

# HB4762



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB4762**

Introduced 2/3/2012, by Rep. Tom Cross

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-118

from Ch. 110, par. 9-118

Amends the Code of Civil Procedure. Makes a technical change in the Section relating to proceedings for evictions from housing authority property.

LRB097 17280 AJO 62481 b

A BILL FOR

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 9-118 as follows:

6 (735 ILCS 5/9-118) (from Ch. 110, par. 9-118)

7 Sec. 9-118. Emergency housing eviction proceedings.

8 (a) As used in this Section:

9 "Cannabis" has the ~~the~~ meaning ascribed to that term in the  
10 Cannabis Control Act.

11 "Narcotics" and "controlled substance" have the meanings  
12 ascribed to those terms in the Illinois Controlled Substances  
13 Act.

14 (b) This Section applies only if all of the following  
15 conditions are met:

16 (1) The complaint seeks possession of premises that are  
17 owned or managed by a housing authority established under  
18 the Housing Authorities Act or privately owned and managed.

19 (2) The verified complaint alleges that there is direct  
20 evidence of any of the following:

21 (A) unlawful possessing, serving, storing,  
22 manufacturing, cultivating, delivering, using,  
23 selling, giving away, or trafficking in cannabis,

1           methamphetamine, narcotics, or controlled substances  
2           within or upon the premises by or with the knowledge  
3           and consent of, or in concert with the person or  
4           persons named in the complaint; or

5           (B) the possession, use, sale, or delivery of a  
6           firearm which is otherwise prohibited by State law  
7           within or upon the premises by or with the knowledge  
8           and consent of, or in concert with, the person or  
9           persons named in the complaint; or

10          (C) murder, attempted murder, kidnapping,  
11          attempted kidnapping, arson, attempted arson,  
12          aggravated battery, criminal sexual assault, attempted  
13          criminal sexual assault, aggravated criminal sexual  
14          assault, predatory criminal sexual assault of a child,  
15          or criminal sexual abuse within or upon the premises by  
16          or with the knowledge and consent of, or in concert  
17          with, the person or persons named in the complaint.

18          (3) Notice by verified complaint setting forth the  
19          relevant facts, and a demand for possession of the type  
20          specified in Section 9-104 is served on the tenant or  
21          occupant of the premises at least 14 days before a hearing  
22          on the complaint is held, and proof of service of the  
23          complaint is submitted by the plaintiff to the court.

24          (b-5) In all actions brought under this Section 9-118, no  
25          predicate notice of termination or demand for possession shall  
26          be required to initiate an eviction action.

1 (c) When a complaint has been filed under this Section, a  
2 hearing on the complaint shall be scheduled on any day after  
3 the expiration of 14 days following the filing of the  
4 complaint. The summons shall advise the defendant that a  
5 hearing on the complaint shall be held at the specified date  
6 and time, and that the defendant should be prepared to present  
7 any evidence on his or her behalf at that time.

8 If a plaintiff which is a public housing authority accepts  
9 rent from the defendant after an action is initiated under this  
10 Section, the acceptance of rent shall not be a cause for  
11 dismissal of the complaint.

12 (d) If the defendant does not appear at the hearing,  
13 judgment for possession of the premises in favor of the  
14 plaintiff shall be entered by default. If the defendant  
15 appears, a trial shall be held immediately as is prescribed in  
16 other proceedings for possession. The matter shall not be  
17 continued beyond 7 days from the date set for the first hearing  
18 on the complaint except by agreement of both the plaintiff and  
19 the defendant. After a trial, if the court finds, by a  
20 preponderance of the evidence, that the allegations in the  
21 complaint have been proven, the court shall enter judgment for  
22 possession of the premises in favor of the plaintiff and the  
23 court shall order that the plaintiff shall be entitled to  
24 re-enter the premises immediately.

25 (d-5) If cannabis, methamphetamine, narcotics, or  
26 controlled substances are found or used anywhere in the

1 premises, there is a rebuttable presumption either (1) that the  
2 cannabis, methamphetamine, narcotics, or controlled substances  
3 were used or possessed by a tenant or occupant or (2) that a  
4 tenant or occupant permitted the premises to be used for that  
5 use or possession, and knew or should have reasonably known  
6 that the substance was used or possessed.

7 (e) A judgment for possession entered under this Section  
8 may not be stayed for any period in excess of 7 days by the  
9 court. Thereafter the plaintiff shall be entitled to re-enter  
10 the premises immediately. The sheriff or other lawfully  
11 deputized officers shall give priority to service and execution  
12 of orders entered under this Section over other possession  
13 orders.

14 (f) This Section shall not be construed to prohibit the use  
15 or possession of cannabis, methamphetamine, narcotics, or a  
16 controlled substance that has been legally obtained in  
17 accordance with a valid prescription for the personal use of a  
18 lawful occupant of a dwelling unit.

19 (Source: P.A. 94-556, eff. 9-11-05.)