

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 Sections 2-201, 2-1401, 13-107, and 13-109 and by
6 adding Sections 13-107.1 and 13-109.1 as follows:

7 (735 ILCS 5/2-201) (from Ch. 110, par. 2-201)

8 Sec. 2-201. Commencement of actions - Forms of process.

9 (a) Every action, unless otherwise expressly provided by
10 statute, shall be commenced by the filing of a complaint. The
11 clerk shall issue summons upon request of the plaintiff. The
12 form and substance of the summons, and of all other process,
13 and the issuance of alias process, and the service of copies of
14 pleadings shall be according to rules.

15 (b) One or more duplicate original summonses may be issued,
16 marked "First Duplicate," "Second Duplicate," etc., as the case
17 may be, whenever it will facilitate the service of summons in
18 any one or more counties, including the county of venue.

19 (c) A court's jurisdiction is not affected by a technical
20 error in format of a summons if the summons has been issued by
21 a clerk of the court, the person or entity to be served is
22 identified as a defendant on the summons, and the summons is
23 properly served. This subsection is declarative of existing

1 law.

2 (Source: P.A. 82-280.)

3 (735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)

4 Sec. 2-1401. Relief from judgments.

5 (a) Relief from final orders and judgments, after 30 days
6 from the entry thereof, may be had upon petition as provided in
7 this Section. Writs of error coram nobis and coram vobis, bills
8 of review and bills in the nature of bills of review are
9 abolished. All relief heretofore obtainable and the grounds for
10 such relief heretofore available, whether by any of the
11 foregoing remedies or otherwise, shall be available in every
12 case, by proceedings hereunder, regardless of the nature of the
13 order or judgment from which relief is sought or of the
14 proceedings in which it was entered. Except as provided in the
15 Illinois Parentage Act of 2015, there shall be no distinction
16 between actions and other proceedings, statutory or otherwise,
17 as to availability of relief, grounds for relief or the relief
18 obtainable.

19 (b) The petition must be filed in the same proceeding in
20 which the order or judgment was entered but is not a
21 continuation thereof. The petition must be supported by
22 affidavit or other appropriate showing as to matters not of
23 record. A petition to reopen a foreclosure proceeding must
24 include as parties to the petition, but is not limited to, all
25 parties in the original action in addition to the current

1 record title holders of the property, current occupants, and
2 any individual or entity that had a recorded interest in the
3 property before the filing of the petition. All parties to the
4 petition shall be notified as provided by rule.

5 (b-5) A movant may present a meritorious claim under this
6 Section if the allegations in the petition establish each of
7 the following by a preponderance of the evidence:

8 (1) the movant was convicted of a forcible felony;

9 (2) the movant's participation in the offense was
10 related to him or her previously having been a victim of
11 domestic violence as perpetrated by an intimate partner;

12 (3) no evidence of domestic violence against the movant
13 was presented at the movant's sentencing hearing;

14 (4) the movant was unaware of the mitigating nature of
15 the evidence of the domestic violence at the time of
16 sentencing and could not have learned of its significance
17 sooner through diligence; and

18 (5) the new evidence of domestic violence against the
19 movant is material and noncumulative to other evidence
20 offered at the sentencing hearing, and is of such a
21 conclusive character that it would likely change the
22 sentence imposed by the original trial court.

23 Nothing in this subsection (b-5) shall prevent a movant
24 from applying for any other relief under this Section or any
25 other law otherwise available to him or her.

26 As used in this subsection (b-5):

1 "Domestic violence" means abuse as defined in Section
2 103 of the Illinois Domestic Violence Act of 1986.

3 "Forcible felony" has the meaning ascribed to the term
4 in Section 2-8 of the Criminal Code of 2012.

5 "Intimate partner" means a spouse or former spouse,
6 persons who have or allegedly have had a child in common,
7 or persons who have or have had a dating or engagement
8 relationship.

9 (c) Except as provided in Section 20b of the Adoption Act
10 and Section 2-32 of the Juvenile Court Act of 1987 or in a
11 petition based upon Section 116-3 of the Code of Criminal
12 Procedure of 1963, the petition must be filed not later than 2
13 years after the entry of the order or judgment. Time during
14 which the person seeking relief is under legal disability or
15 duress or the ground for relief is fraudulently concealed shall
16 be excluded in computing the period of 2 years.

