HB5523 Enrolled

1 AN ACT concerning civil law.

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

- Section 5. The Code of Civil Procedure is amended by adding
 Section 9-106.2 as follows:
- 6 (735 ILCS 5/9-106.2 new)

Sec. 9-106.2. Affirmative defense for violence; barring
 persons from property.

- 9 <u>(a) It shall be an affirmative defense to an action</u> 10 <u>maintained under this Article IX if the court makes one of the</u> 11 following findings that the demand for possession is:
- 12 (1) based solely on the tenant's, lessee's, or 13 household member's status as a victim of domestic violence 14 or sexual violence as those terms are defined in Section 10 15 of the Safe Homes Act, stalking as that term is defined in 16 the Criminal Code of 1961, or dating violence;

17 <u>(2) based solely upon an incident of actual or</u> 18 <u>threatened domestic violence, dating violence, stalking,</u> 19 <u>or sexual violence against a tenant, lessee, or household</u> 20 <u>member;</u>

(3) based solely upon criminal activity directly
 relating to domestic violence, dating violence, stalking,
 or sexual violence engaged in by a member of a tenant's or

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1	lessee's household or any guest or other person under the
2	tenant's, lessee's, or household member's control, and
3	against the tenant, lessee, or household member; or
4	(4) based upon a demand for possession pursuant to
5	subsection (f) where the tenant, lessee, or household
6	member who was the victim of domestic violence, sexual
7	violence, stalking, or dating violence did not knowingly
8	consent to the barred person entering the premises or a
9	valid court order permitted the barred person's entry onto
10	the premises.
11	(b) When asserting the affirmative defense, at least one
12	form of the following types of evidence shall be provided to
13	support the affirmative defense: medical, court, or police
14	records documenting the violence or a statement from an
15	employee of a victim service organization or from a medical
16	professional from whom the tenant, lessee, or household member
17	has sought services.
18	(c) Nothing in subsection (a) shall prevent the landlord
19	from seeking possession solely against a tenant, household
20	member, or lessee of the premises who perpetrated the violence
21	referred to in subsection (a).
22	(d) Nothing in subsection (a) shall prevent the landlord
23	from seeking possession against the entire household,
24	including the tenant, lessee, or household member who is a
25	victim of domestic violence, dating violence, stalking, or
26	sexual violence if the tenant, lessee, or household member's

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1 <u>continued tenancy would pose an actual and imminent threat to</u> 2 <u>other tenants, lessees, household members, the landlord or</u> 3 their agents at the property.

4 (e) Nothing in subsection (a) shall prevent the landlord 5 from seeking possession against the tenant, lessee, or 6 household member who is a victim of domestic violence, dating 7 violence, stalking, or sexual violence if that tenant, lessee, 8 or household member has committed the criminal activity on 9 which the demand for possession is based.

10 (f) A landlord shall have the power to bar the presence of 11 a person from the premises owned by the landlord who is not a 12 tenant or lessee or who is not a member of the tenant's or lessee's household. A landlord bars a person from the premises 13 14 by providing written notice to the tenant or lessee that the 15 person is no longer allowed on the premises. That notice shall 16 state that if the tenant invites the barred person onto any 17 portion of the premises, then the landlord may treat this as a breach of the lease, whether or not this provision is contained 18 19 in the lease. Subject to paragraph (4) of subsection (a), the 20 landlord may evict the tenant.

(g) Further, a landlord may give notice to a person that the person is barred from the premises owned by the landlord. A person has received notice from the landlord within the meaning of this subsection if he has been notified personally, either orally or in writing including a valid court order as defined by subsection (7) of Section 112A-3 of the Code of Criminal HB5523 Enrolled - 4 - LRB096 18361 AJO 35596 b

1 Procedure of 1963 granting remedy (2) of subsection (b) of 2 Section 112A-14 of that Code, or if a printed or written notice 3 forbidding such entry has been conspicuously posted or 4 exhibited at the main entrance to such land or the forbidden 5 part thereof. Any person entering the landlord's premises after 6 such notice has been given shall be guilty of criminal trespass 7 to real property as set forth in Section 21-3 of the Criminal Code of 1961. After notice has been given, an invitation to the 8 9 person to enter the premises shall be void if made by a tenant, lessee, or member of the tenant's or lessee's household and 10 11 shall not constitute a valid invitation to come upon the 12 premises or a defense to a criminal trespass to real property.

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