



Sen. Jacqueline Y. Collins

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09700HB5019sam001

LRB097 19428 HEP 72983 a

1 AMENDMENT TO HOUSE BILL 5019

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5019 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Purpose; intent.

5 (a) Public Act 97-849, "AN ACT concerning business", was  
6 approved July 25, 2012. Public Act 97-849 contained an  
7 effective date Section providing that the Act takes effect on  
8 January 1, 2013.

9 (b) The purpose of this Act is to delay the effective date  
10 of the amendatory provisions contained in Sections 10, 15, and  
11 25 of Public Act 97-849 until the effective date of the federal  
12 regulations implementing Sections 1431, 1432, and 1433 of the  
13 federal Dodd-Frank Wall Street Reform and Consumer Protection  
14 Act.

15 (c) This Act is not intended to repeal, even temporarily,  
16 any statute that was changed by Sections 10, 15, and 25 of  
17 Public Act 97-849; rather, it is the intent of the General

1 Assembly to render the changes to those statutes by Public Act  
2 97-849 inoperative until the effective date of the federal  
3 regulations implementing Sections 1431, 1432, and 1433 of the  
4 federal Dodd-Frank Wall Street Reform and Consumer Protection  
5 Act.

6 (d) This Act also makes substantive changes to the Code of  
7 Civil Procedure unrelated to Public Act 97-849, specifically by  
8 amending certain provisions of Section 15-1508 concerning the  
9 Making Home Affordable Program.

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

12 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

17 (b) Hearing. Upon motion and notice in accordance with  
18 court rules applicable to motions generally, which motion shall  
19 not be made prior to sale, the court shall conduct a hearing to  
20 confirm the sale. Unless the court finds that (i) a notice  
21 required in accordance with subsection (c) of Section 15-1507  
22 was not given, (ii) the terms of sale were unconscionable,  
23 (iii) the sale was conducted fraudulently, or (iv) justice was  
24 otherwise not done, the court shall then enter an order

1 confirming the sale. The confirmation order shall include a  
2 name, address, and telephone number of the holder of the  
3 certificate of sale or deed issued pursuant to that certificate  
4 or, if no certificate or deed was issued, the purchaser, whom a  
5 municipality or county may contact with concerns about the real  
6 estate. The confirmation order may also:

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

12 (2) provide for a personal judgment against any party  
13 for a deficiency; and

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

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

1 be sent by first class mail. Unless the right to possession has  
2 been previously terminated by the court, the notice shall  
3 include the following language in 12-point boldface  
4 capitalized type:

5 IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO  
6 REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF  
7 POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE  
8 ILLINOIS MORTGAGE FORECLOSURE LAW.

9 (b-10) Notice of confirmation order sent to municipality or  
10 county. A copy of the confirmation order required under  
11 subsection (b) shall be sent to the municipality in which the  
12 foreclosed property is located, or to the county within the  
13 boundary of which the foreclosed property is located if the  
14 foreclosed property is located in an unincorporated territory.  
15 A municipality or county must clearly publish on its website a  
16 single address to which such notice shall be sent. If a  
17 municipality or county does not maintain a website, then the  
18 municipality or county must publicly post in its main office a  
19 single address to which such notice shall be sent. In the event  
20 that a municipality or county has not complied with the  
21 publication requirement in this subsection (b-10), then such  
22 notice to the municipality or county shall be provided pursuant  
23 to Section 2-211 of the Code of Civil Procedure.

24 (c) Failure to Give Notice. If any sale is held without  
25 compliance with subsection (c) of Section 15-1507 of this  
26 Article, any party entitled to the notice provided for in

1 paragraph (3) of that subsection (c) who was not so notified  
2 may, by motion supported by affidavit made prior to  
3 confirmation of such sale, ask the court which entered the  
4 judgment to set aside the sale. Any such party shall guarantee  
5 or secure by bond a bid equal to the successful bid at the  
6 prior sale, unless the party seeking to set aside the sale is  
7 the mortgagor, the real estate sold at the sale is residential  
8 real estate, and the mortgagor occupies the residential real  
9 estate at the time the motion is filed. In that event, no  
10 guarantee or bond shall be required of the mortgagor. Any  
11 subsequent sale is subject to the same notice requirement as  
12 the original sale.

