

SB2221



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2221

Introduced 2/7/2025, by Sen. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

755 ILCS 5/20-6

from Ch. 110 1/2, par. 20-6

Amends the Probate Act of 1975. Provides that in any proceeding to sell or mortgage real estate, if the secured creditors cannot be satisfied in full, then the court may not direct the sale without the secured creditor's approval to accept partial satisfaction; and if the secured creditors cannot be satisfied in full, a sale of the property is not considered necessary for the effective administration of the estate. Effective immediately.

LRB104 11096 JRC 21178 b

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Probate Act of 1975 is amended by changing
5 Section 20-6 as follows:

6 (755 ILCS 5/20-6) (from Ch. 110 1/2, par. 20-6)

7 Sec. 20-6. Power of court.) In any proceeding to sell or
8 mortgage real estate the court may:

9 (a) investigate and determine all questions of conflicting
10 and controverted titles arising between any of the parties,
11 remove clouds from any title or interest involved therein, and
12 invest the mortgagee or purchaser with a good and indefeasible
13 title to the property sold or mortgaged;

14 (b) direct the sale or mortgage of the property free of all
15 mortgage, judgment or other liens that are due, provide for
16 the satisfaction of all those liens out of the proceeds of the
17 sale or mortgage and settle and adjust all equities and all
18 questions of priority among all interested persons; however,
19 if secured creditors cannot be satisfied in full, then the
20 court may not direct the sale without the secured creditor's
21 approval to accept partial satisfaction; and if the secured
22 creditors cannot be satisfied in full, a sale of the property
23 is not considered necessary for the effective administration

1 of the estate;

2 (c) with the assent of the owner of a mortgage lien that is
3 not due, direct that the property be sold or mortgaged free of
4 the lien and provide for the satisfaction of the lien out of
5 the proceeds of the sale or mortgage;

6 (d) set off the homestead and order the sale of the balance
7 of the premises, or if the value of the premises exceeds the
8 exemption and the premises cannot be divided, the court may
9 order the sale of the whole free of homestead with or without
10 the consent of the person entitled thereto and shall ascertain
11 the value of the homestead and shall order that a sum of money
12 equal to the gross value of the homestead be paid from the
13 proceeds of the sale to the person entitled thereto;

14 (e) upon the filing in court of the written consent of the
15 person entitled to an estate for life or for years, order the
16 sale or mortgage free of the estate, but the court shall
17 ascertain the value of the estate and order that a sum of money
18 equal to the gross value of the estate be paid from the
19 proceeds of the sale or mortgage to the person entitled
20 thereto or that a proper proportion of the proceeds of the sale
21 or mortgage as ascertained by the court be invested and the
22 income paid to the person entitled thereto during the
23 continuance of the estate;

24 (f) direct the sale of the property free of any lien or
25 claim for lien of this State (except the lien for general
26 taxes), provide for the satisfaction of the lien or claim for

1 lien out of the proceeds of sale according to its relative
2 priority in respect to other liens to the extent the proceeds
3 are available, and adjudicate the priority of the State's lien
4 or claim for lien with respect to all other liens against the
5 property. The petition must describe the lien of the State.
6 Not less than 20 days before the hearing on the petition, the
7 petitioner must notify the Attorney General of the filing of
8 the petition by delivering or mailing 2 copies of the petition
9 to the Attorney General's office in Springfield, Illinois. The
10 petitioner must file proof of the delivery or mailing in the
11 proceeding in which the estate is being administered. The
12 Attorney General may intervene and take such action as he
13 deems expedient to protect the interest of the State.

14 (Source: P.A. 79-328.)

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