



Sen. A. J. Wilhelmi

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09600HB5055sam002

LRB096 17806 AJ0 40817 a

1 AMENDMENT TO HOUSE BILL 5055

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5055, AS AMENDED,  
3 with reference to page and line numbers of Senate Amendment No.  
4 1, on page 1, by replacing line 5 with the following:

5 "changing Sections 15-1503, 15-1506, 15-1507, and 15-1508 as  
6 follows:

7 (735 ILCS 5/15-1503) (from Ch. 110, par. 15-1503)

8 Sec. 15-1503. Notice of Foreclosure.

9 (a) A notice of foreclosure, whether the foreclosure is  
10 initiated by complaint or counterclaim, made in accordance with  
11 this Section and recorded in the county in which the mortgaged  
12 real estate is located shall be constructive notice of the  
13 pendency of the foreclosure to every person claiming an  
14 interest in or lien on the mortgaged real estate, whose  
15 interest or lien has not been recorded prior to the recording  
16 of such notice of foreclosure. Such notice of foreclosure must

1 be executed by any party or any party's attorney and shall  
2 include (i) the names of all plaintiffs and the case number,  
3 (ii) the court in which the action was brought, (iii) the names  
4 of title holders of record, (iv) a legal description of the  
5 real estate sufficient to identify it with reasonable  
6 certainty, (v) a common address or description of the location  
7 of the real estate and (vi) identification of the mortgage  
8 sought to be foreclosed. An incorrect common address or  
9 description of the location, or an immaterial error in the  
10 identification of a plaintiff or title holder of record, shall  
11 not invalidate the lis pendens effect of the notice under this  
12 Section. A notice which complies with this Section shall be  
13 deemed to comply with Section 2-1901 of the Code of Civil  
14 Procedure and shall have the same effect as a notice filed  
15 pursuant to that Section; however, a notice which complies with  
16 Section 2-1901 shall not be constructive notice unless it also  
17 complies with the requirements of this Section.

18 (b) With respect to residential real estate, a copy of the  
19 notice of foreclosure described in subsection (a) of Section  
20 15-1503 shall be sent by first class mail, postage prepaid, to  
21 the municipality within the boundary of which the mortgaged  
22 real estate is located, or to the county within the boundary of  
23 which the mortgaged real estate is located if the mortgaged  
24 real estate is located in an unincorporated territory. A  
25 municipality or county must clearly publish on its website a  
26 single address to which such notice shall be sent. If a

1 municipality or county does not maintain a website, then the  
2 municipality or county must publicly post in its main office a  
3 single address to which such notice shall be sent. In the event  
4 that a municipality or county has not complied with the  
5 publication requirement in this subsection (b), then such  
6 notice to the municipality or county shall be sent by first  
7 class mail to the chairperson of the county board or county  
8 clerk in the case of a county, to the mayor or city clerk in the  
9 case of a city, to the president of the board of trustees or  
10 village clerk in the case of a village, or to the supervisor or  
11 town clerk in the case of a town ~~provided pursuant to Section~~  
12 ~~2-211 of the Code of Civil Procedure.~~

13 (Source: P.A. 96-856, eff. 3-1-10.); and

14 on page 10, immediately below line 23, by inserting the  
15 following:

16 "(735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

21 (b) Hearing. Upon motion and notice in accordance with  
22 court rules applicable to motions generally, which motion shall  
23 not be made prior to sale, the court shall conduct a hearing to  
24 confirm the sale. Unless the court finds that (i) a notice

1 required in accordance with subsection (c) of Section 15-1507  
2 was not given, (ii) the terms of sale were unconscionable,  
3 (iii) the sale was conducted fraudulently or (iv) that justice  
4 was otherwise not done, the court shall then enter an order  
5 confirming the sale. The confirmation order shall include a  
6 name, address, and telephone number of the holder of the  
7 certificate of sale or deed issued pursuant to that certificate  
8 or, if no certificate or deed was issued, the purchaser, whom a  
9 municipality or county may contact with concerns about the real  
10 estate. The confirmation order may also:

