

SB3596



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3596

Introduced 2/14/2020, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-206

from Ch. 110, par. 2-206

Amends the Code of Civil Procedure. Provides that, in mortgage foreclosure actions, the plaintiff, or his or her attorney, (rather than the clerk of the court) shall send a copy of the publication to each defendant. Provides that the certificate of the plaintiff (rather than the clerk of the court) is evidence that the plaintiff sent a copy of the publication to each defendant. Provides that a copy of the certificate shall be filed at the office of the clerk of the court where the action is pending.

LRB101 19671 LNS 69161 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 2-206 as follows:

6 (735 ILCS 5/2-206) (from Ch. 110, par. 2-206)

7 Sec. 2-206. Service by publication; affidavit; mailing;
8 certificate.

9 (a) Whenever, in any action affecting property or status
10 within the jurisdiction of the court, including an action to
11 obtain the specific performance, reformation, or rescission of
12 a contract for the conveyance of land, except for an action
13 brought under Part 15 of Article XV of this Code that are
14 subject to subsection (a-5), plaintiff or his or her attorney
15 shall file, at the office of the clerk of the court in which
16 the action is pending, an affidavit showing that the defendant
17 resides or has gone out of this State, or on due inquiry cannot
18 be found, or is concealed within this State, so that process
19 cannot be served upon him or her, and stating the place of
20 residence of the defendant, if known, or that upon diligent
21 inquiry his or her place of residence cannot be ascertained,
22 the clerk shall cause publication to be made in some newspaper
23 published in the county in which the action is pending. If

1 there is no newspaper published in that county, then the
2 publication shall be in a newspaper published in an adjoining
3 county in this State, having a circulation in the county in
4 which action is pending. The publication shall contain notice
5 of the pendency of the action, the title of the court, the
6 title of the case, showing the names of the first named
7 plaintiff and the first named defendant, the number of the
8 case, the names of the parties to be served by publication, and
9 the date on or after which default may be entered against such
10 party. The clerk shall also, within 10 days of the first
11 publication of the notice, send a copy thereof by mail,
12 addressed to each defendant whose place of residence is stated
13 in such affidavit. The certificate of the clerk that he or she
14 has sent the copy in pursuance of this Section is evidence that
15 he or she has done so.

16 (a-5) If, in any action brought under Part 15 of Article XV
17 of this Code, the plaintiff, or his or her attorney, shall
18 file, at the office of the clerk of the court in which the
19 action is pending, an affidavit showing that the defendant
20 resides outside of or has left this State, or on due inquiry
21 cannot be found, or is concealed within this State so that
22 process cannot be served upon him or her, and stating the place
23 of residence of the defendant, if known, or that upon diligent
24 inquiry his or her place of residence cannot be ascertained,
25 the plaintiff, or his or her attorney ~~representative~~, shall
26 cause publication to be made in some newspaper published in the

1 county in which the action is pending. If there is no newspaper
2 published in that county, then the publication shall be in a
3 newspaper published in an adjoining county in this State,
4 having a circulation in the county in which action is pending.
5 The publication shall contain notice of the pendency of the
6 action, the title of the court, the title of the case, showing
7 the names of the first named plaintiff and the first named
8 defendant, the number of the case, the names of the parties to
9 be served by publication, and the date on or after which
10 default may be entered against such party. It shall be the
11 non-delegable duty of the plaintiff, or his or her attorney
12 ~~clerk of the court~~, within 10 days of the first publication of
13 the notice, to send a copy thereof by mail, addressed to each
14 defendant whose place of residence is stated in such affidavit.
15 The certificate of the plaintiff, or his or her attorney, ~~clerk~~
16 ~~of the court~~ that he or she has sent the copy in pursuance of
17 this Section is evidence that he or she has done so. A copy of
18 the certificate shall be filed at the office of the clerk of
19 the court where the action is pending.

20 (b) In any action brought by a unit of local government to
21 cause the demolition, repair, or enclosure of a dangerous and
22 unsafe or uncompleted or abandoned building, notice by
23 publication under this Section may be commenced during the time
24 during which attempts are made to locate the defendant for
25 personal service. In that case, the unit of local government
26 shall file with the clerk an affidavit stating that the action

1 meets the requirements of this subsection and that all required
2 attempts are being made to locate the defendant. Upon the
3 filing of the affidavit, the clerk shall cause publication to
4 be made under this Section. Upon completing the attempts to
5 locate the defendant required by this Section, the municipality
6 shall file with the clerk an affidavit meeting the requirements
7 of subsection (a). Service under this subsection shall not be
8 deemed to have been made until the affidavit is filed and
9 service by publication in the manner prescribed in subsection
10 (a) is completed.

11 (Source: P.A. 101-539, eff. 1-1-20.)