



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5519

by Rep. Theresa Mah

SYNOPSIS AS INTRODUCED:

New Act

735 ILCS 5/9-106.3 new

765 ILCS 745/16

from Ch. 80, par. 216

Creates the Immigrant Tenant Protection Act. Defines terms. Provides that, with exceptions, a landlord shall not require disclosure of, disclose, intimidate, harass, or evict a tenant on the basis of a person's immigration or citizenship status. Provides that an oral or written warning notice or explanation, given in good faith, regarding the applicable rental agreement, rules, regulations, lease, or law is not a violation of the Act. Provides that the Act does not enlarge or diminish a landlord's right to terminate a tenancy pursuant to existing State or local law; nor does the Act enlarge or diminish any ability of local government to regulate or enforce a prohibition against a landlord's harassment of a tenant. Provides that waiver of a right under the Act by a tenant, occupant, or person known to the landlord to be associated with a tenant or occupant is void as a matter of public policy. Provides remedies. Provides that an action for injunctive relief may be brought by a nonprofit organization. Provides that in a civil action involving a tenant's or occupant's housing rights, no inquiry shall be permitted into the tenant's or occupant's immigration or citizenship status, with exceptions. Contains a severability clause. Amends the Eviction Article of the Code of Civil Procedure. Provides that it is an affirmative defense to an eviction that a landlord engaged in conduct prohibited under the Immigrant Tenant Protection Act. Amends the Mobile Home Landlord and Tenant Rights Act. Provides that an eviction order may not be entered against a tenant as a reprisal for a tenant's efforts to secure remedies under the Immigrant Tenant Protection Act. Effective immediately.

LRB100 19646 HEP 34919 b

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 1. Short title. This Act may be cited as the
5 Immigrant Tenant Protection Act.

6 Section 5. Definitions. In this Act:

7 "Dwelling unit" means a room or suite of rooms, a mobile
8 home rental unit or lot as defined in Section 3 of the Mobile
9 Home Landlord and Tenant Rights Act, or other residential real
10 estate used for human habitation, and for which a landlord and
11 a tenant have a written or oral lease agreement.

12 "Immigration or citizenship status" includes a perception
13 that the person has a particular immigration status or
14 citizenship status, or that the person is associated with
15 another person who has, or is perceived to have, a particular
16 immigration status or citizenship status.

17 "Landlord" means the owner, agent, lessor, or sublessor, or
18 the successor in interest of any of them, of a dwelling unit or
19 the building of which it is part. "Landlord" includes the owner
20 of a mobile home park and any person authorized to exercise any
21 aspect of the management of the premises, including any person
22 who directly or indirectly receives rents and has no obligation
23 to deliver the whole of the receipts to another person.

1 "Tenant" means a person entitled by written or oral
2 agreement, subtenancy approved by the landlord or by
3 sufferance, or law to occupy a dwelling unit to the exclusion
4 of others.

5 Section 10. Prohibited conduct.

6 (a) Except as otherwise provided in subsection (b), a
7 landlord shall not:

8 (1) require that any tenant, prospective tenant,
9 occupant, prospective occupant, or guest of a dwelling unit
10 make any statement, representation, or certification
11 concerning his or her, or another person's, immigration or
12 citizenship status;

13 (2) threaten to disclose information regarding or
14 relating to the immigration or citizenship status of a
15 tenant, occupant, or other person known to the landlord to
16 be associated with a tenant or occupant;

17 (3) cause a tenant or occupant to quit involuntarily or
18 bring an action to recover possession of a dwelling unit
19 because of the immigration or citizenship status of a
20 tenant, occupant, or other person known to the landlord to
21 be associated with a tenant or occupant;

22 (4) disclose to any person or entity information
23 regarding or relating to the immigration or citizenship
24 status of any tenant, prospective tenant, occupant, or
25 prospective occupant of the dwelling unit for the purpose

1 of, or with the intent of, harassing or intimidating a
2 tenant, prospective tenant, occupant, or prospective
3 occupant, retaliating against a tenant or occupant for
4 exercising his or her rights, influencing a tenant or
5 occupant to vacate a dwelling unit, or recovering
6 possession of a dwelling unit, except as required by law or
7 court order; or

8 (5) disclose to any immigration authority, law
9 enforcement agency, or local, State, or federal agency
10 information regarding or relating to the immigration or
11 citizenship status of any tenant, prospective tenant,
12 occupant, or prospective occupant of the dwelling unit for
13 the purpose of, or with the intent of, harassing or
14 intimidating a tenant, prospective tenant, occupant, or
15 prospective occupant, retaliating against a tenant or
16 occupant for exercising his or her rights, influencing a
17 tenant or occupant to vacate a dwelling unit, or recovering
18 possession of a dwelling unit, except as required by law or
19 court order.

20 (b) Subsection (a) does not prohibit a landlord from doing
21 any of the following:

22 (1) complying with any legal obligation under federal
23 or State law, including, but not limited to, any legal
24 obligation under any government program that provides for
25 rent limitations or rental assistance to a qualified
26 tenant, or a subpoena, warrant, or other court order; or

1 (2) requesting information or documentation necessary
2 to determine or verify the financial qualifications of a
3 prospective tenant, or to determine or verify the identity
4 of a prospective tenant or prospective occupant.

5 (c) An oral or written warning notice, given in good faith,
6 regarding conduct by a tenant, occupant, or guest that
7 violates, may violate, or has violated an applicable rental
8 agreement, rule, regulation, lease, or law is not a violation
9 of this Act. An oral or written explanation of a rental
10 agreement, rule, regulation, lease, or law given in the normal
11 course of business is not a violation of this Act.

