



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2919

Introduced 1/26/2024, by Sen. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

735 ILCS 5/15-1506	from Ch. 110, par. 15-1506
735 ILCS 5/15-1507	from Ch. 110, par. 15-1507
735 ILCS 5/15-1507.2 new	
735 ILCS 5/1510.1 new	

Amends the Mortgage Foreclosure Article of the Code of Civil Procedure. Allows a judge, sheriff, or other person to conduct a judicial foreclosure sale online in accordance with the Article. Allows the person conducting the sale to engage a third party online sale provider to assist with performance of the online sale and charge an additional fee as a reasonable expense of the sale for costs associated with conducting the sale online. Requires the person conducting the sale online to obtain court approval and demonstrate the ability to provide substantial marketing of the sale, appropriate and documented process and procedures for conducting online auctions, adequate recordkeeping, substantial expertise in online real estate auctions, and adequate data security. Requires, if the sale takes place online and in person, all bids to be simultaneously announced at the in-person sale and visible to the public online at the time the bids are placed. Prohibits a fee from being charged to the public to view properties for sale online, to participate in any auction in person or online, or to purchase property at an auction in person or online. Requires persons seeking to bid online to complete a registration form and to have their identity verified before a bid can be placed online. Provides that no fee may be charged to a bidder or purchaser at the sale of real estate under the Article beyond the winning bid amount to cover an expense of sale. Makes conforming changes.

LRB103 35721 LNS 65801 b

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 Code of Civil Procedure is amended by
5 changing Sections 15-1506 and 15-1507 and by adding Sections
6 15-1507.2 and 1510.1 as follows:

7 (735 ILCS 5/15-1506) (from Ch. 110, par. 15-1506)
8 Sec. 15-1506. Judgment.

9 (a) Evidence. In the trial of a foreclosure, the evidence
10 to support the allegations of the complaint shall be taken in
11 open court, except:

12 (1) where an allegation of fact in the complaint is
13 not denied by a party's verified answer or verified
14 counterclaim, or where a party pursuant to subsection (b)
15 of Section 2-610 of the Code of Civil Procedure states, or
16 is deemed to have stated, in its pleading that it has no
17 knowledge of such allegation sufficient to form a belief
18 and attaches the required affidavit, a sworn verification
19 of the complaint or a separate affidavit setting forth
20 such fact is sufficient evidence thereof against such
21 party and no further evidence of such fact shall be
22 required; and

23 (2) where all the allegations of fact in the complaint

1 have been proved by verification of the complaint or
2 affidavit, the court upon motion supported by an affidavit
3 stating the amount which is due the mortgagee, shall enter
4 a judgment of foreclosure as requested in the complaint.

5 (b) Instruments. In all cases the evidence of the
6 indebtedness and the mortgage foreclosed shall be exhibited to
7 the court and appropriately marked, and copies thereof shall
8 be filed with the court.

9 (c) Summary and Default Judgments. Nothing in this Section
10 15-1506 shall prevent a party from obtaining a summary or
11 default judgment authorized by Article II of the Code of Civil
12 Procedure.

13 (d) Notice of Entry of Default. When any judgment in a
14 foreclosure is entered by default, notice of such judgment
15 shall be given in accordance with Section 2-1302 of the Code of
16 Civil Procedure.

17 (e) Matters Required in Judgment. A judgment of
18 foreclosure shall include the last date for redemption and all
19 rulings of the court entered with respect to each request for
20 relief set forth in the complaint. The omission of the date for
21 redemption shall not extend the time for redemption or impair
22 the validity of the judgment.

23 (f) Special Matters in Judgment. Without limiting the
24 general authority and powers of the court, special matters may
25 be included in the judgment of foreclosure if sought by a party
26 in the complaint or by separate motion. Such matters may

1 include, without limitation:

2 (1) a manner of sale other than public auction;

3 (2) a sale by sealed bid;

4 (3) an official or other person who shall be the
5 officer to conduct the sale other than the one customarily
6 designated by the court;

7 (4) provisions for non-exclusive broker listings or
8 designating a duly licensed real estate broker nominated
9 by one of the parties to exclusively list the real estate
10 for sale;

11 (5) the fees or commissions to be paid out of the sale
12 proceeds to the listing or other duly licensed broker, if
13 any, who shall have procured the accepted bid;

