



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3951

Introduced 5/14/2024, by Sen. Dave Syverson

SYNOPSIS AS INTRODUCED:

720 ILCS 5/17-1
720 ILCS 5/19-4

from Ch. 38, par. 17-1
from Ch. 38, par. 19-4

Amends the Criminal Code of 2012. Provides that it is a deceptive practice for a person to knowingly represent that he or she is the owner or agent of residential property for the purpose of entering into a lease agreement with another or to collect a security deposit, move-in fee, or rent from another. Specifies that a violation of that requirement is a Class 4 felony. Authorizes the award of actual damages and punitive damages in an amount no less than 2 times the actual damages. Provides that it is a criminal trespass to a residence for a person, without authority, to knowingly enter or remain within a residence that the person knows is the primary residence of another. Makes a violation of that requirement a Class 4 felony. Provides that nothing in the Eviction Article of the Code of Civil Procedure may be construed to prohibit law enforcement officials from (i) enforcing criminal trespass to real property or any other provision of the Criminal Code of 2012; or (ii) removing persons or property from the premises when there is a criminal trespass. Defines illegal possession of property in the Criminal Code of 2012.

LRB103 40625 JRC 73313 b

1 AN ACT concerning evictions.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by
5 changing Sections 17-1 and 19-4 as follows:

6 (720 ILCS 5/17-1) (from Ch. 38, par. 17-1)
7 Sec. 17-1. Deceptive practices.

8 (A) General deception.

9 A person commits a deceptive practice when, with intent to
10 defraud, the person does any of the following:

11 (1) He or she knowingly causes another, by deception
12 or threat, to execute a document disposing of property or
13 a document by which a pecuniary obligation is incurred.

14 (2) Being an officer, manager or other person
15 participating in the direction of a financial institution,
16 he or she knowingly receives or permits the receipt of a
17 deposit or other investment, knowing that the institution
18 is insolvent.

19 (3) He or she knowingly makes a false or deceptive
20 statement addressed to the public for the purpose of
21 promoting the sale of property or services.

22 (4) He or she knowingly represents to be the owner or

1 agent of residential property for the purpose of entering
2 into a lease agreement with another or collecting a
3 security deposit, move-in fee, or rent from another.

4 (B) Bad checks.

5 A person commits a deceptive practice when:

6 (1) With intent to obtain control over property or to
7 pay for property, labor or services of another, or in
8 satisfaction of an obligation for payment of tax under the
9 Retailers' Occupation Tax Act or any other tax due to the
10 State of Illinois, he or she issues or delivers a check or
11 other order upon a real or fictitious depository for the
12 payment of money, knowing that it will not be paid by the
13 depository. The trier of fact may infer that the defendant
14 knows that the check or other order will not be paid by the
15 depository and that the defendant has acted with intent to
16 defraud when the defendant fails to have sufficient funds
17 or credit with the depository when the check or other
18 order is issued or delivered, or when such check or other
19 order is presented for payment and dishonored on each of 2
20 occasions at least 7 days apart. In this paragraph (B)(1),
21 "property" includes rental property (real or personal).

22 (2) He or she issues or delivers a check or other order
23 upon a real or fictitious depository in an amount
24 exceeding \$150 in payment of an amount owed on any credit
25 transaction for property, labor or services, or in payment

1 of the entire amount owed on any credit transaction for
2 property, labor or services, knowing that it will not be
3 paid by the depository, and thereafter fails to provide
4 funds or credit with the depository in the face amount of
5 the check or order within 7 days of receiving actual
6 notice from the depository or payee of the dishonor of the
7 check or order.

8 (C) Bank-related fraud.

9 (1) False statement.

10 A person commits false statement bank fraud if he or she,
11 with intent to defraud, makes or causes to be made any false
12 statement in writing in order to obtain an account with a bank
13 or other financial institution, or to obtain credit from a
14 bank or other financial institution, or to obtain services
15 from a currency exchange, knowing such writing to be false,
16 and with the intent that it be relied upon.

