

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 15-1503, 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  
17 be executed by any party or any party's attorney and shall  
18 include (i) the names of all plaintiffs and the case number,  
19 (ii) the court in which the action was brought, (iii) the names  
20 of title holders of record, (iv) a legal description of the  
21 real estate sufficient to identify it with reasonable  
22 certainty, (v) a common address or description of the location  
23 of the real estate and (vi) identification of the mortgage

1 sought to be foreclosed. An incorrect common address or  
2 description of the location, or an immaterial error in the  
3 identification of a plaintiff or title holder of record, shall  
4 not invalidate the lis pendens effect of the notice under this  
5 Section. A notice which complies with this Section shall be  
6 deemed to comply with Section 2-1901 of the Code of Civil  
7 Procedure and shall have the same effect as a notice filed  
8 pursuant to that Section; however, a notice which complies with  
9 Section 2-1901 shall not be constructive notice unless it also  
10 complies with the requirements of this Section.

11 (b) With respect to residential real estate, a copy of the  
12 notice of foreclosure described in subsection (a) of Section  
13 15-1503 shall be sent by first class mail, postage prepaid, to  
14 the municipality within the boundary of which the mortgaged  
15 real estate is located, or to the county within the boundary of  
16 which the mortgaged real estate is located if the mortgaged  
17 real estate is located in an unincorporated territory. A  
18 municipality or county must clearly publish on its website a  
19 single address to which such notice shall be sent. If a  
20 municipality or county does not maintain a website, then the  
21 municipality or county must publicly post in its main office a  
22 single address to which such notice shall be sent. In the event  
23 that a municipality or county has not complied with the  
24 publication requirement in this subsection (b), then such  
25 notice to the municipality or county shall be sent by first  
26 class mail to the chairperson of the county board or county

1 clerk in the case of a county, to the mayor or city clerk in the  
2 case of a city, to the president of the board of trustees or  
3 village clerk in the case of a village, to the president or  
4 town clerk in the case of a town, or in the case of Chicago to  
5 the city clerk and the alderman for the ward in which the  
6 property is located ~~provided pursuant to Section 2-211 of the~~  
7 ~~Code of Civil Procedure.~~

8 (Source: P.A. 96-856, eff. 3-1-10.)

9 (735 ILCS 5/15-1506) (from Ch. 110, par. 15-1506)

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

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

23 (2) where all the allegations of fact in the complaint have  
24 been proved by verification of the complaint or affidavit, the  
25 court upon motion supported by an affidavit stating the amount

1 which is due the mortgagee, shall enter a judgment of  
2 foreclosure as requested in the complaint.

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

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

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

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

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

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

1 (2) a sale by sealed bid;

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

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

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

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

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

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

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

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

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

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

1 such insurance;

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

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

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

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

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

1 accordance with this Article.

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

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

10 (735 ILCS 5/15-1507) (from Ch. 110, par. 15-1507)

11 Sec. 15-1507. Judicial Sale.

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

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

1 by the plaintiff and shall be (i) any person who had been  
2 appointed pursuant to Section 15-1506 by any circuit court in  
3 any matter prior to the effective date of this amendatory Act  
4 of the 97th General Assembly, (ii) any judge, or (iii) the  
5 sheriff of the county in which the real estate is located. A  
6 ~~sale may be conducted by any judge or sheriff.~~

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

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

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

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

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

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

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

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



1 (G) the terms of the sale;

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

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

8 (H-2) in the case of a unit of a common interest  
9 community to which subsection (g-1) of Section 18.5 of  
10 the Condominium Property Act applies, the statement  
11 required by subdivision (g-1) of Section 18.5 of the  
12 Condominium Property Act; and

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

14 (2) The notice of sale shall be published at least 3  
15 consecutive calendar weeks (Sunday through Saturday), once  
16 in each week, the first such notice to be published not  
17 more than 45 days prior to the sale, the last such notice  
18 to be published not less than 7 days prior to the sale, by:

