

**HB4760**



**100TH GENERAL ASSEMBLY**

**State of Illinois**

**2017 and 2018**

**HB4760**

by Rep. Emanuel Chris Welch

**SYNOPSIS AS INTRODUCED:**

735 ILCS 5/9-121  
735 ILCS 5/9-122 new  
815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

Amends the Code of Civil Procedure. Provides that upon the filing of an eviction action, the clerk of the circuit court shall immediately seal the court file and mail a specified notice to the defendants in the action. Provides that the clerk shall unseal the file after 30 days after the entry of an eviction order under specified circumstances. Provides that unsealed files shall be re-sealed no later than 5 years after the eviction action was filed or by order of the court. Restricts access to a sealed court record to specified persons. Provides that the clerk of the circuit court shall maintain a record in the aggregate of the number of for-cause and not-for-cause eviction actions, and a count of the final dispositions of for-cause and not-for-cause eviction actions. Restricts the dissemination of any information contained in a sealed court file and provides that certain violations of the restrictions constitute an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. Makes a corresponding change in the Consumer Fraud and Deceptive Business Practices Act.

LRB100 19147 HEP 34412 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 9-121 and by adding Section 9-122 as follows:

6           (735 ILCS 5/9-121)

7           Sec. 9-121. Sealing of court file.

8           (a) Definition. As used in this Section:

9           "Court file" means the court file created when an  
10          eviction action is filed with the court, any documents filed in  
11          the eviction action, and any information or record of activity  
12          associated with the eviction action.

13          "Dissemination" or "disseminate" means to publish,  
14          produce, print, manufacture, copy, distribute, sell, lease,  
15          exhibit, broadcast, display, transmit, or otherwise share  
16          information in any format so as to make the information  
17          accessible to others.

18          "Seal" or "sealing" means to bar access to the court file  
19          to anyone other than persons listed in paragraphs (1) through  
20          (4) of subsection (e).

21          "Foreclosure-related eviction" means an eviction action  
22          brought against a tenant or occupant under Section 9-207.5 of  
23          this Code; as set forth in paragraph (6) of subsection (h) of

1       Section 15-1701 of this Code, or in which a bona fide tenant is  
2       named in the foreclosure case as a permissive party under  
3       Section 15-1501 of this Code.

4       "For-cause eviction" means an eviction action in which the  
5       court finds that a tenant or occupant has materially breached  
6       the lease, or, in an eviction action brought against a tenant  
7       or an occupant as set forth in paragraph (7) of subsection (a)  
8       of Section 9-102 of this Code, in which the court finds that  
9       the tenant or occupant materially violated the covenants,  
10      rules, regulations, or by-laws of the condominium association.

11      "Not-for-cause" means an eviction action in which the court  
12      does not find that a tenant or an occupant has materially  
13      breached the lease; or an eviction action brought against a  
14      tenant or an occupant as set forth in paragraph (7) of  
15      subsection (a) of Section 9-102 of this Code in which the court  
16      does not find that the tenant or occupant materially violated  
17      the covenants, rules, regulations, or by-laws of the  
18      condominium association.

19      (b) Upon the filing of an eviction action, the clerk of the  
20      circuit court shall do each of the following:

21      (1) immediately seal the court file; and  
22      (2) not less than 7 days after issuance of the summons,  
23      mail notice of the filing of the eviction action in a  
24      sealed envelope by first class mail. The mailing shall be  
25      addressed to the named defendants and to all other  
26      residents and shall be mailed to the full address of the

1       premises as described in the eviction complaint. The notice  
2       shall be substantially in the following form:

3           "THIS NOTICE IS FOR INFORMATION ONLY. DEFENDANTS HAVE  
4       THE RIGHT TO BE SERVED WITH COURT PAPERS BEFORE GOING TO  
5       COURT.

6       To (insert name of all named defendants) and All Other  
7       Residents:

8           (Insert name of all plaintiffs) has filed an eviction  
9       action case against (insert name of all defendants) for  
10      possession of (insert full address of premises). The  
11      eviction case number is (insert full case number). A  
12      hearing may be on (insert hearing date and time on summons)  
13      in courtroom (insert courtroom on summons) if the  
14      defendants are served court papers.

