



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3702

by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-118
735 ILCS 5/9-119
735 ILCS 5/9-120

from Ch. 110, par. 9-118

Amends the Code of Civil Procedure. In Sections concerning the eviction of tenants for criminal activities, provides that evidence upon which a judgment for possession under this Section may be based includes, but is not limited to, police reports, photos, and affidavits of neighbors and other tenants. Provides that it is not required that a defendant be formally charged with a crime before a plaintiff may be granted relief.

LRB098 13933 HEP 48476 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 Sections 9-118, 9-119, and 9-120 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 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. Evidence upon which a
25 judgment for possession under this Section may be based
26 includes, but is not limited to, police reports, photos, and

1 affidavits of neighbors and other tenants. It is not required
2 that a defendant be formally charged with a crime before a
3 plaintiff may be granted relief under this Section.

4 (d-5) If cannabis, methamphetamine, narcotics, or
5 controlled substances are found or used anywhere in the
6 premises, there is a rebuttable presumption either (1) that the
7 cannabis, methamphetamine, narcotics, or controlled substances
8 were used or possessed by a tenant or occupant or (2) that a
9 tenant or occupant permitted the premises to be used for that
10 use or possession, and knew or should have reasonably known
11 that the substance was used or possessed.

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

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

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

1 Sec. 9-119. Emergency subsidized housing eviction
2 proceedings.

3 (a) As used in this Section:

4 "FmHA" means the Farmers Home Administration or a local
5 housing authority administering an FmHA program.

6 "HUD" means the United States Department of Housing and
7 Urban Development, or the Federal Housing Administration or a
8 local housing authority administering a HUD program.

9 "Section 8 contract" means a contract with HUD or FmHA
10 which provides rent subsidies entered into pursuant to Section
11 8 of the United States Housing Act of 1937 or the Section 8
12 Existing Housing Program (24 C.F.R. Part 882).

13 "Subsidized housing" means:

14 (1) any housing or unit of housing subject to a Section
15 8 contract;

16 (2) any housing or unit of housing owned, operated, or
17 managed by a housing authority established under the
18 Housing Authorities Act; or

19 (3) any housing or unit of housing financed by a loan
20 or mortgage held by the Illinois Housing Development
21 Authority, a local housing authority, or the federal
22 Department of Housing and Urban Development ("HUD") that
23 is:

24 (i) insured or held by HUD under Section 221(d)(3)
25 of the National Housing Act and assisted under Section
26 101 of the Housing and Urban Development Act of 1965 or

- 1 Section 8 of the United States Housing Act of 1937;
- 2 (ii) insured or held by HUD and bears interest at a
- 3 rate determined under the proviso of Section 221(d)(3)
- 4 of the National Housing Act;
- 5 (iii) insured, assisted, or held by HUD under
- 6 Section 202 or 236 of the National Housing Act;
- 7 (iv) insured or held by HUD under Section 514 or
- 8 515 of the Housing Act of 1949;
- 9 (v) insured or held by HUD under the United States
- 10 Housing Act of 1937; or
- 11 (vi) held by HUD and formerly insured under a
- 12 program listed in subdivision (i), (ii), (iii), (iv),
- 13 or (v).

14 (b) This Section applies only if all of the following

15 conditions are met:

16 (1) The verified complaint seeks possession of

17 premises that are subsidized housing as defined under this

18 Section.

19 (2) The verified complaint alleges that there is direct

20 evidence of refusal by the tenant to allow the landlord or

21 agent of the landlord or other person authorized by State

22 or federal law or regulations or local ordinance to inspect

23 the premises, provided that all of the following conditions

24 have been met:

25 (A) on 2 separate occasions within a 30 day period

26 the tenant, or another person on the premises with the

1 consent of the tenant, refuses to allow the landlord or
2 agent of the landlord or other person authorized by
3 State or federal law or regulations or local ordinance
4 to inspect the premises;

5 (B) the landlord then sends written notice to the
6 tenant stating that (i) the tenant, or a person on the
7 premises with the consent of the tenant, failed twice
8 within a 30 day period to allow the landlord or agent
9 of the landlord or other person authorized by State or
10 federal law or regulations or local ordinance to
11 inspect the premises and (ii) the tenant must allow the
12 landlord or agent of the landlord or other person
13 authorized by State or federal law or regulations or
14 local ordinance to inspect the premises within the next
15 30 days or face emergency eviction proceedings under
16 this Section;

17 (C) the tenant subsequently fails to allow the
18 landlord or agent of the landlord or other person
19 authorized by State or federal law or regulations or
20 local ordinance to inspect the premises within 30 days
21 of receiving the notice from the landlord; and

22 (D) the tenant's written lease states that the
23 occurrence of the events described in items (A), (B),
24 and (C) may result in eviction.

25 (3) Notice, by verified complaint setting forth the
26 relevant facts, and a demand for possession of the type

1 specified in Section 9-104 is served on the tenant or
2 occupant of the premises at least 14 days before a hearing
3 on the complaint is held, and proof of service of the
4 complaint is submitted by the plaintiff to the court.

