



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3650

Introduced 1/21/2022, by Sen. Robert F. Martwick

SYNOPSIS AS INTRODUCED:

735 ILCS 5/13-115.1 new

Amends the Limitations Article of the Code of Civil Procedure. Provides that an action to establish an equitable mortgage or equitable lien against real estate or a claim for subrogation to a prior mortgage shall be commenced within 10 years after the cause of action accrues. Provides that no person shall commence an action to foreclose any equitable mortgage, equitable lien against real estate, or subrogor's mortgage, unless the action is filed within 10 years after the cause of action accrues. Provides that, with exceptions, a cause of action accrues when the debt held by the equitable mortgagee, equitable lien claimant, or subrogee is in default by way of maturity, acceleration, demand, or otherwise. Provides that the amendatory language is declarative of existing law.

LRB102 24547 LNS 33781 b

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 adding Section 13-115.1 as follows:

6 (735 ILCS 5/13-115.1 new)

7 Sec. 13-115.1. Equitable mortgages, equitable liens
8 against real estate, and subrogation to a prior mortgage.

9 (a) An action to establish an equitable mortgage or
10 equitable lien against real estate or a claim for subrogation
11 to a prior mortgage shall be commenced within 10 years after
12 the cause of action accrues.

13 (b) No person shall commence an action to foreclose any
14 equitable mortgage, equitable lien against real estate, or
15 subrogor's mortgage, unless the action is filed within 10
16 years after the cause of action accrues.

17 (c) For purposes of this Section, a cause of action
18 accrues when the debt held by the equitable mortgagee,
19 equitable lien claimant, or subrogee is in default by way of
20 maturity, acceleration, demand, or otherwise. However, if any
21 payment has been made or any new promise to pay has been made
22 in writing, with respect to such debt within or after the
23 period of 10 years, then an action may be commenced thereon at

1 any time within 10 years after the time of such payment or
2 promise to pay.

3 (d) This Section is declarative of existing law.