



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2299

by Rep. Delia C. Ramirez

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 Eviction Article of the Code of Civil Procedure. Provides that upon the filing of an eviction action, the clerk of the circuit court shall immediately impound the court file unless: the tenancy is commercial; or the property the plaintiff seeks possession of is a condominium unit and at least one of the defendants named is the unit owner. Provides that the court shall make specific findings when an eviction order is entered against a defendant. Provides that the court may order a court file in an eviction be or remain impounded (rather than placed under seal) when the interests of justice outweigh the interests of the government and the public in maintaining a public record of the case (rather than clearly in the interests of justice and those interests are not outweighed by the public's interest in knowing about the record). Provides that a court file shall be impounded: (1) in any case not resulting in an eviction order entered in favor of the plaintiff; (2) in a foreclosure-related eviction action; (3) in a not-for-cause eviction action; or (4) if the parties to the eviction action so agree. Provides factors that the court shall consider in determining whether to grant or deny a motion or petition to impound or unimpound a court file. Provides that the clerk of the circuit court shall automatically seal an eviction action no later than 5 years after a plaintiff's initial filing. Provides that a person shall not disseminate any information contained in a sealed or impounded court file. Provides that a consumer reporting agency shall not disclose the existence of a sealed or impounded eviction action in a consumer report or use an eviction action as a factor to determination a score or recommendation to be included in a consumer report pertaining to a person for whom dissemination has been prohibited. Makes a conforming change in the Consumer Fraud and Deceptive Business Practices Act.

LRB101 05494 LNS 50508 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 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 and impoundment of court file.

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

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

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

14 "Courteourt file" means the court file created when an
15 eviction action is filed with the court, any document filed
16 in the eviction action, and any document or other
17 information, inscribed on a tangible medium or stored in an
18 electronic or other medium, associated with the eviction
19 action or court record.

20 "Dissemination" or "disseminate" means to publish,
21 produce, print, manufacture, copy, distribute, sell,
22 lease, exhibit, broadcast, display, transmit, or otherwise
23 share information in any format so as to make the

1 information accessible to others.

2 "Impound" or "impoundment" means to bar access to a
3 court file to anyone other than a person listed in
4 subsection (g).

5 "Foreclosure-related eviction" means an eviction
6 action brought against a tenant under Section 9-207.5; as
7 set forth in paragraph (6) of subsection (h) of Section
8 15-1701; or in which a bona fide tenant is named in the
9 foreclosure case as a permissible party under Section
10 15-1501.

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

19 "Not-for-cause eviction" means an eviction action in which
20 the court does not find that a tenant or occupant has
21 materially breached the lease; or an eviction action brought
22 against a tenant or occupant as set forth in paragraph (7) of
23 subsection (a) of Section 9-102 in which the court does not
24 find that a tenant or occupant materially violated the lease or
25 covenants, rules, regulations, or bylaws of the condominium.

26 "Not-for-cause eviction" includes an eviction action brought

1 against a tenant or occupant on the basis that a tenant or
2 occupant remains on the property after the termination of the
3 lease or tenancy by its own limitation, condition, or terms, or
4 by notice to quit or otherwise.

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

9 (a-5) Except as provided in subsection (a-10), upon the
10 filing of an eviction action, the clerk of the circuit court
11 shall immediately impound the court file. A plaintiff shall
12 identify, in the title of the complaint, that the action is
13 subject to immediate impoundment as follows: "EVICTION -
14 SUBJECT TO IMMEDIATE IMPOUNDMENT". The complaint shall include
15 the following:

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

17 (2) the type of notice or demand that was given to the
18 defendant, if any; and

19 (3) whether the property the plaintiff seeks
20 possession of is a condominium unit, and if so, whether
21 each defendant named in the action is an owner, tenant, or
22 occupant of the unit.

