



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5180

Introduced 1/31/2022, by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

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

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

Amends the Eviction Article of the Code of Civil Procedure. Removes language providing for the discretionary sealing of a court file and the mandatory sealing of a court file. Provides that a court file shall be impounded upon the commencement of any residential eviction action. Allows the court to unimpound a court file if a judgment is entered in favor of the landlord, except for specified circumstances. Requires the court to impound the court file of any residential eviction case initiated 7 or more years prior to the amendatory Act regardless of the disposition of the case. Allows a tenant to file a motion to impound a court file for any residential eviction case filed less than 7 years ago that was not impounded. Requires an impounded or sealed court file to be made available only to a litigant in the case, litigant's counsel or prospective counsel, public employee responsible for processing the residential eviction action, and State or local government employee or contractor responsible for processing court-based rental assistance. Allows a scholarly, public policy, or court reform agency or educational, journalistic, or governmental body to access all impounded files by filing a motion with the judge presiding over evictions in that judicial district or county. Provides that any person who disseminates a sealed or impounded court file, or the information contained therein, for commercial purposes is liable for a civil penalty of \$2,000 or twice the actual and consequential damages sustained, whichever is greater, as well as the costs of the action, including reasonable attorney's fees. Allows the Attorney General to enforce violations of the amendatory Act. Provides that a tenant need not report a court record that is sealed or impounded to a prospective landlord. Makes a conforming change in the Consumer Fraud and Deceptive Business Practices Act. Effective immediately.

LRB102 25306 LNS 34579 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 as follows:

6 (735 ILCS 5/9-121)

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

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

9 "Court ~~court~~ file" means the court file created when an
10 eviction action is filed with the court.

11 "Impound" or "impoundment" means to bar access to a court
12 file to anyone other than a person listed in subsections (f)
13 and (g).

14 (b) The court file shall be impounded upon the
15 commencement of any residential eviction action. ~~Discretionary~~
16 ~~sealing of court file. The court may order that a court file in~~
17 ~~an eviction action be placed under seal if the court finds that~~
18 ~~the plaintiff's action is sufficiently without a basis in fact~~
19 ~~or law, which may include a lack of jurisdiction, that placing~~
20 ~~the court file under seal is clearly in the interests of~~
21 ~~justice, and that those interests are not outweighed by the~~
22 ~~public's interest in knowing about the record.~~

23 (c) If the court enters a judgment in favor of the

1 landlord, the court may unimpound the court file. The court
2 shall not unimpound the file if:

3 (1) the eviction action was brought against a tenant
4 under Section 9-207.5 or as set forth in paragraph (6) of
5 subsection (h) of Section 15-1701;

6 (2) the eviction action was brought against a tenant
7 or occupant as set forth in paragraph (7) of subsection
8 (a) of Section 9-102 and the court did not find that a
9 tenant or occupant materially violated the lease or
10 covenants, rules, regulations, or bylaws of the
11 condominium;

12 (3) the interests of justice in impounding the court
13 file outweigh the public interest in maintaining a public
14 record;

15 (4) the parties to the eviction action agree the court
16 file shall remain impounded; or

17 (5) the complaint did not allege a material lease
18 violation by the tenant. ~~Mandatory sealing of court file.~~
19 ~~The court file relating to an eviction action brought~~
20 ~~against a tenant under Section 9-207.5 of this Code or as~~
21 ~~set forth in subdivision (h) (6) of Section 15-1701 of this~~
22 ~~Code shall be placed under seal.~~

23 (d) For any residential eviction case initiated 7 or more
24 years prior to this amendatory Act of the 102nd General
25 Assembly, the court shall impound the court file regardless of
26 the disposition of the case. Thereafter, the court shall

1 impound the court file if the case was initiated 7 years prior
2 regardless of the disposition of the case. ~~This Section is~~
3 operative on and after August 1, 2022.

4 (e) For any residential eviction case filed less than 7
5 years ago that was not impounded under subsection (b), the
6 tenant may file a motion to impound the court file. The court
7 shall impound the record according to the standard for
8 impounding established in subsection (c) or if the court has
9 not entered a judgment against the tenant.

10 (f) An impounded or sealed court file shall be made
11 available, without submitting a motion, only to a litigant in
12 the case, litigant's counsel or prospective counsel, public
13 employee responsible for processing the residential eviction
14 action, and State or local government employee or contractor
15 responsible for processing court-based rental assistance.
16 Prospective counsel shall present a request in substantially
17 the form provided below. Upon presenting this form to the
18 office of the clerk of the court, the clerk shall make the file
19 available to the prospective counsel.

