



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0668

Introduced 2/25/2021, by Sen. Omar Aquino

SYNOPSIS AS INTRODUCED:

New Act

735 ILCS 5/9-121

735 ILCS 5/9-121.5 new

735 ILCS 5/9-122 new

735 ILCS 5/15-1513 new

735 ILCS 5/15-1514 new

815 ILCS 505/2Z.5 new

Creates the COVID-19 Federal Emergency Rental Assistance Program Act. Contains provisions for: the Federal Emergency Rental Assistance program; accessibility and transparency; process for further prioritizing applicants for financial assistance and housing stability services; and required notifications and correspondence. Amends the Code of Civil Procedure. Makes changes concerning the sealing of court files. Provides that certain new provisions concerning sealing of court files in a residential eviction action apply until August 1, 2022. Contains provisions for: the sealing of a court file in a residential eviction action; emergency sealing of a court file in a residential eviction action during the COVID-19 emergency and economic recovery period; and a temporary COVID-19 stay of certain foreclosure proceedings and filings. Makes corresponding changes to a provision regarding demand for rent and eviction actions. Makes corresponding changes in the Consumer Fraud and Deceptive Business Practices Act. Effective immediately.

LRB102 17168 LNS 22613 b

FISCAL NOTE ACT
MAY APPLY

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 Article 5.

5 Section 5-1. Short title. This Act may be cited as the
6 COVID-19 Federal Emergency Rental Assistance Program Act.

7 Section 5-5. Purposes and findings. The purpose of this
8 Act is for the State to implement federal Coronavirus Relief
9 Fund (CRF) assistance to renters administered by the U.S.
10 Department of the Treasury, appropriated from the Consolidated
11 Appropriations Act, 2021.

12 International, national, State, and local governments and
13 health authorities are responding to an outbreak of a disease
14 caused by the novel Coronavirus referred to as COVID-19.
15 African American and Latino households in the State are at
16 disproportionate risk of exposure to and the contraction of
17 COVID-19 and to economic effects of this pandemic.

18 On March 9, 2020, the Governor issued a disaster
19 declaration proclamation in this State because of the threat
20 of COVID-19.

21 On March 26, 2020, the President of the United States
22 declared that a major disaster exists in the State and ordered

1 Federal assistance to supplement State, tribal, and local
2 recovery efforts in the areas affected by the COVID-19
3 pandemic beginning on January 20, 2020 and continuing.

4 Unpaid rent, late fees, and court costs are currently
5 accruing against residential tenants and will be demanded by
6 landlords after the expiration of the emergency period.

7 To reduce the rental arrears throughout this State, all
8 eligible residential landlords and tenants alike shall avail
9 themselves of the Emergency Rental Assistance Program.

10 The State deems it necessary to protect public health,
11 life, and property during this declared state of emergency by
12 protecting residential tenants, homeowners, and housing
13 providers from certain evictions and other hardships during
14 this public health and economic crisis.

15 Section 5-10. Definitions. As used in this Act:

16 "Administering State agency" means any agency or
17 department of the State that is eligible to receive a direct
18 federal allocation of federal Emergency Rental Assistance
19 funds that will disburse and administer the Federal Emergency
20 Rental Assistance Program.

21 "Applicant" or "program applicant" means any person or
22 entity who is a residential tenant or lessee or landlord or
23 lessor that has submitted an application, individually or
24 jointly, to receive federal Emergency Rental Assistance funds.

25 "Eligible household" has the same meaning as used by the

1 federal law enacting the federal Emergency Rental Assistance
2 program.

3 "Program" means the federal Emergency Rental Assistance
4 Program.

5 "Recipient" or "program recipient" means any person or
6 entity that is a residential tenant or lessee, landlord or
7 lessor, or utility provider that had a successful application,
8 in that the administering State agency disbursed funds either:
9 (i) on behalf of a residential tenant directly to the landlord
10 or utility provider; or (ii) directly to the residential
11 tenant.

12 Section 5-15. Federal Emergency Rental Assistance program.

13 (a) Any department or agency of the State eligible to
14 receive a direct federal allocation and charged with
15 disbursing allocated funds and administering the federal
16 program shall do so in accordance with federal and State law.

