



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2971

Introduced 2/16/2023, by Rep. Christopher "C.D" Davidsmeyer

SYNOPSIS AS INTRODUCED:

735 ILCS 5/Art. IXa heading new
735 ILCS 5/9a-5 new
735 ILCS 5/9a-10 new
735 ILCS 5/9a-15 new
735 ILCS 5/9a-20 new
735 ILCS 5/9a-25 new
735 ILCS 5/9a-30 new
735 ILCS 5/9a-35 new
735 ILCS 5/9a-40 new

Amends the Code of Civil Procedure. Adds an Article concerning the removal of unauthorized persons. Defines "unauthorized person" as a person who occupies an uninhabited or vacant residential premises without any current or prior agreement or consent of the owner or an authorized agent of the owner, whether written or oral, concerning the use of the residential premises. Provides that the owner of residential premises, or the owner's authorized agent, may initiate the investigation of and request the removal of an unauthorized person or persons from the residential premises by filing with the circuit court a complaint and a verified motion for a mandatory injunction restoring possession of the residential property to the owner or lawful occupant. Provides that the court shall conduct a hearing on the motion as soon as practicable, but in no event later than the next court day after the filing of the motion, unless a later date is requested by the moving party. Provides that, no later than 24 hours after receipt of an order for mandatory injunction, a sheriff or deputy sheriff, shall: (1) remove the person or persons from the residential premises, with or without arresting the person or persons; and (2) order the person or persons to remain off the residential premises or be subject to arrest for criminal trespass. Provides a statutory form for the verified motion and adds provisions governing: falsification of a verified motion; service of summons; defenses; judgment; and execution of orders.

LRB103 28255 LNS 54634 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 1. Findings. The General Assembly finds as
5 follows:

6 (1) Individuals unlawfully entering onto residential
7 property, commonly known as squatters, may use sophisticated
8 methods to victimize property owners, such as finding vacant
9 properties through online listings and using computers and
10 printers to create fraudulent leases and other fraudulent
11 legal documents. Some of these individuals change the locks
12 and threaten anyone who asks them to leave.

13 (2) Despite the lack of a landlord-tenant relationship,
14 existing landlord-tenant law sometimes gives protections to
15 these individuals that are similar to the legal protections
16 given to holdover tenants and tenants who are involved in
17 disputes with their landlords.

18 (3) Some of these individuals vandalize the residences
19 they occupy. Property owners may have little or no legal
20 recourse against these individuals for such damage because
21 these individuals may lie about their identity and abscond
22 when they find it convenient.

23 (4) An expedited legal process is needed to enable owners
24 of residential property to remove these individuals and

1 minimize vandalism.

2 Section 5. The Code of Civil Procedure is amended by
3 adding Article IXa as follows:

4 (735 ILCS 5/Art. IXa heading new)

5 ARTICLE IXa.

6 REMOVAL OF UNAUTHORIZED PERSONS

7 (735 ILCS 5/9a-5 new)

8 Sec. 9a-5. Definitions. As used in this Article:

9 "Residential premises" means a dwelling unit, the
10 structure of which the unit is a part, and any immediately
11 surrounding property that is owned by or subject to the
12 exclusive control of the same person as the dwelling unit
13 itself.

14 "Unauthorized person" means a person who occupies an
15 uninhabited or vacant residential premises without any current
16 or prior agreement or consent of the owner or an authorized
17 agent of the owner, whether written or oral, concerning the
18 use of the residential premises. "Unauthorized person" does
19 not include:

20 (1) a relative of the property owner or a relative of
21 an authorized agent of the property owner, including a
22 spouse, descendant, stepchild, parent, stepparent,
23 grandparent, brother, sister, uncle, or aunt, whether

1 related by whole or half blood or by adoption;

2 (2) a person or persons from whom the owner or an
3 authorized agent of the owner has accepted money or
4 anything of value; or

5 (3) a person who was previously given permission to
6 enter and remain on the premises.

7 (735 ILCS 5/9a-10 new)

8 Sec. 9a-10. Action to restore possession. The owner of
9 residential premises, or the owner's authorized agent, may
10 initiate the investigation of and request the removal of an
11 unauthorized person or persons from the residential premises
12 by filing with the circuit court a complaint and a verified
13 motion for a mandatory injunction restoring possession of the
14 residential property to the owner or lawful occupant. To the
15 extent known or reasonably ascertainable, the verified motion
16 must identify the unauthorized person or persons and include
17 statements substantially as follows:

18 VERIFIED MOTION FOR ORDER TO REMOVE UNAUTHORIZED PERSONS

19 The undersigned owner, or authorized agent of the owner,
20 of the residential premises located at requests
21 that the court hold a hearing within one court day and that the
22 court enter a mandatory injunction and issue an order that the
23 person or persons currently occupying the residential premises
24 be removed from the premises and be ordered not to return to
25 the premises. In support of the request, the undersigned owner

1 or authorized agent hereby represents and declares under the
2 penalty of perjury that (initial each box):

3 1. (.....) The declarant is the owner of the premises or
4 the authorized agent of the owner of the premises.

5 2. (.....) An unauthorized person or persons have entered
6 and are remaining unlawfully on the premises.

7 3. (.....) Neither the owner nor an authorized agent of
8 the owner has ever given permission for the unauthorized
9 person or persons to enter and remain on the premises.

10 4. (.....) Neither the owner nor an authorized agent of
11 the owner has ever had a written or oral agreement with the
12 unauthorized person or persons regarding the use of the
13 premises.

14 5. (.....) Neither the owner nor an authorized agent of
15 the owner is related to the unauthorized person or persons.

