



Rep. Mary E. Flowers

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09800HB0011ham001

LRB098 00182 CEL 42429 a

1 AMENDMENT TO HOUSE BILL 11

2 AMENDMENT NO. _____. Amend House Bill 11 as follows:

3 on page 3, by replacing line 14 with the following:

4 "changing Section 15-1508 and by adding Section 9-107.11 as
5 follows:"; and

6 on page 4, by replacing line 2 through line 24 with the
7 following:

8 "(735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

13 (b) Hearing. Upon motion and notice in accordance with
14 court rules applicable to motions generally, which motion shall
15 not be made prior to sale, the court shall conduct a hearing to

1 confirm the sale. Unless the court finds that (i) a notice
2 required in accordance with subsection (c) of Section 15-1507
3 was not given, (ii) the terms of sale were unconscionable,
4 (iii) the sale was conducted fraudulently, or (iv) justice was
5 otherwise not done, the court shall then enter an order
6 confirming the sale. The confirmation order shall include a
7 name, address, and telephone number of the holder of the
8 certificate of sale or deed issued pursuant to that certificate
9 or, if no certificate or deed was issued, the purchaser, whom a
10 municipality or county may contact with concerns about the real
11 estate. The confirmation order may also:

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

17 (2) provide for a personal judgment against any party
18 for a deficiency; and

19 (3) determine the priority of the judgments of parties
20 who deferred proving the priority pursuant to subsection
21 (h) of Section 15-1506, but the court shall not defer
22 confirming the sale pending the determination of such
23 priority.

24 (b-5) Notice with respect to residential real estate. With
25 respect to residential real estate, the notice required under
26 subsection (b) of this Section shall be sent to the mortgagor

1 even if the mortgagor has previously been held in default. In
2 the event the mortgagor has filed an appearance, the notice
3 shall be sent to the address indicated on the appearance. In
4 all other cases, the notice shall be sent to the mortgagor at
5 the common address of the foreclosed property. The notice shall
6 be sent by first class mail. Unless the right to possession has
7 been previously terminated by the court, the notice shall
8 include the following language in 12-point boldface
9 capitalized type:

10 IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO
11 REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF
12 POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE
13 ILLINOIS MORTGAGE FORECLOSURE LAW.

14 (b-10) Notice of confirmation order sent to municipality or
15 county. A copy of the confirmation order required under
16 subsection (b) shall be sent to the municipality in which the
17 foreclosed property is located, or to the county within the
18 boundary of which the foreclosed property is located if the
19 foreclosed property is located in an unincorporated territory.
20 A municipality or county must clearly publish on its website a
21 single address to which such notice shall be sent. If a
22 municipality or county does not maintain a website, then the
23 municipality or county must publicly post in its main office a
24 single address to which such notice shall be sent. In the event
25 that a municipality or county has not complied with the
26 publication requirement in this subsection (b-10), then such

1 notice to the municipality or county shall be provided pursuant
2 to Section 2-211 of the Code of Civil Procedure.

3 (c) Failure to Give Notice. If any sale is held without
4 compliance with subsection (c) of Section 15-1507 of this
5 Article, any party entitled to the notice provided for in
6 paragraph (3) of that subsection (c) who was not so notified
7 may, by motion supported by affidavit made prior to
8 confirmation of such sale, ask the court which entered the
9 judgment to set aside the sale. Any such party shall guarantee
10 or secure by bond a bid equal to the successful bid at the
11 prior sale, unless the party seeking to set aside the sale is
12 the mortgagor, the real estate sold at the sale is residential
13 real estate, and the mortgagor occupies the residential real
14 estate at the time the motion is filed. In that event, no
15 guarantee or bond shall be required of the mortgagor. Any
16 subsequent sale is subject to the same notice requirement as
17 the original sale.

18 (d) Validity of Sale. Except as provided in subsection (c)
19 of Section 15-1508, no sale under this Article shall be held
20 invalid or be set aside because of any defect in the notice
21 thereof or in the publication of the same, or in the
22 proceedings of the officer conducting the sale, except upon
23 good cause shown in a hearing pursuant to subsection (b) of
24 Section 15-1508. At any time after a sale has occurred, any
25 party entitled to notice under paragraph (3) of subsection (c)
26 of Section 15-1507 may recover from the mortgagee any damages

1 caused by the mortgagee's failure to comply with such paragraph
2 (3). Any party who recovers damages in a judicial proceeding
3 brought under this subsection may also recover from the
4 mortgagee the reasonable expenses of litigation, including
5 reasonable attorney's fees.

