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Unconstitutional or Preempted Prior Version Held Unconstitutional by [People v. Wooters, Ill.](#), Nov. 18, 1999

West's Smith-Hurd Illinois Compiled Statutes Annotated

Chapter 735. Civil Procedure

Act 5. Code of Civil Procedure (Refs & Annos)

Article XV. Mortgage Foreclosure (Refs & Annos)

Part 15. Judicial Foreclosure Procedure (Refs & Annos)

735 ILCS 5/15-1508

Formerly cited as IL ST CH 110 ¶ 15-1508

## 5/15-1508. Report of sale and confirmation of sale

Effective: July 9, 2021

[Currentness](#)

§ 15-1508. Report of sale and confirmation of sale.

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

(b) Hearing. Upon motion and notice in accordance with court rules applicable to motions generally, which motion shall not be made prior to sale, the court shall conduct a hearing to confirm the sale. Unless the court finds that (i) a notice required in accordance with subsection (c) of Section 15-1507 was not given, (ii) the terms of sale were unconscionable, (iii) the sale was conducted fraudulently, or (iv) justice was otherwise not done, the court shall then enter an order confirming the sale. The confirmation order shall include a name, address, and telephone number of the holder of the certificate of sale or deed issued pursuant to that certificate or, if no certificate or deed was issued, the purchaser, whom a municipality or county may contact with concerns about the real estate. The confirmation order may also:

(1) approve the mortgagee's fees and costs (i) arising between the entry of the judgment of foreclosure and the confirmation hearing, and (ii) incurred on or after the date of execution of an affidavit under subsection (a) of Section 15-1506 and prior to the judgment but not included in the judgment, those costs and fees to be allowable to the same extent as provided in the note and mortgage and in Section 15-1504;

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

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

(b-3) Hearing to confirm sale of abandoned residential property. Upon motion and notice by first-class mail to the last known address of the mortgagor, which motion shall be made prior to the sale and heard by the court at the earliest practicable time after conclusion of the sale, and upon the posting at the property address of the notice required by paragraph (2) of subsection (l) of

Section 15-1505.8, the court shall enter an order confirming the sale of the abandoned residential property, unless the court finds that a reason set forth in items (i) through (iv) of subsection (b) of this Section exists for not approving the sale, or an order is entered pursuant to subsection (h) of Section 15-1505.8. The confirmation order also may address the matters identified in items (1) through (3) of subsection (b) of this Section. The notice required under subsection (b-5) of this Section shall not be required.

(b-5) Notice with respect to residential real estate. With respect to residential real estate, the notice required under subsection (b) of this Section shall be sent to the mortgagor even if the mortgagor has previously been held in default. In the event the mortgagor has filed an appearance, the notice shall be sent to the address indicated on the appearance. In all other cases, the notice shall be sent to the mortgagor at the common address of the foreclosed property. The notice shall be sent by first class mail. Unless the right to possession has been previously terminated by the court, the notice shall include the following language in 12-point boldface capitalized type:

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

(b-10) Notice of confirmation order sent to municipality or county. A copy of the confirmation order required under subsection (b) shall be sent to the municipality in which the foreclosed property is located, or to the county within the boundary of which the foreclosed property is located if the foreclosed property is located in an unincorporated territory. A municipality or county must clearly publish on its website a single address to which a copy of the order shall be sent. If a municipality or county does not maintain a website, then the municipality or county must publicly post in its main office a single address to which a copy of the order shall be sent. In the event that a municipality or county has not complied with the publication requirement in this subsection (b-10), then a copy of the order shall be sent by first class mail, postage prepaid, to the chairperson of the county board or county clerk in the case of a county, to the mayor or city clerk in the case of a city, to the president of the board of trustees or village clerk in the case of a village, or to the president or town clerk in the case of a town.