16 6. (.....) Neither the owner nor an authorized agent of
17 the owner has ever accepted money or anything of value from the
18 unauthorized person or persons regarding the use of the
19 premises.

20 7. (.....) The declarant has demanded that the
21 unauthorized person or persons vacate the premises, but they
22 have not done so.

23 8. (.....) The declarant has informed the unauthorized
24 person or persons that he or she is going to court to request a
25 mandatory injunction restoring the owner to possession and
26 shall deliver a copy of this Verified Motion for Order to

1 Remove Unauthorized Persons to the unauthorized person or
2 persons.

3 9. (.....) Additional optional explanatory comments or
4 statement that the premises has been altered or damaged:
5

6 (735 ILCS 5/9a-15 new)

7 Sec. 9a-15. Falsification of verified motion. A declarant
8 who falsely swears on a motion filed with the court under
9 Section 9a-10 may be:

- 10 (1) subject to sanctions by the court;
- 11 (2) held in contempt of court; or
- 12 (3) prosecuted for perjury.

13 (735 ILCS 5/9a-20 new)

14 Sec. 9a-20. Expedited hearing required. The court shall
15 consider the complaint and motion for mandatory injunction
16 under this Article and conduct a hearing on the motion as soon
17 as practicable, but in no event later than the next court day
18 after the filing of the motion, unless a later date is
19 requested by the moving party.

20 (735 ILCS 5/9a-25 new)

21 Sec. 9a-25. Service of summons.

22 (a) The summons, complaint, motion, and notice required by
23 subsection (c) shall be served by personal service upon the

1 defendant, as in any civil action, by a person qualified to
2 serve process, or service may be made by posting a copy of the
3 summons, complaint, motion, and notice required by subsection
4 (c) in some conspicuous place upon the premises.

5 (b) Personal service or service by posting must be made at
6 least 24 hours before the time for appearance specified in the
7 summons and notice, and the time and manner of the service must
8 be endorsed upon such summons by the person making service
9 thereof.

10 (c) The written notice of the date, time, and location of
11 the hearing must be served with the complaint. The notice must
12 be printed in black ink and have a font size of not less than
13 12 and in substantially the following form:

14 NOTICE

15 On (date), (year), at (time) in Courtroom (number),
16 (courthouse name), (courthouse address), the Court will hold a
17 hearing on a Motion for an Order for Mandatory Injunction and
18 Order to require the removal from the residential premises
19 located at (residential premises address) of each unauthorized
20 person identified in the motion that accompanies this notice.
21 If you are identified as an unauthorized person and if you
22 believe that is not true, then you must attend the hearing and
23 present any evidence supporting your position. IF YOU FAIL TO
24 ATTEND THE HEARING, THE COURT MAY ENTER AN ORDER INSTRUCTING
25 THE SHERIFF TO REMOVE YOU FROM THE RESIDENTIAL PREMISES
26 IMMEDIATELY.

1 (735 ILCS 5/9a-30 new)

2 Sec. 9a-30. Defense permitted. Any occupant of the
3 residential premises who disputes that the occupant is an
4 unauthorized person may appear at the hearing and must be
5 permitted to provide testimony and other evidence that the
6 occupant is not an unauthorized person. The court, in its
7 discretion, may accept a written statement submitted to the
8 court prior to the commencement of the hearing in lieu of
9 personal testimony from the occupant.

10 (735 ILCS 5/9a-35 new)

11 Sec. 9a-35. Judgment.

12 (a) If no person identified in the motion as an
13 unauthorized person appears at the hearing, and no written
14 statement that the court deems sufficient is filed in
15 opposition to the motion, the court may proceed to rule on the
16 motion based on the contents of the motion and any additional
17 testimony offered by the moving party. The court may, but need
18 not, require the moving party to confirm in oral testimony the
19 facts recited in the motion and may make such other inquiry of
20 the owner or authorized agent as the court determines proper
21 under the circumstances. After taking testimony from the
22 moving party and any occupant who contests the motion or after
23 considering the content of the motion or written statement,
24 the court shall determine whether the occupant is an

1 unauthorized person. If the court determines that the occupant
2 is an unauthorized person, the court shall enter an order for a
3 mandatory injunction and issue an order prior to adjourning
4 the hearing, which order may include such additional terms or
5 limitations as the court may in its discretion determine
6 necessary and equitable under the circumstances. If the court
7 determines that the occupant is not an unauthorized person,
8 the court shall deny the motion for an order for mandatory
9 injunction. If an order for mandatory injunction is denied,
10 the owner is not prejudiced from thereafter commencing an
11 eviction under Article IX.

12 (b) The court shall not require the appointment of an
13 attorney to represent any occupant or other interested person
14 as a condition of considering a motion under this Article.

15 (c) If the court enters the order for mandatory injunction
16 and issues a removal order, the owner or his or her authorized
17 agent may deliver the order for mandatory injunction to the
18 sheriff having jurisdiction to enforce the order.

19 (735 ILCS 5/9a-40 new)

20 Sec. 9a-40. Execution of order.

21 (a) An order under this Article may not be stayed for any
22 period in excess of 7 days by the court unless all parties
23 agree to a longer period. Thereafter, the owner shall be
24 entitled to re-enter the premises immediately.

25 (b) No later than 24 hours after receipt of an order for

1 mandatory injunction, a sheriff or deputy sheriff shall:

2 (1) remove the unauthorized person or persons from the
3 residential premises, with or without arresting the person
4 or persons; and

5 (2) order the unauthorized person or persons to remain
6 off the residential premises or be subject to arrest for
7 criminal trespass.