17 (b) Consistent with federal law, any State agency
18 administering this program shall create a process to provide
19 rental assistance directly to eligible renters and to obviate
20 or minimize the necessity of lessor or utility provider
21 participation in submitting the application when the lessor or
22 utility provider: (i) refuses to accept a direct payment; or
23 (ii) fails to complete an application for assistance. The
24 administering State agency shall make payments to a lessor or
25 utility provider on behalf of an eligible household with a

1 statement indicating which eligible household the payment is
2 being made for, except that, if the lessor or utility provider
3 does not agree to accept such a payment from the administering
4 State agency after the administering State agency has made
5 contact with the lessor or utility provider, then the
6 administering State agency may make such payments directly to
7 the eligible household for the purpose of the eligible
8 household making payments to the lessor or utility provider.
9 Notwithstanding the foregoing, nothing in this Act shall be
10 construed to require a lessor or utility provider to accept
11 funds from the program, whether paid directly by the
12 administering State agency or by the eligible household.

13 (c) Consistent with federal law, any State agency
14 administering this program shall provide program recipients
15 with relief payments in an amount based on stated need rather
16 than on a flat or fixed amount. An eligible household's stated
17 need may include, but is not limited to, the amount of arrears
18 owed to a lessor, utility provider, or both, or future rental
19 payments based on monthly rent.

20 (d) Consistent with federal law, nothing in this Act shall
21 be construed as precluding any administering State agency from
22 capping or setting a limit on the amount of emergency rental
23 payments made on behalf of any single household. The
24 administering State agency may adopt additional eligibility
25 criteria, application procedures, and program rules necessary
26 to administer the program in conformity with the priorities

1 and public policies expressed within this Act and federal law,
2 as it may be amended.

3 (e) Consistent with federal law prohibiting duplicative
4 payments from other federal programs, an administering State
5 agency shall not disqualify an eligible household from the
6 program based on previous application for or receipt of other
7 similar federal assistance for periods that are different than
8 that for which the program assistance is being provided under
9 this Act.

10 (f) Unless necessary to comply with applicable federal or
11 State law, the administering State agency shall not, for
12 purposes of determining program eligibility, require a fully
13 executed written lease or any type of documentation relating
14 to any household member's immigration status. The
15 administering State agency may accept a demand for rent
16 letter, ledger or statement containing the outstanding
17 balance, termination notice, or other alternative form of
18 documentation containing or showing the amount of rental or
19 utility arrears owed.

20 Section 5-20. Accessibility and transparency.

21 (a) In addition to federal requirements, the administering
22 State agency shall make publicly accessible by publishing on
23 its website any important program information, including, but
24 not limited to, the following:

25 (1) program application forms for households, lessors,

1 and utility providers, including any joint program
2 application forms;

3 (2) program eligibility requirements;

4 (3) the administering State agency's procedures and
5 processes for administering the program;

6 (4) the administering State agency's procedures and
7 communication methods for notifying program applicants of
8 defective applications due to incompleteness, errors,
9 missing information, or any other impediment;

10 (5) the administering State agency's procedures and
11 methods for applicants to remedy defective applications
12 due to incompleteness, errors, missing information, or any
13 other impediment; and

14 (6) any other important program information critical
15 to applicants, including renters and lessors relating to
16 the application requirements and process, eligibility
17 determination, and disbursement of payment.

18 (b) The administering State agency shall ensure that
19 important program information, including the application and
20 all marketing materials, is language accessible by publishing
21 to its website the same in both English and Spanish.

22 Section 5-25. Process for further prioritizing applicants
23 for financial assistance and housing stability services. In
24 addition to federal program eligibility and prioritization
25 requirements, the administering State agency shall make best

1 efforts to give further prioritization to an eligible
2 household: (i) located within a disproportionately impacted
3 area based on positive COVID-19 cases; (ii) that has a
4 documented history of housing instability or homelessness; or
5 (iii) that has a significant amount of rental arrears.

6 Section 5-30. Required notifications and correspondence.
7 The administering State agency shall ensure it communicates
8 clearly with an applicant about the application determination
9 process, including acceptance, status of a pending
10 application, and any reason for denying an application.

11 (1) The administering State agency shall provide
12 notice to an applicant upon finding that a submitted
13 application is defective or should otherwise be considered
14 ineligible, denied, or rejected.