17 For purposes of this subsection (C), a false statement
18 means any false statement representing identity, address, or
19 employment, or the identity, address, or employment of any
20 person, firm, or corporation.

21 (2) Possession of stolen or fraudulently obtained checks.

22 A person commits possession of stolen or fraudulently
23 obtained checks when he or she possesses, with the intent to
24 obtain access to funds of another person held in a real or
25 fictitious deposit account at a financial institution, makes a

1 false statement or a misrepresentation to the financial
2 institution, or possesses, transfers, negotiates, or presents
3 for payment a check, draft, or other item purported to direct
4 the financial institution to withdraw or pay funds out of the
5 account holder's deposit account with knowledge that such
6 possession, transfer, negotiation, or presentment is not
7 authorized by the account holder or the issuing financial
8 institution. A person shall be deemed to have been authorized
9 to possess, transfer, negotiate, or present for payment such
10 item if the person was otherwise entitled by law to withdraw or
11 recover funds from the account in question and followed the
12 requisite procedures under the law. If the account holder,
13 upon discovery of the withdrawal or payment, claims that the
14 withdrawal or payment was not authorized, the financial
15 institution may require the account holder to submit an
16 affidavit to that effect on a form satisfactory to the
17 financial institution before the financial institution may be
18 required to credit the account in an amount equal to the amount
19 or amounts that were withdrawn or paid without authorization.

20 (3) Possession of implements of check fraud.

21 A person commits possession of implements of check fraud
22 when he or she possesses, with the intent to defraud and
23 without the authority of the account holder or financial
24 institution, any check imprinter, signature imprinter, or
25 "certified" stamp.

1 (D) Sentence.

2 (1) The commission of a deceptive practice in
3 violation of this Section, except as otherwise provided by
4 this subsection (D), is a Class A misdemeanor.

5 (2) For purposes of paragraphs (A) (1) and (B) (1):

6 (a) The commission of a deceptive practice in
7 violation of paragraph (A) (1) or (B) (1), when the
8 value of the property so obtained, in a single
9 transaction or in separate transactions within a
10 90-day period, exceeds \$150, is a Class 4 felony. In
11 the case of a prosecution for separate transactions
12 totaling more than \$150 within a 90-day period, those
13 separate transactions shall be alleged in a single
14 charge and prosecuted in a single prosecution.

15 (b) The commission of a deceptive practice in
16 violation of paragraph (B) (1) a second or subsequent
17 time is a Class 4 felony.

18 (c) The commission of a deceptive practice in
19 violation of paragraph (A) (4) is a Class 4 felony.

20 (3) For purposes of paragraph (C) (2), a person who,
21 within any 12-month period, violates paragraph (C) (2) with
22 respect to 3 or more checks or orders for the payment of
23 money at the same time or consecutively, each the property
24 of a different account holder or financial institution, is
25 guilty of a Class 4 felony.

26 (4) For purposes of paragraph (C) (3), a person who

1 within any 12-month period violates paragraph (C) (3) as to
2 possession of 3 or more such devices at the same time or
3 consecutively is guilty of a Class 4 felony.

4 (E) Civil liability.

5 (1) A person who issues a check or order to a payee in
6 violation of paragraph (B) (1) and who fails to pay the
7 amount of the check or order to the payee within 30 days
8 following either delivery and acceptance by the addressee
9 of a written demand both by certified mail and by first
10 class mail to the person's last known address or attempted
11 delivery of a written demand sent both by certified mail
12 and by first class mail to the person's last known address
13 and the demand by certified mail is returned to the sender
14 with a notation that delivery was refused or unclaimed
15 shall be liable to the payee or a person subrogated to the
16 rights of the payee for, in addition to the amount owing
17 upon such check or order, damages of treble the amount so
18 owing, but in no case less than \$100 nor more than \$1,500,
19 plus attorney's fees and court costs. An action under this
20 subsection (E) may be brought in small claims court or in
21 any other appropriate court. As part of the written demand
22 required by this subsection (E), the plaintiff shall
23 provide written notice to the defendant of the fact that
24 prior to the hearing of any action under this subsection
25 (E), the defendant may tender to the plaintiff and the

1 plaintiff shall accept, as satisfaction of the claim, an
2 amount of money equal to the sum of the amount of the check
3 and the incurred court costs, including the cost of
4 service of process, and attorney's fees.

