

SB1866



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB1866

Introduced 2/26/2021, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-107
735 ILCS 5/9-211

from Ch. 110, par. 9-107
from Ch. 110, par. 9-211

Amends the Eviction Article of the Code of Civil Procedure. Provides that if the landlord, or the landlord's agent or attorney, is unable to personally serve the demand on the tenant, then constructive service of the demand may be accomplished. Makes corresponding changes.

LRB102 15842 LNS 21211 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 9-107 and 9-211 as follows:

6 (735 ILCS 5/9-107) (from Ch. 110, par. 9-107)

7 Sec. 9-107. Constructive service. If: (1) the plaintiff,
8 his or her agent, or attorney files an eviction action, with or
9 without joinder of a claim for rent in the complaint, and is
10 unable to obtain personal service on the defendant or unknown
11 occupant and a summons duly issued in such action is returned
12 without service stating that service can not be obtained; or
13 (2) the landlord, or the landlord's agent or attorney, is
14 unable to personally serve the demand on the tenant by any of
15 the means listed in Section 9-211 of this Code, then the
16 plaintiff or landlord or ∇ his or her agent or attorney may
17 file an affidavit stating that the defendant or unknown
18 occupant is not a resident of this State, or has departed from
19 this State, or on due inquiry cannot be found, or is concealed
20 within this State so that the demand or process cannot be
21 served upon him or her, and also stating the place of residence
22 of the defendant or unknown occupant, if known, or if not
23 known, that upon diligent inquiry the affiant has not been

1 able to ascertain the defendant's or unknown occupant's place
2 of residence, then in all such eviction cases whether or not a
3 claim for rent is joined with the complaint for possession,
4 the defendant or unknown occupant may be notified by posting
5 and mailing of notices; or by publication and mailing, as
6 provided for in Section 2-206 of this Act. However, in cases
7 where the defendant or unknown occupant is notified by posting
8 and mailing of notices or by publication and mailing, and the
9 defendant or unknown occupant does not appear generally, the
10 court may rule only on the portion of the complaint which seeks
11 an eviction order, and the court shall not enter judgment as to
12 any rent claim joined in the complaint or enter personal
13 judgment for any amount owed by a unit owner for his or her
14 proportionate share of the common expenses, however, an in rem
15 judgment may be entered against the unit for the amount of
16 common expenses due, any other expenses lawfully agreed upon
17 or the amount of any unpaid fine, together with reasonable
18 attorney fees, if any, and costs. The claim for rent may remain
19 pending until such time as the defendant or unknown occupant
20 appears generally or is served with summons, but the eviction
21 order shall be final, enforceable and appealable if the court
22 makes an express written finding that there is no just reason
23 for delaying enforcement or appeal, as provided by Supreme
24 Court rule of this State.

25 The contents of the demand shall be as provided in this
26 Article. The notice of the summons ~~Such notice~~ shall be in the

1 name of the clerk of the court, be directed to the defendant or
2 unknown occupant, shall state the nature of the cause against
3 the defendant or unknown occupant and at whose instance issued
4 and the time and place for trial, and shall also state that
5 unless the defendant or unknown occupant appears at the time
6 and place fixed for trial, judgment will be entered by
7 default, and shall specify the character of the judgment that
8 will be entered in such cause. The sheriff shall post 3 copies
9 of the demand or notice of summons ~~notice~~ in 3 public places in
10 the neighborhood of the court where the cause is to be tried,
11 at least 10 days prior to the day set for the appearance, and,
12 if the place of residence of the defendant or unknown occupant
13 is stated in any affidavit on file, shall at the same time mail
14 one copy of the notice addressed to such defendant or unknown
15 occupant at such place of residence shown in such affidavit.
16 On or before the day set for the appearance, the sheriff shall
17 file the notice with an endorsement thereon stating the time
18 when and places where the sheriff posted and to whom and at
19 what address he or she mailed copies as required by this
20 Section. For want of sufficient notice any cause may be
21 continued from time to time until the court has jurisdiction
22 of the defendant or unknown occupant.

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

24 (735 ILCS 5/9-211) (from Ch. 110, par. 9-211)

25 Sec. 9-211. Service of demand or notice. Except as

1 provided in Section 9-107, any ~~Any~~ demand may be made or notice
2 served by delivering a written or printed, or partly written
3 and printed, copy thereof to the tenant, or by leaving the same
4 with some person of the age of 13 years or upwards, residing on
5 or in possession of the premises; or by sending a copy of the
6 notice to the tenant by certified or registered mail, with a
7 returned receipt from the addressee; and in case no one is in
8 the actual possession of the premises, then by posting the
9 same on the premises.

10 (Source: P.A. 83-355.)