

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 15-1501 as follows:

6 (735 ILCS 5/15-1501) (from Ch. 110, par. 15-1501)
7 Sec. 15-1501. Parties.

8 (a) Necessary Parties. For the purposes of Section 2-405 of
9 the Code of Civil Procedure, only (i) the mortgagor and (ii)
10 other persons (but not guarantors) who owe payment of
11 indebtedness or the performance of other obligations secured by
12 the mortgage and against whom personal liability is asserted
13 shall be necessary parties defendant in a foreclosure. The
14 court may proceed to adjudicate their respective interests, but
15 any disposition of the mortgaged real estate shall be subject
16 to (i) the interests of all other persons not made a party or
17 (ii) interests in the mortgaged real estate not otherwise
18 barred or terminated in the foreclosure.

19 (b) Permissible Parties. Any party may join as a party any
20 other person, although such person is not a necessary party,
21 including, without limitation, the following:

22 (1) All persons having a possessory interest in the
23 mortgaged real estate;

1 (2) A mortgagor's spouse who has waived the right of
2 homestead;

3 (3) A trustee holding an interest in the mortgaged real
4 estate or a beneficiary of such trust;

5 (4) The owner or holder of a note secured by a trust
6 deed;

7 (5) Guarantors, provided that in a foreclosure any such
8 guarantor also may be joined as a party in a separate count
9 in an action on such guarantor's guaranty;

10 (6) The State of Illinois or any political subdivision
11 thereof, where a foreclosure involves real estate upon
12 which the State or such subdivision has an interest or
13 claim for lien, in which case "An Act in relation to
14 immunity for the State of Illinois", approved December 10,
15 1971, as amended, shall not be effective;

16 (7) The United States of America or any agency or
17 department thereof where a foreclosure involves real
18 estate upon which the United States of America or such
19 agency or department has an interest or a claim for lien;

20 (8) Any assignee of leases or rents relating to the
21 mortgaged real estate;

22 (9) Any person who may have a lien under the Mechanic's
23 Lien Act; and

24 (10) Any other mortgagee or claimant.

25 (c) Unknown Owners. Any unknown owner may be made a party
26 in accordance with Section 2-413 of the Code of Civil

1 Procedure.

2 (d) Right to Become Party. Any person who has or claims an
3 interest in real estate which is the subject of a foreclosure
4 or an interest in any debt secured by the mortgage shall have
5 an unconditional right to appear and become a party in such
6 foreclosure in accordance with subsection (e) of Section
7 15-1501, provided, that neither such appearance by a lessee
8 whose interest in the real estate is subordinate to the
9 interest being foreclosed, nor the act of making such lessee a
10 party, shall result in the termination of the lessee's lease
11 unless the termination of the lease or lessee's interest in the
12 mortgaged real estate is specifically ordered by the court in
13 the judgment of foreclosure.

14 (e) Time of Intervention.

15 (1) Of Right. A person not a party, other than a
16 nonrecord claimant given notice in accordance with
17 paragraph (2) of subsection (c) of Section 15-1502, who has
18 or claims an interest in the mortgaged real estate may
19 appear and become a party at any time prior to the entry of
20 judgment of foreclosure. A nonrecord claimant given such
21 notice may appear and become a party at any time prior to
22 the earlier of (i) the entry of a judgment of foreclosure
23 or (ii) 30 days after such notice is given.

24 (2) In Court's Discretion. After the right to intervene
25 expires and prior to the sale in accordance with the
26 judgment, the court may permit a person who has or claims

1 an interest in the mortgaged real estate to appear and
2 become a party on such terms as the court may deem just.

3 (3) Later Right. After the sale of the mortgaged real
4 estate in accordance with a judgment of foreclosure and
5 prior to the entry of an order confirming the sale, a
6 person who has or claims an interest in the mortgaged real
7 estate, may appear and become a party, on such terms as the
8 court may deem just, for the sole purpose of claiming an
9 interest in the proceeds of sale. Any such party shall be
10 deemed a party from the commencement of the foreclosure,
11 and the interest of such party in the real estate shall be
12 subject to all orders and judgments entered in the
13 foreclosure.

14 (4) Termination of Interest. Except as provided in
15 Section 15-1501(d), the interest of any person who is
16 allowed to appear and become a party shall be terminated,
17 and the interest of such party in the real estate shall
18 attach to the proceeds of sale.

19 (f) Separate Actions. Any mortgagee or claimant, other than
20 the mortgagee who commences a foreclosure, whose interest in
21 the mortgaged real estate is recorded prior to the filing of a
22 notice of foreclosure in accordance with this Article but who
23 is not made a party to such foreclosure, shall not be barred
24 from filing a separate foreclosure (i) as an intervening
25 defendant or counterclaimant in accordance with subsections
26 (d) and (e) of Section 15-1501 if a judgment of foreclosure has

1 not been entered in the original foreclosure or (ii) in a new
2 foreclosure subsequent to the entry of a judgment of
3 foreclosure in the original foreclosure.

4 (g) Service on the State of Illinois. When making the State
5 of Illinois a party to a foreclosure, summons may be served by
6 sending, by registered or certified mail, a copy of the summons
7 and the complaint to the Attorney General. The complaint shall
8 set forth with particularity the nature of the interest or lien
9 of the State of Illinois. If such interest or lien appears in a
10 recorded instrument, the complaint must state the document
11 number of the instrument and the office wherein it was
12 recorded.

13 (h) Special Representatives. With respect to the property
14 that is the subject of the action, the ~~The~~ court is not
15 required to appoint a special representative for a deceased
16 mortgagor for the purpose of defending the action, if there is
17 a:

18 (1) living person, persons, or entity that holds a 100%
19 interest in the property ~~that is the subject of the action,~~
20 by virtue of being the deceased mortgagor's surviving joint
21 tenant or surviving tenant by the entirety;

22 (2) beneficiary under a transfer on death instrument
23 executed by the deceased mortgagor prior to death;

24 (3) person, persons, or entity that was conveyed title
25 to the property by the deceased mortgagor prior to death;

26 (4) person, persons, or entity that was conveyed title

1 to the property from the deceased mortgagor's probate
2 estate by the administrator or executor; or

3 (5) trust that was conveyed title to the property by:

4 (A) the deceased mortgagor prior to death; or

5 (B) any other person, persons, or entity that is
6 identified in this subsection (h) as being exempt from
7 the requirement to appoint a special representative.

8 In no event may a deficiency judgment be sought or entered
9 in the foreclosure case pursuant to subsection (e) of Section
10 15-1508 against a deceased mortgagor.

11 (Source: P.A. 98-514, eff. 11-19-13.)