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

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. Evidence upon which a
25 judgment for possession under this Section may be based
26 includes, but is not limited to, police reports, photos, and

1 affidavits of neighbors and other tenants. It is not required
2 that a defendant be formally charged with a crime before a
3 plaintiff may be granted relief under this Section.

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

11 (Source: P.A. 89-660, eff. 1-1-97.)

12 (735 ILCS 5/9-120)

13 Sec. 9-120. Leased premises used in furtherance of a
14 criminal offense; lease void at option of lessor or assignee.

15 (a) If any lessee or occupant, on one or more occasions,
16 uses or permits the use of leased premises for the commission
17 of any act that would constitute a felony or a Class A
18 misdemeanor under the laws of this State, the lease or rental
19 agreement shall, at the option of the lessor or the lessor's
20 assignee become void, and the owner or lessor shall be entitled
21 to recover possession of the leased premises as against a
22 tenant holding over after the expiration of his or her term. A
23 written lease shall notify the lessee that if any lessee or
24 occupant, on one or more occasions, uses or permits the use of
25 the leased premises for the commission of a felony or Class A

1 misdemeanor under the laws of this State, the lessor shall have
2 the right to void the lease and recover the leased premises.
3 Failure to include this language in a written lease or the use
4 of an oral lease shall not waive or impair the rights of the
5 lessor or lessor's assignee under this Section or the lease.
6 This Section shall not be construed so as to diminish the
7 rights of a lessor, if any, to terminate a lease for other
8 reasons permitted under law or pursuant to the lease agreement.

9 (b) The owner or lessor may bring a forcible entry and
10 detainer action, or, if the State's Attorney of the county in
11 which the real property is located or the corporation counsel
12 of the municipality in which the real property is located
13 agrees, assign to that State's Attorney or corporation counsel
14 the right to bring a forcible entry and detainer action on
15 behalf of the owner or lessor, against the lessee and all
16 occupants of the leased premises. The assignment must be in
17 writing on a form prepared by the State's Attorney of the
18 county in which the real property is located or the corporation
19 counsel of the municipality in which the real property is
20 located, as applicable. If the owner or lessor assigns the
21 right to bring a forcible entry and detainer action, the
22 assignment shall be limited to those rights and duties up to
23 and including delivery of the order of eviction to the sheriff
24 for execution. The owner or lessor shall remain liable for the
25 cost of the eviction whether or not the right to bring the
26 forcible entry and detainer action has been assigned.

1 (c) A person does not forfeit any part of his or her
2 security deposit due solely to an eviction under the provisions
3 of this Section, except that a security deposit may be used to
4 pay fees charged by the sheriff for carrying out an eviction.

5 (d) If a lessor or the lessor's assignee voids a lease or
6 contract under the provisions of this Section and the tenant or
7 occupant has not vacated the premises within 5 days after
8 receipt of a written notice to vacate the premises, the lessor
9 or lessor's assignee may seek relief under this Article IX.
10 Notwithstanding Sections 9-112, 9-113, and 9-114 of this Code,
11 judgment for costs against a plaintiff seeking possession of
12 the premises under this Section shall not be awarded to the
13 defendant unless the action was brought by the plaintiff in bad
14 faith. An action to possess premises under this Section shall
15 not be deemed to be in bad faith when the plaintiff based his
16 or her cause of action on information provided to him or her by
17 a law enforcement agency, the State's Attorney, or the
18 municipality.

19 (e) After a trial, if the court finds, by a preponderance
20 of the evidence, that the allegations in the complaint have
21 been proven, the court shall enter judgment for possession of
22 the premises in favor of the plaintiff and the court shall
23 order that the plaintiff shall be entitled to re-enter the
24 premises immediately. Evidence upon which a judgment for
25 possession under this Section may be based includes, but is not
26 limited to, police reports, photos, and affidavits of neighbors

1 and other tenants. It is not required that a defendant be
2 formally charged with a crime before a plaintiff may be granted
3 relief under this Section.

4 (f) A judgment for possession of the premises entered in an
5 action brought by a lessor or lessor's assignee, if the action
6 was brought as a result of a lessor or lessor's assignee
7 declaring a lease void pursuant to this Section, may not be
8 stayed for any period in excess of 7 days by the court unless
9 all parties agree to a longer period. Thereafter the plaintiff
10 shall be entitled to re-enter the premises immediately. The
11 sheriff or other lawfully deputized officers shall execute an
12 order entered pursuant to this Section within 7 days of its
13 entry, or within 7 days of the expiration of a stay of
14 judgment, if one is entered.

15 (g) Nothing in this Section shall limit the rights of an
16 owner or lessor to bring a forcible entry and detainer action
17 on the basis of other applicable law.

18 (Source: P.A. 97-236, eff. 8-2-11.)