

**SB0595**



**102ND GENERAL ASSEMBLY**

**State of Illinois**

**2021 and 2022**

**SB0595**

Introduced 2/24/2021, 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.

LRB102 15847 LNS 21216 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 is ~~are~~  
14 subject to subsection (a-5), the plaintiff or his or her  
15 attorney shall file, at the office of the clerk of the court in  
16 which the action is pending, an affidavit showing that the  
17 defendant resides or has gone out of this State, or on due  
18 inquiry cannot be found, or is concealed within this State, so  
19 that process cannot be served upon him or her, and stating the  
20 place of residence of the defendant, if known, or that upon  
21 diligent inquiry his or her place of residence cannot be  
22 ascertained, the clerk shall cause publication to be made in  
23 some newspaper published in the county in which the action is

1 pending. If there is no newspaper published in that county,  
2 then the publication shall be in a newspaper published in an  
3 adjoining county in this State, having a circulation in the  
4 county in which action is pending. The publication shall  
5 contain notice of the pendency of the action, the title of the  
6 court, the title of the case, showing the names of the first  
7 named plaintiff and the first named defendant, the number of  
8 the case, the names of the parties to be served by publication,  
9 and the date on or after which default may be entered against  
10 such 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

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

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

11 (Source: P.A. 101-539, eff. 1-1-20; revised 8-19-20.)