



Rep. Delia C. Ramirez

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1 AMENDMENT TO HOUSE BILL 2299

2 AMENDMENT NO. _____. Amend House Bill 2299 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 changing Sections 9-121 and 15-1701 and by adding Section 9-122
6 as follows:

7 (735 ILCS 5/9-121)

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

9 (a) ~~Definition.~~ As used in this Section: 7

10 "Consumer report" has the meaning provided in Section 603
11 of the Fair Credit Reporting Act, 15 U.S.C. 1681a(d).

12 "Consumer reporting agency" has the meaning provided in
13 Section 603 of the Fair Credit Reporting Act, 15 U.S.C.
14 1681a(f).

15 "Court court file" means the court file created when an
16 eviction action is filed with the court, any document filed in

1 the eviction action, and any document or other information,
2 inscribed on a tangible medium or stored in an electronic or
3 other medium, associated with the eviction action or court
4 record.

5 "Dissemination" or "disseminate" means to publish,
6 produce, print, manufacture, copy, distribute, sell, lease,
7 exhibit, broadcast, display, transmit, or otherwise share
8 information in any format so as to make the information
9 accessible to others.

10 "Foreclosure-related eviction" means an eviction action
11 brought against a tenant under Section 9-207.5; as set forth in
12 paragraph (6) of subsection (h) of Section 15-1701; or in which
13 a bona fide tenant is named in the foreclosure action as a
14 permissible party under Section 15-1501.

15 "For-cause eviction" means an eviction action in which the
16 court finds that a tenant or occupant has materially breached
17 the lease; or an eviction action brought against a tenant or an
18 occupant as set forth in paragraph (7) of subsection (a) of
19 Section 9-102 in which the court finds that a tenant or
20 occupant materially violated the lease or covenants, rules,
21 regulations, or bylaws of the condominium.

22 "Not-for-cause eviction" means an eviction action in which
23 the court does not find that a tenant or occupant has
24 materially breached the lease; or an eviction action brought
25 against a tenant or an occupant as set forth in paragraph (7)
26 of subsection (a) of Section 9-102 in which the court does not

1 find that the tenant or occupant materially violated the lease
2 or covenants, rules, regulations, or bylaws of the condominium.
3 "Not-for-cause eviction" includes an eviction action brought
4 against a tenant or occupant on the basis that a tenant or
5 occupant remains in the property after the termination of the
6 lease or tenancy by its own limitation, condition, or terms, or
7 by notice to quit or otherwise.

8 "Seal" or "sealing" means to make the court file
9 unavailable to the public without a court order, but to
10 physically and electronically maintain the records, unless the
11 records would otherwise be destroyed due to age.

12 (a-5) A complaint for an eviction action shall include the
13 following information:

14 (1) whether the tenancy is residential or commercial;

15 (2) the type of notice or demand that was given to
16 defendant, if any;

17 (3) a statement alleging the basis for the eviction
18 action, including whether a plaintiff alleges the eviction
19 action is a for-cause eviction or not-for-cause eviction;

20 (4) a statement alleging whether the eviction action is
21 a foreclosure-related eviction; and

22 (5) whether the property the plaintiff seeks
23 possession of is a condominium unit, and if so, whether
24 each defendant named in the action is an owner, tenant, or
25 occupant of the unit.

26 Nothing in this subsection imposes any duty upon the clerk

1 of the circuit court to inspect a complaint for an eviction
2 action for compliance with this subsection.

3 (a-10) Upon entry of an eviction order against a defendant,
4 or when a court is required to consider whether a court file is
5 qualified for sealing under subsection (b) or (c) in accordance
6 with subsection (e), the court shall make the following
7 findings:

8 (1) whether the eviction action is a
9 foreclosure-related eviction;

10 (2) whether the eviction action is a for-cause eviction
11 or a not-for-cause eviction;

12 (3) whether the eviction action relates to a commercial
13 tenancy and not a residential tenancy; and

14 (4) whether the property is a condominium, and if so,
15 whether the tenant or occupant was evicted for cause.

