

735 ILCS 5/15-1501

*** Statutes current with legislation through P.A. 104-30 of the 2025 Regular Session of the 104th General Assembly.***

Illinois Compiled Statutes Annotated > **Chapter 735 CIVIL PROCEDURE (§§ 5/1-101 — 30)** > **Code of Civil Procedure (Arts. I — XXIII)** > **Article XV. Mortgage Foreclosure (Pts. 1 — 17)** > **Part 15. Judicial Foreclosure Procedure (§§ 5/15-1501 — 15-1515)**

735 ILCS 5/15-1501 Parties.

(a) Necessary Parties. For the purposes of Section 2-405 of the Code of Civil Procedure [[735 ILCS 5/2-405](#)], only (i) the mortgagor and (ii) other persons (but not guarantors) who owe payment of indebtedness or the performance of other obligations secured by the mortgage and against whom personal liability is asserted shall be necessary parties defendant in a foreclosure. The court may proceed to adjudicate their respective interests, but any disposition of the mortgaged real estate shall be subject to (i) the interests of all other persons not made a party or (ii) interests in the mortgaged real estate not otherwise barred or terminated in the foreclosure.

(b) Permissible Parties. Any party may join as a party any other person, although such person is not a necessary party, including, without limitation, the following:

- (1) All persons having a possessory interest in the mortgaged real estate;
- (2) A mortgagor's spouse who has waived the right of homestead;
- (3) A trustee holding an interest in the mortgaged real estate or a beneficiary of such trust;
- (4) The owner or holder of a note secured by a trust deed;
- (5) Guarantors, provided that in a foreclosure any such guarantor also may be joined as a party in a separate count in an action on such guarantor's guaranty;
- (6) The State of Illinois or any political subdivision thereof, where a foreclosure involves real estate upon which the State or such subdivision has an interest or claim for lien, in which case "An Act in relation to immunity for the State of Illinois", approved December 10, 1971, as amended [[745 ILCS 5/1 et seq.](#)], shall not be effective;
- (7) The United States of America or any agency or department thereof where a foreclosure involves real estate upon which the United States of America or such agency or department has an interest or a claim for lien;
- (8) Any assignee of leases or rents relating to the mortgaged real estate;
- (9) Any person who may have a lien under the Mechanic's Lien Act [[770 ILCS 60/1 et seq.](#)]; and
- (10) Any other mortgagee or claimant.

(c) Unknown Owners. Any unknown owner may be made a party in accordance with Section 2-413 of the Code of Civil Procedure [[735 ILCS 5/2-413](#)].

(d) Right to Become Party. Any person who has or claims an interest in real estate which is the subject of a foreclosure or an interest in any debt secured by the mortgage shall have an unconditional right to appear and become a party in such foreclosure in accordance with subsection (e) of Section 15-1501 [[735 ILCS 5/15-1501](#)], provided, that neither such appearance by a lessee whose interest in the real estate is subordinate to the interest being foreclosed, nor the act of making such lessee a party, shall result in the

termination of the lessee's lease unless the termination of the lease or lessee's interest in the mortgaged real estate is specifically ordered by the court in the judgment of foreclosure.

(e) Time of Intervention.

(1) Of Right. A person not a party, other than a nonrecord claimant given notice in accordance with paragraph (2) of subsection (c) of Section 15-1502 [\[735 ILCS 5/15-1502\]](#), who has or claims an interest in the mortgaged real estate may appear and become a party at any time prior to the entry of judgment of foreclosure. A nonrecord claimant given such notice may appear and become a party at any time prior to the earlier of (i) the entry of a judgment of foreclosure or (ii) 30 days after such notice is given.

(2) In Court's Discretion. After the right to intervene expires and prior to the sale in accordance with the judgment, the court may permit a person who has or claims an interest in the mortgaged real estate to appear and become a party on such terms as the court may deem just.

(3) Later Right. After the sale of the mortgaged real estate in accordance with a judgment of foreclosure and prior to the entry of an order confirming the sale, a person who has or claims an interest in the mortgaged real estate, may appear and become a party, on such terms as the court may deem just, for the sole purpose of claiming an interest in the proceeds of sale. Any such party shall be deemed a party from the commencement of the foreclosure, and the interest of such party in the real estate shall be subject to all orders and judgments entered in the foreclosure.

(4) Termination of Interest. Except as provided in Section 15-1501(d), the interest of any person who is allowed to appear and become a party shall be terminated, and the interest of such party in the real estate shall attach to the proceeds of sale.

(f) Separate Actions. Any mortgagee or claimant, other than the mortgagee who commences a foreclosure, whose interest in the mortgaged real estate is recorded prior to the filing of a notice of foreclosure in accordance with this Article but who is not made a party to such foreclosure, shall not be barred from filing a separate foreclosure (i) as an intervening defendant or counterclaimant in accordance with subsections (d) and (e) of Section 15-1501 if a judgment of foreclosure has not been entered in the original foreclosure or (ii) in a new foreclosure subsequent to the entry of a judgment of foreclosure in the original foreclosure.

(g) Service on the State of Illinois. When making the State of Illinois a party to a foreclosure, summons may be served by sending, by registered or certified mail, a copy of the summons and the complaint to the Attorney General. The complaint shall set forth with particularity the nature of the interest or lien of the State of Illinois. If such interest or lien appears in a recorded instrument, the complaint must state the document number of the instrument and the office wherein it was recorded.

(h) Special Representatives. With respect to the property that is the subject of the action, the court is not required to appoint a special representative for a deceased mortgagor for the purpose of defending the action, if there is a:

- (1)** living person, persons, or entity that holds a 100% interest in the property, by virtue of being the deceased mortgagor's surviving joint tenant or surviving tenant by the entirety;
- (2)** beneficiary under a transfer on death instrument executed by the deceased mortgagor prior to death;
- (3)** person, persons, or entity that was conveyed title to the property by the deceased mortgagor prior to death;
- (4)** person, persons, or entity that was conveyed title to the property from the deceased mortgagor's probate estate by the administrator or executor; or
- (5)** trust that was conveyed title to the property by:
 - (A)** the deceased mortgagor prior to death; or

(B) any other person, persons, or entity that is identified in this subsection (h) as being exempt from the requirement to appoint a special representative.

In no event may a deficiency judgment be sought or entered in the foreclosure case pursuant to subsection (e) of Section 15-1508 [\[735 ILCS 5/15-1508\]](#) against a deceased mortgagor.

History

[P.A. 86-974](#); [88-265](#), § 5; [98-514](#), § 5; [99-24](#), § 5.

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