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

1 (d-5) Making Home Affordable Program. The court that  
2 entered the judgment shall set aside a sale held pursuant to  
3 Section 15-1507, upon motion of the mortgagor at any time prior  
4 to the confirmation of the sale, if the mortgagor proves by a  
5 preponderance of the evidence that (i) the mortgagor has  
6 applied for assistance under the Making Home Affordable Program  
7 established by the United States Department of the Treasury  
8 pursuant to the Emergency Economic Stabilization Act of 2008,  
9 as amended by the American Recovery and Reinvestment Act of  
10 2009, and (ii) the mortgaged real estate was sold in material  
11 violation of the program's requirements for proceeding to a  
12 judicial sale. The provisions of this subsection (d-5), except  
13 for this sentence, shall become inoperative on January 1, 2014  
14 ~~2013~~ for all actions filed under this Article after December  
15 31, 2013 ~~2012~~, in which the mortgagor did not apply for  
16 assistance under the Making Home Affordable Program on or  
17 before December 31, 2013 ~~2012~~.

18 (e) Deficiency Judgment. In any order confirming a sale  
19 pursuant to the judgment of foreclosure, the court shall also  
20 enter a personal judgment for deficiency against any party (i)  
21 if otherwise authorized and (ii) to the extent requested in the  
22 complaint and proven upon presentation of the report of sale in  
23 accordance with Section 15-1508. Except as otherwise provided  
24 in this Article, a judgment may be entered for any balance of  
25 money that may be found due to the plaintiff, over and above  
26 the proceeds of the sale or sales, and enforcement may be had

1 for the collection of such balance, the same as when the  
2 judgment is solely for the payment of money. Such judgment may  
3 be entered, or enforcement had, only in cases where personal  
4 service has been had upon the persons personally liable for the  
5 mortgage indebtedness, unless they have entered their  
6 appearance in the foreclosure action.

7 (f) Satisfaction. Upon confirmation of the sale, the  
8 judgment stands satisfied to the extent of the sale price less  
9 expenses and costs. If the order confirming the sale includes a  
10 deficiency judgment, the judgment shall become a lien in the  
11 manner of any other judgment for the payment of money.

12 (g) The order confirming the sale shall include,  
13 notwithstanding any previous orders awarding possession during  
14 the pendency of the foreclosure, an award to the purchaser of  
15 possession of the mortgaged real estate, as of the date 30 days  
16 after the entry of the order, against the parties to the  
17 foreclosure whose interests have been terminated.

18 An order of possession authorizing the removal of a person  
19 from possession of the mortgaged real estate shall be entered  
20 and enforced only against those persons personally named as  
21 individuals in the complaint or the petition under subsection  
22 (h) of Section 15-1701 and in the order of possession and shall  
23 not be entered and enforced against any person who is only  
24 generically described as an unknown owner or nonrecord claimant  
25 or by another generic designation in the complaint.

26 Notwithstanding the preceding paragraph, the failure to

1 personally name, include, or seek an award of possession of the  
2 mortgaged real estate against a person in the confirmation  
3 order shall not abrogate any right that the purchaser may have  
4 to possession of the mortgaged real estate and to maintain a  
5 proceeding against that person for possession under Article 9  
6 of this Code or subsection (h) of Section 15-1701; and  
7 possession against a person who (1) has not been personally  
8 named as a party to the foreclosure and (2) has not been  
9 provided an opportunity to be heard in the foreclosure  
10 proceeding may be sought only by maintaining a proceeding under  
11 Article 9 of this Code or subsection (h) of Section 15-1701.

12 (h) With respect to mortgaged real estate containing 5 or  
13 more dwelling units, the order confirming the sale shall also  
14 provide that (i) the mortgagor shall transfer to the purchaser  
15 the security deposits, if any, that the mortgagor received to  
16 secure payment of rent or to compensate for damage to the  
17 mortgaged real estate from any current occupant of a dwelling  
18 unit of the mortgaged real estate, as well as any statutory  
19 interest that has not been paid to the occupant, and (ii) the  
20 mortgagor shall provide an accounting of the security deposits  
21 that are transferred, including the name and address of each  
22 occupant for whom the mortgagor holds the deposit and the  
23 amount of the deposit and any statutory interest.

24 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;  
25 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.  
26 8-26-11.)



1           Section 10. "AN ACT concerning business", approved July 25,  
2           2012 (Public Act 97-849), is amended by changing Section 99 as  
3           follows:

4           (P.A. 97-849, Sec. 99)

5           Sec. 99. Effective date. This Act takes effect on January  
6           1, 2013, except that Sections 10, 15, and 25 take effect on the  
7           effective date of the federal regulations implementing  
8           Sections 1431, 1432, and 1433 of the federal Dodd-Frank Wall  
9           Street Reform and Consumer Protection Act.

10          (Source: P.A. 97-849.)

11          Section 99. Effective date. This Act takes effect upon  
12          becoming law."