



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5612

by Rep. Charles E. Jefferson

SYNOPSIS AS INTRODUCED:

New Act

Creates the Landlord Accountability Act. Makes legislative findings. Provides for relocation assistance to be paid by a landlord to a tenant if a tenant's dwelling is condemned or declared unlawful to occupy. Provides that a municipality or other unit of local government may pay relocation assistance to a tenant forced to relocate under the described circumstances and then file an action to collect that amount plus interest, costs, fines, and attorney's fees from the landlord and file a lien for this amount against the property if the amount is not paid. Provides further procedures for enforcement, appeals, and related matters.

LRB095 19886 AJO 46299 b

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. Short title. This Act may be cited as the
5 Landlord Accountability Act.

6 Section 5. Legislative findings. The people of the State of
7 Illinois deserve decent, safe, and sanitary housing. Certain
8 tenants in the State of Illinois have remained in rental
9 housing that does not meet the State's minimum standards for
10 health and safety because they cannot afford to pay the costs
11 of relocation in advance of occupying new, safe, and habitable
12 housing. In egregious cases, authorities have been forced to
13 condemn property when landlords have failed to remedy building
14 code or health code violations after repeated notice, and, as a
15 result, families with limited financial resources have been
16 displaced and left with nowhere to go.

17 The purpose of this Act is to establish a process by which
18 displaced tenants would receive funds for relocation from
19 landlords who fail to provide safe and sanitary housing after
20 due notice of building code or health code violations. It is
21 also the purpose of this Act to provide enforcement mechanisms
22 to municipalities or other units of local government, including
23 the ability to advance relocation funds to tenants who are

1 displaced as a result of a landlord's failure to remedy
2 building code or health code violations and later to collect
3 the full amounts of these relocation funds, along with interest
4 and penalties, from landlords.

5 Section 10. Landlord relocation assistance.

6 (a) If a municipality or other unit of local government
7 responsible for the enforcement of a building, housing, or
8 other appropriate code has notified the landlord that a
9 dwelling is condemned or unlawful to occupy due to the
10 existence of conditions that violate applicable codes,
11 statutes, ordinances, rules, or regulations, a landlord shall
12 not enter into a rental agreement for the dwelling unit until
13 the conditions are corrected.

14 (b) If a landlord knowingly violates subsection (a) of this
15 Section, the tenant shall recover either 3 months' periodic
16 rent or up to treble the actual damages sustained as a result
17 of the violation, whichever is greater, costs of suit or
18 arbitration, and reasonable attorneys' fees. If the tenant
19 elects to terminate the tenancy as a result of the conditions
20 leading to the violation, or if the appropriate municipality or
21 other unit of local government requires that the tenant vacate
22 the premises, the tenant also shall recover:

23 (1) the entire amount of any deposit prepaid by the
24 tenant; and

25 (2) all prepaid rent.

1 (c) If a municipality or other unit of local government
2 responsible for the enforcement of a building, housing, or
3 other appropriate code has notified the landlord that a
4 dwelling will be condemned or will be unlawful to occupy due to
5 the existence of conditions that violate applicable codes,
6 statutes, ordinances, rules, or regulations, a landlord, who
7 knew or should have known of the existence of these conditions,
8 shall be required to pay relocation assistance to the displaced
9 tenants except that:

10 (1) a landlord shall not be required to pay relocation
11 assistance to any displaced tenant in a case in which the
12 condemnation or no occupancy order affects one or more
13 dwelling units and directly results from conditions caused
14 by a tenant's or any third party's illegal conduct without
15 the landlord's prior knowledge;

16 (2) a landlord shall not be required to pay relocation
17 assistance to any displaced tenant in a case in which the
18 condemnation or no occupancy order affects one or more
19 dwelling units and results from conditions arising from a
20 natural disaster such as, but not exclusively, an
21 earthquake, tornado, or wind storm; and

22 (3) a landlord shall not be required to pay relocation
23 assistance to any displaced tenant in a case in which a
24 condemnation affects one or more dwelling units and the
25 tenant's displacement is a direct result of the acquisition
26 of the property by eminent domain.