16 (a-15) A court file shall not be sealed under this Section
17 if it pertains to an eviction action in which: (1) the tenancy
18 is commercial, and not residential; or (2) the property that
19 the plaintiff seeks possession of is a condominium unit and no
20 tenants or occupants are named as defendants in the action.

21 ~~(b) Discretionary sealing of court file.~~ The court may
22 order that a court file in an eviction action be placed under
23 seal, regardless of the final disposition of the action, if the
24 interests of justice in sealing the court file outweigh the
25 interests of the public in maintaining a public record of the
26 case, including, but not limited to, under the following

1 circumstances: ~~if~~

2 (1) the court finds that the plaintiff's action is
3 sufficiently without a basis in fact or law, which may
4 include a lack of jurisdiction;

5 (2) the judgment in favor of the plaintiff is for an
6 amount of \$1,000 or less;

7 (3) the court finds that there is a prima facie defense
8 to the eviction action;

9 (4) the parties enter into a settlement agreement,
10 including an agreed entry of judgment, that does not result
11 in the plaintiff recovering possession; or

12 (5) the court determines that there are other grounds
13 justifying the sealing of the court file, ~~that placing the~~
14 ~~court file under seal is clearly in the interests of~~
15 ~~justice, and that those interests are not outweighed by the~~
16 ~~public's interest in knowing about the record.~~

17 (b-5) In determining a motion or petition to seal pursuant
18 to subsection (b), the court may consider the following:

19 (1) the disposition of the eviction action relating to
20 the court file;

21 (2) whether the sealing of the court file is disputed
22 by the plaintiff, and if so, the adverse effects on the
23 plaintiff if the case file is sealed;

24 (3) the amount of time between the filing of the
25 eviction action and the filing of the motion or petition to
26 seal the court file;

1 (4) the specific adverse consequences to the defendant
2 if the court file remains a public record;

3 (5) whether there are any extenuating circumstances
4 that may have led to the plaintiff bringing an eviction
5 action against the tenant or occupant, including whether
6 the tenant or occupant has any defenses to the action; and

7 (6) any other factor the court deems useful in
8 balancing the interests of justice against the interests of
9 the public in accordance with subsection (b).

10 ~~(c) Mandatory sealing of court file.~~ The court file
11 ~~relating to an eviction action brought against a tenant under~~
12 ~~Section 9-207.5 of this Code or as set forth in subdivision~~
13 ~~(h)(6) of Section 15-1701 of this Code shall be placed under~~
14 ~~seal:~~

15 (1) in a foreclosure-related eviction action;

16 (2) in a not-for-cause eviction;

17 (3) if the parties to the eviction action so agree; and

18 (4) in an action not resulting in an eviction order
19 entered in favor of the plaintiff.

20 (d) Except as provided in subsection (a-10), any tenant or
21 occupant named as a defendant in an eviction action may file a
22 motion or petition to seal the court file of the eviction
23 action, including an action filed before the effective date of
24 this amendatory Act of the 101st General Assembly.

25 (e) Court files shall be sealed as follows:

26 (1) Court files identified as qualifying for mandatory

1 sealing under paragraph (1) or (2) of subsection (c) shall
2 be sealed by court order as soon as it is apparent to the
3 court that an action qualifies for mandatory sealing. The
4 court shall examine the plaintiff's complaint and any other
5 relevant information proffered by the parties, make
6 findings in accordance with subsection (a-10), and order
7 the court file sealed at the earliest upon filing and no
8 later than the return date on the original pleading filed
9 by the plaintiff.

10 Nothing in this subsection imposes a duty upon the
11 clerk of the circuit court to inspect a complaint for an
12 eviction action to ensure compliance with this subsection.

