



Sen. Don Harmon

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LRB096 09607 AJ0 26275 a

1 AMENDMENT TO HOUSE BILL 3690

2 AMENDMENT NO. _____. Amend House Bill 3690 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 changing Sections 9-104, 9-104.1, 9-104.2, and 9-211 as
6 follows:

7 (735 ILCS 5/9-104) (from Ch. 110, par. 9-104)

8 Sec. 9-104. Demand - Notice - Return. The demand required
9 by Section 9-102 of this Act may be made by delivering a copy
10 thereof to the tenant, or by leaving such a copy with some
11 person of the age of 13 years or upwards, residing on, or being
12 in charge of, the premises; or in case no one is in the actual
13 possession of the premises, then by posting the same on the
14 premises; or if those in possession are unknown occupants who
15 are not parties to any written lease, rental agreement, or
16 right to possession agreement for the premises, then by

1 delivering a copy of the notice, directed to "unknown
2 occupants", to the occupant or by leaving a copy of the notice
3 with some person of the age of 13 years or upwards occupying
4 the premises, or by posting a copy of the notice on the
5 premises directed to "unknown occupants". When such demand is
6 made by an officer authorized to serve process, his or her
7 return is prima facie evidence of the facts therein stated, and
8 if such demand is made by any person not an officer, the return
9 may be sworn to by the person serving the same, and is then
10 prima facie evidence of the facts therein stated. The demand
11 for possession may be in the following form:

12 To

13 I hereby demand immediate possession of the following
14 described premises: (describing the same.)

15 The demand shall be signed by the person claiming such
16 possession, his or her agent, or attorney.

17 In counties with a population of 3,000,000 or more, the
18 demand required by Section 9-102 of this Act shall state the
19 name and date of birth of each known occupant of the premises
20 and the name of each known occupant who has a disability, as
21 defined by Section 10 of the Disabilities Services Act of 2003,
22 and who self-reported the disability to the person claiming
23 such possession.

24 The changes made by this amendatory Act of the 96th General
25 Assembly do not apply to public housing programs, assisted
26 under the United States Housing Act of 1937, as amended, 42

1 U.S.C. 1437 et seq., and its implementing regulations,
2 including the tenant-based Housing Choice Voucher program.
3 Public housing programs include premises assisted with housing
4 choice vouchers and dwelling units in mixed-finance projects
5 that are assisted through a public housing authority's capital,
6 operating, or other funds.

7 (Source: P.A. 92-823, eff. 8-21-02.)

8 (735 ILCS 5/9-104.1) (from Ch. 110, par. 9-104.1)

9 Sec. 9-104.1. Demand; Notice; Return; Condominium and
10 Contract Purchasers.

11 (a) In case there is a contract for the purchase of such
12 lands or tenements or in case of condominium property, the
13 demand shall give the purchaser under such contract, or to the
14 condominium unit owner, as the case may be, at least 30 days to
15 satisfy the terms of the demand before an action is filed. In
16 case of a condominium unit, the demand shall set forth the
17 amount claimed which must be paid within the time prescribed in
18 the demand and the time period or periods when the amounts were
19 originally due, unless the demand is for compliance with
20 Section 18(n) of the Condominium Property Act, in which case
21 the demand shall set forth the nature of the lease and
22 memorandum of lease or the leasing requirement not satisfied.
23 The amount claimed shall include regular or special
24 assessments, late charges or interest for delinquent
25 assessments, and attorneys' fees claimed for services incurred

1 prior to the demand. Attorneys' fees claimed by condominium
2 associations in the demand shall be subject to review by the
3 courts in any forcible entry and detainer proceeding under
4 subsection (b) of Section 9-111 of this Act. The demand shall
5 be signed by the person claiming such possession, his or her
6 agent, or attorney.

7 (b) In the case of a condominium unit, the demand is not
8 invalidated by partial payment of amounts due if the payments
9 do not, at the end of the notice period, total the amounts
10 demanded in the notice for common expenses, unpaid fines,
11 interest, late charges, reasonable attorney fees incurred
12 prior to the initiation of any court action and costs of
13 collection. The person claiming possession, or his or her agent
14 or attorney, may, however, agree in writing to withdraw the
15 demand in exchange for receiving partial payment. To prevent
16 invalidation, the notice must prominently state:

17 "Only FULL PAYMENT of all amounts demanded in this notice
18 will invalidate the demand, unless the person claiming
19 possession, or his or her agent or attorney, agrees in writing
20 to withdraw the demand in exchange for receiving partial
21 payment."