1 (d) Relocation assistance provided to displaced tenants
2 under this Section shall be the greater amount of \$2,000 per
3 dwelling unit or 3 times the monthly rent. In addition to
4 relocation assistance, the landlord shall be required to pay to
5 the displaced tenants the entire amount of any deposit prepaid
6 by the tenant and all prepaid rent.

7 (e) The landlord shall pay relocation assistance and any
8 prepaid deposit and prepaid rent to displaced tenants within 7
9 days after the municipality or other unit of local government
10 sending notice of the condemnation, eviction, or displacement
11 order to the landlord. The landlord shall pay relocation
12 assistance and any prepaid deposit and prepaid rent either by
13 making individual payments by certified check to displaced
14 tenants or by providing a certified check to the municipality
15 or other unit of local government ordering condemnation,
16 eviction, or displacement, for distribution to the displaced
17 tenants. If the landlord fails to complete payment of
18 relocation assistance within the period required under this
19 Section, a municipality or other unit of local government may
20 advance the cost of the relocation assistance payments to the
21 displaced tenants.

22 (f) During the period from the date that a municipality or
23 other unit of local government responsible for the enforcement
24 of a building, housing, or other appropriate code first
25 notifies the landlord of conditions that violate applicable
26 codes, statutes, ordinances, rules, or regulations to the time

1 that relocation assistance payments are paid to eligible
2 tenants, or the conditions leading to the notification are
3 corrected, the landlord may not:

4 (1) evict, harass, or intimidate tenants into vacating
5 their units for the purpose of avoiding or diminishing
6 application of this Section;

7 (2) reduce services to any tenant; or

8 (3) materially increase or change the obligations of
9 any tenant, including but not limited to any rent increase.

10 (g) Displaced tenants shall be entitled to recover any
11 relocation assistance, prepaid deposits, and prepaid rent
12 required by subsection (d). In addition, displaced tenants
13 shall be entitled to recover any actual damages sustained by
14 them as a result of the condemnation, eviction, or displacement
15 that exceed the amount of relocation assistance that is
16 payable. In any action brought by displaced tenants to recover
17 any payments or damages required or authorized by this
18 subsection (g) or by subsection (e) that are not paid by the
19 landlord or advanced by a municipality or unit of local
20 government, the displaced tenants shall also be entitled to
21 recover their costs of suit or arbitration and reasonable
22 attorneys' fees.

23 (h) If, after 60 days from the date that a municipality or
24 other unit of local government first advanced relocation
25 assistance funds to the displaced tenants, a landlord has
26 failed to repay the amount of relocation assistance advanced by

1 the municipality or other unit of local government under
2 subsection (e), then the municipality or other unit of local
3 government shall assess civil penalties in the amount of \$50
4 per day for each tenant to whom the municipality or unit of
5 local government has advanced a relocation assistance payment.

6 (i) In addition to the penalties set forth in subsection
7 (h), interest shall accrue on the amount of relocation
8 assistance paid by a municipality or other unit of local
9 government for which the property owner has not reimbursed the
10 municipality or other unit of local government. The rate of
11 interest shall be the maximum legal rate of interest permitted
12 under law commencing 30 days after the date that the
13 municipality or other unit of local government first advanced
14 relocation assistance funds to the displaced tenants.

15 (j) If a municipality or other unit of local government
16 must initiate legal action in order to recover the amount of
17 relocation assistance payments that it has advanced to
18 low-income tenants, including any interest and penalties under
19 subsections (h) and (i), the municipality or other unit of
20 local government shall be entitled to attorneys' fees and costs
21 arising from its legal action.

22 (k) A municipality or other unit of local government that
23 has notified the landlord that a dwelling will be condemned or
24 will be unlawful to occupy shall notify the displaced tenants
25 that they may be entitled to relocation assistance under this
26 Section.

