



Sen. Jacqueline Y. Collins

**Filed: 3/11/2009**

09600SB2230sam001

LRB096 11441 AJ0 23201 a

1 AMENDMENT TO SENATE BILL 2230

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2230 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 15-1501 as follows:

6 (735 ILCS 5/15-1501) (from Ch. 110, par. 15-1501)

7 Sec. 15-1501. Parties.

8 (a) Necessary Parties. For the ~~the~~ purposes of Section  
9 2-405 of the Code of Civil Procedure, only (i) the mortgagor  
10 and (ii) other persons (but not guarantors) who owe payment of  
11 indebtedness or the performance of other obligations secured by  
12 the mortgage and against whom personal liability is asserted  
13 shall be necessary parties defendant in a foreclosure. The  
14 court may proceed to adjudicate their respective interests, but  
15 any disposition of the mortgaged real estate shall be subject  
16 to (i) the interests of all other persons not made a party or

1 (ii) interests in the mortgaged real estate not otherwise  
2 barred or terminated in the foreclosure.

3 (b) Permissible Parties. Any party may join as a party any  
4 other person, although such person is not a necessary party,  
5 including, without limitation, the following:

6 (1) All persons having a possessory interest in the  
7 mortgaged real estate;

8 (2) A mortgagor's spouse who has waived the right of  
9 homestead;

10 (3) A trustee holding an interest in the mortgaged real  
11 estate or a beneficiary of such trust;

12 (4) The owner or holder of a note secured by a trust  
13 deed;

14 (5) Guarantors, provided that in a foreclosure any such  
15 guarantor also may be joined as a party in a separate count  
16 in an action on such guarantor's guaranty;

17 (6) The State of Illinois or any political subdivision  
18 thereof, where a foreclosure involves real estate upon  
19 which the State or such subdivision has an interest or  
20 claim for lien, in which case "An Act in relation to  
21 immunity for the State of Illinois", approved December 10,  
22 1971, as amended, shall not be effective;

23 (7) The United States of America or any agency or  
24 department thereof where a foreclosure involves real  
25 estate upon which the United States of America or such  
26 agency or department has an interest or a claim for lien;

1           (8) Any assignee of leases or rents relating to the  
2 mortgaged real estate;

3           (9) Any person who may have a lien under the Mechanic's  
4 Lien Act; and

5           (10) Any other mortgagee or claimant.

6           (c) Unknown Owners. Any unknown owner may be made a party  
7 in accordance with Section 2-413 of the Code of Civil  
8 Procedure.

9           (d) Right to Become Party. Any person who has or claims an  
10 interest in real estate which is the subject of a foreclosure  
11 or an interest in any debt secured by the mortgage shall have  
12 an unconditional right to appear and become a party in such  
13 foreclosure in accordance with subsection (e) of Section  
14 15-1501, provided, that neither such appearance by a lessee  
15 whose interest in the real estate is subordinate to the  
16 interest being foreclosed, nor the act of making such lessee a  
17 party, shall result in the termination of the lessee's lease  
18 unless the termination of the lease or lessee's interest in the  
19 mortgaged real estate is specifically ordered by the court in  
20 the judgment of foreclosure.

21           (e) Time of Intervention.

22           (1) Of Right. A person not a party, other than a  
23 nonrecord claimant given notice in accordance with  
24 paragraph (2) of subsection (c) of Section 15-1502, who has  
25 or claims an interest in the mortgaged real estate may  
26 appear and become a party at any time prior to the entry of

1 judgment of foreclosure. A nonrecord claimant given such  
2 notice may appear and become a party at any time prior to  
3 the earlier of (i) the entry of a judgment of foreclosure  
4 or (ii) 30 days after such notice is given.

5 (2) In Court's Discretion. After the right to intervene  
6 expires and prior to the sale in accordance with the  
7 judgment, the court may permit a person who has or claims  
8 an interest in the mortgaged real estate to appear and  
9 become a party on such terms as the court may deem just.

10 (3) Later Right. After the sale of the mortgaged real  
11 estate in accordance with a judgment of foreclosure and  
12 prior to the entry of an order confirming the sale, a  
13 person who has or claims an interest in the mortgaged real  
14 estate, may appear and become a party, on such terms as the  
15 court may deem just, for the sole purpose of claiming an  
16 interest in the proceeds of sale. Any such party shall be  
17 deemed a party from the commencement of the foreclosure,  
18 and the interest of such party in the real estate shall be  
19 subject to all orders and judgments entered in the  
20 foreclosure.

21 (4) Termination of Interest. Except as provided in  
22 Section 15-1501(d), the interest of any person who is  
23 allowed to appear and become a party shall be terminated,  
24 and the interest of such party in the real estate shall  
25 attach to the proceeds of sale.

26 (f) Separate Actions. Any mortgagee or claimant, other than

1 the mortgagee who commences a foreclosure, whose interest in  
2 the mortgaged real estate is recorded prior to the filing of a  
3 notice of foreclosure in accordance with this Article but who  
4 is not made a party to such foreclosure, shall not be barred  
5 from filing a separate foreclosure (i) as an intervening  
6 defendant or counterclaimant in accordance with subsections  
7 (d) and (e) of Section 15-1501 if a judgment of foreclosure has  
8 not been entered in the original foreclosure or (ii) in a new  
9 foreclosure subsequent to the entry of a judgment of  
10 foreclosure in the original foreclosure.

11 (g) Service on the State of Illinois. When making the State  
12 of Illinois a party to a foreclosure, summons may be served by  
13 sending, by registered or certified mail, a copy of the summons  
14 and the complaint to the Attorney General. The complaint shall  
15 set forth with particularity the nature of the interest or lien  
16 of the State of Illinois. If such interest or lien appears in a  
17 recorded instrument, the complaint must state the document  
18 number of the instrument and the office wherein it was  
19 recorded.

20 (Source: P.A. 88-265.)".