14 (6) the fees to be paid out of the sale proceeds to an
15 auctioneer, if any, who shall have been authorized to
16 conduct a public auction sale;

17 (7) whether and in what manner and with what content
18 signs shall be posted on the real estate;

19 (8) a particular time and place at which such bids
20 shall be received, including whether a sale will take
21 place online, in person, or both;

22 (9) a particular newspaper or newspapers in which
23 notice of sale shall be published;

24 (10) the format for the advertising of such sale,
25 including the size, content and format of such
26 advertising, and additional advertising of such sale;

1 (11) matters or exceptions to which title in the real
2 estate may be subject at the sale;

3 (12) a requirement that title insurance in a specified
4 form be provided to a purchaser at the sale, and who shall
5 pay for such insurance;

6 (13) whether and to what extent bids with mortgage or
7 other contingencies will be allowed;

8 (14) such other matters as approved by the court to
9 ensure sale of the real estate for the most commercially
10 favorable price for the type of real estate involved.

11 (g) Agreement of the Parties. If all of the parties agree
12 in writing on the minimum price and that the real estate may be
13 sold to the first person who offers in writing to purchase the
14 real estate for such price, and on such other commercially
15 reasonable terms and conditions as the parties may agree, then
16 the court shall order the real estate to be sold on such terms,
17 subject to confirmation of the sale in accordance with Section
18 15-1508.

19 (h) Postponement of Proving Priority. With the approval of
20 the court prior to the entry of the judgment of foreclosure, a
21 party claiming an interest in the proceeds of the sale of the
22 mortgaged real estate may defer proving the priority of such
23 interest until the hearing to confirm the sale.

24 (i) Effect of Judgment and Lien.

25 (1) Upon the entry of the judgment of foreclosure, all
26 rights of a party in the foreclosure against the mortgagor

1 provided for in the judgment of foreclosure or this
2 Article shall be secured by a lien on the mortgaged real
3 estate, which lien shall have the same priority as the
4 claim to which the judgment relates and shall be
5 terminated upon confirmation of a judicial sale in
6 accordance with this Article.

7 (2) Upon the entry of the judgment of foreclosure, the
8 rights in the real estate subject to the judgment of
9 foreclosure of (i) all persons made a party in the
10 foreclosure and (ii) all nonrecord claimants given notice
11 in accordance with paragraph (2) of subsection (c) of
12 Section 15-1502, shall be solely as provided for in the
13 judgment of foreclosure and in this Article.

14 (3) Entry of a judgment of foreclosure does not
15 terminate or otherwise affect a bona fide lease of a
16 dwelling unit in residential real estate in foreclosure,
17 whether or not the lessee has been made a party in the
18 foreclosure.

19 (Source: P.A. 98-514, eff. 11-19-13.)

20 (735 ILCS 5/15-1507) (from Ch. 110, par. 15-1507)

21 Sec. 15-1507. Judicial Sale.

22 (a) In General. Except as provided in Sections 15-1402 and
23 15-1403, upon entry of a judgment of foreclosure, the real
24 estate which is the subject of the judgment shall be sold at a
25 judicial sale in accordance with this Section 15-1507.

1 (b) Sale Procedures.

2 (1) Upon expiration of the reinstatement period and
3 the redemption period in accordance with subsection (b) or
4 (c) of Section 15-1603 or upon the entry of a judgment of
5 foreclosure after the waiver of all rights of redemption,
6 except as provided in subsection (g) of Section 15-1506,
7 the real estate shall be sold at a sale as provided in this
8 Article, on such terms and conditions as shall be
9 specified by the court in the judgment of foreclosure. A
10 sale may be conducted by any judge, ~~or~~ sheriff, or other
11 person as set forth in paragraph (3) of subsection (f) of
12 Section 15-1506.

13 (2) Without limiting the general authority and powers
14 of the court, the mortgagee, or such other party
15 designated by the court, in a foreclosure under this
16 Article may direct that the judge, sheriff, or other
17 person conduct the sale either in person, online, or both.