12 (d) This Act does not enlarge or diminish a landlord's
13 right to terminate a tenancy pursuant to existing State or
14 local law, nor does this Act enlarge or diminish the ability of
15 a unit of local government to regulate or enforce a prohibition
16 against a landlord's harassment of a tenant.

17 (e) Any waiver of a right under this Act by a tenant,
18 occupant, or person known to the landlord to be associated with
19 a tenant or occupant is void as a matter of public policy.

20 Section 15. Remedies.

21 (a) If a landlord violates subsection (a) of Section 10,
22 the tenant, prospective tenant, occupant, or prospective
23 occupant may bring a civil action to seek any one or more of
24 the following remedies:

25 (1) actual damages, as reasonably determined by the

1 court, for injury or loss suffered;

2 (2) a civil penalty in an amount not to exceed \$2,000
3 for each violation;

4 (3) reasonable attorney's fees and court costs; and

5 (4) other equitable relief as the court may deem
6 appropriate and just.

7 (b) A tenant is not required to be actually or
8 constructively evicted in order to obtain relief.

9 (c) A court finding a violation of subsection (a) of
10 Section 10 may issue injunctive relief to prevent the landlord
11 from engaging in similar conduct with respect to other tenants,
12 occupants, and persons known to the landlord to be associated
13 with the tenants or occupants. An action for injunctive relief
14 pursuant to this subsection may be brought by a nonprofit
15 organization exempt from federal income taxation under
16 Sections 501(c)(3) or 501(c)(4) of the Internal Revenue Code of
17 1986, as amended. Such an organization shall be considered a
18 party for purposes of this Act.

19 (d) The immigration or citizenship status of any person is
20 irrelevant to any issue of liability or remedy under a civil
21 action involving a tenant's or occupant's housing rights. In
22 proceedings or discovery undertaken in a civil action involving
23 a tenant's or occupant's housing rights, no inquiry shall be
24 permitted into the tenant's or occupant's immigration or
25 citizenship status, except if:

26 (1) unless otherwise provided in subsection (e), the

1 claims or defenses raised by the tenant or occupant place
2 the person's immigration or citizenship status directly in
3 contention; or

4 (2) the person seeking to make the inquiry demonstrates
5 by clear and convincing evidence that the inquiry is
6 necessary in order to comply with federal law.

7 (e) The assertion of an affirmative defense to an eviction
8 action under Section 9-106.3 of the Code of Civil Procedure
9 does not constitute cause for discovery or other inquiry into a
10 person's immigration or citizenship status.

11 Section 97. Severability. The provisions of this Act are
12 severable under Section 1.31 of the Statute on Statutes.

13 Section 905. The Code of Civil Procedure is amended by
14 adding Section 9-106.3 as follows:

15 (735 ILCS 5/9-106.3 new)

16 Sec. 9-106.3. Affirmative defenses for retaliation on the
17 basis of immigration status.

18 (a) It is an affirmative defense to an action maintained
19 under this Article that a landlord engaged in conduct
20 prohibited by subsection (a) of Section 10 of the Immigrant
21 Tenant Protection Act.

22 (b) If the landlord approved the tenant to take possession
23 of the premises before filing the eviction action, there is a

1 rebuttable presumption that the tenant is entitled to an
2 affirmative defense under this Section at any time before the
3 expiration of the lease term if the eviction complaint includes
4 one or more of the following claims:

5 (1) the failure of the previously approved tenant to
6 provide a social security number;

7 (2) the failure of the previously approved tenant to
8 provide information required to obtain a consumer credit
9 report; or

10 (3) the failure of the previously approved tenant to
11 provide a form of identification deemed acceptable by the
12 landlord.

13 (c) No affirmative defense exists under this Section if a
14 landlord files an eviction action for the purpose of complying
15 with any legal obligation under any government program that
16 provides for rent limitations or rental assistance to a
17 qualified tenant, any other federal law, or a subpoena,
18 warrant, or other order issued by a court.

19 (d) An oral or written warning notice, given in good faith,
20 regarding conduct by a tenant, occupant, or guest that
21 violates, may violate, or has violated an applicable rental
22 agreement, rule, regulation, lease, or law does not create a
23 defense under this Section. An oral or written explanation of a
24 rental agreement, rule, regulation, lease, or law given in the
25 normal course of business does not create a defense under this
26 Section.

1 (e) This Section does not enlarge or diminish a landlord's
2 right to terminate a tenancy pursuant to existing State or
3 local law, nor does this Section enlarge or diminish the
4 ability of a unit of local government to regulate or enforce a
5 prohibition against a landlord's harassment of a tenant.

6 Section 910. The Mobile Home Landlord and Tenant Rights Act
7 is amended by changing Section 16 as follows:

8 (765 ILCS 745/16) (from Ch. 80, par. 216)

9 Sec. 16. Improper grounds for eviction. The following
10 conduct by a tenant shall not constitute grounds for eviction
11 or termination of the lease, nor shall an eviction order be
12 entered against a tenant:

13 (a) As a reprisal for the tenant's effort to secure or
14 enforce any rights under the lease or the laws of the State
15 of Illinois, or its governmental subdivisions of the United
16 States;

17 (b) As a reprisal for the tenant's good faith complaint
18 to a governmental authority of the park owner's alleged
19 violation of any health or safety law, regulation, code or
20 ordinance, or State law or regulation which has as its
21 objective the regulation of premises used for dwelling
22 purposes;

23 (c) As a reprisal for the tenant's being an organizer
24 or member of, or involved in any activities relative to a

1 home owners association; -

2 (d) As a reprisal for a tenant's efforts to secure
3 remedies under the Immigrant Tenant Protection Act.

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

5 Section 999. Effective date. This Act takes effect upon
6 becoming law.