17 (d) The filing of a petition under this Section does not
18 affect the order or judgment, or suspend its operation.

19 (e) Unless lack of jurisdiction affirmatively appears from
20 the record proper, the vacation or modification of an order or
21 judgment pursuant to the provisions of this Section does not
22 affect the right, title or interest in or to any real or
23 personal property of any person, not a party to the original
24 action, acquired for value after the entry of the order or
25 judgment but before the filing of the petition, nor affect any
26 right of any person not a party to the original action under

1 any certificate of sale issued before the filing of the
2 petition, pursuant to a sale based on the order or judgment.
3 When a petition is filed pursuant to this Section to reopen a
4 foreclosure proceeding, notwithstanding the provisions of
5 Section 15-1701 of this Code, the purchaser or successor
6 purchaser of real property subject to a foreclosure sale who
7 was not a party to the mortgage foreclosure proceedings is
8 entitled to remain in possession of the property until the
9 foreclosure action is defeated or the previously foreclosed
10 defendant redeems from the foreclosure sale if the purchaser
11 has been in possession of the property for more than 6 months.

12 (f) Nothing contained in this Section affects any existing
13 right to relief from a void order or judgment, or to employ any
14 existing method to procure that relief.

15 (Source: P.A. 99-85, eff. 1-1-16; 99-384, eff. 1-1-16; 99-642,
16 eff. 7-28-16.)

17 (735 ILCS 5/13-107) (from Ch. 110, par. 13-107)

18 Sec. 13-107. Seven years with possession and record title.
19 Except as provided in Section 13-107.1, actions ~~Actions~~ brought
20 for the recovery of any lands, tenements or hereditaments of
21 which any person may be possessed by actual residence thereon
22 for 7 successive years, having a connected title, deductible of
23 record, from this State or the United States, or from any
24 public officer or other person authorized by the laws of this
25 State to sell such land for the non-payment of taxes, or from

1 any sheriff, marshal, or other person authorized to sell such
2 land for the enforcement of a judgment or under any order or
3 judgment of any court shall be brought within 7 years next
4 after possession is taken, but when the possessor acquires such
5 title after taking such possession, the limitation shall begin
6 to run from the time of acquiring title.

7 (Source: P.A. 82-280.)

8 (735 ILCS 5/13-107.1 new)

9 Sec. 13-107.1. Two years with possession and record title
10 derived from a judicial foreclosure sale.

11 (a) Actions brought for the recovery of any lands,
12 tenements, or hereditaments of which any person may be
13 possessed for 2 successive years, having a connected title,
14 deductible of record, as a purchaser at a judicial foreclosure
15 sale, other than a mortgagee, who takes possession pursuant to
16 a court order under the Illinois Mortgage Foreclosure Law, or a
17 purchaser who acquires title from a mortgagee or a purchaser at
18 a judicial foreclosure sale who received title and took
19 possession pursuant to a court order, shall be brought within 2
20 years after possession is taken. When the purchaser acquires
21 title and has taken possession, the limitation shall begin to
22 run from the date a mortgagee or a purchaser at a judicial
23 foreclosure sale takes possession pursuant to a court order
24 under the Illinois Mortgage Foreclosure Law or Article IX of
25 this Code. The vacation or modification, pursuant to the

1 provisions of Section 2-1401, of an order or judgment entered
2 in the judicial foreclosure does not affect the limitation in
3 this Section.

4 (b) This Section applies to actions filed on or after 180
5 days after the effective date of this amendatory Act of the
6 100th General Assembly.

7 (735 ILCS 5/13-109) (from Ch. 110, par. 13-109)

8 Sec. 13-109. Payment of taxes with color of title. Except
9 as provided in Section 13-109.1, every ~~Every~~ person in the
10 actual possession of lands or tenements, under claim and color
11 of title, made in good faith, and who for 7 successive years
12 continues in such possession, and also, during such time, pays
13 all taxes legally assessed on such lands or tenements, shall be
14 held and adjudged to be the legal owner of such lands or
15 tenements, to the extent and according to the purport of his or
16 her paper title. All persons holding under such possession, by
17 purchase, legacy or descent, before such 7 years have expired,
18 and who continue such possession, and continue to pay the taxes
19 as above set forth so as to complete the possession and payment
20 of taxes for the term above set forth, are entitled to the
21 benefit of this Section.

