



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5665

Introduced 2/16/2012, by Rep. Constance A. Howard

SYNOPSIS AS INTRODUCED:

735 ILCS 5/15-1108 new
735 ILCS 5/15-1109 new
735 ILCS 5/15-1110 new

Amends the Code of Civil Procedure. Provides that a person commits false representation concerning title to real estate, 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 and that a person commits a pattern of making false representations concerning title to real estate, 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 a private cause of action for the owner or holder of the beneficial interest in real estate which is the subject of a false representation concerning 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.

LRB097 15509 AJ0 60632 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 15-1108, 15-1109, and 15-1110 as follows:

6 (735 ILCS 5/15-1108 new)

7 Sec. 15-1108. False representation concerning real estate
8 title.

9 (a) A person commits false representation concerning title
10 to real estate 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,
20 real estate, that is recorded in the recorder's office in
21 the county in which the real estate is located and who
22 knows or has reason to know that the document is forged or
23 groundless, contains a material misstatement, or false

1 claim or is otherwise 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 knows or has
5 reason to know that the document is forged or groundless,
6 contains a material misstatement, or false claim or is
7 otherwise invalid.

8 (b) False representation concerning title to real estate as
9 described by paragraph (1), (2), or (3) of subsection (a) is a
10 Class 4 felony.

11 (735 ILCS 5/15-1109 new)

12 Sec. 15-1109. Pattern of false representation concerning
13 real estate title.

14 (a) A person commits a pattern of making false
15 representations concerning title to real estate when he or she
16 knowingly, as part of any transaction or legal proceedings
17 pursuant to this Article XV, commits one or more violations of
18 paragraph (1), (2), or (3) of Section 15-1108 in 2 or more
19 transactions:

20 (1) which have the same or similar pattern, purposes,
21 results, accomplices, victims or methods of commission, or
22 are otherwise interrelated by distinguishing
23 characteristics;

24 (2) which are not isolated incidents within the
25 preceding 4 years; and

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

3 (b) A pattern of making false representations concerning
4 title to real estate described in subsection (a) is a Class 3
5 felony.

6 (735 ILCS 5/15-1110 new)
7 Sec. 15-1110. Civil action for false representation
8 concerning real estate title.

9 (a) In addition to the criminal penalties imposed for a
10 violation of Section 15-1108 or 15-1109, any person who
11 violates Section 15-1108 or 15-1109 is subject to a civil
12 penalty of not more than \$5,000 for each violation. This
13 penalty is recoverable in a civil action, brought in the name
14 of the State by the Attorney General, in the circuit court in
15 the county in which the real estate is located. In such an
16 action, the Attorney General may recover reasonable attorney's
17 fees and costs.

18 (b) Except as otherwise provided in this subsection, the
19 owner or holder of the beneficial interest in real estate which
20 is the subject of a false representation concerning title may
21 bring a civil action in the circuit court in the county in
22 which the real estate is located to recover any damages
23 suffered by the owner or holder of the beneficial interest plus
24 reasonable attorney's fees and costs. The owner or holder of
25 the beneficial interest in the real estate must, before

1 bringing a civil action pursuant to this subsection, send a
2 written request by first class mail to the person who made the
3 false representation requesting that the person record a
4 document which corrects the false representation. If the person
5 records such a document not later than 20 days after the date
6 of the written request, the owner or holder of the beneficial
7 interest may not bring a civil action pursuant to this
8 subsection.