13 (2) Court files identified as qualifying for mandatory
14 sealing under paragraph (3) of subsection (c) shall be
15 sealed by court order as soon as the parties' agreement to
16 seal is entered by the court.

17 (3) Except as provided in this paragraph, court files
18 identified as qualifying for mandatory sealing under
19 paragraph (4) of subsection (c) shall be sealed by court
20 order no later than entry of the final disposition of the
21 action. The court shall seal the court file of an eviction
22 action in which there is not a final disposition and no
23 appeal is pending and there has been no action of record
24 for over 6 months without another court date scheduled.

25 (4) All other court files, including, but not limited
26 to, those pertaining to eviction actions filed before the

1 effective date of this amendatory Act of the 101st General
2 Assembly and those pertaining to eviction actions that
3 qualify for mandatory sealing under subsection (c) but were
4 misidentified as not qualifying for mandatory sealing,
5 shall be sealed, upon motion or petition, if the court
6 finds that the court file qualifies for mandatory sealing
7 under subsection (c) or discretionary sealing under
8 subsection (b).

9 (5) In an eviction action in which the court determines
10 a court file qualifies for mandatory sealing under
11 subsection (c) or discretionary sealing under subsection
12 (b), the court shall enter a separate order to seal the
13 court file.

14 (6) In an eviction action in which the court finds that
15 the court file is exempt from sealing under subsection
16 (a-10), the court shall enter a separate order with that
17 finding.

18 (f) Unless the court finds that the action involves either
19 a commercial tenancy or a condominium unit in accordance with
20 paragraph (3) or (4) of subsection (a-10), the clerk of the
21 circuit court shall automatically seal all eviction action
22 court files no later than 3 years after the plaintiff's initial
23 filing with the court, regardless of the final disposition of
24 the case. This subsection applies only to eviction actions
25 filed after the effective date of this amendatory Act of the
26 101st General Assembly.

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

2 (735 ILCS 5/9-122 new)

3 Sec. 9-122. Dissemination and use of information contained
4 in a sealed court file.

5 (a) If a person knows or has reasonable cause to know that
6 information is derived from a sealed court file, he or she
7 shall not disseminate the information.

8 (b) A consumer reporting agency, including a tenant
9 background screening service, shall not disclose the existence
10 of, or information regarding, an eviction action if there is no
11 final disposition entered by the court or if the court file is
12 sealed under Section 9-121 or otherwise made confidential by
13 the court, or use the action as a factor to determine any score
14 or recommendation to be included in a consumer report
15 pertaining to a person named in an action. A consumer reporting
16 agency may include in a consumer report information found in a
17 publicly available court file, if: (i) the consumer's full
18 name, date of birth, social security number, and both the basis
19 for and final disposition of the eviction action reported are
20 included in the report; (ii) the consumer is permitted to
21 include a 100-word statement about any court file included in
22 any way in the report; and (iii) the information is removed
23 from the report or from the calculation of any score or
24 recommendation therein within 7 days of sealing of the court
25 file from which it is derived.

1 Any violation of this subsection is an unlawful practice
2 under the Consumer Fraud and Deceptive Business Practices Act.

3 (c) Any person who violates this Section shall be liable to
4 the affected tenant or occupant for \$2,000 for each violation,
5 or twice the actual and consequential damages sustained,
6 whichever is greater, and the costs of the action, including
7 reasonable attorney's fees.

8 (d) This Section does not apply to a tenant or occupant
9 whose court file was sealed, his or her counsel, the court, or
10 the clerk of the circuit court.

11 (e) Nothing in this Section shall be deemed to waive the
12 rights or remedies of any consumer under any law, rule, or
13 regulation.

14 (f) Nothing in this Section prohibits the dissemination of
15 information regarding a money judgment for the sole purpose of
16 enforcing the judgment pursuant to Article XII of the Code of
17 Civil Procedure.

18 (g) Nothing in this Section prohibits the provision of the
19 eviction order to a sheriff for the sole purpose of enforcement
20 of the order.

