

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 as follows:

6 (735 ILCS 5/15-1506) (from Ch. 110, par. 15-1506)

7 Sec. 15-1506. Judgment. (a) Evidence. In the trial of a
8 foreclosure, the evidence to support the allegations of the
9 complaint shall be taken in open court, except:

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

20 (2) where all the allegations of fact in the complaint have
21 been proved by verification of the complaint or affidavit, the
22 court upon motion supported by an affidavit stating the amount
23 which is due the mortgagee, shall enter a judgment of

1 foreclosure as requested in the complaint.

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

6 (c) Summary and Default Judgments. Nothing in this Section
7 15-1506 shall prevent a party from obtaining a summary or
8 default judgment authorized by Article II of the Code of Civil
9 Procedure.

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

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

20 (f) Special Matters in Judgment. Without limiting the
21 general authority and powers of the court, special matters may
22 be included in the judgment of foreclosure if sought ~~by a party~~
23 in the complaint or by separate motion brought by a party. Such
24 matters may include, without limitation:

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

26 (2) a sale by sealed bid;

1 (3) an official or other person who shall be the officer to
2 conduct the sale ~~other than the one customarily designated by~~
3 ~~the court;~~

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

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

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

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

15 (8) a particular time and place at which such bids shall be
16 received;

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

19 (10) the format for the advertising of such sale, including
20 the size, content and format of such advertising, and
21 additional advertising of such sale;

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

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

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

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

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

14 (h) Postponement of Proving Priority. With the approval of
15 the court prior to the entry of the judgment of foreclosure, a
16 party claiming an interest in the proceeds of the sale of the
17 mortgaged real estate may defer proving the priority of such
18 interest until the hearing to confirm the sale.

19 (i) Effect of Judgment and Lien. (1) Upon the entry of the
20 judgment of foreclosure, all rights of a party in the
21 foreclosure against the mortgagor provided for in the judgment
22 of foreclosure or this Article shall be secured by a lien on
23 the mortgaged real estate, which lien shall have the same
24 priority as the claim to which the judgment relates and shall
25 be terminated upon confirmation of a judicial sale in
26 accordance with this Article.

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

8 (Source: P.A. 85-907.)

9 (735 ILCS 5/15-1507) (from Ch. 110, par. 15-1507)

10 Sec. 15-1507. Judicial Sale.

11 (a) In General. Except as provided in Sections 15-1402 and
12 15-1403, upon entry of a judgment of foreclosure, the real
13 estate which is the subject of the judgment shall be sold at a
14 judicial sale in accordance with this Section 15-1507.

15 (b) Sale Procedures. Upon expiration of the reinstatement
16 period and the redemption period in accordance with subsection
17 (b) or (c) of Section 15-1603 or upon the entry of a judgment
18 of foreclosure after the waiver of all rights of redemption,
19 except as provided in subsection (g) of Section 15-1506, the
20 real estate shall be sold at a sale as provided in this
21 Article, on such terms and conditions as shall be specified by
22 the court in the judgment of foreclosure. In the absence of an
23 appointment made pursuant to a motion under subsection (f) of
24 Section 15-1506, the person conducting the sale shall be
25 designated by the plaintiff and shall be (i) any person

1 appointed pursuant to Section 15-1506 prior to the effective
2 date of this amendatory Act of the 96th General Assembly, (ii)
3 any judge, or (iii) the sheriff of the county in which the real
4 estate is located. A sale may be conducted by any judge or
5 sheriff.

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

9 (1) The notice of sale shall include at least the
10 following information, but an immaterial error in the
11 information shall not invalidate the legal effect of the
12 notice:

13 (A) the name, address and telephone number of the
14 person to contact for information regarding the real
15 estate;

16 (B) the common address and other common
17 description (other than legal description), if any, of
18 the real estate;

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

21 (D) a description of the improvements on the real
22 estate;

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

25 (F) the time and place of the sale;

26 (G) the terms of the sale;

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

3 (H-1) in the case of a condominium unit to which
4 subsection (g) of Section 9 of the Condominium Property
5 Act applies, the statement required by subdivision
6 (g) (5) of Section 9 of the Condominium Property Act;
7 and

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

9 (2) The notice of sale shall be published at least 3
10 consecutive calendar weeks (Sunday through Saturday), once
11 in each week, the first such notice to be published not
12 more than 45 days prior to the sale, the last such notice
13 to be published not less than 7 days prior to the sale, by:

14 (i) (A) advertisements in a newspaper circulated to the
15 general public in the county in which the real estate is
16 located, in the section of that newspaper where legal
17 notices are commonly placed and (B) separate
18 advertisements in the section of such a newspaper, which
19 (except in counties with a population in excess of
20 3,000,000) may be the same newspaper, in which real estate
21 other than real estate being sold as part of legal
22 proceedings is commonly advertised to the general public;
23 provided, that the separate advertisements in the real
24 estate section need not include a legal description and
25 that where both advertisements could be published in the
26 same newspaper and that newspaper does not have separate

1 legal notices and real estate advertisement sections, a
2 single advertisement with the legal description shall be
3 sufficient; and (ii) such other publications as may be
4 further ordered by the court.

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

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

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

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

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

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

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

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

1 of each subsequent payment.

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

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

16 (Source: P.A. 94-1049, eff. 1-1-07.)

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