

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 adding
5 Section 15-1603.5 as follows:

6 (735 ILCS 5/15-1603.5 new)

7 Sec. 15-1603.5. Strict foreclosure of an omitted
8 subordinate interest.

9 (a) As used in this Section, "omitted subordinate interest"
10 means a recorded subordinate interest in real estate where:

11 (1) the real estate is the subject of a foreclosure
12 action under this Article;

13 (2) a motion to confirm judicial sale under subsection
14 (b) of Section 15-1508 is either pending or has been
15 granted;

16 (3) the interest attached to the real estate prior to
17 the filing or recording of any notice in accordance with
18 Sections 2-1901 and 15-1503; and

19 (4) the person who has the interest was not named in
20 the foreclosure complaint.

21 (b) The holder of the certificate of sale or any person who
22 acquired title pursuant to Section 15-1509 or any subsequent
23 successor, assignee, transferee, or grantee who discovers an

1 omitted subordinate interest may file a strict foreclosure
2 complaint naming the person who has the omitted subordinate
3 interest as the defendant. A complaint filed under this Section
4 must include substantially the following:

5 (1) the identity of the plaintiff and how the plaintiff
6 acquired its interest in the property which is the subject
7 of the strict foreclosure;

8 (2) the docket number of the prior foreclosure action
9 and the recording number and date of the mortgage that was
10 previously foreclosed;

11 (3) the legal description, common address, and parcel
12 identification number of the real estate which is the
13 subject of the strict foreclosure;

14 (4) the recording number and a copy of the recorded
15 instrument identifying the person who has the omitted
16 subordinate interest that is named as the defendant;

17 (5) the amount of the successful bid at the foreclosure
18 sale, as stated in the report of sale in the prior
19 foreclosure action, with a copy of the report of sale
20 attached to the complaint;

21 (6) an allegation that, due to inadvertence or mistake
22 or such other reason as may be applicable, the person who
23 has the omitted subordinate interest was not made a party
24 defendant in the prior foreclosure action and the omitted
25 subordinate interest was not terminated by the judgment of
26 foreclosure and when the subject property was sold by

1 judicial sale; and

2 (7) a request for relief setting forth the redemption
3 period as provided in this Section and identifying a
4 contact by name and telephone number who will accept tender
5 of the redemption amount.

6 (c) Subject to the objection of the defendant, the court
7 shall enter a judgment extinguishing the omitted subordinate
8 interest.

9 (d) If the defendant objects to the entry of the judgment,
10 the court, after a hearing, shall enter an order providing
11 either:

12 (1) that the defendant has not agreed to pay the amount
13 required to redeem, in which event the court shall proceed
14 to enter the judgment; or

15 (2) that the defendant has agreed to pay the amount
16 required to redeem.

17 (e) The amount required to redeem shall be the sum bid at
18 the prior foreclosure sale plus any costs and fees incurred
19 subsequent to the sale for the payment of taxes, preservation
20 of the property, or any other actions taken by the holder of
21 the certificate of sale to protect its interest in the
22 property. The amount required to redeem shall not include any
23 costs or fees incurred by the plaintiff in the strict
24 foreclosure case filed under this Section.

25 The order shall state that upon payment of the redemption
26 amount within the redemption period, which shall extend 30 days

1 after the entry of the order, title to the real estate shall
2 vest in the defendant who redeems pursuant to this Section. If
3 the defendant subject to the order has not paid the amount
4 required to redeem within the 30-day redemption period, the
5 interest of the defendant in the property is terminated.

6 (f) A person whose omitted subordinate interest was not
7 terminated by a prior foreclosure action does not have a right
8 to file a strict foreclosure action.

9 (g) Notwithstanding that the person's omitted subordinate
10 interest in the real estate has been terminated pursuant to
11 this Section, nothing in this Section shall be construed to
12 extinguish or impair any claim of such person in the surplus
13 proceeds of a sale held or distributed pursuant to subsection
14 (d) of Section 15-1512 of this Code after the confirmation of
15 the sale of the real estate for which such person had an
16 omitted subordinate interest.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.