21 (h) If any provision of this Section or its application to
22 any person or circumstance is held invalid, the invalidity of
23 that provision or application does not affect other provisions
24 or applications of this Section that can be given effect
25 without the invalid provision or application.

1 (735 ILCS 5/15-1701) (from Ch. 110, par. 15-1701)

2 Sec. 15-1701. Right to possession.

3 (a) General. The provisions of this Article shall govern
4 the right to possession of the mortgaged real estate during
5 foreclosure. Possession under this Article includes physical
6 possession of the mortgaged real estate to the same extent to
7 which the mortgagor, absent the foreclosure, would have been
8 entitled to physical possession. For the purposes of Part 17,
9 real estate is residential real estate only if it is
10 residential real estate at the time the foreclosure is
11 commenced.

12 (b) Pre-Judgment. Prior to the entry of a judgment of
13 foreclosure:

14 (1) In the case of residential real estate, the
15 mortgagor shall be entitled to possession of the real
16 estate except if (i) the mortgagee shall object and show
17 good cause, (ii) the mortgagee is so authorized by the
18 terms of the mortgage or other written instrument, and
19 (iii) the court is satisfied that there is a reasonable
20 probability that the mortgagee will prevail on a final
21 hearing of the cause, the court shall upon request place
22 the mortgagee in possession. If the residential real estate
23 consists of more than one dwelling unit, then for the
24 purpose of this Part residential real estate shall mean
25 only that dwelling unit or units occupied by persons
26 described in clauses (i), (ii) and (iii) of Section

1 15-1219.

2 (2) In all other cases, if (i) the mortgagee is so
3 authorized by the terms of the mortgage or other written
4 instrument, and (ii) the court is satisfied that there is a
5 reasonable probability that the mortgagee will prevail on a
6 final hearing of the cause, the mortgagee shall upon
7 request be placed in possession of the real estate, except
8 that if the mortgagor shall object and show good cause, the
9 court shall allow the mortgagor to remain in possession.

10 (c) Judgment Through 30 Days After Sale Confirmation. After
11 the entry of a judgment of foreclosure and through the 30th day
12 after a foreclosure sale is confirmed:

13 (1) Subsection (b) of Section 15-1701 shall be
14 applicable, regardless of the provisions of the mortgage or
15 other instrument, except that after a sale pursuant to the
16 judgment the holder of the certificate of sale (or, if
17 none, the purchaser at the sale) shall have the mortgagee's
18 right to be placed in possession, with all rights and
19 duties of a mortgagee in possession under this Article.

20 (2) Notwithstanding paragraph (1) of subsection (b)
21 and paragraph (1) of subsection (c) of Section 15-1701,
22 upon request of the mortgagee, a mortgagor of residential
23 real estate shall not be allowed to remain in possession
24 between the expiration of the redemption period and through
25 the 30th day after sale confirmation unless (i) the
26 mortgagor pays to the mortgagee or such holder or

1 purchaser, whichever is applicable, monthly the lesser of
2 the interest due under the mortgage calculated at the
3 mortgage rate of interest applicable as if no default had
4 occurred or the fair rental value of the real estate, or
5 (ii) the mortgagor otherwise shows good cause. Any amounts
6 paid by the mortgagor pursuant to this subsection shall be
7 credited against the amounts due from the mortgagor.

