

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 15-1202.5 and 15-1508 as follows:

6 (735 ILCS 5/15-1202.5)

7 Sec. 15-1202.5. Dwelling unit. For the purposes of Sections
8 15-1508, 15-1508.5, 15-1703, and 15-1704 only, "dwelling unit"
9 means a room or suite of rooms providing complete, independent
10 living facilities for at least one person, including permanent
11 provisions for sanitation, cooking, eating, sleeping, and
12 other activities routinely associated with daily life.

13 (Source: P.A. 96-111, eff. 10-29-09.)

14 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

19 (b) Hearing. Upon motion and notice in accordance with
20 court rules applicable to motions generally, which motion shall
21 not be made prior to sale, the court shall conduct a hearing to
22 confirm the sale. Unless the court finds that (i) a notice

1 required in accordance with subsection (c) of Section 15-1507
2 was not given, (ii) the terms of sale were unconscionable,
3 (iii) the sale was conducted fraudulently, or (iv) ~~that~~ justice
4 was otherwise not done, the court shall then enter an order
5 confirming the sale. The confirmation order shall include a
6 name, address, and telephone number of the holder of the
7 certificate of sale or deed issued pursuant to that certificate
8 or, if no certificate or deed was issued, the purchaser, whom a
9 municipality or county may contact with concerns about the real
10 estate. The confirmation order may also:

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

16 (2) provide for a personal judgment against any party
17 for a deficiency; and

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

23 (b-5) Notice with respect to residential real estate. With
24 respect to residential real estate, the notice required under
25 subsection (b) of this Section shall be sent to the mortgagor
26 even if the mortgagor has previously been held in default. In

1 the event the mortgagor has filed an appearance, the notice
2 shall be sent to the address indicated on the appearance. In
3 all other cases, the notice shall be sent to the mortgagor at
4 the common address of the foreclosed property. The notice shall
5 be sent by first class mail. Unless the right to possession has
6 been previously terminated by the court, the notice shall
7 include the following language in 12-point boldface
8 capitalized type:

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

13 (b-10) Notice of confirmation order sent to municipality or
14 county. A copy of the confirmation order required under
15 subsection (b) shall be sent to the municipality in which the
16 foreclosed property is located, or to the county within the
17 boundary of which the foreclosed property is located if the
18 foreclosed property is located in an unincorporated territory.
19 A municipality or county must clearly publish on its website a
20 single address to which such notice shall be sent. If a
21 municipality or county does not maintain a website, then the
22 municipality or county must publicly post in its main office a
23 single address to which such notice shall be sent. In the event
24 that a municipality or county has not complied with the
25 publication requirement in this subsection (b-10), then such
26 notice to the municipality or county shall be provided pursuant

1 to Section 2-211 of the Code of Civil Procedure.

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

17 (d) Validity of Sale. Except as provided in subsection (c)
18 of Section 15-1508, no sale under this Article shall be held
19 invalid or be set aside because of any defect in the notice
20 thereof or in the publication of the same, or in the
21 proceedings of the officer conducting the sale, except upon
22 good cause shown in a hearing pursuant to subsection (b) of
23 Section 15-1508. At any time after a sale has occurred, any
24 party entitled to notice under paragraph (3) of subsection (c)
25 of Section 15-1507 may recover from the mortgagee any damages
26 caused by the mortgagee's failure to comply with such paragraph

1 (3). Any party who recovers damages in a judicial proceeding
2 brought under this subsection may also recover from the
3 mortgagee the reasonable expenses of litigation, including
4 reasonable attorney's fees.

5 (d-5) Making Home Affordable Program. The court that
6 entered the judgment shall set aside a sale held pursuant to
7 Section 15-1507, upon motion of the mortgagor at any time prior
8 to the confirmation of the sale, if the mortgagor proves by a
9 preponderance of the evidence that (i) the mortgagor has
10 applied for assistance under the Making Home Affordable Program
11 established by the United States Department of the Treasury
12 pursuant to the Emergency Economic Stabilization Act of 2008,
13 as amended by the American Recovery and Reinvestment Act of
14 2009, and (ii) the mortgaged real estate was sold in material
15 violation of the program's requirements for proceeding to a
16 judicial sale. The provisions of this subsection (d-5), except
17 for this sentence, shall become inoperative on January 1, 2013
18 for all actions filed under this Article after December 31,
19 2012, in which the mortgagor did not apply for assistance under
20 the Making Home Affordable Program on or before December 31,
21 2012.

