



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5667

by Rep. Esther Golar

SYNOPSIS AS INTRODUCED:

735 ILCS 5/15-1109 new
735 ILCS 5/15-1110 new
735 ILCS 5/15-1111 new

Amends the Code of Civil Procedure. Provides that a person commits false representation concerning real estate title, a Class 4 felony, when he or she knowingly, as part of any transaction or legal proceeding under the Mortgage Foreclosure Article of the Code, claims an interest in real estate or executes, notarizes, or records a fraudulent real estate document. Provides that a person commits a pattern of making false representations concerning real estate title, a Class 3 felony, by committing false representation concerning title to real estate in 2 or more instances with a similar pattern or purpose which are not isolated incidents within the preceding 4 years and in which the aggregate loss or intended loss is more than \$250. Provides that the Attorney General has a private right of action for civil penalties arising from such conduct. Provides that if a person does not correct the false representation within 20 days of a written request to do so, the owner or holder of the beneficial interest in real estate which is the subject of a false representation concerning real estate title may bring a civil action in the circuit court in the county in which the real estate is located to recover damages suffered by the owner or holder of the beneficial interest plus reasonable attorney's fees.

LRB098 18655 HEP 53798 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning foreclosure.

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 adding
5 Sections 15-1109, 15-1110, and 15-1111 as follows:

6 (735 ILCS 5/15-1109 new)

7 Sec. 15-1109. False representation concerning real estate
8 title.

9 (a) A person commits false representation concerning real
10 estate title when he or she knowingly as part of any
11 transaction or legal proceeding pursuant to this Article XV:

12 (1) claims an interest in, or a lien or encumbrance
13 against, real estate in a document that is recorded in the
14 recorder's office in the county in which the real estate is
15 located and who knows or has reason to know that the
16 document is forged or groundless, contains a material
17 misstatement or false claim, or is otherwise invalid;

18 (2) executes or notarizes a document purporting to
19 create an interest in or a lien or encumbrance against real
20 estate that is recorded in the recorder's office in the
21 county in which the real estate is located and who has
22 specific knowledge that the document is forged, contains a
23 material misstatement or false claim, or is otherwise

1 invalid; or

2 (3) causes a document described in paragraph (1) or (2)
3 to be recorded in the recorder's office in the county in
4 which the real estate is located and who has specific
5 knowledge that the document is forged, contains a material
6 misstatement or false claim, or is otherwise invalid.

7 (b) A violation of this Section is a Class 4 felony.

8 (735 ILCS 5/15-1110 new)

9 Sec. 15-1110. Pattern of false representation concerning
10 real estate title.

11 (a) A person commits a pattern of making false
12 representations concerning real estate title when he or she
13 knowingly, as part of any transaction or legal proceedings
14 pursuant to this Article XV, commits one or more violations of
15 Section 15-1109 in 2 or more transactions:

16 (1) which have the same or similar pattern, purposes,
17 results, accomplices, victims, or methods of commission or
18 are otherwise interrelated by distinguishing
19 characteristics;

20 (2) which are not isolated incidents within the
21 preceding 4 years; and

22 (3) in which the aggregate loss or intended loss is
23 more than \$250.

24 (b) A violation of this Section is a Class 3 felony.

1 (735 ILCS 5/15-1111 new)

2 Sec. 15-1111. Civil actions for false representation
3 concerning real estate title.

4 (a) In addition to any criminal penalties imposed, a person
5 who violates Section 15-1109 or 15-1110 of this Code is subject
6 to a civil penalty of not more than \$5,000 for each violation.
7 This penalty is recoverable in a civil action, brought in the
8 name of the State by the Attorney General, in the circuit court
9 in the county in which the real estate is located. In such an
10 action, the Attorney General may recover reasonable attorney's
11 fees and costs.

12 (b) Except as otherwise provided in this subsection, the
13 owner or holder of the beneficial interest in real estate which
14 is the subject of a false representation concerning real estate
15 title may bring a civil action in the circuit court in the
16 county in which the real estate is located to recover any
17 damages suffered by the owner or holder of the beneficial
18 interest plus reasonable attorney's fees and costs. The owner
19 or holder of the beneficial interest in the real estate must,
20 before bringing a civil action pursuant to this subsection,
21 send a written request by first class mail to the person who
22 made the false representation requesting that the person record
23 a document which corrects the false representation. If the
24 person records such a document not later than 20 days after the
25 date of the written request, the owner or holder of the
26 beneficial interest may not bring a civil action pursuant to

1 this subsection.