

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 adding  
5 Section 15-1603.5 as follows:

6 (735 ILCS 5/15-1603.5 new)

7 Sec. 15-1603.5. Strict foreclosure of an omitted  
8 subordinate interest.

9 (a) As used in this Section, "omitted subordinate interest"  
10 means a recorded subordinate interest in real estate where:

11 (1) the real estate is the subject of a foreclosure  
12 action under this Article;

13 (2) a motion to confirm judicial sale under subsection  
14 (b) of Section 15-1508 is either pending or has been  
15 granted;

16 (3) the interest attached to the real estate prior to  
17 the filing or recording of any notice in accordance with  
18 Sections 2-1901 and 15-1503; and

19 (4) the person who has the interest was not named in  
20 the foreclosure complaint.

21 (b) The holder of the certificate of sale or any person who  
22 acquired title pursuant to Section 15-1509 or any subsequent  
23 successor, assignee, transferee, or grantee who discovers an

1 omitted subordinate interest may file a strict foreclosure  
2 complaint naming the person who has the omitted subordinate  
3 interest as the defendant. A complaint filed under this Section  
4 must include substantially the following:

5 (1) the identity of the plaintiff and how the plaintiff  
6 acquired its interest in the property which is the subject  
7 of the strict foreclosure;

8 (2) the docket number of the prior foreclosure action  
9 and the recording number and date of the mortgage that was  
10 previously foreclosed;

11 (3) the legal description, common address, and parcel  
12 identification number of the real estate which is the  
13 subject of the strict foreclosure;

14 (4) the recording number and a copy of the recorded  
15 instrument identifying the person who has the omitted  
16 subordinate interest that is named as the defendant;

17 (5) the amount of the successful bid at the foreclosure  
18 sale, as stated in the report of sale in the prior  
19 foreclosure action, with a copy of the report of sale  
20 attached to the complaint;

21 (6) an allegation that, due to inadvertence or mistake  
22 or such other reason as may be applicable, the person who  
23 has the omitted subordinate interest was not made a party  
24 defendant in the prior foreclosure action and the omitted  
25 subordinate interest was not terminated by the judgment of  
26 foreclosure and when the subject property was sold by

1       judicial sale; and

2           (7) a request for relief setting forth the redemption  
3       period as provided in this Section and identifying a  
4       contact by name and telephone number who will accept tender  
5       of the redemption amount.

6       (c) Subject to the objection of the defendant, the court  
7       shall enter a judgment extinguishing the omitted subordinate  
8       interest.

9       (d) If the defendant objects to the entry of the judgment,  
10       the court, after a hearing, shall enter an order providing  
11       either:

12           (1) that the defendant has not agreed to pay the amount  
13       required to redeem, in which event the court shall proceed  
14       to enter the judgment; or

15           (2) that the defendant has agreed to pay the amount  
16       required to redeem.

17       (e) The amount required to redeem shall be the sum bid at  
18       the prior foreclosure sale plus any costs and fees incurred  
19       subsequent to the sale for the payment of taxes, preservation  
20       of the property, or any other actions taken by the holder of  
21       the certificate of sale to protect its interest in the  
22       property. The amount required to redeem shall not include any  
23       costs or fees incurred by the plaintiff in the strict  
24       foreclosure case filed under this Section.

25       The order shall state that upon payment of the redemption  
26       amount within the redemption period, which shall extend 30 days

1 after the entry of the order, title to the real estate shall  
2 vest in the defendant who redeems pursuant to this Section. If  
3 the defendant subject to the order has not paid the amount  
4 required to redeem within the 30-day redemption period, the  
5 interest of the defendant in the property is terminated.

6 (f) A person whose omitted subordinate interest was not  
7 terminated by a prior foreclosure action does not have a right  
8 to file a strict foreclosure action.

9 (g) Notwithstanding that the person's omitted subordinate  
10 interest in the real estate has been terminated pursuant to  
11 this Section, nothing in this Section shall be construed to  
12 extinguish or impair any claim of such person in the surplus  
13 proceeds of a sale held or distributed pursuant to subsection  
14 (d) of Section 15-1512 of this Code after the confirmation of  
15 the sale of the real estate for which such person had an  
16 omitted subordinate interest.

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