23 (a-10) Notwithstanding the requirements of this
24 subsection, this Section is inapplicable if:

25 (1) the complaint states that the tenancy is
26 commercial, and not residential, and the plaintiff

1 identifies, in the title of the complaint, that the action
2 is exempt from impoundment as follows: "EVICTION -
3 COMMERCIAL TENANCY EXEMPT FROM IMPOUNDMENT"; or

4 (2) the complaint states that the property the
5 plaintiff seeks possession of is a condominium unit, at
6 least one of the defendants named in the action is the unit
7 owner, and the plaintiff identifies, in the title of the
8 complaint, that the action is exempt from impoundment as
9 follows: "EVICTION - CONDOMINIUM PROPERTY EXEMPT FROM
10 IMPOUNDMENT". If one or more of the defendants is a tenant
11 or occupant, the plaintiff shall redact the name of any
12 tenant or occupant in all documents and exhibits filed.

13 (a-15) If an eviction order is entered against a defendant,
14 the court shall make the following findings:

15 (1) whether the eviction action qualifies to remain
16 impounded as provided in paragraphs (1), (2), (3), and (4)
17 of subsection (c);

18 (2) whether the eviction action is a for-cause eviction
19 or a not-for-cause eviction;

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

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

24 (b) Discretionary impoundment ~~sealing~~ of court file. The
25 court may order that a court file in an eviction action be or
26 remain impounded, regardless of the final disposition of the

1 case, if the interests of justice in impounding the court file
2 outweigh the interests of the government and the public in
3 maintaining a public record of the case, including, but not
4 limited to, under the following circumstances:

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

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

9 (3) the parties entered into a settlement agreement,
10 including an agreed entry of judgment, that did not result
11 in the plaintiff recovering possession; ~~placed under seal~~
12 ~~if~~

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

16 (5) the court determines that there are other grounds
17 justifying that the court file should be or remain
18 impounded, ~~that placing the court file under seal is~~
19 ~~clearly in the interests of justice, and that those~~
20 ~~interests are not outweighed by the public's interest in~~
21 ~~knowing about the record.~~

22 (c) Mandatory impoundment ~~sealing~~ of court file. The court
23 file shall be impounded:

24 (1) in any case not resulting in an eviction order
25 entered in favor of the plaintiff;

26 (2) in a foreclosure-related eviction action;

1 (3) in a not-for-cause eviction action; or
2 (4) if the parties to the eviction action so agree
3 ~~relating to an eviction action brought against a tenant~~
4 ~~under Section 9-207.5 of this Code or as set forth in~~
5 ~~subdivision (h) (6) of Section 15-1701 of this Code shall be~~
6 ~~placed under seal.~~

7 (d) Except as provided in subsection (c), if a court enters
8 an eviction order against a defendant, a plaintiff may file a
9 motion to unimpound the court file. At least 30 days after the
10 entry of the final eviction judgment, the court shall rule on
11 the motion as set forth in subsection (f).

12 (e) A defendant may file a motion or petition to impound
13 the court file in any eviction action, including those filed
14 before the effective date of this amendatory Act of the 101st
15 General Assembly. The court shall rule on the motion as set
16 forth in subsection (f).

17 (f) In determining whether to grant or deny a motion or
18 petition to impound or unimpound a court file, the court shall
19 consider the following:

20 (1) whether the court file qualifies for mandatory
21 impoundment under subsection (c);

22 (2) the disposition of the eviction action relating to
23 the court file;

24 (3) whether the impoundment of the court file is agreed
25 to or disputed by the opposing party;

26 (4) the specific adverse consequences to the defendant

1 if the court file becomes or remains a public record; and

2 (5) whether the interest of justice in impounding the
3 record outweigh the interests of the government and the
4 public in maintaining a public record as provided for in
5 subsection (b).

6 (g) The clerk of the circuit court shall not provide access
7 to or disseminate an impounded court file to anyone other than
8 the court, the parties to the action and their counsel, civil
9 legal service providers or court-sponsored pro bono programs as
10 defined in Section 5-105.5, or a person who has obtained a
11 court order, upon a showing of good cause, to access an
12 impounded court file.

13 (h) Except when the court findings identify either a
14 commercial tenancy or a condominium unit in accordance with
15 paragraph (3) or (4) of subsection (a-15), the clerk of the
16 circuit court shall automatically seal an eviction action no
17 later than 5 years after the plaintiff's initial filing with
18 the court regardless of the final disposition of the case.