8 (d) After 30 Days After Sale Confirmation. The holder of
9 the certificate of sale or deed issued pursuant to that
10 certificate or, if no certificate or deed was issued, the
11 purchaser, except to the extent the holder or purchaser may
12 consent otherwise, shall be entitled to possession of the
13 mortgaged real estate, as of the date 30 days after the order
14 confirming the sale is entered, against those parties to the
15 foreclosure whose interests the court has ordered terminated,
16 without further notice to any party, further order of the
17 court, or resort to proceedings under any other statute other
18 than this Article. This right to possession shall be limited by
19 the provisions governing entering and enforcing orders of
20 possession under subsection (g) of Section 15-1508. If the
21 holder or purchaser determines that there are occupants of the
22 mortgaged real estate who have not been made parties to the
23 foreclosure and had their interests terminated therein, the
24 holder or purchaser may bring an eviction proceeding under
25 subsection (h) of this Section, if applicable, or under Article
26 IX of this Code to terminate the rights of possession of any

1 such occupants. The holder or purchaser shall not be entitled
2 to proceed against any such occupant under Article IX of this
3 Code until after 30 days after the order confirming the sale is
4 entered.

5 (e) Termination of Leases. A lease of all or any part of
6 the mortgaged real estate shall not be terminated automatically
7 solely by virtue of the entry into possession by (i) a
8 mortgagee or receiver prior to the entry of an order confirming
9 the sale, (ii) the holder of the certificate of sale, (iii) the
10 holder of the deed issued pursuant to that certificate, or (iv)
11 if no certificate or deed was issued, the purchaser at the
12 sale.

13 (f) Other Statutes; Instruments. The provisions of this
14 Article providing for possession of mortgaged real estate shall
15 supersede any other inconsistent statutory provisions. In
16 particular, and without limitation, whenever a receiver is
17 sought to be appointed in any action in which a foreclosure is
18 also pending, a receiver shall be appointed only in accordance
19 with this Article. Except as may be authorized by this Article,
20 no mortgage or other instrument may modify or supersede the
21 provisions of this Article.

22 (g) Certain Leases. Leases of the mortgaged real estate
23 entered into by a mortgagee in possession or a receiver and
24 approved by the court in a foreclosure shall be binding on all
25 parties, including the mortgagor after redemption, the
26 purchaser at a sale pursuant to a judgment of foreclosure and

1 any person acquiring an interest in the mortgaged real estate
2 after entry of a judgment of foreclosure in accordance with
3 Sections 15-1402 and 15-1403.

4 (h) Proceedings Against Certain Occupants.

5 (1) The mortgagee-in-possession of the mortgaged real
6 estate under Section 15-1703, a receiver appointed under
7 Section 15-1704, a holder of the certificate of sale or
8 deed, or the purchaser may, at any time during the pendency
9 of the foreclosure and up to 90 days after the date of the
10 order confirming the sale, file a supplemental eviction
11 petition against a person not personally named as a party
12 to the foreclosure. This subsection (h) does not apply to
13 any lessee with a bona fide lease of a dwelling unit in
14 residential real estate in foreclosure.

15 (2) The supplemental eviction petition shall name each
16 such occupant against whom an eviction order is sought and
17 state the facts upon which the claim for relief is
18 premised.

19 (3) The petitioner shall serve upon each named occupant
20 the petition, a notice of hearing on the petition, and, if
21 any, a copy of the certificate of sale or deed. The
22 eviction proceeding, including service of the notice of the
23 hearing and the petition, shall in all respects comport
24 with the requirements of Article IX of this Code, except as
25 otherwise specified in this Section. The hearing shall be
26 no less than 21 days from the date of service of the

1 notice.

2 (4) The supplemental petition shall be heard as part of
3 the foreclosure proceeding and without the payment of
4 additional filing fees. An eviction order obtained under
5 this Section shall name each occupant whose interest has
6 been terminated, shall recite that it is only effective as
7 to the occupant so named and those holding under them, and
8 shall be enforceable for no more than 120 days after its
9 entry, except that the 120-day period may be extended to
10 the extent and in the manner provided in Section 9-117 of
11 Article IX and except as provided in item (5) of this
12 subsection (h).

