 for a deficiency; and

16 (3) determine the priority of the judgments of parties
17 who deferred proving the priority pursuant to subsection
18 (h) of Section 15-1506, but the court shall not defer
19 confirming the sale pending the determination of such
20 priority.

21 (b-5) Notice with respect to residential real estate. With
22 respect to residential real estate, the notice required under
23 subsection (b) of this Section shall be sent to the mortgagor
24 even if the mortgagor has previously been held in default. In
25 the event the mortgagor has filed an appearance, the notice
26 shall be sent to the address indicated on the appearance. In

1 all other cases, the notice shall be sent to the mortgagor at
2 the common address of the foreclosed property. The notice shall
3 be sent by first class mail. Unless the right to possession has
4 been previously terminated by the court, the notice shall
5 include the following language in 12-point boldface
6 capitalized type:

7 IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO
8 REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF
9 POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE
10 ILLINOIS MORTGAGE FORECLOSURE LAW. YOU NEED TO ARRANGE TO
11 REMOVE ALL OF YOUR PERSONAL PROPERTY FROM THE FORECLOSED
12 PROPERTY WITHIN THAT 30-DAY PERIOD.

13 (b-10) Notice of confirmation order sent to municipality or
14 county. A copy of the confirmation order required under
15 subsection (b) shall be sent to the municipality in which the
16 foreclosed property is located, or to the county within the
17 boundary of which the foreclosed property is located if the
18 foreclosed property is located in an unincorporated territory.
19 A municipality or county must clearly publish on its website a
20 single address to which such notice shall be sent. If a
21 municipality or county does not maintain a website, then the
22 municipality or county must publicly post in its main office a
23 single address to which such notice shall be sent. In the event
24 that a municipality or county has not complied with the
25 publication requirement in this subsection (b-10), then such
26 notice to the municipality or county shall be provided pursuant

1 to Section 2-211 of the Code of Civil Procedure.

2 (c) Failure to Give Notice. If any sale is held without
3 compliance with subsection (c) of Section 15-1507 of this
4 Article, any party entitled to the notice provided for in
5 paragraph (3) of that subsection (c) who was not so notified
6 may, by motion supported by affidavit made prior to
7 confirmation of such sale, ask the court which entered the
8 judgment to set aside the sale. Any such party shall guarantee
9 or secure by bond a bid equal to the successful bid at the
10 prior sale, unless the party seeking to set aside the sale is
11 the mortgagor, the real estate sold at the sale is residential
12 real estate, and the mortgagor occupies the residential real
13 estate at the time the motion is filed. In that event, no
14 guarantee or bond shall be required of the mortgagor. Any
15 subsequent sale is subject to the same notice requirement as
16 the original sale.

17 (d) Validity of Sale. Except as provided in subsection (c)
18 of Section 15-1508, no sale under this Article shall be held
19 invalid or be set aside because of any defect in the notice
20 thereof or in the publication of the same, or in the
21 proceedings of the officer conducting the sale, except upon
22 good cause shown in a hearing pursuant to subsection (b) of
23 Section 15-1508. At any time after a sale has occurred, any
24 party entitled to notice under paragraph (3) of subsection (c)
25 of Section 15-1507 may recover from the mortgagee any damages
26 caused by the mortgagee's failure to comply with such paragraph

1 (3). Any party who recovers damages in a judicial proceeding
2 brought under this subsection may also recover from the
3 mortgagee the reasonable expenses of litigation, including
4 reasonable attorney's fees.

5 (e) Deficiency Judgment. In any order confirming a sale
6 pursuant to the judgment of foreclosure, the court shall also
7 enter a personal judgment for deficiency against any party (i)
8 if otherwise authorized and (ii) to the extent requested in the
9 complaint and proven upon presentation of the report of sale in
10 accordance with Section 15-1508. Except as otherwise provided
11 in this Article, a judgment may be entered for any balance of
12 money that may be found due to the plaintiff, over and above
13 the proceeds of the sale or sales, and enforcement may be had
14 for the collection of such balance, the same as when the
15 judgment is solely for the payment of money. Such judgment may
16 be entered, or enforcement had, only in cases where personal
17 service has been had upon the persons personally liable for the
18 mortgage indebtedness, unless they have entered their
19 appearance in the foreclosure action.

20 (f) Satisfaction. Upon confirmation of the sale, the
21 judgment stands satisfied to the extent of the sale price less
22 expenses and costs. If the order confirming the sale includes a
23 deficiency judgment, the judgment shall become a lien in the
24 manner of any other judgment for the payment of money.

25 (g) The order confirming the sale shall include,
26 notwithstanding any previous orders awarding possession during

1 the pendency of the foreclosure, an award to the purchaser of
2 possession of the mortgaged real estate, as of the date 30 days
3 after the entry of the order, against the parties to the
4 foreclosure whose interests have been terminated.

5 An order of possession authorizing the removal of a person
6 from possession of the mortgaged real estate shall be entered
7 and enforced only against those persons personally named as
8 individuals in the complaint or the petition under subsection
9 (h) of Section 15-1701 and in the order of possession and shall
10 not be entered and enforced against any person who is only
11 generically described as an unknown owner or nonrecord claimant
12 or by another generic designation in the complaint.

13 Notwithstanding the preceding paragraph, the failure to
14 personally name, include, or seek an award of possession of the
15 mortgaged real estate against a person in the confirmation
16 order shall not abrogate any right that the purchaser may have
17 to possession of the mortgaged real estate and to maintain a
18 proceeding against that person for possession under Article 9
19 of this Code or subsection (h) of Section 15-1701; and
20 possession against a person who (1) has not been personally
21 named as a party to the foreclosure and (2) has not been
22 provided an opportunity to be heard in the foreclosure
23 proceeding may be sought only by maintaining a proceeding under
24 Article 9 of this Code or subsection (h) of Section 15-1701.

25 (Source: P.A. 95-826, eff. 8-14-08; 96-265, eff. 8-11-09;
26 96-856, eff. 3-1-10.)

1 Section 99. Effective date. This Act takes effect 60 days
2 after becoming law.".