15      The eviction case has been sealed and is not public. It  
16      can only be viewed by:

17           (i) a party to the action, including a party's  
18       attorney;

19           (ii) a person who provides the clerk with the names  
20       of at least one plaintiff and one defendant and the  
21       address of the premises, including the unit number, if  
22       any;

23           (iii) an occupant of the premises who provides the  
24       clerk of the court with the names of one of the parties  
25       or the case number and shows documentation of  
26       residency; or

1                   (iv) a person who has, upon showing of good cause,  
2                   obtained a court order to access a sealed court file.  
3                   If the court enters an eviction order, the eviction may  
4                   be unsealed unless the court decides it should remain  
5                   sealed. If you qualify to view the file, you may wish to go  
6                   to the court house at (insert court address). You may also  
7                   wish to speak with an attorney. In (insert name of county)  
8                   County you may contact (insert name and contact information  
9                   of local bar association, if any; insert name and contact  
10                  information of local civil legal aid providers, if any;  
11                  insert name and contact information of any local legal  
12                  clinics, if any; and any other local attorney referral  
13                  resources) to seek the help of an attorney.".

14                  (c) Except as provided in paragraphs (1) through (5) of  
15                  this subsection, the clerk of the circuit court shall unseal  
16                  the court file no sooner than 30 days after the court enters an  
17                  eviction order. The court file shall remain under seal in the  
18                  following cases:

- 19                   (1) a foreclosure-related eviction action;
- 20                   (2) an eviction action brought against a tenant or an  
21                   occupant as set forth in paragraph (7) of subsection (a) of  
22                   Section 9-102 of this Code, unless the eviction action is a  
23                   for-cause eviction;
- 24                   (3) an eviction action brought against a tenant or an  
25                   occupant on the basis that a tenant or an occupant remains  
26                   in the property after the termination of the lease, rental

1       agreement, or tenancy by its own limitation, condition, or  
2       terms;

3           (4) any other not-for-cause eviction; or

4           (5) the parties to the eviction action so agree.

5       (d) All court files that are unsealed shall be sealed by  
6       the clerk of the circuit court in the following situations:

7           (1) no later than 5 years after the eviction action was  
8       filed;

9           (2) upon motion and a showing to the court that one of  
10      the exceptions in paragraphs (1) through (5) of subsection  
11      (c) applies;

12       (3) upon a finding by the court (b) Discretionary  
13      sealing of court file. The court may order that a court  
14      file in an eviction action be placed under seal if the  
15      court finds that the plaintiff's action is sufficiently  
16      without a basis in fact or law, which may include a lack of  
17      jurisdiction, or if the case has not gone to judgment, that  
18      there is a colorable defense to the eviction; that placing  
19      the court file under seal is clearly in the interests of  
20      justice; and that those interests are not outweighed by  
21      the public's interest in knowing about the record.

22       (e) Mandatory sealing of court file. The court file  
23      relating to an eviction action brought against a tenant under  
24      Section 9-207.5 of this Code or as set forth in subdivision  
25      (h) of Section 15-1701 of this Code shall be placed under  
26      seal.

1       Paragraphs (2) and (3) of this subsection apply to eviction  
2       actions retroactively.

3       (e) The clerk of the circuit court shall not provide access  
4       to or disseminate a sealed court file to anyone other than the  
5       following persons:

6           (1) a party to the action, including a party's  
7       attorney;

8           (2) a person who provides the clerk with the names of  
9       at least one plaintiff and one defendant and the address of  
10      the premises, including the unit number, if any;

11       (3) an occupant of the premises who provides the clerk  
12      with the names of one of the parties or the case number and  
13      shows documentation of residency;

14       (4) a person who has, upon a showing of good cause,  
15      obtained a court order to access a sealed court file.

16       (f) The clerk of the circuit court shall maintain a record  
17      in the aggregate of the number of for-cause and not-for-cause  
18      eviction actions, and a count of the final dispositions of  
19      for-cause and not-for-cause eviction actions. If an eviction  
20      order is entered against a defendant, the court shall do each  
21      of the following:

22           (1) determine whether the eviction action qualifies to  
23      remain sealed as provided in paragraphs (1) through (5) of  
24      subsection (c); and

25           (2) identify whether the eviction action is a for-cause  
26      or a not-for-cause eviction.

1           (g) Except as provided in subsection (d), this Section  
2       applies to eviction actions filed on or after the effective  
3       date of this amendatory Act of the 100th General Assembly.