1 (1) No payment received by a displaced tenant under this
2 Section may be considered as income for the purpose of
3 determining the eligibility or extent of eligibility of any
4 person for assistance under any State law or for the purposes
5 of any tax imposed under any State law, and the payments shall
6 not be deducted from any amount to which any recipient would
7 otherwise be entitled under State law.

8 Section 15. Governmental entities.

9 (a) Whenever the governing body of a municipality or other
10 unit of local government finds that one or more conditions of
11 the character described in this Act exist within its
12 territorial limits, that governing body may adopt ordinances
13 relating to the dwellings, buildings, structures, or premises.
14 The ordinances may provide for the following:

15 (1) That an "improvement board" or officer be
16 designated or appointed to exercise the powers assigned to
17 the board or officer by the ordinance as specified in this
18 Section. The board or officer may be an existing board or
19 officer or may be a separate board or officer appointed
20 solely for the purpose of exercising the powers assigned by
21 the ordinance. If a board is created, the ordinance shall
22 specify the terms, method of appointment, and type of
23 membership of the board, which may be limited, if the
24 governing body chooses, to public officers under this
25 Section.

1 (2) That if a board is created, a public officer, other
2 than a member of the improvement board, may be designated
3 to work with the board and carry out the duties and
4 exercise the powers assigned to the public officer by the
5 ordinance.

6 (3) That if, after a preliminary investigation of any
7 dwelling, building, structure, or premises, the board or
8 officer finds that it is unfit for human habitation or
9 other use, the board or officer shall cause to be served
10 either personally or by certified mail, with return receipt
11 requested, upon all persons having any interest therein, as
12 shown upon the records of the recorder's office of the
13 county in which the property is located, and shall post in
14 a conspicuous place on the property, a complaint stating in
15 what respects the dwelling, building, structure, or
16 premises is unfit for human habitation or other use. If the
17 whereabouts of any of the persons is unknown and the same
18 cannot be ascertained by the board or officer in the
19 exercise of reasonable diligence, and the board or officer
20 makes an affidavit to that effect, then the serving of the
21 complaint or order upon the persons may be made either by
22 personal service or by mailing a copy of the complaint and
23 order by certified mail, postage prepaid, return receipt
24 requested, to each person at the address of the building
25 involved in the proceedings, and mailing a copy of the
26 complaint and order by first class mail to any address of

1 each person in the records of the county assessor or the
2 county recorder for the county where the property is
3 located. The complaint shall contain a notice that a
4 hearing will be held before the board or officer, at a
5 place therein fixed, not less than 10 days nor more than 30
6 days after the serving of the complaint; and that all
7 parties in interest shall be given the right to file an
8 answer to the complaint, to appear in person, or otherwise,
9 and to give testimony at the time and place in the
10 complaint. The rules of evidence prevailing in courts of
11 law or equity shall not be controlling in hearings before
12 the board or officer. A copy of the complaint shall also be
13 filed with the recorder of the county in which the
14 dwelling, building, structure, or premises is located, and
15 the filing of the complaint or order shall have the same
16 force and effect as other lis pendens notices as provided
17 by law.

18 (4) That the board or officer may determine that a
19 dwelling, building, structure, or premises is unfit for
20 human habitation or other use if the board or officer finds
21 that conditions exist in the dwelling, building,
22 structure, or premises that are dangerous or injurious to
23 the health or safety of the occupants of the dwelling,
24 building, structure, or premises, the occupants of
25 neighboring dwellings, or other residents of the property
26 that lies within the jurisdiction of a municipality or

1 other unit of local government. The conditions may include
2 the following, without limitation: defects increasing the
3 hazards of fire or accident; inadequate ventilation,
4 light, or sanitary facilities; or dilapidation, disrepair,
5 structural defects, uncleanliness, overcrowding, or
6 inadequate drainage. The ordinance shall state reasonable
7 and minimum standards covering the conditions, including
8 those contained in ordinances adopted in accordance with
9 this Section, to guide the board or the public officer, and
10 the agents and employees of either, in determining the
11 fitness of a dwelling for human habitation or of a
12 building, structure, or premises for other use.

