

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Code of Civil Procedure is amended by adding Section 15-1603.5 as follows:

(735 ILCS 5/15-1603.5 new)

Sec. 15-1603.5. Strict foreclosure of an omitted subordinate interest.

(a) As used in this Section, "omitted subordinate interest" means a recorded subordinate interest in real estate where:

(1) the real estate is the subject of a foreclosure action under this Article;

(2) a motion to confirm judicial sale under subsection (b) of Section 15-1508 is either pending or has been granted;

(3) the interest attached to the real estate prior to the filing or recording of any notice in accordance with Sections 2-1901 and 15-1503; and

(4) the person who has the interest was not named in the foreclosure complaint.

(b) The holder of the certificate of sale or any person who acquired title pursuant to Section 15-1509 or any subsequent successor, assignee, transferee, or grantee who discovers an

omitted subordinate interest may file a strict foreclosure complaint naming the person who has the omitted subordinate interest as the defendant. A complaint filed under this Section must include substantially the following:

(1) the identity of the plaintiff and how the plaintiff acquired its interest in the property which is the subject of the strict foreclosure;

(2) the docket number of the prior foreclosure action and the recording number and date of the mortgage that was previously foreclosed;

(3) the legal description, common address, and parcel identification number of the real estate which is the subject of the strict foreclosure;

(4) the recording number and a copy of the recorded instrument identifying the person who has the omitted subordinate interest that is named as the defendant;

(5) the amount of the successful bid at the foreclosure sale, as stated in the report of sale in the prior foreclosure action, with a copy of the report of sale attached to the complaint;

(6) an allegation that, due to inadvertence or mistake or such other reason as may be applicable, the person who has the omitted subordinate interest was not made a party defendant in the prior foreclosure action and the omitted subordinate interest was not terminated by the judgment of foreclosure and when the subject property was sold by

judicial sale; and

(7) a request for relief setting forth the redemption period as provided in this Section and identifying a contact by name and telephone number who will accept tender of the redemption amount.

(c) Subject to the objection of the defendant, the court shall enter a judgment extinguishing the omitted subordinate interest.

(d) If the defendant objects to the entry of the judgment, the court, after a hearing, shall enter an order providing either:

(1) that the defendant has not agreed to pay the amount required to redeem, in which event the court shall proceed to enter the judgment; or

(2) that the defendant has agreed to pay the amount required to redeem.

(e) The amount required to redeem shall be the sum bid at the prior foreclosure sale plus any costs and fees incurred subsequent to the sale for the payment of taxes, preservation of the property, or any other actions taken by the holder of the certificate of sale to protect its interest in the property. The amount required to redeem shall not include any costs or fees incurred by the plaintiff in the strict foreclosure case filed under this Section.

The order shall state that upon payment of the redemption amount within the redemption period, which shall extend 30 days

after the entry of the order, title to the real estate shall vest in the defendant who redeems pursuant to this Section. If the defendant subject to the order has not paid the amount required to redeem within the 30-day redemption period, the interest of the defendant in the property is terminated.

(f) A person whose omitted subordinate interest was not terminated by a prior foreclosure action does not have a right to file a strict foreclosure action.

(g) Notwithstanding that the person's omitted subordinate interest in the real estate has been terminated pursuant to this Section, nothing in this Section shall be construed to extinguish or impair any claim of such person in the surplus proceeds of a sale held or distributed pursuant to subsection (d) of Section 15-1512 of this Code after the confirmation of the sale of the real estate for which such person had an omitted subordinate interest.

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