18 (c) Notice of Sale. The mortgagee, or such other party
19 designated by the court, in a foreclosure under this Article
20 shall give public notice of the sale as follows:

21 (1) The notice of sale shall include at least the
22 following information, but an immaterial error in the
23 information shall not invalidate the legal effect of the
24 notice:

25 (A) the name, address and telephone number of the
26 person to contact for information regarding the real

1 estate;

2 (B) the common address and other common
3 description (other than legal description), if any, of
4 the real estate;

5 (C) a legal description of the real estate
6 sufficient to identify it with reasonable certainty;

7 (D) a description of the improvements on the real
8 estate;

9 (E) the times specified in the judgment, if any,
10 when the real estate may be inspected prior to sale;

11 (F) the time and place of the sale, including: †

12 (i) whether the sale will place online, in
13 person, or both; and

14 (ii) the website where the online bidding may
15 take place, if applicable;

16 (G) the terms of the sale;

17 (H) the case title, case number and the court in
18 which the foreclosure was filed;

19 (H-1) in the case of a condominium unit to which
20 subsection (g) of Section 9 of the Condominium
21 Property Act applies, the statement required by
22 subdivision (g)(5) of Section 9 of the Condominium
23 Property Act;

24 (H-2) in the case of a unit of a common interest
25 community to which subsection (g-1) of Section 18.5 of
26 the Condominium Property Act applies, the statement

1 required by subdivision (g-1) of Section 18.5 of the
2 Condominium Property Act; and

3 (I) such other information ordered by the Court.

4 (2) The notice of sale shall be published at least 3
5 consecutive calendar weeks (Sunday through Saturday), once
6 in each week, the first such notice to be published not
7 more than 45 days prior to the sale, the last such notice
8 to be published not less than 7 days prior to the sale, by:
9 (i) (A) advertisements in a newspaper circulated to the
10 general public in the county in which the real estate is
11 located, in the section of that newspaper where legal
12 notices are commonly placed and (B) separate
13 advertisements in the section of such a newspaper, which
14 (except in counties with a population in excess of
15 3,000,000) may be the same newspaper, in which real estate
16 other than real estate being sold as part of legal
17 proceedings is commonly advertised to the general public;
18 provided, that the separate advertisements in the real
19 estate section need not include a legal description and
20 that where both advertisements could be published in the
21 same newspaper and that newspaper does not have separate
22 legal notices and real estate advertisement sections, a
23 single advertisement with the legal description shall be
24 sufficient; in counties with a population of more than
25 3,000,000, the notice required by this item (B) shall be
26 published in a newspaper different from the newspaper that

1 publishes the notice required by item (A), and the
2 newspaper in which the notice required by this item (B) is
3 published shall be a newspaper published in the township
4 in which the real estate is located; and (ii) such other
5 publications as may be further ordered by the court.

6 (3) The party who gives notice of public sale in
7 accordance with subsection (c) of Section 15-1507 shall
8 also give notice to all parties in the action who have
9 appeared and have not theretofore been found by the court
10 to be in default for failure to plead. Such notice shall be
11 given in the manner provided in the applicable rules of
12 court for service of papers other than process and
13 complaint, not more than 45 days nor less than 7 days prior
14 to the day of sale. After notice is given as required in
15 this Section a copy thereof shall be filed in the office of
16 the clerk of the court entering the judgment, together
17 with a certificate of counsel or other proof that notice
18 has been served in compliance with this Section.

19 (4) The party who gives notice of public sale in
20 accordance with subsection (c) of Section 15-1507 shall
21 again give notice in accordance with that Section of any
22 adjourned sale; provided, however, that if the adjourned
23 sale is to occur less than 60 days after the last scheduled
24 sale, notice of any adjourned sale need not be given
25 pursuant to this Section. In the event of adjournment, the
26 person conducting the sale shall, upon adjournment,

1 announce the date, time and place upon which the adjourned
2 sale shall be held. Notwithstanding any language to the
3 contrary, for any adjourned sale that is to be conducted
4 more than 60 days after the date on which it was to first
5 be held, the party giving notice of such sale shall again
6 give notice in accordance with this Section.

7 (5) Notice of the sale may be given prior to the
8 expiration of any reinstatement period or redemption
9 period.

10 (6) No other notice by publication or posting shall be
11 necessary unless required by order or rule of the court.

12 (7) The person named in the notice of sale to be
13 contacted for information about the real estate may, but
14 shall not be required, to provide additional information
15 other than that set forth in the notice of sale.

16 (d) Election of Property. If the real estate which is the
17 subject of a judgment of foreclosure is susceptible of
18 division, the court may order it to be sold as necessary to
19 satisfy the judgment. The court shall determine which real
20 estate shall be sold, and the court may determine the order in
21 which separate tracts may be sold.