13 (5) In a case of foreclosure where the occupant is
14 current on his or her rent, or where timely written notice
15 of to whom and where the rent is to be paid has not been
16 provided to the occupant, or where the occupant has made
17 good-faith efforts to make rental payments in order to keep
18 current, any eviction order must allow the occupant to
19 retain possession of the property covered in his or her
20 rental agreement (i) for 120 days following the notice of
21 the hearing on the supplemental petition that has been
22 properly served upon the occupant, or (ii) through the
23 duration of his or her lease, whichever is shorter,
24 provided that if the duration of his or her lease is less
25 than 30 days from the date of the order, the order shall
26 allow the occupant to retain possession for 30 days from

1 the date of the order. A mortgagee in possession, receiver,
2 holder of a certificate of sale or deed, or purchaser at
3 the judicial sale, who asserts that the occupant is not
4 current in rent, shall file an affidavit to that effect in
5 the supplemental petition proceeding. If the occupant has
6 been given timely written notice of to whom and where the
7 rent is to be paid, this item (5) shall only apply if the
8 occupant continues to pay his or her rent in full during
9 the 120-day period or has made good-faith efforts to pay
10 the rent in full during that period.

11 (6) The court records relating to a supplemental
12 eviction petition filed under this subsection (h) against
13 an occupant who is entitled to notice under item (5) of
14 this subsection (h), ~~or~~ relating to an eviction action
15 brought against an occupant who would have lawful
16 possession of the premises but for the foreclosure of a
17 mortgage on the property, or relating to a foreclosure
18 action in which a tenant or occupant has been named as a
19 defendant in the foreclosure action shall be ordered sealed
20 and shall not be disclosed to any person, other than a law
21 enforcement officer or any other representative of a
22 governmental entity, except upon further order of the
23 court.

24 (i) Termination of bona fide leases. The holder of the
25 certificate of sale, the holder of the deed issued pursuant to
26 that certificate, or, if no certificate or deed was issued, the

1 purchaser at the sale shall not terminate a bona fide lease of
2 a dwelling unit in residential real estate in foreclosure
3 except pursuant to Article IX of this Code.

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

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

7 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

8 Sec. 2Z. Violations of other Acts. Any person who knowingly
9 violates the Automotive Repair Act, the Automotive Collision
10 Repair Act, the Home Repair and Remodeling Act, the Dance
11 Studio Act, the Physical Fitness Services Act, the Hearing
12 Instrument Consumer Protection Act, the Illinois Union Label
13 Act, the Installment Sales Contract Act, the Job Referral and
14 Job Listing Services Consumer Protection Act, the Travel
15 Promotion Consumer Protection Act, the Credit Services
16 Organizations Act, the Automatic Telephone Dialers Act, the
17 Pay-Per-Call Services Consumer Protection Act, the Telephone
18 Solicitations Act, the Illinois Funeral or Burial Funds Act,
19 the Cemetery Oversight Act, the Cemetery Care Act, the Safe and
20 Hygienic Bed Act, the Illinois Pre-Need Cemetery Sales Act, the
21 High Risk Home Loan Act, the Payday Loan Reform Act, the
22 Mortgage Rescue Fraud Act, subsection (a) or (b) of Section
23 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section
24 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the

1 Internet Caller Identification Act, paragraph (6) of
2 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
3 Section 11-1431, 18d-115, 18d-120, 18d-125, 18d-135, 18d-150,
4 or 18d-153 of the Illinois Vehicle Code, Article 3 of the
5 Residential Real Property Disclosure Act, the Automatic
6 Contract Renewal Act, the Reverse Mortgage Act, Section 25 of
7 the Youth Mental Health Protection Act, the Personal
8 Information Protection Act, subsection (b) of Section 9-122 of
9 the Code of Civil Procedure, or the Student Online Personal
10 Protection Act commits an unlawful practice within the meaning
11 of this Act.

12 (Source: P.A. 99-331, eff. 1-1-16; 99-411, eff. 1-1-16; 99-642,
13 eff. 7-28-16; 100-315, eff. 8-24-17; 100-416, eff. 1-1-18;
14 100-863, eff. 8-14-18.)".