



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0689

Introduced 2/8/2021, 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 a motion for dismissal of an action, supported by an affidavit, may be filed on the grounds that the claim asserted is unenforceable because: (A) the claim was filed for the purposes of securing an unfair business advantage unrelated to the underlying claim; (B) the claim was filed in retaliation for, or in an effort to suppress, a party engaged in political speech or activity; or (C) in any claim filed by any unit of government, the facts alleged are based in whole or in part on an anonymous complainant and: (i) the anonymous complainant providing the factual allegations is not revealed; or (ii) it is reasonable to believe that the complainant 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 for reasons unrelated to the claim.

LRB102 13261 LNS 18605 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 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 (A)
14 the claim was filed for the purposes of securing an unfair
15 business advantage unrelated to the underlying claim; (B) the
16 claim was filed in retaliation for, or in an effort to
17 suppress, a party engaged in political speech or activity; or
18 (C) in any claim filed by any unit of government, the facts
19 alleged are based in whole or in part on an anonymous
20 complainant and: (i) the anonymous complainant providing the
21 factual allegations is not revealed; or (ii) it is reasonable
22 to believe that the complainant made the allegations to a
23 government entity while holding an ulterior motive with regard
24 to the defendant, or for the purposes of retaliating against
25 the defendant for reasons unrelated to the claim.

26 (b) A similar motion may be made by any other party against

1 whom a claim is asserted.

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

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

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

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

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