



Sen. A. J. Wilhelmi

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LRB096 16341 AJ0 43930 a

1 AMENDMENT TO HOUSE BILL 5224

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5224 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by  
5 changing Sections 15-1503 and 15-1508 as follows:

6 (735 ILCS 5/15-1503) (from Ch. 110, par. 15-1503)

7 Sec. 15-1503. Notice of Foreclosure.

8 (a) A notice of foreclosure, whether the foreclosure is  
9 initiated by complaint or counterclaim, made in accordance with  
10 this Section and recorded in the county in which the mortgaged  
11 real estate is located shall be constructive notice of the  
12 pendency of the foreclosure to every person claiming an  
13 interest in or lien on the mortgaged real estate, whose  
14 interest or lien has not been recorded prior to the recording  
15 of such notice of foreclosure. Such notice of foreclosure must  
16 be executed by any party or any party's attorney and shall

1 include (i) the names of all plaintiffs and the case number,  
2 (ii) the court in which the action was brought, (iii) the names  
3 of title holders of record, (iv) a legal description of the  
4 real estate sufficient to identify it with reasonable  
5 certainty, (v) a common address or description of the location  
6 of the real estate and (vi) identification of the mortgage  
7 sought to be foreclosed. An incorrect common address or  
8 description of the location, or an immaterial error in the  
9 identification of a plaintiff or title holder of record, shall  
10 not invalidate the lis pendens effect of the notice under this  
11 Section. A notice which complies with this Section shall be  
12 deemed to comply with Section 2-1901 of the Code of Civil  
13 Procedure and shall have the same effect as a notice filed  
14 pursuant to that Section; however, a notice which complies with  
15 Section 2-1901 shall not be constructive notice unless it also  
16 complies with the requirements of this Section.

17 (b) With respect to residential real estate, a copy of the  
18 notice of foreclosure described in subsection (a) of Section  
19 15-1503 shall be sent by first class mail, postage prepaid, to  
20 the municipality within the boundary of which the mortgaged  
21 real estate is located, or to the county within the boundary of  
22 which the mortgaged real estate is located if the mortgaged  
23 real estate is located in an unincorporated territory. A  
24 municipality or county must clearly publish on its website a  
25 single address to which such notice shall be sent. If a  
26 municipality or county does not maintain a website, then the

1 municipality or county must publicly post in its main office a  
2 single address to which such notice shall be sent. In the event  
3 that a municipality or county has not complied with the  
4 publication requirement in this subsection (b), then such  
5 notice to the municipality or county shall be sent by first  
6 class mail to the chairperson of the county board or county  
7 clerk in the case of a county, to the mayor or city clerk in the  
8 case of a city, to the president of the board of trustees or  
9 village clerk in the case of a village, or to the supervisor or  
10 town clerk in the case of a town ~~provided pursuant to Section~~  
11 ~~2-211 of the Code of Civil Procedure.~~

12 (Source: P.A. 96-856, eff. 3-1-10.)

13 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

18 (b) Hearing. Upon motion and notice in accordance with  
19 court rules applicable to motions generally, which motion shall  
20 not be made prior to sale, the court shall conduct a hearing to  
21 confirm the sale. Unless the court finds that (i) a notice  
22 required in accordance with subsection (c) of Section 15-1507  
23 was not given, (ii) the terms of sale were unconscionable,  
24 (iii) the sale was conducted fraudulently or (iv) that justice  
25 was otherwise not done, the court shall then enter an order

1 confirming the sale. The confirmation order shall include a  
2 name, address, and telephone number of the holder of the  
3 certificate of sale or deed issued pursuant to that certificate  
4 or, if no certificate or deed was issued, the purchaser, whom a  
5 municipality or county may contact with concerns about the real  
6 estate. The confirmation order may also:

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

12 (2) provide for a personal judgment against any party  
13 for a deficiency; and

14 (3) determine the priority of the judgments of parties  
15 who deferred proving the priority pursuant to subsection  
16 (h) of Section 15-1506, but the court shall not defer  
17 confirming the sale pending the determination of such  
18 priority.

19 (b-5) Notice with respect to residential real estate. With  
20 respect to residential real estate, the notice required under  
21 subsection (b) of this Section shall be sent to the mortgagor  
22 even if the mortgagor has previously been held in default. In  
23 the event the mortgagor has filed an appearance, the notice  
24 shall be sent to the address indicated on the appearance. In  
25 all other cases, the notice shall be sent to the mortgagor at  
26 the common address of the foreclosed property. The notice shall

1 be sent by first class mail. Unless the right to possession has  
2 been previously terminated by the court, the notice shall  
3 include the following language in 12-point boldface  
4 capitalized type:

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

9 (b-10) Notice of confirmation order sent to municipality or  
10 county. With respect to residential real estate, a A copy of  
11 the confirmation order required under subsection (b) shall be  
12 sent by first class mail, postage prepaid, to the municipality  
13 in which the foreclosed property is located, or to the county  
14 within the boundary of which the foreclosed property is located  
15 if the foreclosed property is located in an unincorporated  
16 territory. A municipality or county must clearly publish on its  
17 website a single address to which such order ~~notice~~ shall be  
18 sent. If a municipality or county does not maintain a website,  
19 then the municipality or county must publicly post in its main  
20 office a single address to which such order ~~notice~~ shall be  
21 sent. In the event that a municipality or county has not  
22 complied with the publication requirement in this subsection  
23 (b-10), then such order ~~notice~~ to the municipality or county  
24 shall be sent by first class mail to the chairperson of the  
25 county board or county clerk in the case of a county, to the  
26 mayor or city clerk in the case of a city, to the president of

1 the board of trustees or village clerk in the case of a  
2 village, or to the supervisor or town clerk in the case of a  
3 town ~~provided pursuant to Section 2-211 of the Code of Civil~~  
4 Procedure.