4       (Source: P.A. 100-173, eff. 1-1-18.)

5           (735 ILCS 5/9-122 new)

6       Sec. 9-122. Prohibition on dissemination of information  
7       contained in a sealed court file.

8       (a) A person shall not disseminate any information  
9       contained in a sealed court file if the person knows or has  
10      reasonable cause to believe that the information is derived  
11      from a sealed court file.

12      (b) A person who regularly and in the ordinary course of  
13      business furnishes information to a consumer reporting agency,  
14      including a tenant screening service, and has furnished  
15      information that the person knows, or reasonably should know,  
16      is contained in a sealed court file, shall promptly notify the  
17      consumer reporting agency of that determination, and shall not  
18      thereafter furnish any of the information contained in the  
19      sealed court file.

20      (c) A consumer reporting agency, including a tenant  
21      screening service, shall not disclose the existence of a sealed  
22      eviction action in a report pertaining to the person for whom  
23      dissemination has been barred or use the eviction action as a  
24      factor to determine any score or recommendation to be included  
25      in a tenant screening report pertaining to the person for whom

1 dissemination has been barred.

2 (d) Any violation of subsection (b) or (c) constitutes an  
3 unlawful practice under the Consumer Fraud and Deceptive  
4 Business Practices Act.

5 (e) A tenant or occupant may bring a private cause of  
6 action seeking compliance with this Section.

7 (f) If a person acts in violation of this Section, the  
8 tenant or occupant has the right to recover an amount equal to  
9 and not more than 2 months' rent or twice the damages  
10 sustained, whichever is greater, and reasonable attorney's  
11 fees.

12 (g) This Section does not apply to the tenant or occupant  
13 whose court file was sealed.

14 (h) Nothing in this Section prohibits the dissemination of  
15 information regarding a money judgment for the sole purpose of  
16 collection.

17 (i) As used in this Section, "court file", "dissemination",  
18 and "seal" have the meanings provided in Section 9-121.

19 (j) This Section applies to eviction actions filed on or  
20 after the effective date of this amendatory Act of the 100th  
21 General Assembly.

22 Section 10. The Consumer Fraud and Deceptive Business  
23 Practices Act is amended by changing Section 2Z as follows:

24 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

1           Sec. 2Z. Violations of other Acts. Any person who knowingly  
2 violates the Automotive Repair Act, the Automotive Collision  
3 Repair Act, the Home Repair and Remodeling Act, the Dance  
4 Studio Act, the Physical Fitness Services Act, the Hearing  
5 Instrument Consumer Protection Act, the Illinois Union Label  
6 Act, the Installment Sales Contract Act, the Job Referral and  
7 Job Listing Services Consumer Protection Act, the Travel  
8 Promotion Consumer Protection Act, the Credit Services  
9 Organizations Act, the Automatic Telephone Dialers Act, the  
10 Pay-Per-Call Services Consumer Protection Act, the Telephone  
11 Solicitations Act, the Illinois Funeral or Burial Funds Act,  
12 the Cemetery Oversight Act, the Cemetery Care Act, the Safe and  
13 Hygienic Bed Act, the Illinois Pre-Need Cemetery Sales Act, the  
14 High Risk Home Loan Act, the Payday Loan Reform Act, the  
15 Mortgage Rescue Fraud Act, subsection (a) or (b) of Section  
16 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section  
17 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the  
18 Internet Caller Identification Act, paragraph (6) of  
19 subsection (k) of Section 6-305 of the Illinois Vehicle Code,  
20 Section 11-1431, 18d-115, 18d-120, 18d-125, 18d-135, 18d-150,  
21 or 18d-153 of the Illinois Vehicle Code, Article 3 of the  
22 Residential Real Property Disclosure Act, the Automatic  
23 Contract Renewal Act, the Reverse Mortgage Act, Section 25 of  
24 the Youth Mental Health Protection Act, subsection (b) or (c)  
25 of Section 9-122 of the Code of Civil Procedure, the Personal  
26 Information Protection Act, or the Student Online Personal

1 Protection Act commits an unlawful practice within the meaning  
2 of this Act.

3 (Source: P.A. 99-331, eff. 1-1-16; 99-411, eff. 1-1-16; 99-642,  
4 eff. 7-28-16; 100-315, eff. 8-24-17; 100-416, eff. 1-1-18;  
5 revised 10-6-17.)