

HB3181



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3181

by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-619

from Ch. 110, par. 2-619

Amends the Code of Civil Procedure. Provides that if the grounds do not appear on the face of the pleading attacked the motion shall be supported by affidavit that the claim asserted is unenforceable because the claim was (A) filed for a purpose of forcing an individual or entity to change positions or induce or coerce behavior in a manner unrelated to the claim asserted, or (B) based on allegations made to a government entity by an anonymous complainant where: (i) the anonymous complainant is not revealed; or (ii) the anonymous complainant, if revealed, made the allegations to a government entity while holding an ulterior motive with regard to the defendant or for the purposes of retaliating against the defendant.

LRB101 10981 LNS 56164 b

A BILL FOR

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 Section 2-619 as follows:

6 (735 ILCS 5/2-619) (from Ch. 110, par. 2-619)

7 Sec. 2-619. Involuntary dismissal based upon certain
8 defects or defenses.

9 (a) Defendant may, within the time for pleading, file a
10 motion for dismissal of the action or for other appropriate
11 relief upon any of the following grounds. If the grounds do not
12 appear on the face of the pleading attacked the motion shall be
13 supported by affidavit:

14 (1) That the court does not have jurisdiction of the
15 subject matter of the action, provided the defect cannot be
16 removed by a transfer of the case to a court having
17 jurisdiction.

18 (2) That the plaintiff does not have legal capacity to sue
19 or that the defendant does not have legal capacity to be sued.

20 (3) That there is another action pending between the same
21 parties for the same cause.

22 (4) That the cause of action is barred by a prior judgment.

23 (5) That the action was not commenced within the time

1 limited by law.

2 (6) That the claim set forth in the plaintiff's pleading
3 has been released, satisfied of record, or discharged in
4 bankruptcy.

5 (7) That the claim asserted is unenforceable under the
6 provisions of the Statute of Frauds.

7 (8) That the claim asserted against defendant is
8 unenforceable because of his or her minority or other
9 disability.

10 (9) That the claim asserted against defendant is barred by
11 other affirmative matter avoiding the legal effect of or
12 defeating the claim.

13 (10) That the claim asserted is unenforceable because the
14 claim was (A) filed for a purpose of forcing an individual or
15 entity to change positions or induce or coerce behavior in a
16 manner unrelated to the claim asserted, or (B) based on
17 allegations made to a government entity by an anonymous
18 complainant where: (i) the anonymous complainant is not
19 revealed; or (ii) the anonymous complainant, if revealed, made
20 the allegations to a government entity while holding an
21 ulterior motive with regard to the defendant or for the
22 purposes of retaliating against the defendant.

23 (b) A similar motion may be made by any other party against
24 whom a claim is asserted.

25 (c) If, upon the hearing of the motion, the opposite party
26 presents affidavits or other proof denying the facts alleged or

1 establishing facts obviating the grounds of defect, the court
2 may hear and determine the same and may grant or deny the
3 motion. If a material and genuine disputed question of fact is
4 raised the court may decide the motion upon the affidavits and
5 evidence offered by the parties, or may deny the motion without
6 prejudice to the right to raise the subject matter of the
7 motion by answer and shall so deny it if the action is one in
8 which a party is entitled to a trial by jury and a jury demand
9 has been filed by the opposite party in apt time.

10 (d) The raising of any of the foregoing matters by motion
11 under this Section does not preclude the raising of them
12 subsequently by answer unless the court has disposed of the
13 motion on its merits; and a failure to raise any of them by
14 motion does not preclude raising them by answer.

15 (e) Pleading over after denial by the court of a motion
16 under this Section is not a waiver of any error in the decision
17 denying the motion.

18 (f) The form and contents of and procedure relating to
19 affidavits under this Section shall be as provided by rule.

20 (Source: P.A. 83-707.)