5 (b-15) Notice of confirmation order sent to known insurers.  
6 With respect to residential real estate, a copy of the  
7 confirmation order required under subsection (b) shall be sent  
8 by first class mail, postage prepaid, to the last-known  
9 property insurer of the foreclosed property. Failure to send or  
10 receive a copy of the order shall not impair or abrogate in any  
11 way the rights of the mortgagee or purchaser or affect the  
12 status of the foreclosure proceedings.

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

1 the original sale.

2 (d) Validity of Sale. Except as provided in subsection (c)  
3 of Section 15-1508, no sale under this Article shall be held  
4 invalid or be set aside because of any defect in the notice  
5 thereof or in the publication of the same, or in the  
6 proceedings of the officer conducting the sale, except upon  
7 good cause shown in a hearing pursuant to subsection (b) of  
8 Section 15-1508. At any time after a sale has occurred, any  
9 party entitled to notice under paragraph (3) of subsection (c)  
10 of Section 15-1507 may recover from the mortgagee any damages  
11 caused by the mortgagee's failure to comply with such paragraph  
12 (3). Any party who recovers damages in a judicial proceeding  
13 brought under this subsection may also recover from the  
14 mortgagee the reasonable expenses of litigation, including  
15 reasonable attorney's fees.

16 (d-5) Making Home Affordable Program. The court that  
17 entered the judgment shall set aside a sale held pursuant to  
18 Section 15-1507, upon motion of the mortgagor at any time prior  
19 to the confirmation of the sale, if the mortgagor proves by a  
20 preponderance of the evidence that (i) the mortgagor has  
21 applied for assistance under the Making Home Affordable Program  
22 established by the United States Department of the Treasury  
23 pursuant to the Emergency Economic Stabilization Act of 2008,  
24 as amended by the American Recovery and Reinvestment Act of  
25 2009, and (ii) the mortgaged real estate was sold in material  
26 violation of the program's requirements for proceeding to a

1 judicial sale. The provisions of this subsection (d-5), except  
2 for this sentence, shall become inoperative on January 1, 2013  
3 for all actions filed under this Article after December 31,  
4 2012, in which the mortgagor did not apply for assistance under  
5 the Making Home Affordable Program on or before December 31,  
6 2012.

7 (e) Deficiency Judgment. In any order confirming a sale  
8 pursuant to the judgment of foreclosure, the court shall also  
9 enter a personal judgment for deficiency against any party (i)  
10 if otherwise authorized and (ii) to the extent requested in the  
11 complaint and proven upon presentation of the report of sale in  
12 accordance with Section 15-1508. Except as otherwise provided  
13 in this Article, a judgment may be entered for any balance of  
14 money that may be found due to the plaintiff, over and above  
15 the proceeds of the sale or sales, and enforcement may be had  
16 for the collection of such balance, the same as when the  
17 judgment is solely for the payment of money. Such judgment may  
18 be entered, or enforcement had, only in cases where personal  
19 service has been had upon the persons personally liable for the  
20 mortgage indebtedness, unless they have entered their  
21 appearance in the foreclosure action.

22 (f) Satisfaction. Upon confirmation of the sale, the  
23 judgment stands satisfied to the extent of the sale price less  
24 expenses and costs. If the order confirming the sale includes a  
25 deficiency judgment, the judgment shall become a lien in the  
26 manner of any other judgment for the payment of money.



1           (g) The order confirming the sale shall include,  
2 notwithstanding any previous orders awarding possession during  
3 the pendency of the foreclosure, an award to the purchaser of  
4 possession of the mortgaged real estate, as of the date 30 days  
5 after the entry of the order, against the parties to the  
6 foreclosure whose interests have been terminated.

7           An order of possession authorizing the removal of a person  
8 from possession of the mortgaged real estate shall be entered  
9 and enforced only against those persons personally named as  
10 individuals in the complaint or the petition under subsection  
11 (h) of Section 15-1701 and in the order of possession and shall  
12 not be entered and enforced against any person who is only  
13 generically described as an unknown owner or nonrecord claimant  
14 or by another generic designation in the complaint.

15           Notwithstanding the preceding paragraph, the failure to  
16 personally name, include, or seek an award of possession of the  
17 mortgaged real estate against a person in the confirmation  
18 order shall not abrogate any right that the purchaser may have  
19 to possession of the mortgaged real estate and to maintain a  
20 proceeding against that person for possession under Article 9  
21 of this Code or subsection (h) of Section 15-1701; and  
22 possession against a person who (1) has not been personally  
23 named as a party to the foreclosure and (2) has not been  
24 provided an opportunity to be heard in the foreclosure  
25 proceeding may be sought only by maintaining a proceeding under  
26 Article 9 of this Code or subsection (h) of Section 15-1701.

1 (Source: P.A. 95-826, eff. 8-14-08; 96-265, eff. 8-11-09;  
2 96-856, eff. 3-1-10; 96-1245, eff. 7-23-10; revised 9-16-10.)

3 Section 99. Effective date. This Act takes effect July 1,  
4 2011.".