20 "Article IX of the Code of Civil Procedure allows a party
21 to an eviction case, and the party's counsel and
22 prospective counsel, to access the party's impounded or
23 sealed eviction court file. The undersigned (and employees
24 of the undersigned's law office, if applicable) may
25 present this certificate to the clerk of the circuit court
26 to review the above-captioned impounded or sealed eviction

1 file. To protect the party's right to confidentiality,
2 this certificate shall not be filed or served on other
3 parties."

4 (g) A scholarly, public policy, or court reform agency or
5 educational, journalistic, or governmental body may access all
6 impounded files by filing a motion with the judge presiding
7 over evictions in that judicial district or county. The
8 presiding judge shall grant the motion and enter an order of
9 the court to that effect upon a showing of scholarly,
10 educational, public policy, court reform, journalistic, or
11 governmental credential and purpose. Identifying information
12 of the parties shall remain impounded, unless the court
13 determines that release of the information is necessary to
14 fulfill the purpose of the request and the interests of
15 justice so dictate. Nothing in this subsection shall permit
16 the release of an impounded court file or the information
17 contained therein for a commercial purpose. The public policy
18 agency may include a legal aid provider; however, the file
19 shall be used only for its public policy purposes.

20 (h) Except as provided in subsections (g) and (f), any
21 person who disseminates a sealed or impounded court file under
22 this Section, or the information contained therein, for
23 commercial purposes shall be liable for a civil penalty of
24 \$2,000 or twice the actual and consequential damages
25 sustained, whichever is greater, as well as the costs of the
26 action, including reasonable attorney's fees.

1 (i) The Attorney General may enforce a violation of this
2 Section as an unlawful practice under the Consumer Fraud and
3 Deceptive Business Practices Act. All remedies, penalties, and
4 authority granted to the Attorney General by the Consumer
5 Fraud and Deceptive Business Practices Act shall be available
6 to the Attorney General for the enforcement of this Section.

7 (j) Nothing in this Section prohibits a landlord from
8 receiving a reference from a previous landlord of a
9 prospective tenant. Nothing in this Section prohibits a
10 landlord from providing a reference for a previous or current
11 tenant to a prospective landlord of that tenant.

12 (k) A tenant need not report a court record that is sealed
13 or impounded to a prospective landlord.

14 (Source: P.A. 102-5, eff. 5-17-21.)

15 Section 10. The Consumer Fraud and Deceptive Business
16 Practices Act is amended by adding Section 2Z as follows:

17 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

18 Sec. 2Z. Violations of other Acts. Any person who
19 knowingly violates the Automotive Repair Act, the Automotive
20 Collision Repair Act, the Home Repair and Remodeling Act, the
21 Dance Studio Act, the Physical Fitness Services Act, the
22 Hearing Instrument Consumer Protection Act, the Illinois Union
23 Label Act, the Installment Sales Contract Act, the Job
24 Referral and Job Listing Services Consumer Protection Act, the

1 Travel Promotion Consumer Protection Act, the Credit Services
2 Organizations Act, the Automatic Telephone Dialers Act, the
3 Pay-Per-Call Services Consumer Protection Act, the Telephone
4 Solicitations Act, the Illinois Funeral or Burial Funds Act,
5 the Cemetery Oversight Act, the Cemetery Care Act, the Safe
6 and Hygienic Bed Act, the Illinois Pre-Need Cemetery Sales
7 Act, the High Risk Home Loan Act, the Payday Loan Reform Act,
8 the Predatory Loan Prevention Act, the Mortgage Rescue Fraud
9 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
10 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use
11 Tax Act, the Electronic Mail Act, the Internet Caller
12 Identification Act, paragraph (6) of subsection (k) of Section
13 6-305 of the Illinois Vehicle Code, Section 11-1431, 18d-115,
14 18d-120, 18d-125, 18d-135, 18d-150, or 18d-153 of the Illinois
15 Vehicle Code, Section 9-121 of the Code of Civil Procedure,
16 Article 3 of the Residential Real Property Disclosure Act, the
17 Automatic Contract Renewal Act, the Reverse Mortgage Act,
18 Section 25 of the Youth Mental Health Protection Act, the
19 Personal Information Protection Act, or the Student Online
20 Personal Protection Act commits an unlawful practice within
21 the meaning of this Act.

22 (Source: P.A. 100-315, eff. 8-24-17; 100-416, eff. 1-1-18;
23 100-863, eff. 8-14-18; 101-658, eff. 3-23-21.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.