22 (c) The demand set forth in subsection (a) of this Section
23 shall be served either personally upon such purchaser or
24 condominium unit owner or by sending the demand thereof by
25 registered or certified mail with return receipt requested to
26 the last known address of such purchaser or condominium unit

1 owner or in case no one is in the actual possession of the
2 premises, then by posting the same on the premises. When such
3 demand is made by an officer authorized to serve process, his
4 or her return is prima facie evidence of the facts therein
5 stated and if such demand is made by any person not an officer,
6 the return may be sworn to by the person serving the same, and
7 is then prima facie evidence of the facts therein stated. To be
8 effective service under this Section, a demand sent by
9 certified or registered mail to the last known address need not
10 be received by the purchaser or condominium unit owner. No
11 other demand shall be required as a prerequisite to filing an
12 action under paragraph (7) of subsection (a) of Section 9-102
13 of this Act. Service of the demand by registered or certified
14 mail shall be deemed effective upon deposit in the United
15 States mail with proper postage prepaid and addressed as
16 provided in this subsection.

17 (d) In counties with a population of 3,000,000 or more, the
18 demand set forth in subsection (a) of this Section shall state
19 the name and date of birth of each known occupant of the
20 premises and the name of each known occupant who has a
21 disability, as defined by Section 10 of the Disabilities
22 Services Act of 2003, and who self-reported the disability to
23 the plaintiff. The plaintiff will also provide a physical
24 description of the structure in the demand to include the
25 number of stories and if it is a multiple unit structure.

26 The changes made by this amendatory Act of the 96th General

1 Assembly do not apply to public housing programs, assisted
2 under the United States Housing Act of 1937, as amended, 42
3 U.S.C. 1437 et seq., and its implementing regulations,
4 including the tenant-based Housing Choice Voucher program.
5 Public housing programs include premises assisted with housing
6 choice vouchers and dwelling units in mixed-finance projects
7 that are assisted through a public housing authority's capital,
8 operating, or other funds.

9 (Source: P.A. 90-496, eff. 8-18-97.)

10 (735 ILCS 5/9-104.2) (from Ch. 110, par. 9-104.2)

11 Sec. 9-104.2. Demand - Notice - Termination of Lease and
12 Possession of a Condominium.

13 (a) Unless the Board of Managers is seeking to terminate
14 the right of possession of a tenant or other occupant of a unit
15 under an existing lease or other arrangement with the owner of
16 a unit, no demand nor summons need be served upon the tenant or
17 other occupant in connection with an action brought under
18 paragraph (7) of subsection (a) of Section 9-102 of this
19 Article.

20 (a-5) The Board of Managers may seek to terminate the right
21 of possession of a tenant or other occupant of a unit under an
22 existing lease or other arrangement between the tenant or other
23 occupant and the defaulting owner of a unit, either within the
24 same action against the unit owner under paragraph (7) of
25 subsection (a) of Section 9-102 of this Article or

1 independently thereafter under other paragraphs of that
2 subsection. If a tenant or other occupant of a unit is joined
3 within the same action against the defaulting unit owner under
4 paragraph (7), only the unit owner and not the tenant or other
5 occupant need to be served with 30 days prior written notice as
6 provided in this Article. The tenant or other occupant may be
7 joined as additional defendants at the time the suit is filed
8 or at any time thereafter prior to execution of judgment for
9 possession by filing, with or without prior leave of the court,
10 an amended complaint and summons for trial. If the complaint
11 alleges that the unit is occupied or may be occupied by persons
12 other than or in addition to the unit owner of record, that the
13 identities of the persons are concealed and unknown, they may
14 be named and joined as defendant "Unknown Occupants". Summons
15 may be served on the defendant "Unknown Occupants" by the
16 sheriff or court appointed process server by leaving a copy at
17 the unit with any person residing at the unit of the age of 13
18 years or greater, and if the summons is returned without
19 service stating that service cannot be obtained, constructive
20 service may be obtained pursuant to Section 9-107 of this Code
21 with notice mailed to "Unknown Occupants" at the address of the
22 unit. If prior to execution of judgment for possession the
23 identity of a defendant or defendants served in this manner is
24 discovered, his or her name or names and the record may be
25 corrected upon hearing pursuant to notice of motion served upon
26 the identified defendant or defendants at the unit in the

1 manner provided by court rule for service of notice of motion.
2 If however an action under paragraph (7) was brought against
3 the defaulting unit owner only, and after obtaining judgment
4 for possession and expiration of the stay on enforcement the
5 Board of Managers elects not to accept a tenant or occupant in
6 possession as its own and to commence a separate action,
7 written notice of the judgment against the unit owner and
8 demand to quit the premises shall be served on the tenant or
9 other occupant in the manner provided under Section 9-211 at
10 least 10 days prior to bringing suit to recover possession from
11 the tenant or other occupant.

12 (b) If a judgment for possession is granted to the Board of
13 Managers under Section 9-111, any interest of the unit owner to
14 receive rents under any lease arrangement shall be deemed
15 assigned to the Board of Managers until such time as the
16 judgment is vacated.

