

SB0111



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0111

Introduced 1/27/2011, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

735 ILCS 5/15-1507

from Ch. 110, par. 15-1507

Amends the Code of Civil Procedure. Provides that in addition to giving notice of a judicial sale pursuant to applicable court rules to all parties in the action who have appeared and have not previously been found by the court to be in default, the notice shall also be sent to the mortgagor, even if the mortgagor was found in default, and to the mortgagor's attorney, if any, at their designated addresses or, if none, at the foreclosed property. Effective January 1, 2012.

LRB097 00077 AJO 40085 b

A BILL FOR

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 Section 15-1507 as follows:

6 (735 ILCS 5/15-1507) (from Ch. 110, par. 15-1507)
7 Sec. 15-1507. Judicial Sale.

8 (a) In General. Except as provided in Sections 15-1402 and
9 15-1403, upon entry of a judgment of foreclosure, the real
10 estate which is the subject of the judgment shall be sold at a
11 judicial sale in accordance with this Section 15-1507.

12 (b) Sale Procedures. Upon expiration of the reinstatement
13 period and the redemption period in accordance with subsection
14 (b) or (c) of Section 15-1603 or upon the entry of a judgment
15 of foreclosure after the waiver of all rights of redemption,
16 except as provided in subsection (g) of Section 15-1506, the
17 real estate shall be sold at a sale as provided in this
18 Article, on such terms and conditions as shall be specified by
19 the court in the judgment of foreclosure. A sale may be
20 conducted by any judge or sheriff.

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

1 (1) The notice of sale shall include at least the
2 following information, but an immaterial error in the
3 information shall not invalidate the legal effect of the
4 notice:

5 (A) the name, address and telephone number of the
6 person to contact for information regarding the real
7 estate;

8 (B) the common address and other common
9 description (other than legal description), if any, of
10 the real estate;

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

13 (D) a description of the improvements on the real
14 estate;

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

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

18 (G) the terms of the sale;

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

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

25 (H-2) in the case of a unit of a common interest
26 community to which subsection (g-1) of Section 18.5 of

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

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

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

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

1 (3) The party who gives notice of public sale in
2 accordance with subsection (c) of Section 15-1507 shall
3 also give notice to all parties in the action who have
4 appeared and have not theretofore been found by the court
5 to be in default for failure to plead. With respect to
6 residential real estate, the notice required under
7 subsection (c) of this Section shall be sent to the
8 mortgagor even if the mortgagor has previously been held in
9 default. If the mortgagor filed a pro se appearance, the
10 notice shall be sent to the address indicated on the
11 appearance. If the mortgagor filed an appearance through an
12 attorney, the notice shall be sent both to the attorney at
13 the address indicated on the appearance and to the
14 mortgagor at the common address of the foreclosed property.
15 In all other cases, the notice shall be sent to the
16 mortgagor at the common address of the foreclosed property.
17 Such notice shall be given in the manner provided in the
18 applicable rules of court for service of papers other than
19 process and complaint, not more than 45 days nor less than
20 7 days prior to the day of sale. After notice is given as
21 required in this Section a copy thereof shall be filed in
22 the office of the clerk of the court entering the judgment,
23 together with a certificate of counsel or other proof that
24 notice has been served in compliance with this Section.

25 (4) The party who gives notice of public sale in
26 accordance with subsection (c) of Section 15-1507 shall

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

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

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

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

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

1 which separate tracts may be sold.

2 (e) Receipt upon Sale. Upon and at the sale of mortgaged
3 real estate, the person conducting the sale shall give to the
4 purchaser a receipt of sale. The receipt shall describe the
5 real estate purchased and shall show the amount bid, the amount
6 paid, the total amount paid to date and the amount still to be
7 paid therefor. An additional receipt shall be given at the time
8 of each subsequent payment.

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

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

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

24 Section 99. Effective date. This Act takes effect January
25 1, 2012.