19 (i) Except as provided in subsection (e), this Section
20 applies only to eviction actions filed on or after the
21 effective date of this amendatory Act of the 101st General
22 Assembly.

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

24 (735 ILCS 5/9-122 new)

25 Sec. 9-122. Dissemination of information contained in a

1 sealed or impounded court file.

2 (a) If a person knows or has reasonable cause to know that
3 the information is derived from an impounded or sealed court
4 file, he or she shall not disseminate any information contained
5 in a sealed or impounded court file.

6 (b) A consumer reporting agency, including a tenant
7 background screening service, shall not disclose the existence
8 of an impounded or sealed eviction action in a consumer report
9 pertaining to a person for whom dissemination has been
10 prohibited or use an eviction action as a factor to determine a
11 score or recommendation to be included in a consumer report
12 pertaining to a person for whom dissemination has been
13 prohibited.

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

16 (c) A tenant or occupant may bring a private cause of
17 action seeking compliance with subsection (a) or (b). If a
18 person violates this Section, the tenant or occupant has the
19 right to recover \$2,000 or twice the actual damages sustained,
20 whichever is greater, and reasonable attorney's fees and court
21 costs. This subsection does not apply to a tenant or occupant
22 whose court file was impounded or sealed, his or her counsel,
23 or, absent willfulness or recklessness, the court or the clerk
24 of the circuit court.

25 (d) Nothing in this Section prohibits the dissemination of
26 information regarding a money judgment for the sole purpose of

1 enforcing the judgment pursuant to Article XII.

2 (e) Nothing in this Section prohibits a plaintiff from
3 responding to a reference request made by a defendant's
4 prospective landlord.

5 (f) Nothing in this Section prohibits the provision of an
6 eviction order to a sheriff for the sole purpose of enforcement
7 of such an order.

8 (g) This Section applies only to eviction actions filed on
9 or after the effective date of this amendatory Act of the 101st
10 General Assembly.

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

13 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

14 Sec. 2Z. Violations of other Acts. Any person who knowingly
15 violates the Automotive Repair Act, the Automotive Collision
16 Repair Act, the Home Repair and Remodeling Act, the Dance
17 Studio Act, the Physical Fitness Services Act, the Hearing
18 Instrument Consumer Protection Act, the Illinois Union Label
19 Act, the Installment Sales Contract Act, the Job Referral and
20 Job Listing Services Consumer Protection Act, the Travel
21 Promotion Consumer Protection Act, the Credit Services
22 Organizations Act, the Automatic Telephone Dialers Act, the
23 Pay-Per-Call Services Consumer Protection Act, the Telephone
24 Solicitations Act, the Illinois Funeral or Burial Funds Act,

1 the Cemetery Oversight Act, the Cemetery Care Act, the Safe and
2 Hygienic Bed Act, the Illinois Pre-Need Cemetery Sales Act, the
3 High Risk Home Loan Act, the Payday Loan Reform Act, the
4 Mortgage Rescue Fraud Act, subsection (a) or (b) of Section
5 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section
6 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the
7 Internet Caller Identification Act, paragraph (6) of
8 subsection (k) of Section 6-305 of the Illinois Vehicle Code,
9 Section 11-1431, 18d-115, 18d-120, 18d-125, 18d-135, 18d-150,
10 or 18d-153 of the Illinois Vehicle Code, Article 3 of the
11 Residential Real Property Disclosure Act, the Automatic
12 Contract Renewal Act, the Reverse Mortgage Act, Section 25 of
13 the Youth Mental Health Protection Act, the Personal
14 Information Protection Act, subsection (b) of Section 9-122 of
15 the Code of Civil Procedure, or the Student Online Personal
16 Protection Act commits an unlawful practice within the meaning
17 of this Act.

18 (Source: P.A. 99-331, eff. 1-1-16; 99-411, eff. 1-1-16; 99-642,
19 eff. 7-28-16; 100-315, eff. 8-24-17; 100-416, eff. 1-1-18;
20 100-863, eff. 8-14-18.)