13 (5) That the determination of whether a dwelling,
14 building, structure, or premises should be repaired or
15 demolished shall be based on specific stated standards on
16 (1) the degree of structural deterioration of the dwelling,
17 building, structure, or premises or (2) the relationship
18 that the estimated cost of repair bears to the value of the
19 dwelling, building, structure, or premises, with the
20 method of determining this value to be specified in the
21 ordinance.

22 (6) That if, after the required hearing, the board or
23 officer determines that the dwelling is unfit for human
24 habitation or the building or structure or premises is
25 unfit for other use, the board or officer shall state in
26 writing the findings of fact in support of the

1 determination, and shall issue and cause to be served upon
2 the owner or party in interest thereof, as is provided in
3 this Section, and shall post in a conspicuous place on the
4 property, an order that (i) requires the owner or party in
5 interest, within the time specified in the order, to
6 repair, alter, or improve the dwelling, building,
7 structure, or premises to render it fit for human
8 habitation, or for other use, or to vacate and close the
9 dwelling, building, structure, or premises, if the course
10 of action is deemed proper on the basis of the standards
11 set forth as required in this Section; or (ii) requires the
12 owner or party in interest, within the time specified in
13 the order, to remove or demolish the dwelling, building,
14 structure, or premises, if this course of action is deemed
15 proper on the basis of those standards. If no appeal is
16 filed, a copy of the order shall be filed with the recorder
17 of the county in which the dwelling, building, structure,
18 or premises is located.

19 (7) That the owner or any party in interest, within 30
20 days after the date of service upon the owner and posting
21 of an order issued by the board or officer under this
22 Section, may file an appeal with the appeals commission.

23 (8) That governing body of the municipality or other
24 unit of local government shall designate or establish a
25 municipal or other governmental agency or body to serve as
26 the appeals commission. The governing body shall also

1 establish rules of procedure adequate to assure a prompt
2 and thorough review of matters submitted to the appeals
3 commission, and the rules of procedure shall include the
4 following, without being limited thereto:

5 (A) All matters submitted to the appeals
6 commission must be resolved by the commission within 60
7 days from the date of filing therewith, and a
8 transcript of the findings of fact of the appeals
9 commission shall be made available to the owner or
10 other party in interest upon demand. The findings and
11 orders of the appeals commission shall be reported in
12 the same manner and shall bear the same legal
13 consequences as if issued by the board, and shall be
14 subject to review only in the manner and to the extent
15 provided in this Act.

16 (B) If the owner or party in interest, following
17 exhaustion of his or her rights to appeal, fails to
18 comply with the final order to repair, alter, improve,
19 vacate, close, remove, or demolish the dwelling,
20 building, structure, or premises, the board or officer
21 may direct or cause the dwelling, building, structure,
22 or premises to be repaired, altered, improved,
23 vacated, and closed, removed, or demolished.

24 (9) That the amount of the cost of the repairs,
25 alterations or improvements; or vacating and closing; or
26 removal or demolition by the board or officer shall be

1 assessed against the real property upon which the cost was
2 incurred unless the amount is previously paid. For purposes
3 of this subsection, the cost of vacating and closing shall
4 include (i) the amount of relocation assistance payments
5 that a property owner has not repaid to a municipality or
6 other unit of local government that has advanced relocation
7 assistance payments to tenants under this Act and (ii) all
8 penalties and interest that accrue as a result of the
9 failure of the property owner to timely repay the amount of
10 these relocation assistance payments under this Act.

