

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 15-1508 as follows:

6 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

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

1 estate. The confirmation order may also:

2 (1) approve the mortgagee's fees and costs arising
3 between the entry of the judgment of foreclosure and the
4 confirmation hearing, those costs and fees to be allowable
5 to the same extent as provided in the note and mortgage and
6 in Section 15-1504;

7 (2) provide for a personal judgment against any party
8 for a deficiency; and

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

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

26 IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO

1 REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF
2 POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE
3 ILLINOIS MORTGAGE FORECLOSURE LAW.

4 (b-10) Notice of confirmation order sent to municipality or
5 county. A copy of the confirmation order required under
6 subsection (b) shall be sent to the municipality in which the
7 foreclosed property is located, or to the county within the
8 boundary of which the foreclosed property is located if the
9 foreclosed property is located in an unincorporated territory.
10 A municipality or county must clearly publish on its website a
11 single address to which such notice shall be sent. If a
12 municipality or county does not maintain a website, then the
13 municipality or county must publicly post in its main office a
14 single address to which such notice shall be sent. In the event
15 that a municipality or county has not complied with the
16 publication requirement in this subsection (b-10), then such
17 notice to the municipality or county shall be provided pursuant
18 to Section 2-211 of the Code of Civil Procedure.

19 (c) Failure to Give Notice. If any sale is held without
20 compliance with subsection (c) of Section 15-1507 of this
21 Article, any party entitled to the notice provided for in
22 paragraph (3) of that subsection (c) who was not so notified
23 may, by motion supported by affidavit made prior to
24 confirmation of such sale, ask the court which entered the
25 judgment to set aside the sale. Any such party shall guarantee
26 or secure by bond a bid equal to the successful bid at the

1 prior sale, unless the party seeking to set aside the sale is
2 the mortgagor, the real estate sold at the sale is residential
3 real estate, and the mortgagor occupies the residential real
4 estate at the time the motion is filed. In that event, no
5 guarantee or bond shall be required of the mortgagor. Any
6 subsequent sale is subject to the same notice requirement as
7 the original sale.

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

22 (d-5) Making Home Affordable Program. The court that
23 entered the judgment shall set aside a sale held pursuant to
24 Section 15-1507, upon motion of the mortgagor at any time prior
25 to the confirmation of the sale, if the mortgagor proves by a
26 preponderance of the evidence that (i) the mortgagor has

1 applied for assistance under the Making Home Affordable Program
2 established by the United States Department of the Treasury
3 pursuant to the Emergency Economic Stabilization Act of 2008,
4 as amended by the American Recovery and Reinvestment Act of
5 2009, and (ii) the mortgaged real estate was sold in material
6 violation of the program's requirements for proceeding to a
7 judicial sale. The provisions of this subsection (d-5), except
8 for this sentence, shall become inoperative on January 1, 2013
9 for all actions filed under this Article after December 31,
10 2012, in which the mortgagor did not apply for assistance under
11 the Making Home Affordable Program on or before December 31,
12 2012.

13 (e) Deficiency Judgment. In any order confirming a sale
14 pursuant to the judgment of foreclosure, the court shall also
15 enter a personal judgment for deficiency against any party (i)
16 if otherwise authorized and (ii) to the extent requested in the
17 complaint and proven upon presentation of the report of sale in
18 accordance with Section 15-1508. Except as otherwise provided
19 in this Article, a judgment may be entered for any balance of
20 money that may be found due to the plaintiff, over and above
21 the proceeds of the sale or sales, and enforcement may be had
22 for the collection of such balance, the same as when the
23 judgment is solely for the payment of money. Such judgment may
24 be entered, or enforcement had, only in cases where personal
25 service has been had upon the persons personally liable for the
26 mortgage indebtedness, unless they have entered their

1 appearance in the foreclosure action.

2 (f) Satisfaction. Upon confirmation of the sale, the
3 judgment stands satisfied to the extent of the sale price less
4 expenses and costs. If the order confirming the sale includes a
5 deficiency judgment, the judgment shall become a lien in the
6 manner of any other judgment for the payment of money.

7 (g) The order confirming the sale shall include,
8 notwithstanding any previous orders awarding possession during
9 the pendency of the foreclosure, an award to the purchaser of
10 possession of the mortgaged real estate, as of the date 30 days
11 after the entry of the order, against the parties to the
12 foreclosure whose interests have been terminated.

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

21 Notwithstanding the preceding paragraph, the failure to
22 personally name, include, or seek an award of possession of the
23 mortgaged real estate against a person in the confirmation
24 order shall not abrogate any right that the purchaser may have
25 to possession of the mortgaged real estate and to maintain a
26 proceeding against that person for possession under Article 9

1 of this Code or subsection (h) of Section 15-1701; and
2 possession against a person who (1) has not been personally
3 named as a party to the foreclosure and (2) has not been
4 provided an opportunity to be heard in the foreclosure
5 proceeding may be sought only by maintaining a proceeding under
6 Article 9 of this Code or subsection (h) of Section 15-1701.

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

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.