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

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

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

(d-5) Making Home Affordable Program. The court that entered the judgment shall set aside a sale held pursuant to Section 15-1507, upon motion of the mortgagor at any time prior to the confirmation of the sale, if the mortgagor proves by a preponderance of the evidence that (i) the mortgagor has applied for assistance under the Making Home Affordable Program established by the United States Department of the Treasury pursuant to the Emergency Economic Stabilization Act of 2008, as amended by the American Recovery and Reinvestment Act of 2009, and (ii) the mortgaged real estate was sold in material violation of the program's requirements for proceeding to a judicial sale. The provisions of this subsection (d-5) are operative and, except for this sentence, shall become inoperative on January 1, 2018 for all actions filed under this Article after December 31, 2017, in which the mortgagor did not apply for assistance under the Making Home Affordable Program on or before December 31, 2016. The changes to this subsection (d-5) by this amendatory Act of the 99th General Assembly apply to all cases pending and filed on or after the effective date of this amendatory Act of the 99th General Assembly.

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

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

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

An eviction order authorizing the removal of a person from possession of the mortgaged real estate shall be entered and enforced only against those persons personally named as individuals in the complaint or the petition under subsection (h) of Section 15-1701. No eviction order issued under this Section shall be entered against a lessee with a bona fide lease of a dwelling unit in residential real estate in foreclosure, whether or not the lessee has been made a party in the foreclosure. An order shall not be entered and enforced against any person who is only generically described as an unknown owner or nonrecord claimant or by another generic designation in the complaint.

Notwithstanding the preceding paragraph, the failure to personally name, include, or seek an eviction order against a person in the confirmation order shall not abrogate any right that the purchaser may have to possession of the mortgaged real estate and to maintain an eviction proceeding under Article IX of this Code or, if applicable, under subsection (h) of Section 15-1701; and eviction of a person who (1) has not been personally named as a party to the foreclosure and (2) has not been provided an opportunity to be heard in the foreclosure proceeding may be sought only by maintaining a proceeding under Article IX of this Code<sup>1</sup> or, if applicable, under subsection (h) of Section 15-1701.

(h) With respect to mortgaged real estate containing 5 or more dwelling units, the order confirming the sale shall also provide that (i) the mortgagor shall transfer to the purchaser the security deposits, if any, that the mortgagor received to secure payment of rent or to compensate for damage to the mortgaged real estate from any current occupant of a dwelling unit of the mortgaged real

estate, as well as any statutory interest that has not been paid to the occupant, and (ii) the mortgagor shall provide an accounting of the security deposits that are transferred, including the name and address of each occupant for whom the mortgagor holds the deposit and the amount of the deposit and any statutory interest.

### Credits

P.A. 82-280, § 15-1508, added by P.A. 84-1462, § 2, eff. July 1, 1987. Amended by P.A. 85-907, Art. I, § 1, eff. Nov. 23, 1987; P.A. 86-974, § 1, eff. July 1, 1990; P.A. 88-265, § 5, eff. Jan. 1, 1994; P.A. 89-203, § 30, eff. July 21, 1995; P.A. 95-826, § 5, eff. Aug. 14, 2008; P.A. 96-265, § 5, eff. Aug. 11, 2009; P.A. 96-856, § 25, eff. March 1, 2010; P.A. 96-1245, § 5, eff. July 23, 2010; P.A. 97-333, § 575, eff. Aug. 12, 2011; P.A. 97-575, § 5, eff. Aug. 26, 2011; P.A. 97-1159, § 5, eff. Jan. 29, 2013; P.A. 97-1164, § 15, eff. June 1, 2013; P.A. 98-514, § 5, eff. Nov. 19, 2013; P.A. 98-605, § 5, eff. Dec. 26, 2013; P.A. 99-640, § 5, eff. July 28, 2016; P.A. 100-173, § 30, eff. Jan. 1, 2018; P.A. 102-86, § 5, eff. July 9, 2021.

**Formerly** Ill.Rev.Stat.1991, ch. 110, ¶ 15-1508.

### VALIDITY

<On November 18, 1999, the Supreme Court of Illinois held that P.A. 89-203 violated the single-subject rule of the Illinois Constitution in the case of *People v. Wooters*, 1999, 243 Ill.Dec. 33, 188 Ill.2d 500, 722 N.E.2d 1102.>

Notes of Decisions (276)

### Footnotes

1 735 ILCS 5/9-101 et seq.

735 I.L.C.S. 5/15-1508, IL ST CH 735 § 5/15-1508

Current through P.A. 103-583 of the 2023 Reg. Sess. Some statute sections may be more current, see credits for details.