11 (b) Upon certification to him or her by the treasurer of
12 the municipality or other unit of local government of the
13 assessment amount being due and owing, the county assessor
14 shall enter the amount of the assessment upon the tax rolls
15 against the property for the current year and the same shall
16 become a part of the general taxes for that year to be
17 collected at the same time and with interest at the rates and
18 in the manner as provided for delinquent taxes, and when
19 collected to be deposited to the credit of the general fund of
20 the municipality or other unit of local government. If the
21 dwelling, building, structure, or premises is removed or
22 demolished by the board or officer, the board or officer shall,
23 if possible, sell the materials of the dwelling, building,
24 structure, or premises in accordance with procedures set forth
25 in the ordinance, and shall credit the proceeds of the sale
26 against the cost of the removal or demolition; and if there be

1 any balance remaining, it shall be paid to the parties entitled
2 thereto, as determined by the board or officer, after deducting
3 the costs incident thereto. The assessment shall constitute a
4 lien against the property that shall be of equal rank with
5 State, county, and municipal taxes.

6 (c) Any person affected by an order issued by the appeals
7 commission may, within 30 days after the posting and service of
8 the order, petition to the circuit court for an injunction
9 restraining the public officer or members of the board from
10 carrying out the provisions of the order. In all proceedings
11 the court is authorized to affirm, reverse, or modify the order
12 and the trial shall be heard de novo. An ordinance adopted by
13 the governing body may authorize the board or officer to
14 exercise the powers as may be necessary or convenient to carry
15 out and effectuate the purposes and provisions of this Section.

16 (d) These powers shall include the following in addition to
17 others granted in this Section:

18 (1) to determine which dwellings within the
19 municipality or other unit of local government are unfit
20 for human habitation;

21 (2) to determine which buildings, structures, or
22 premises are unfit for other use;

23 (3) to administer oaths and affirmations, examine
24 witnesses, and receive evidence; and

25 (4) to investigate the dwelling and other property
26 conditions in the municipality or other unit of local

1 government and to enter upon premises for the purpose of
2 making examinations when the board or officer has
3 reasonable ground for believing they are unfit for human
4 habitation, or for other use.

5 The entries shall be made in the manner as to cause the
6 least possible inconvenience to the persons in possession, and
7 to obtain an order for this purpose after submitting evidence
8 in support of an application which is adequate to justify an
9 order from a circuit court in the event entry is denied or
10 resisted.

11 (e) The governing body of any municipality or other unit of
12 local government adopting an ordinance pursuant to this Act may
13 appropriate the necessary funds to administer the ordinance.

14 (f) This Act does not abrogate or impair the powers of the
15 courts or of any department of any municipality or other unit
16 of local government to enforce any provisions of its charter or
17 its ordinances, resolutions, or regulations, nor to prevent or
18 punish violations thereof; and the powers conferred by this Act
19 shall be in addition and supplemental to the powers conferred
20 by any other law.

21 (g) This Act does not impair or limit in any way the power
22 of the municipality or other unit of local government to define
23 and declare nuisances and to cause their removal or abatement,
24 by summary proceedings or otherwise.

25 (h) Any municipality or unit of other local government may
26 by ordinance adopted by its governing body:

1 (1) prescribe minimum standards for the use and
2 occupancy of dwellings throughout the municipality or
3 other unit of local government;

4 (2) prescribe minimum standards for the use or
5 occupancy of any building, structure, or premises used for
6 any other purpose;

7 (3) prevent the use or occupancy of any dwelling,
8 building, structure, or premises that is injurious to the
9 public health, safety, morals, or welfare; and

10 (4) prescribe punishment for the violation of any
11 provision of the ordinance.

12 Section 20. Supplemental powers. The powers and authority
13 conferred by this Act are in addition and supplemental to
14 powers or authority conferred by any other law or authority,
15 and nothing contained in this Act shall be construed to preempt
16 any local ordinance requiring relocation assistance to tenants
17 displaced by a landlord's failure to remedy building code or
18 health code violations.