15 (2) The notice from the administering State agency
16 shall explain the reason why an applicant's submitted
17 application is defective or should otherwise be considered
18 ineligible, denied, or rejected.

19 (3) The notice shall contain the necessary
20 information, process, accepted method, and deadline for
21 the applicant to remedy any defective or deficient
22 application, provided that remedy is possible.

23 (4) All notice and correspondence required to be
24 provided by the administering State agency shall be given
25 promptly and without unnecessary delay to any applicant.

1 Article 10.

2 Section 10-5. The Code of Civil Procedure is amended by
3 changing Section 9-121 and by adding Sections 9-121.5, 9-122,
4 15-1513, and 15-1514 as follows:

5 (735 ILCS 5/9-121)

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

7 (a) Definition. As used in this Section, "court file"
8 means the court file created when an eviction action is filed
9 with the court.

10 (b) Discretionary sealing of court file. The court may
11 order that a court file in an eviction action be placed under
12 seal if the court finds that the plaintiff's action is
13 sufficiently without a basis in fact or law, which may include
14 a lack of jurisdiction, that placing the court file under seal
15 is clearly in the interests of justice, and that those
16 interests are not outweighed by the public's interest in
17 knowing about the record.

18 (c) Mandatory sealing of court file. The court file
19 relating to an eviction action brought against a tenant under
20 Section 9-207.5 of this Code or as set forth in subdivision
21 (h) (6) of Section 15-1701 of this Code shall be placed under
22 seal.

23 (d) This Section is operative on and after August 1, 2022.

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

2 (735 ILCS 5/9-121.5 new)

3 Sec. 9-121.5. Sealing of court file.

4 (a) As used in this Section, "court file" means the court
5 file created when an eviction action is filed with the court.

6 (b) The court shall order the sealing of any court file in
7 a residential eviction action if:

8 (1) the interests of justice in sealing the court file
9 outweigh the public interest in maintaining a public
10 record;

11 (2) the parties to the eviction action agree to seal
12 the court file;

13 (3) there was no material violation of the terms of
14 the tenancy by the tenant; or

15 (4) the case was dismissed with or without prejudice.

16 (c) The court file relating to an eviction action brought
17 against a tenant under Section 9-207.5 of this Code or as set
18 forth in subdivision (h)(6) of Section 15-1701 of this Code
19 shall be placed under seal.

20 (d) A sealed court file shall be made available only to the
21 litigants in the case, their counsel or prospective counsel,
22 and public employees responsible for processing the
23 residential eviction action.

24 (e) Upon motion and order of the court, a sealed court file
25 may be made available for scholarly, educational,

1 journalistic, or governmental purposes only, balancing the
2 interests of the parties and the public in nondisclosure with
3 the interests of the requesting party. Identifying information
4 of the parties shall remain sealed, unless the court
5 determines that release of the information is necessary to
6 fulfill the purpose of the request and the interests of
7 justice so dictate. Nothing in this subsection shall permit
8 the release of a sealed court file or the information
9 contained therein for a commercial purpose.

10 (f) Except as provided in subsections (d) and (e), any
11 person who disseminates a court file sealed under this
12 Section, or the information contained therein, for commercial
13 purposes shall be liable for a civil penalty of \$2,000, or
14 twice the actual and consequential damages sustained,
15 whichever is greater, as well as the costs of the action,
16 including reasonable attorney's fees.

17 (g) The Attorney General may enforce a violation of this
18 Section as an unlawful practice under the Consumer Fraud and
19 Deceptive Business Practices Act. All remedies, penalties, and
20 authority granted to the Attorney General by the Consumer
21 Fraud and Deceptive Business Practices Act shall be available
22 to him or her for the enforcement of this Section.

23 (h) Nothing in this Section prohibits a landlord from
24 receiving a reference from a previous landlord of a
25 prospective tenant. Nothing in this Section prohibits a
26 landlord from providing a reference for a previous or current

1 tenant to a prospective landlord of that tenant.

2 (i) This Section is repealed on August 1, 2022.

3 (735 ILCS 5/9-122 new)

4 Sec. 9-122. COVID-19 emergency sealing of court file.

5 (a) As used in this Section, "COVID-19 emergency and
6 economic recovery period" means the period beginning on March
7 9, 2020, when the Governor issued the first disaster
8 proclamation for the State to address the circumstances
9 related to COVID-19, and ending on March 31, 2022.