5 (2) A person who violates paragraph (A)(4) is liable
6 to the owner of the residential property or any individual
7 who was induced to enter into a lease or pay a move-in fee,
8 security deposit, or rent, or similar costs. Plaintiff
9 shall be entitled to actual damages and punitive damages
10 in an amount no less than 2 times the actual damages.

11 (Source: P.A. 96-1432, eff. 1-1-11; 96-1551, eff. 7-1-11.)

12 (720 ILCS 5/19-4) (from Ch. 38, par. 19-4)

13 Sec. 19-4. Criminal trespass to a residence.

14 (a) (1) A person commits criminal trespass to a residence
15 when, without authority, he or she knowingly enters or remains
16 within any residence, including a house trailer that is the
17 dwelling place of another.

18 (2) A person commits criminal trespass to a residence
19 when, without authority, he or she knowingly enters the
20 residence of another and knows or has reason to know that one
21 or more persons is present or he or she knowingly enters the
22 residence of another and remains in the residence after he or
23 she knows or has reason to know that one or more persons is
24 present.

25 (3) A person commits criminal trespass to a residence

1 when, without authority, he or she knowingly enters or remains
2 within a residence that he or she knows is the residence of
3 another, including a house trailer that is the dwelling place
4 of another.

5 For purposes of this subsection, nothing in Section 9-102
6 of the Code of Civil Procedure may be construed to prohibit law
7 enforcement officials from enforcing criminal trespass to real
8 property under Sections 19-3 and 21-3 of the Criminal Code of
9 2012 or any other provision of the Criminal Code of 2012 or may
10 be construed to interfere with any ability of law enforcement
11 officials to remove persons or property from the premises when
12 there is a criminal trespass.

13 (a-3) Illegal possession of property. No person has the
14 right or legal standing to occupy or remain on or in any real
15 property, residence, or structure if the person has no written
16 property interest under a written lease or rental agreement
17 with the owner of the property listed in county tax records, or
18 the owner's agent, or no documentation of payment of rent made
19 to the owner of the property, or the owner's agent. All persons
20 legally occupying a property, residence, or structure shall be
21 listed by name and date of birth on a lease, rental agreement,
22 or rental application associated with the lease or rental
23 agreement or provide evidence that the person is an invitee of
24 a lessee or authorized occupant of the property. No subleasing
25 shall be allowed or deemed as legal in contrast to a lease or
26 rental agreement that specifically prohibits subleases. A

1 sublease made in violation of a lease or rental agreement
2 shall not establish legal standing to occupy or remain on or in
3 any real property, residence, or structure by the sublessee,
4 and the sublessee shall vacate the property after receiving
5 notice to depart from the property owner of record or the
6 property owner's designee. If a person occupying a property is
7 an invitee of a lessee or an authorized occupant of the
8 property, the property owner shall comply with the
9 notification requirements of subsection (g) of Section 9-106.2
10 of the Code of Civil Procedure. Illegal possession is not
11 adverse and hostile during any portion of the 7-year period in
12 which the person was in possession of lands in violation of
13 this subsection.

14 (a-5) For purposes of this Section, in the case of a
15 multi-unit residential building or complex, "residence" shall
16 only include the portion of the building or complex which is
17 the actual dwelling place of any person and shall not include
18 such places as common recreational areas or lobbies.

19 (b) Sentence.

20 (1) Criminal trespass to a residence under paragraph
21 (1) of subsection (a) is a Class A misdemeanor.

22 (2) Criminal trespass to a residence under paragraph
23 (2) or (3) of subsection (a) is a Class 4 felony.

24 (Source: P.A. 97-1108, eff. 1-1-13; 98-756, eff. 7-16-14.)