22 (e) Deficiency Judgment. In any order confirming a sale
23 pursuant to the judgment of foreclosure, the court shall also
24 enter a personal judgment for deficiency against any party (i)
25 if otherwise authorized and (ii) to the extent requested in the
26 complaint and proven upon presentation of the report of sale in

1 accordance with Section 15-1508. Except as otherwise provided
2 in this Article, a judgment may be entered for any balance of
3 money that may be found due to the plaintiff, over and above
4 the proceeds of the sale or sales, and enforcement may be had
5 for the collection of such balance, the same as when the
6 judgment is solely for the payment of money. Such judgment may
7 be entered, or enforcement had, only in cases where personal
8 service has been had upon the persons personally liable for the
9 mortgage indebtedness, unless they have entered their
10 appearance in the foreclosure action.

11 (f) Satisfaction. Upon confirmation of the sale, the
12 judgment stands satisfied to the extent of the sale price less
13 expenses and costs. If the order confirming the sale includes a
14 deficiency judgment, the judgment shall become a lien in the
15 manner of any other judgment for the payment of money.

16 (g) The order confirming the sale shall include,
17 notwithstanding any previous orders awarding possession during
18 the pendency of the foreclosure, an award to the purchaser of
19 possession of the mortgaged real estate, as of the date 30 days
20 after the entry of the order, against the parties to the
21 foreclosure whose interests have been terminated.

22 An order of possession authorizing the removal of a person
23 from possession of the mortgaged real estate shall be entered
24 and enforced only against those persons personally named as
25 individuals in the complaint or the petition under subsection
26 (h) of Section 15-1701 and in the order of possession and shall

1 not be entered and enforced against any person who is only
2 generically described as an unknown owner or nonrecord claimant
3 or by another generic designation in the complaint.

4 Notwithstanding the preceding paragraph, the failure to
5 personally name, include, or seek an award of possession of the
6 mortgaged real estate against a person in the confirmation
7 order shall not abrogate any right that the purchaser may have
8 to possession of the mortgaged real estate and to maintain a
9 proceeding against that person for possession under Article 9
10 of this Code or subsection (h) of Section 15-1701; and
11 possession against a person who (1) has not been personally
12 named as a party to the foreclosure and (2) has not been
13 provided an opportunity to be heard in the foreclosure
14 proceeding may be sought only by maintaining a proceeding under
15 Article 9 of this Code or subsection (h) of Section 15-1701.

16 (h) With respect to mortgaged real estate containing 5 or
17 more dwelling units, the order confirming the sale shall also
18 provide that (i) the mortgagor transfer to the purchaser the
19 security deposits, if any, that the mortgagor received to
20 secure payment of rent or to compensate for damage to the
21 mortgaged real estate from any current occupant of a dwelling
22 unit of the mortgaged real estate, as well as any statutory
23 interest that has not been paid to the occupant, and (ii) the
24 mortgagor provide an accounting of the security deposits that
25 are transferred, including the name and address of each
26 occupant for whom the mortgagor holds the deposit and the

1 amount of that deposit and any statutory interest.

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

4 Section 10. The Security Deposit Return Act is amended by
5 adding Section 1.2 as follows:

6 (765 ILCS 710/1.2 new)

7 Sec. 1.2. Security deposit transfer. Notwithstanding
8 Section 1.1, when a lessor transfers actual possession of a
9 security deposit received from a lessee, including any
10 statutory interest that has not been paid to a lessee, to a
11 holder of the certificate of sale or deed issued pursuant to
12 that certificate or, if no certificate or deed was issued, the
13 purchaser of a foreclosed property under Article 15 of the Code
14 of Civil Procedure, the holder or purchaser shall be liable to
15 a lessee for the security deposit that the lessee paid to the
16 lessor, including any statutory interest that has not been paid
17 to the lessee, as provided in this Act. Within 21 days after
18 the transfer of the security deposits, the holder or purchaser
19 shall post a written notice that the holder or purchaser has
20 acquired the security deposit on the primary entrance of each
21 dwelling unit at the property with respect to which the holder
22 or purchaser has acquired actual possession of a security
23 deposit.

24 Section 99. Effective date. This Act takes effect upon

1 becoming law.