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

16 (2) provide for a personal judgment against any party  
17 for a deficiency; and

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

23 (b-5) Notice with respect to residential real estate. With  
24 respect to residential real estate, the notice required under  
25 subsection (b) of this Section shall be sent to the mortgagor  
26 even if the mortgagor has previously been held in default. In

1 the event the mortgagor has filed an appearance, the notice  
2 shall be sent to the address indicated on the appearance. In  
3 all other cases, the notice shall be sent to the mortgagor at  
4 the common address of the foreclosed property. The notice shall  
5 be sent by first class mail. Unless the right to possession has  
6 been previously terminated by the court, the notice shall  
7 include the following language in 12-point boldface  
8 capitalized type:

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

13 (b-10) Notice of confirmation order sent to municipality or  
14 county. With respect to residential real estate, a ~~A~~ copy of  
15 the confirmation order required under subsection (b) shall be  
16 sent by first class mail, postage prepaid, to the municipality  
17 in which the foreclosed property is located, or to the county  
18 within the boundary of which the foreclosed property is located  
19 if the foreclosed property is located in an unincorporated  
20 territory. A municipality or county must clearly publish on its  
21 website a single address to which such order ~~notice~~ shall be  
22 sent. If a municipality or county does not maintain a website,  
23 then the municipality or county must publicly post in its main  
24 office a single address to which such order ~~notice~~ shall be  
25 sent. In the event that a municipality or county has not  
26 complied with the publication requirement in this subsection

1 (b-10), then such order ~~notice~~ to the municipality or county  
2 shall be sent by first class mail to the chairperson of the  
3 county board or county clerk in the case of a county, to the  
4 mayor or city clerk in the case of a city, to the president of  
5 the board of trustees or village clerk in the case of a  
6 village, or to the supervisor or town clerk in the case of a  
7 town ~~provided pursuant to Section 2-211 of the Code of Civil~~  
8 ~~Procedure.~~

9 (b-15) Notice of confirmation order sent to known insurers.  
10 With respect to residential real estate, a copy of the  
11 confirmation order required under subsection (b) shall be sent  
12 by first class mail, postage prepaid, to the last-known  
13 property insurer of the foreclosed property. Failure to send or  
14 receive a copy of the order shall not impair or abrogate in any  
15 way the rights of the mortgagee or purchaser or affect the  
16 status of the foreclosure proceedings.

17 (c) Failure to Give Notice. If any sale is held without  
18 compliance with subsection (c) of Section 15-1507 of this  
19 Article, any party entitled to the notice provided for in  
20 paragraph (3) of that subsection (c) who was not so notified  
21 may, by motion supported by affidavit made prior to  
22 confirmation of such sale, ask the court which entered the  
23 judgment to set aside the sale. Any such party shall guarantee  
24 or secure by bond a bid equal to the successful bid at the  
25 prior sale, unless the party seeking to set aside the sale is  
26 the mortgagor, the real estate sold at the sale is residential

1 real estate, and the mortgagor occupies the residential real  
2 estate at the time the motion is filed. In that event, no  
3 guarantee or bond shall be required of the mortgagor. Any  
4 subsequent sale is subject to the same notice requirement as  
5 the original sale.

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

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

1 money that may be found due to the plaintiff, over and above  
2 the proceeds of the sale or sales, and enforcement may be had  
3 for the collection of such balance, the same as when the  
4 judgment is solely for the payment of money. Such judgment may  
5 be entered, or enforcement had, only in cases where personal  
6 service has been had upon the persons personally liable for the  
7 mortgage indebtedness, unless they have entered their  
8 appearance in the foreclosure action.

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

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

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



1 or by another generic designation in the complaint.

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

14 (Source: P.A. 95-826, eff. 8-14-08; 96-265, eff. 8-11-09;  
15 96-856, eff. 3-1-10.); and

16 on page 10, line 24, by replacing "This Act takes" with the  
17 following:

18 "Sections 15-1506 and 15-1507 take".