

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 and 15-1508 as follows:

6 (735 ILCS 5/15-1503) (from Ch. 110, par. 15-1503)  
7 Sec. 15-1503. Notice of Foreclosure.

8 (a) A notice of foreclosure, whether the foreclosure is  
9 initiated by complaint or counterclaim, made in accordance with  
10 this Section and recorded in the county in which the mortgaged  
11 real estate is located shall be constructive notice of the  
12 pendency of the foreclosure to every person claiming an  
13 interest in or lien on the mortgaged real estate, whose  
14 interest or lien has not been recorded prior to the recording  
15 of such notice of foreclosure. Such notice of foreclosure must  
16 be executed by any party or any party's attorney and shall  
17 include (i) the names of all plaintiffs and the case number,  
18 (ii) the court in which the action was brought, (iii) the names  
19 of title holders of record, (iv) a legal description of the  
20 real estate sufficient to identify it with reasonable  
21 certainty, (v) a common address or description of the location  
22 of the real estate and (vi) identification of the mortgage  
23 sought to be foreclosed. An incorrect common address or

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

10 (b) With respect to residential real estate, a copy of the  
11 notice of foreclosure described in subsection (a) of Section  
12 15-1503 shall be sent by first class mail, postage prepaid, to  
13 the alderman for the ward in which the property is located if  
14 the property is located in a municipality with a population of  
15 more than 2,000,000 and to the municipality within the boundary  
16 of which the mortgaged real estate is located, or to the county  
17 within the boundary of which the mortgaged real estate is  
18 located if the mortgaged real estate is located in an  
19 unincorporated territory. A municipality or county must  
20 clearly publish on its website a single address to which such  
21 notice shall be sent. If a municipality or county does not  
22 maintain a website, then the municipality or county must  
23 publicly post in its main office a single address to which such  
24 notice shall be sent. In the event that a municipality or  
25 county has not complied with the publication requirement in  
26 this subsection (b), then such notice to the municipality or

1 county shall be provided pursuant to Section 2-211 of the Code  
2 of Civil Procedure.

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

4 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

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

23 (1) approve the mortgagee's fees and costs arising  
24 between the entry of the judgment of foreclosure and the  
25 confirmation hearing, those costs and fees to be allowable

1 to the same extent as provided in the note and mortgage and  
2 in Section 15-1504;

3 (2) provide for a personal judgment against any party  
4 for a deficiency; and

5 (3) determine the priority of the judgments of parties  
6 who deferred proving the priority pursuant to subsection  
7 (h) of Section 15-1506, but the court shall not defer  
8 confirming the sale pending the determination of such  
9 priority.

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

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

26 (b-10) Notice of confirmation order sent to municipality or

1 county. A copy of the confirmation order required under  
2 subsection (b) shall be sent to the municipality in which the  
3 foreclosed property is located, or to the county within the  
4 boundary of which the foreclosed property is located if the  
5 foreclosed property is located in an unincorporated territory.  
6 A municipality or county must clearly publish on its website a  
7 single address to which such notice shall be sent. If a  
8 municipality or county does not maintain a website, then the  
9 municipality or county must publicly post in its main office a  
10 single address to which such notice shall be sent. In the event  
11 that a municipality or county has not complied with the  
12 publication requirement in this subsection (b-10), then such  
13 notice to the municipality or county shall be 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 and, in the case of  
20 a municipality with a population of more than 2,000,000, to the  
21 alderman for the ward in which the property is located. Failure  
22 to send or receive a copy of the order shall not impair or  
23 abrogate in any way the rights of the mortgagee or purchaser or  
24 affect the status of the foreclosure proceedings.

25 (c) Failure to Give Notice. If any sale is held without  
26 compliance with subsection (c) of Section 15-1507 of this

1 Article, any party entitled to the notice provided for in  
2 paragraph (3) of that subsection (c) who was not so notified  
3 may, by motion supported by affidavit made prior to  
4 confirmation of such sale, ask the court which entered the  
5 judgment to set aside the sale. Any such party shall guarantee  
6 or secure by bond a bid equal to the successful bid at the  
7 prior sale, unless the party seeking to set aside the sale is  
8 the mortgagor, the real estate sold at the sale is residential  
9 real estate, and the mortgagor occupies the residential real  
10 estate at the time the motion is filed. In that event, no  
11 guarantee or bond shall be required of the mortgagor. Any  
12 subsequent sale is subject to the same notice requirement as  
13 the original sale.

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

1 reasonable attorney's fees.

2 (d-5) Making Home Affordable Program. The court that  
3 entered the judgment shall set aside a sale held pursuant to  
4 Section 15-1507, upon motion of the mortgagor at any time prior  
5 to the confirmation of the sale, if the mortgagor proves by a  
6 preponderance of the evidence that (i) the mortgagor has  
7 applied for assistance under the Making Home Affordable Program  
8 established by the United States Department of the Treasury  
9 pursuant to the Emergency Economic Stabilization Act of 2008,  
10 as amended by the American Recovery and Reinvestment Act of  
11 2009, and (ii) the mortgaged real estate was sold in material  
12 violation of the program's requirements for proceeding to a  
13 judicial sale. The provisions of this subsection (d-5), except  
14 for this sentence, shall become inoperative on January 1, 2013  
15 for all actions filed under this Article after December 31,  
16 2012, in which the mortgagor did not apply for assistance under  
17 the Making Home Affordable Program on or before December 31,  
18 2012.

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

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

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

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

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



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

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

15           Section 99. Effective date. This Act takes effect January  
16 1, 2012.