17 (c) If a judgment for possession is entered, the Board of
18 Managers may obtain from the clerk of the court an
19 informational certificate notifying any tenants not parties to
20 the proceeding of the assignment of the unit owner's interest
21 in the lease arrangement to the Board of Managers as a result
22 of the entry of the judgment for possession and stating that
23 any rent hereinafter due the unit owner or his agent under the
24 lease arrangement should be paid to the Board of Managers until
25 further order of court. If the tenant pays his rent to the
26 association pursuant to the entry of such a judgement for

1 possession, the unit owner may not sue said tenant for any such
2 amounts the tenant pays the association. Upon service of the
3 certificate on the tenant in the manner provided by Section
4 9-211 of this Code, the tenant shall be obligated to pay the
5 rent under the lease arrangement to the Board of Managers as it
6 becomes due. If the tenant thereafter fails and refuses to pay
7 the rent, the Board of Managers may bring an action for
8 possession after making a demand for rent in accordance with
9 Section 9-209 of this Code.

10 (c-5) In an action against the unit owner and lessee to
11 evict a lessee for failure of the lessor/owner of the
12 condominium unit to comply with the leasing requirements
13 prescribed by subsection (n) of Section 18 of the Condominium
14 Property Act or by the declaration, bylaws, and rules and
15 regulations of the condominium, or against a lessee for any
16 other breach by the lessee of any covenants, rules,
17 regulations, or bylaws of the condominium, the demand shall
18 give the lessee at least 10 days to quit and vacate the unit.
19 The notice shall be substantially in the following form:

20 "TO A.B. You are hereby notified that in consequence of
21 (here insert lessor-owner name) failure to comply with the
22 leasing requirements prescribed by Section 18(n) of the
23 Condominium Property Act or by the declaration, bylaws, and
24 rules and regulations of the condominium, or your default
25 of any covenants, rules, regulations or bylaws of the
26 condominium, in (here insert the character of the default)

1 of the premises now occupied by you, being (here described
2 the premises) the Board of Managers of (here describe the
3 condominium) Association elects to terminate your lease,
4 and you are hereby notified to quit and vacate same within
5 10 days of this date.".

6 The demand shall be signed by the Board of Managers, its
7 agent, or attorney and shall be served either personally upon
8 the lessee with a copy to the unit owner or by sending the
9 demand thereof by registered or certified mail with return
10 receipt requested to the unit occupied by the lessee and to the
11 last known address of the unit owner, and no other demand of
12 termination of such tenancy shall be required. To be effective
13 service under this Section, a demand sent by certified mail,
14 return receipt requested, to the unit occupied by the lessee
15 and to the last known address of the unit owner need not be
16 received by the lessee or condominium unit owner.

17 (d) Nothing in this Section 9-104.2 is intended to confer
18 upon a Board of Managers any greater authority with respect to
19 possession of a unit after a judgment than was previously
20 established by this Act.

21 (e) In counties with a population of 3,000,000 or more, the
22 demand set forth in subsection (c-5) of this Section shall
23 state the name and date of birth of each known occupant of the
24 premises and the name of each known occupant who has a
25 disability, as defined by Section 10 of the Disabilities
26 Services Act of 2003, and who self-reported the disability to

1 the Board of Managers.

2 The changes made by this amendatory Act of the 96th General
3 Assembly do not apply to public housing programs, assisted
4 under the United States Housing Act of 1937, as amended, 42
5 U.S.C. 1437 et seq., and its implementing regulations,
6 including the tenant-based Housing Choice Voucher program.
7 Public housing programs include premises assisted with housing
8 choice vouchers and dwelling units in mixed-finance projects
9 that are assisted through a public housing authority's capital,
10 operating, or other funds.

11 (Source: P.A. 90-496, eff. 8-18-97; 91-196, eff. 7-20-99.)

12 (735 ILCS 5/9-211) (from Ch. 110, par. 9-211)

13 Sec. 9-211. Service of demand or notice. Any demand may be
14 made or notice served by delivering a written or printed, or
15 partly written and printed, copy thereof to the tenant, or by
16 leaving the same with some person of the age of 13 years or
17 upwards, residing on or in possession of the premises; or by
18 sending a copy of the notice to the tenant by certified or
19 registered mail, with a returned receipt from the addressee;
20 and in case no one is in the actual possession of the premises,
21 then by posting the same on the premises.

22 In counties with a population of 3,000,000 or more, the
23 demand shall state the name and date of birth of each known
24 occupant of the premises and the name of each known occupant
25 who has a disability, as defined by Section 10 of the

1 Disabilities Services Act of 2003, and who self-reported the
2 disability to the landlord.

3 The changes made by this amendatory Act of the 96th General
4 Assembly do not apply to public housing programs, assisted
5 under the United States Housing Act of 1937, as amended, 42
6 U.S.C. 1437 et seq., and its implementing regulations,
7 including the tenant-based Housing Choice Voucher program.
8 Public housing programs include premises assisted with housing
9 choice vouchers and dwelling units in mixed-finance projects
10 that are assisted through a public housing authority's capital,
11 operating, or other funds.

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

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.".