10 (b) The court file shall be sealed upon the commencement
11 of any residential eviction action during the COVID-19
12 emergency and economic recovery period. If a residential
13 eviction action filed during the COVID-19 emergency and
14 economic recovery period is pending on the effective date of
15 this Act and is not sealed, the court shall order the sealing
16 of the court file. In accordance with Section 9-121.5, no
17 sealed court file, sealed under this Section, shall be
18 disseminated.

19 (c) If the court enters a judgment in favor of the
20 landlord, the court may also enter an order to unseal the court
21 file under this Section. A court shall order the court file to
22 be unsealed if:

23 (1) the action is not based in whole or in part on the
24 nonpayment of rent during the COVID-19 emergency and
25 economic recovery period; and

1 (2) The requirements of subsection (b) or (c) of
2 Section 9-121.5 have not been met.

3 (d) Subsections (d) through (h) of Section 9-121.5 shall
4 also be applicable and incorporated into this Section.

5 (735 ILCS 5/15-1513 new)

6 Sec. 15-1513. Temporary COVID-19 stay of judicial sales,
7 orders of possession.

8 (a) Notwithstanding Section 15-1507, no judicial
9 foreclosure sale shall be held between the effective date of
10 this Section and July 31, 2021. Any judicial foreclosure sale
11 pending as of the effective date of this Section shall be
12 cancelled and renoticed for a date after July 31, 2021.

13 (b) Notwithstanding subsection (g) of Section 15-1508, no
14 order of possession pursuant to a confirmation of judicial
15 foreclosure sale shall be entered by a court, placed with a
16 sheriff for execution, or executed by a sheriff until a date
17 after July 31, 2021.

18 (c) This Section applies to any action to foreclose a
19 mortgage relating to (i) residential real estate as defined in
20 Section 15-1219, and (ii) real estate improved with a dwelling
21 structure containing dwelling units for 6 or fewer families
22 living independently of each other in which the mortgagor is a
23 natural person landlord renting the dwelling units, even if
24 the mortgagor does not occupy any of the dwelling units as his
25 or her personal residence.

1 (735 ILCS 5/15-1514 new)

2 Sec. 15-1514. Temporary COVID-19 stay of certain
3 foreclosure proceedings and filings.

4 (a) This Section applies to any action to foreclose a
5 mortgage relating to (i) residential real estate as defined in
6 Section 15-1219, and (ii) real estate improved with a dwelling
7 structure containing dwelling units for 6 or fewer families
8 living independently of each other in which the mortgagor is a
9 natural person landlord renting the dwelling units, even if
10 the mortgagor does not occupy any of the dwelling units as his
11 or her personal residence.

12 (b) Any action to foreclose a mortgage pending on the
13 effective date of this amendatory Act of the 102nd General
14 Assembly, including actions filed on or before March 9, 2020,
15 or commenced within 30 days of the effective date of this
16 amendatory Act of the 102nd General Assembly, shall be stayed
17 until May 1, 2021.

18 (c) No court shall accept for filing any action to
19 foreclose a mortgage before May 1, 2021.

20 (d) All deadlines related to any pending foreclosure
21 proceeding on the effective date of this Section, including
22 the running of any redemption period, are tolled until May 1,
23 2021.

24 (e) If any clause, sentence, paragraph, subsection, or
25 part of this Section shall be adjudged by any court of

1 competent jurisdiction to be invalid and after exhaustion of
2 all further judicial review, the judgment shall not affect,
3 impair, or invalidate the remainder thereof, but shall be
4 confined in its operation to the clause, sentence, paragraph,
5 subsection, or part of this Section directly involved in the
6 controversy in which the judgment shall have been rendered.

7 Section 10-15. The Consumer Fraud and Deceptive Business
8 Practices Act is amended by adding Section 2Z.5 as follows:

9 (815 ILCS 505/2Z.5 new)

10 Sec. 2Z.5. Dissemination of a sealed a court file.

11 (a) A private entity or person who violates Section
12 9-121.5 of the Code of Civil Procedure commits an unlawful
13 practice within the meaning of this Act.

14 (b) This Section is repealed on August 1, 2022.

15 Article 99.

16 Section 99-99. Effective date. This Act takes effect upon
17 becoming law.