22 (e) Receipt upon Sale. Upon and at the sale of mortgaged
23 real estate, the person conducting the sale shall give to the
24 purchaser a receipt of sale. The receipt shall describe the
25 real estate purchased and shall show the amount bid, the
26 amount paid, the total amount paid to date and the amount still

1 to be paid therefor. An additional receipt shall be given at
2 the time of each subsequent payment.

3 (f) Certificate of Sale. Upon payment in full of the
4 amount bid, the person conducting the sale shall issue, in
5 duplicate, and give to the purchaser a Certificate of Sale.
6 The Certificate of Sale shall be in a recordable form,
7 describe the real estate purchased, indicate the date and
8 place of sale and show the amount paid therefor. The
9 Certificate of Sale shall further indicate that it is subject
10 to confirmation by the court. The duplicate certificate may be
11 recorded in accordance with Section 12-121. The Certificate of
12 Sale shall be freely assignable by endorsement thereon.

13 (g) Interest after Sale. Any bid at sale shall be deemed to
14 include, without the necessity of a court order, interest at
15 the statutory judgment rate on any unpaid portion of the sale
16 price from the date of sale to the date of payment.

17 (Source: P.A. 100-685, eff. 8-3-18.)

18 (735 ILCS 5/15-1507.2 new)

19 Sec. 15-1507.2. Online judicial sale.

20 (a) The judge, sheriff, or other person may conduct the
21 sale online in accordance with this Article.

22 (b) The judge, sheriff, or other person may engage a third
23 party online sale provider to assist with performance of the
24 online sale. Any third party online sale provider engaged by a
25 judge or sheriff must be acquired through competitive

1 contracting and governed by State law.

2 (c) The judge, sheriff, or other person may charge an
3 additional fee as a reasonable expense of the sale for costs
4 associated with conducting the sale online and such fee must
5 not exceed the fee amounts allowed to the sheriff for the sale
6 of real estate as set forth in Sections 4-5001 and 4-12001 of
7 the Counties Code. Any fees not charged as a cost in the case
8 may be agreed to and paid directly by the judge, sheriff, other
9 person conducting the sale, or a party to the case without
10 limitation.

11 (d) In order to conduct a sale online, the judge, sheriff,
12 or other person conducting the sale must obtain court approval
13 and demonstrate the ability to provide substantial marketing
14 of the sale, appropriate and documented process and procedures
15 for conducting online auctions, adequate recordkeeping,
16 substantial expertise in online real estate auctions, and
17 adequate data security.

18 (e) If the sale takes place both online and in person, all
19 bids entered during the auction shall be simultaneously
20 announced at the in-person sale and visible to the public
21 online at the time the bids are placed. Any maximum bid amounts
22 provided by bidders ahead of the sale shall not be visible to
23 the public until the bid is placed.

24 (f) There shall be no fee charged to the public to view
25 properties for sale online, to participate in any auction in
26 person or online, or to purchase a property at an auction in

1 person or online.

2 (g) Any third party online sale provider may not process
3 and handle sale funds unless specifically approved by the
4 court.

5 (h) The person conducting the sale must require a person
6 seeking to bid electronically online to complete a
7 registration form that includes information relevant to
8 properly identifying the bidder, contacting the bidder, and
9 completing the sale of the property.

10 (i) The person conducting the sale online must require all
11 bidders who wish to participate in bidding online to have
12 their identity verified through an identification verification
13 process before a bid can be placed online.

14 (j) All winning bidders shall be checked against the
15 federal Office of Foreign Assets Control sanction list and any
16 property auctioned by the federal Treasury Executive Office
17 for Asset Forfeiture prior to purchase of the property.

18 (k) Any person conducting a sale online must ensure
19 satisfactory internal informational security controls that
20 meet industry standards are maintained. Upon the request of
21 the court or interested party to the case, the person
22 conducting the sale shall provide evidence of satisfactory
23 internal controls regarding data security.

24 (735 ILCS 5/1510.1 new)

25 Sec. 1510.1. Purchaser fees and costs. Notwithstanding any

1 other provision of law to the contrary, no fee, including a
2 buyer's premium, may be charged to a bidder or purchaser at the
3 sale of real estate under this Article beyond the winning bid
4 amount to cover an expense of sale.