19 (i) (A) advertisements in a newspaper circulated to the  
20 general public in the county in which the real estate is  
21 located, in the section of that newspaper where legal  
22 notices are commonly placed and (B) separate  
23 advertisements in the section of such a newspaper, which  
24 (except in counties with a population in excess of  
25 3,000,000) may be the same newspaper, in which real estate  
26 other than real estate being sold as part of legal

1 proceedings is commonly advertised to the general public;  
2 provided, that the separate advertisements in the real  
3 estate section need not include a legal description and  
4 that where both advertisements could be published in the  
5 same newspaper and that newspaper does not have separate  
6 legal notices and real estate advertisement sections, a  
7 single advertisement with the legal description shall be  
8 sufficient; and (ii) such other publications as may be  
9 further ordered by the court.

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

23 (4) The party who gives notice of public sale in  
24 accordance with subsection (c) of Section 15-1507 shall  
25 again give notice in accordance with that Section of any  
26 adjourned sale; provided, however, that if the adjourned

1 sale is to occur less than 60 days after the last scheduled  
2 sale, notice of any adjourned sale need not be given  
3 pursuant to this Section. In the event of adjournment, the  
4 person conducting the sale shall, upon adjournment,  
5 announce the date, time and place upon which the adjourned  
6 sale shall be held. Notwithstanding any language to the  
7 contrary, for any adjourned sale that is to be conducted  
8 more than 60 days after the date on which it was to first  
9 be held, the party giving notice of such sale shall again  
10 give notice in accordance with this Section.

11 (5) Notice of the sale may be given prior to the  
12 expiration of any reinstatement period or redemption  
13 period.

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

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

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

26 (e) Receipt upon Sale. Upon and at the sale of mortgaged

1 real estate, the person conducting the sale shall give to the  
2 purchaser a receipt of sale. The receipt shall describe the  
3 real estate purchased and shall show the amount bid, the amount  
4 paid, the total amount paid to date and the amount still to be  
5 paid therefor. An additional receipt shall be given at the time  
6 of each subsequent payment.

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

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

21 (Source: P.A. 96-1045, eff. 7-14-10.)

22 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

24 (a) Report. The person conducting the sale shall promptly  
25 make a report to the court, which report shall include a copy

1 of all receipts and, if any, certificate of sale.

2 (b) Hearing. Upon motion and notice in accordance with  
3 court rules applicable to motions generally, which motion shall  
4 not be made prior to sale, the court shall conduct a hearing to  
5 confirm the sale. Unless the court finds that (i) a notice  
6 required in accordance with subsection (c) of Section 15-1507  
7 was not given, (ii) the terms of sale were unconscionable,  
8 (iii) the sale was conducted fraudulently, or (iv) ~~that~~ justice  
9 was otherwise not done, the court shall then enter an order  
10 confirming the sale. The confirmation order shall include a  
11 name, address, and telephone number of the holder of the  
12 certificate of sale or deed issued pursuant to that certificate  
13 or, if no certificate or deed was issued, the purchaser, whom a  
14 municipality or county may contact with concerns about the real  
15 estate. The confirmation order may also:

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

21 (2) provide for a personal judgment against any party  
22 for a deficiency; and

23 (3) determine the priority of the judgments of parties  
24 who deferred proving the priority pursuant to subsection  
25 (h) of Section 15-1506, but the court shall not defer  
26 confirming the sale pending the determination of such

1 priority.

