



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3614

Introduced 2/11/2010, by Sen. Dan Duffy

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-102

from Ch. 110, par. 9-102

Amends the Code of Civil Procedure. Provides that a person entitled to possession of land or a building may be restored under several identified circumstances, including: when a forcible entry is made, entry and restoration of possession may be made under the supervision of a law enforcement officer or an employee of a private security agency certified under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor and Locksmith Act of 2004 (instead of when a forcible entry is made). Effective immediately.

LRB096 18987 AJO 34375 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 5. The Code of Civil Procedure is amended by
5 changing Section 9-102 as follows:

6 (735 ILCS 5/9-102) (from Ch. 110, par. 9-102)

7 Sec. 9-102. When action may be maintained.

8 (a) The person entitled to the possession of lands or
9 tenements may be restored thereto under any of the following
10 circumstances:

11 (1) When a forcible entry is made thereon, entry and
12 restoration of possession may be made under the supervision
13 of a law enforcement officer or an employee of a private
14 security agency certified under the Private Detective,
15 Private Alarm, Private Security, Fingerprint Vendor and
16 Locksmith Act of 2004.

17 (2) When a peaceable entry is made and the possession
18 unlawfully withheld.

19 (3) When entry is made into vacant or unoccupied lands
20 or tenements without right or title.

21 (4) When any lessee of the lands or tenements, or any
22 person holding under such lessee, holds possession without
23 right after the termination of the lease or tenancy by its

1 own limitation, condition or terms, or by notice to quit or
2 otherwise.

3 (5) When a vendee having obtained possession under a
4 written or verbal agreement to purchase lands or tenements,
5 and having failed to comply with the agreement, withholds
6 possession thereof, after demand in writing by the person
7 entitled to such possession; provided, however, that any
8 such agreement for residential real estate as defined in
9 the Illinois Mortgage Foreclosure Law entered into on or
10 after July 1, 1987 where the purchase price is to be paid
11 in installments over a period in excess of 5 years and the
12 amount unpaid under the terms of the contract at the time
13 of the filing of a foreclosure complaint under Article XV,
14 including principal and due and unpaid interest, is less
15 than 80% of the original purchase price shall be foreclosed
16 under the Illinois Mortgage Foreclosure Law.

17 This amendatory Act of 1993 is declarative of existing
18 law.

19 (6) When lands or tenements have been conveyed by any
20 grantor in possession, or sold under the order or judgment
21 of any court in this State, or by virtue of any sale in any
22 mortgage or deed of trust contained and the grantor in
23 possession or party to such order or judgment or to such
24 mortgage or deed of trust, after the expiration of the time
25 of redemption, when redemption is allowed by law, refuses
26 or neglects to surrender possession thereof, after demand

1 in writing by the person entitled thereto, or his or her
2 agent.

3 (7) When any property is subject to the provisions of
4 the Condominium Property Act, the owner of a unit fails or
5 refuses to pay when due his or her proportionate share of
6 the common expenses of such property, or of any other
7 expenses lawfully agreed upon or any unpaid fine, the Board
8 of Managers or its agents have served the demand set forth
9 in Section 9-104.1 of this Article in the manner provided
10 for in that Section and the unit owner has failed to pay
11 the amount claimed within the time prescribed in the
12 demand; or if the lessor-owner of a unit fails to comply
13 with the leasing requirements prescribed by subsection (n)
14 of Section 18 of the Condominium Property Act or by the
15 declaration, by-laws, and rules and regulations of the
16 condominium, or if a lessee of an owner is in breach of any
17 covenants, rules, regulations, or by-laws of the
18 condominium, and the Board of Managers or its agents have
19 served the demand set forth in Section 9-104.2 of this
20 Article in the manner provided in that Section.

21 (8) When any property is subject to the provisions of a
22 declaration establishing a common interest community and
23 requiring the unit owner to pay regular or special
24 assessments for the maintenance or repair of common areas
25 owned in common by all of the owners of the common interest
26 community or by the community association and maintained

1 for the use of the unit owners or of any other expenses of
2 the association lawfully agreed upon, and the unit owner
3 fails or refuses to pay when due his or her proportionate
4 share of such assessments or expenses and the board or its
5 agents have served the demand set forth in Section 9-104.1
6 of this Article in the manner provided for in that Section
7 and the unit owner has failed to pay the amount claimed
8 within the time prescribed in the demand.

9 (b) The provisions of paragraph (8) of subsection (a) of
10 Section 9-102 and Section 9-104.3 of this Act shall not apply
11 to any common interest community unless (1) the association is
12 a not-for-profit corporation, (2) unit owners are authorized to
13 attend meetings of the board of directors or board of managers
14 of the association in the same manner as provided for
15 condominiums under the Condominium Property Act, and (3) the
16 board of managers or board of directors of the common interest
17 community association has, subsequent to the effective date of
18 this amendatory Act of 1984 voted to have the provisions of
19 this Article apply to such association and has delivered or
20 mailed notice of such action to the unit owners or unless the
21 declaration of the association is recorded after the effective
22 date of this amendatory Act of 1985.

23 (c) For purposes of this Article:

24 (1) "Common interest community" means real estate
25 other than a condominium or cooperative with respect to
26 which any person by virtue of his or her ownership of a

1 partial interest or unit therein is obligated to pay for
2 maintenance, improvement, insurance premiums, or real
3 estate taxes of other real estate described in a
4 declaration which is administered by an association.

5 (2) "Declaration" means any duly recorded instruments,
6 however designated, that have created a common interest
7 community and any duly recorded amendments to those
8 instruments.

9 (3) "Unit" means a physical portion of the common
10 interest community designated by separate ownership or
11 occupancy by boundaries which are described in a
12 declaration.

13 (4) "Unit owners' association" or "association" means
14 the association of all owners of units in the common
15 interest community acting pursuant to the declaration.

16 (d) If the board of a common interest community elects to
17 have the provisions of this Article apply to such association
18 or the declaration of the association is recorded after the
19 effective date of this amendatory Act of 1985, the provisions
20 of subsections (c) through (h) of Section 18.5 of the
21 Condominium Property Act applicable to a Master Association and
22 condominium unit subject to such association under subsections
23 (c) through (h) of Section 18.5 shall be applicable to the
24 community associations and to its unit owners.

25 (Source: P.A. 88-47; 89-41, eff. 6-23-95; 89-626, eff. 8-9-96.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.