22 (Source: P.A. 88-45.)

23 (735 ILCS 5/13-109.1 new)

24 Sec. 13-109.1. Payment of taxes with color of title derived

1 from judicial foreclosure. Every person in the actual
2 possession of lands or tenements, under claim and color of
3 title, as a purchaser at a judicial foreclosure sale, other
4 than a mortgagee, who takes possession pursuant to a court
5 order under the Illinois Mortgage Foreclosure Law, or a
6 purchaser who acquires title from a mortgagee or a purchaser at
7 a judicial foreclosure sale who received title and took
8 possession pursuant to such a court order, and who for 2
9 successive years continues in possession, and also, during such
10 time, pays all taxes legally assessed on the lands or
11 tenements, shall be held and adjudged to be the legal owner of
12 the lands or tenements, to the extent and according to the
13 purport of his or her paper title. All persons holding under
14 such possession, by purchase, legacy, or descent, before such 2
15 years have expired, and who continue possession, and continue
16 to pay the taxes as above set forth so as to complete the
17 possession and payment of taxes for the term above set forth,
18 are entitled to the benefit of this Section. The vacation or
19 modification, pursuant to the provisions of Section 2-1401, of
20 an order or judgment entered in the judicial foreclosure does
21 not affect the limitation in this Section.

22 This Section applies to actions filed on or after 180 days
23 after the effective date of this amendatory Act of the 100th
24 General Assembly.

25 Section 10. The Mortgage Rescue Fraud Act is amended by

1 changing Section 50 as follows:

2 (765 ILCS 940/50)

3 Sec. 50. Violations.

4 (a) It is a violation for a distressed property consultant
5 to:

6 (1) claim, demand, charge, collect, or receive any
7 compensation until after the distressed property
8 consultant has fully performed each service the distressed
9 property consultant contracted to perform or represented
10 he or she would perform;

11 (2) claim, demand, charge, collect, or receive any fee,
12 interest, or any other compensation that does not comport
13 with Section 70;

14 (3) take a wage assignment, a lien of any type on real
15 or personal property, or other security to secure the
16 payment of compensation. Any such security is void and
17 unenforceable;

18 (4) receive any consideration from any third party in
19 connection with services rendered to an owner unless the
20 consideration is first fully disclosed to the owner;

21 (5) acquire any interest, directly or indirectly, or by
22 means of a subsidiary or affiliate in a distressed property
23 from an owner with whom the distressed property consultant
24 has contracted;

25 (6) take any power of attorney from an owner for any

1 purpose, except to inspect documents as provided by law; ~~or~~

2 (7) induce or attempt to induce an owner to enter a
3 contract that does not comply in all respects with Sections
4 10 and 15 of this Act; or-

5 (8) enter into, enforce, or act upon any agreement with
6 a foreclosure defendant, whether the foreclosure is
7 completed or otherwise, if the agreement provides for a
8 division of proceeds between the foreclosure defendant and
9 the distressed property consultant derived from litigation
10 related to the foreclosure.

11 (b) A distressed property purchaser, in the course of a
12 distressed property conveyance, shall not:

13 (1) enter into, or attempt to enter into, a distressed
14 property conveyance unless the distressed property
15 purchaser verifies and can demonstrate that the owner of
16 the distressed property has a reasonable ability to pay for
17 the subsequent conveyance of an interest back to the owner
18 of the distressed property and to make monthly or any other
19 required payments due prior to that time;

20 (2) fail to make a payment to the owner of the
21 distressed property at the time the title is conveyed so
22 that the owner of the distressed property has received
23 consideration in an amount of at least 82% of the
24 property's fair market value, or, in the alternative, fail
25 to pay the owner of the distressed property no more than
26 the costs necessary to extinguish all of the existing

1 obligations on the distressed property, as set forth in
2 subdivision (b)(10) of Section 45, provided that the
3 owner's costs to repurchase the distressed property
4 pursuant to the terms of the distressed property conveyance
5 contract do not exceed 125% of the distressed property
6 purchaser's costs to purchase the property. If an owner is
7 unable to repurchase the property pursuant to the terms of
8 the distressed property conveyance contract, the
9 distressed property purchaser shall not fail to make a
10 payment to the owner of the distressed property so that the
11 owner of the distressed property has received
12 consideration in an amount of at least 82% of the
13 property's fair market value at the time of conveyance or
14 at the expiration of the owner's option to repurchase.

