

SB0071



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0071

Introduced 1/29/2021, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-102

from Ch. 110, par. 9-102

Amends the Eviction Article of the Code of Civil Procedure. Deletes language that precludes an eviction action in the case of a vendee obtaining possession under a written or verbal agreement to purchase lands or tenements, failing to comply with the agreement, and withholding possession thereof, where the purchase price is to be paid in installments over a period in excess of 5 years and the amount unpaid under the terms of the contract at the time of the filing of a foreclosure complaint is less than 80% of the original purchase price. Provides instead that any agreement for residential real estate that is an installment sales contract and the amount unpaid under the terms of the contract at the time of the filing of the foreclosure complaint, including principal and due and unpaid interest, at the rate prior to default, is less than 80% of the original purchase price of the real estate as stated in the contract is subject to foreclosure. Effective immediately.

LRB102 04663 LNS 14682 b

A BILL FOR

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 9-102 as follows:

6 (735 ILCS 5/9-102) (from Ch. 110, par. 9-102)

7 Sec. 9-102. When action may be maintained.

8 (a) The person entitled to the possession of lands or
9 tenements may be restored thereto under any of the following
10 circumstances:

11 (1) When a forcible entry is made thereon.

12 (2) When a peaceable entry is made and the possession
13 unlawfully withheld.

14 (3) When entry is made into vacant or unoccupied lands
15 or tenements without right or title.

16 (4) When any lessee of the lands or tenements, or any
17 person holding under such lessee, holds possession without
18 right after the termination of the lease or tenancy by its
19 own limitation, condition or terms, or by notice to quit
20 or otherwise.

21 (5) When a vendee having obtained possession under a
22 written or verbal agreement to purchase lands or
23 tenements, and having failed to comply with the agreement,

1 withholds possession thereof, after demand in writing by
2 the person entitled to such possession; ~~provided, however,~~
3 ~~that~~ any ~~such~~ agreement for residential real estate
4 entered into on or after July 1, 1987 that is an
5 installment sales contract, as defined in the Installment
6 Sales Contract Act, and the amount unpaid under the terms
7 of the contract at the time of the filing of the
8 foreclosure complaint, including principal and due and
9 unpaid interest, at the rate prior to default, is less
10 than 80% of the original purchase price of the real estate
11 as stated in the contract, as required under paragraph (2)
12 of subsection (a) of Section 15-1106 of the Illinois
13 Mortgage Foreclosure Law, is subject to foreclosure
14 ~~entered into on or after July 1, 1987 where the purchase~~
15 ~~price is to be paid in installments over a period in excess~~
16 ~~of 5 years and the amount unpaid under the terms of the~~
17 ~~contract at the time of the filing of a foreclosure~~
18 ~~complaint under Article XV, including principal and due~~
19 ~~and unpaid interest, is less than 80% of the original~~
20 ~~purchase price shall be foreclosed under the Illinois~~
21 ~~Mortgage Foreclosure Law.~~

22 This amendatory Act of 1993 is declarative of existing
23 law.

24 (6) When lands or tenements have been conveyed by any
25 grantor in possession, or sold under the order or judgment
26 of any court in this State, or by virtue of any sale in any

1 mortgage or deed of trust contained and the grantor in
2 possession or party to such order or judgment or to such
3 mortgage or deed of trust, after the expiration of the
4 time of redemption, when redemption is allowed by law,
5 refuses or neglects to surrender possession thereof, after
6 demand in writing by the person entitled thereto, or his
7 or her agent.

8 (7) When any property is subject to the provisions of
9 the Condominium Property Act, the owner of a unit fails or
10 refuses to pay when due his or her proportionate share of
11 the common expenses of such property, or of any other
12 expenses lawfully agreed upon or any unpaid fine, the
13 Board of Managers or its agents have served the demand set
14 forth in Section 9-104.1 of this Article in the manner
15 provided for in that Section and the unit owner has failed
16 to pay the amount claimed within the time prescribed in
17 the demand; or if the lessor-owner of a unit fails to
18 comply with the leasing requirements prescribed by
19 subsection (n) of Section 18 of the Condominium Property
20 Act or by the declaration, by-laws, and rules and
21 regulations of the condominium, or if a lessee of an owner
22 is in breach of any covenants, rules, regulations, or
23 by-laws of the condominium, and the Board of Managers or
24 its agents have served the demand set forth in Section
25 9-104.2 of this Article in the manner provided in that
26 Section.

1 (8) When any property is subject to the provisions of
2 a declaration establishing a common interest community and
3 requiring the unit owner to pay regular or special
4 assessments for the maintenance or repair of common areas
5 owned in common by all of the owners of the common interest
6 community or by the community association and maintained
7 for the use of the unit owners or of any other expenses of
8 the association lawfully agreed upon, and the unit owner
9 fails or refuses to pay when due his or her proportionate
10 share of such assessments or expenses and the board or its
11 agents have served the demand set forth in Section 9-104.1
12 of this Article in the manner provided for in that Section
13 and the unit owner has failed to pay the amount claimed
14 within the time prescribed in the demand.

15 (b) The provisions of paragraph (8) of subsection (a) of
16 Section 9-102 and Section 9-104.3 of this Act shall not apply
17 to any common interest community unless (1) the association is
18 a not-for-profit corporation or a limited liability company,
19 (2) unit owners are authorized to attend meetings of the board
20 of directors or board of managers of the association in the
21 same manner as provided for condominiums under the Condominium
22 Property Act, and (3) the board of managers or board of
23 directors of the common interest community association has,
24 subsequent to the effective date of this amendatory Act of
25 1984 voted to have the provisions of this Article apply to such
26 association and has delivered or mailed notice of such action

1 to the unit owners or unless the declaration of the
2 association is recorded after the effective date of this
3 amendatory Act of 1985.

4 (c) For purposes of this Article:

5 (1) "Common interest community" means real estate
6 other than a condominium or cooperative with respect to
7 which any person by virtue of his or her ownership of a
8 partial interest or unit therein is obligated to pay for
9 maintenance, improvement, insurance premiums, or real
10 estate taxes of other real estate described in a
11 declaration which is administered by an association.

12 (2) "Declaration" means any duly recorded instruments,
13 however designated, that have created a common interest
14 community and any duly recorded amendments to those
15 instruments.

16 (3) "Unit" means a physical portion of the common
17 interest community designated by separate ownership or
18 occupancy by boundaries which are described in a
19 declaration.

20 (4) "Unit owners' association" or "association" means
21 the association of all owners of units in the common
22 interest community acting pursuant to the declaration.

23 (d) If the board of a common interest community elects to
24 have the provisions of this Article apply to such association
25 or the declaration of the association is recorded after the
26 effective date of this amendatory Act of 1985, the provisions

1 of subsections (c) through (h) of Section 18.5 of the
2 Condominium Property Act applicable to a Master Association
3 and condominium unit subject to such association under
4 subsections (c) through (h) of Section 18.5 shall be
5 applicable to the community associations and to its unit
6 owners.

7 (Source: P.A. 99-41, eff. 7-14-15.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.