6 (d-5) Making Home Affordable Program. The court that
7 entered the judgment shall set aside a sale held pursuant to
8 Section 15-1507, upon motion of the mortgagor at any time prior
9 to the confirmation of the sale, if the mortgagor proves by a
10 preponderance of the evidence that (i) the mortgagor has
11 applied for assistance under the Making Home Affordable Program
12 established by the United States Department of the Treasury
13 pursuant to the Emergency Economic Stabilization Act of 2008,
14 as amended by the American Recovery and Reinvestment Act of
15 2009, and (ii) the mortgaged real estate was sold in material
16 violation of the program's requirements for proceeding to a
17 judicial sale. The provisions of this subsection (d-5), except
18 for this sentence, shall become inoperative on January 1, 2014
19 for all actions filed under this Article after December 31,
20 2013, in which the mortgagor did not apply for assistance under
21 the Making Home Affordable Program on or before December 31,
22 2013.

23 (d-10) Illinois Hardest Hit Program. The court that entered
24 the judgment shall set aside a sale held pursuant to Section
25 15-1507 of this Act, upon motion of the mortgagor at any time
26 prior to the confirmation of the sale, if the mortgagor proves

1 by a preponderance of the evidence that (i) the mortgagor is
2 receiving assistance under the Illinois Hardest Hit Program as
3 created by 12 U.S.C. 5211 and 12 U.S.C. 5219, and administered
4 by the Illinois Housing Development Authority pursuant to the
5 Illinois Housing Development Act and (ii) the assistance
6 received under part (i) of this subsection has enabled the
7 mortgagor to reinstate the mortgage pursuant to Section 15-1602
8 of this Act and make continuing mortgage payments as available
9 under the Illinois Hardest Hit Program to avoid default.
10 Nothing in this subsection shall prohibit the mortgagee from
11 proceeding in the foreclosure action upon a subsequent default
12 of the mortgagor. Except for this sentence, this subsection is
13 inoperative on and after January 1, 2017 for all actions filed
14 under this Article after December 31, 2016 in which the
15 mortgagor did not begin receiving the assistance described in
16 this subsection under the Illinois Hardest Hit Program on or
17 before December 31, 2016.

18 (e) Deficiency Judgment. In any order confirming a sale
19 pursuant to the judgment of foreclosure, the court shall also
20 enter a personal judgment for deficiency against any party (i)
21 if otherwise authorized and (ii) to the extent requested in the
22 complaint and proven upon presentation of the report of sale in
23 accordance with Section 15-1508. Except as otherwise provided
24 in this Article, a judgment may be entered for any balance of
25 money that may be found due to the plaintiff, over and above
26 the proceeds of the sale or sales, and enforcement may be had

1 for the collection of such balance, the same as when the
2 judgment is solely for the payment of money. Such judgment may
3 be entered, or enforcement had, only in cases where personal
4 service has been had upon the persons personally liable for the
5 mortgage indebtedness, unless they have entered their
6 appearance in the foreclosure action.

7 (f) Satisfaction. Upon confirmation of the sale, the
8 judgment stands satisfied to the extent of the sale price less
9 expenses and costs. If the order confirming the sale includes a
10 deficiency judgment, the judgment shall become a lien in the
11 manner of any other judgment for the payment of money.

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

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

26 Notwithstanding the preceding paragraph, the failure to

1 personally name, include, or seek an award of possession of the
2 mortgaged real estate against a person in the confirmation
3 order shall not abrogate any right that the purchaser may have
4 to possession of the mortgaged real estate and to maintain a
5 proceeding against that person for possession under Article 9
6 of this Code or subsection (h) of Section 15-1701; and
7 possession against a person who (1) has not been personally
8 named as a party to the foreclosure and (2) has not been
9 provided an opportunity to be heard in the foreclosure
10 proceeding may be sought only by maintaining a proceeding under
11 Article 9 of this Code or subsection (h) of Section 15-1701.

12 (h) With respect to mortgaged real estate containing 5 or
13 more dwelling units, the order confirming the sale shall also
14 provide that (i) the mortgagor shall transfer to the purchaser
15 the security deposits, if any, that the mortgagor received to
16 secure payment of rent or to compensate for damage to the
17 mortgaged real estate from any current occupant of a dwelling
18 unit of the mortgaged real estate, as well as any statutory
19 interest that has not been paid to the occupant, and (ii) the
20 mortgagor shall provide an accounting of the security deposits
21 that are transferred, including the name and address of each
22 occupant for whom the mortgagor holds the deposit and the
23 amount of the deposit and any statutory interest.

24 (Source: P.A. 96-265, eff. 8-11-09; 96-856, eff. 3-1-10;
25 96-1245, eff. 7-23-10; 97-333, eff. 8-12-11; 97-575, eff.
26 8-26-11; 97-1159, eff. 1-29-13.)".