15 (3) enter into repurchase or lease terms as part of the
16 subsequent conveyance that are unfair or commercially
17 unreasonable, or engage in any other unfair conduct;

18 (4) represent, directly or indirectly, that the
19 distressed property purchaser is acting as an advisor or a
20 consultant, or in any other manner represent that the
21 distressed property purchaser is acting on behalf of the
22 homeowner, or the distressed property purchaser is
23 assisting the owner of the distressed property to "save the
24 house", "buy time", or do anything couched in substantially
25 similar language;

26 (5) misrepresent the distressed property purchaser's

1 status as to licensure or certification;

2 (6) do any of the following until after the time during
3 which the owner of a distressed property may cancel the
4 transaction:

5 (A) accept from the owner of the distressed
6 property an execution of any instrument of conveyance
7 of any interest in the distressed property;

8 (B) induce the owner of the distressed property to
9 execute an instrument of conveyance of any interest in
10 the distressed property; or

11 (C) record with the county recorder of deeds any
12 document signed by the owner of the distressed
13 property, including but not limited to any instrument
14 of conveyance;

15 (7) fail to reconvey title to the distressed property
16 when the terms of the conveyance contract have been
17 fulfilled;

18 (8) induce the owner of the distressed property to
19 execute a quit claim deed when entering into a distressed
20 property conveyance;

21 (9) enter into a distressed property conveyance where
22 any party to the transaction is represented by power of
23 attorney;

24 (10) fail to extinguish all liens encumbering the
25 distressed property, immediately following the conveyance
26 of the distressed property, or fail to assume all liability

1 with respect to the lien in foreclosure and prior liens
2 that will not be extinguished by such foreclosure, which
3 assumption shall be accomplished without violations of the
4 terms and conditions of the lien being assumed. Nothing
5 herein shall preclude a lender from enforcing any provision
6 in a contract that is not otherwise prohibited by law;

7 (11) fail to complete a distressed property conveyance
8 before a notary in the offices of a title company licensed
9 by the Department of Financial and Professional
10 Regulation, before an agent of such a title company, a
11 notary in the office of a bank, or a licensed attorney
12 where the notary is employed; or

13 (12) cause the property to be conveyed or encumbered
14 without the knowledge or permission of the distressed
15 property owner, or in any way frustrate the ability of the
16 distressed property owner to complete the conveyance back
17 to the distressed property owner.

18 (c) There is a rebuttable presumption that an appraisal by
19 a person licensed or certified by an agency of this State or
20 the federal government is an accurate determination of the fair
21 market value of the property.

22 (d) "Consideration" in item (2) of subsection (b) means any
23 payment or thing of value provided to the owner of the
24 distressed property, including reasonable costs paid to
25 independent third parties necessary to complete the distressed
26 property conveyance or payment of money to satisfy a debt or

1 legal obligation of the owner of the distressed property.

2 "Consideration" shall not include amounts imputed as a
3 downpayment or fee to the distressed property purchaser, or a
4 person acting in participation with the distressed property
5 purchaser.

6 (e) An evaluation of "reasonable ability to pay" under
7 subsection (b)(1) of this Section 50 shall include debt to
8 income ratio, fair market value of the distressed property, and
9 the distressed property owner's payment history. There is a
10 rebuttable presumption that the distressed property purchaser
11 has not verified reasonable payment ability if the distressed
12 property purchaser has not obtained documents of assets,
13 liabilities, and income, other than a statement by the owner of
14 the distressed property.

15 (Source: P.A. 94-822, eff. 1-1-07; 95-1047, eff. 4-6-09.)

16 Section 97. Severability. The provisions of this Act are
17 severable under Section 1.31 of the Statute on Statutes.

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.