2 (b-5) Notice with respect to residential real estate. With  
3 respect to residential real estate, the notice required under  
4 subsection (b) of this Section shall be sent to the mortgagor  
5 even if the mortgagor has previously been held in default. In  
6 the event the mortgagor has filed an appearance, the notice  
7 shall be sent to the address indicated on the appearance. In  
8 all other cases, the notice shall be sent to the mortgagor at  
9 the common address of the foreclosed property. The notice shall  
10 be sent by first class mail. Unless the right to possession has  
11 been previously terminated by the court, the notice shall  
12 include the following language in 12-point boldface  
13 capitalized type:

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

18 (b-10) Notice of confirmation order sent to municipality or  
19 county. With respect to residential real estate, a ~~A~~ copy of  
20 the confirmation order required under subsection (b) shall be  
21 sent by first class mail, postage prepaid, to the municipality  
22 in which the foreclosed property is located, or to the county  
23 within the boundary of which the foreclosed property is located  
24 if the foreclosed property is located in an unincorporated  
25 territory. A municipality or county must clearly publish on its  
26 website a single address to which such order ~~notice~~ shall be

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

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

23 (c) Failure to Give Notice. If any sale is held without  
24 compliance with subsection (c) of Section 15-1507 of this  
25 Article, any party entitled to the notice provided for in  
26 paragraph (3) of that subsection (c) who was not so notified

1 may, by motion supported by affidavit made prior to  
2 confirmation of such sale, ask the court which entered the  
3 judgment to set aside the sale. Any such party shall guarantee  
4 or secure by bond a bid equal to the successful bid at the  
5 prior sale, unless the party seeking to set aside the sale is  
6 the mortgagor, the real estate sold at the sale is residential  
7 real estate, and the mortgagor occupies the residential real  
8 estate at the time the motion is filed. In that event, no  
9 guarantee or bond shall be required of the mortgagor. Any  
10 subsequent sale is subject to the same notice requirement as  
11 the original sale.

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

26 (d-5) Making Home Affordable Program. The court that



1 entered the judgment shall set aside a sale held pursuant to  
2 Section 15-1507, upon motion of the mortgagor at any time prior  
3 to the confirmation of the sale, if the mortgagor proves by a  
4 preponderance of the evidence that (i) the mortgagor has  
5 applied for assistance under the Making Home Affordable Program  
6 established by the United States Department of the Treasury  
7 pursuant to the Emergency Economic Stabilization Act of 2008,  
8 as amended by the American Recovery and Reinvestment Act of  
9 2009, and (ii) the mortgaged real estate was sold in material  
10 violation of the program's requirements for proceeding to a  
11 judicial sale. The provisions of this subsection (d-5), except  
12 for this sentence, shall become inoperative on January 1, 2013  
13 for all actions filed under this Article after December 31,  
14 2012, in which the mortgagor did not apply for assistance under  
15 the Making Home Affordable Program on or before December 31,  
16 2012.

17 (e) Deficiency Judgment. In any order confirming a sale  
18 pursuant to the judgment of foreclosure, the court shall also  
19 enter a personal judgment for deficiency against any party (i)  
20 if otherwise authorized and (ii) to the extent requested in the  
21 complaint and proven upon presentation of the report of sale in  
22 accordance with Section 15-1508. Except as otherwise provided  
23 in this Article, a judgment may be entered for any balance of  
24 money that may be found due to the plaintiff, over and above  
25 the proceeds of the sale or sales, and enforcement may be had  
26 for the collection of such balance, the same as when the

1 judgment is solely for the payment of money. Such judgment may  
2 be entered, or enforcement had, only in cases where personal  
3 service has been had upon the persons personally liable for the  
4 mortgage indebtedness, unless they have entered their  
5 appearance in the foreclosure action.

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

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

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

25 Notwithstanding the preceding paragraph, the failure to  
26 personally name, include, or seek an award of possession of the

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

11 (Source: P.A. 95-826, eff. 8-14-08; 96-265, eff. 8-11-09;  
12 96-856, eff. 3-1-10; 96-1245, eff. 7-23-10; revised 9-16-10.)

13 Section 99. Effective date. This Section and the changes to  
14 Sections 15-1506 and 15-1507 of the Code of Civil Procedure  
15 take effect upon becoming law.