



## 95TH GENERAL ASSEMBLY

### State of Illinois

#### 2007 and 2008

##### SB2139

Introduced 2/14/2008, by Sen. Dave Syverson

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-1130 new  
705 ILCS 35/29 new  
735 ILCS 5/5-104.5 new  
735 ILCS 5/9-109.7  
735 ILCS 5/9-118  
735 ILCS 5/9-119  
735 ILCS 5/9-120

from Ch. 110, par. 9-118

Amends the Counties Code. Provides that a county board may establish a residential landlord-tenant court and make appropriations to operate it. Provides that this authorization is not a limitation on or a prohibition of the exercise of a home rule county's powers. Amends the Circuit Courts Act. Provides that the chief judge of a judicial circuit may establish a residential landlord-tenant court in a county if the county board has approved the establishment of such a court. Provides that the chief judge may appoint to this court licensed attorneys as hearing officers to preside over cases, take evidence, and report findings of fact and legal conclusions to a judge and these shall constitute a part of the proceedings upon which a judge makes rulings. Amends the Code of Civil Procedure. Provides that in actions filed for repossession due to illegal drug use on the premises, an emergency housing eviction, or voiding a lease for use of the premises in furtherance of a crime, the court shall schedule a hearing on the complaint on any day before the expiration of 7 days after the complaint is filed and the court may waive the filing fee if the plaintiff shows that in advance of the lease a good faith effort was made, by properly accessing public and credit records, to determine whether the defendant had a criminal conviction or eviction record or an adverse credit history. Provides that a credit worthiness inquiry may only access income level, credit history, or another pertinent element of credit worthiness. Reduces time limits to 5 days (instead of 7 days) for stays of judgment for possession and for the sheriff to execute an order for possession. Reduces other time limits for continuances and other matters. Makes other changes.

LRB095 19101 AJO 45382 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 Counties Code is amended by adding Section  
5 5-1130 as follows:

6 (55 ILCS 5/5-1130 new)

7 Sec. 5-1130. Residential landlord-tenant court. A county  
8 board may approve the establishment of a residential  
9 landlord-tenant court and if that type of court is established  
10 under Section 29 of the Circuit Courts Act, the county board  
11 shall appropriate from the county treasury, from year to year,  
12 the sums it may deem necessary and reasonable to defray the  
13 expenses of the residential landlord-tenant court in the  
14 performance of its duties. For the purposes of this Section,  
15 the county board is authorized to expend moneys not  
16 appropriated for other purposes. This Section shall not  
17 constitute a limitation on or a prohibition of the exercise of  
18 powers of a home rule county.

19 Section 10. The Circuit Courts Act is amended by adding  
20 Section 29 as follows:

21 (705 ILCS 35/29 new)

1       Sec. 29. Residential landlord-tenant court. The chief  
2       judge of each judicial circuit may establish a residential  
3       landlord-tenant court as provided by this Section in any county  
4       in the circuit if the county board has approved, as provided in  
5       Section 5-1129 of the Counties Code, the establishment of a  
6       residential landlord-tenant court. The chief judge shall  
7       establish the format under which the residential  
8       landlord-tenant court operates under the Code of Civil  
9       Procedure. The chief judge may appoint to the residential  
10       landlord-tenant court one or more licensed attorneys to act as  
11       hearing officers to preside over the initial case proceedings  
12       and trials in that court. A residential landlord-tenant court  
13       hearing officer may also take evidence and report the same to a  
14       judge with the hearing officer's findings of fact and  
15       conclusions of law, which shall constitute a part of the  
16       proceedings upon which the judge's determination and order  
17       shall be made.

18       Section 15. The Code of Civil Procedure is amended by  
19       changing Sections 9-109.7, 9-118, 9-119, and 9-120 and by  
20       adding Section 5-104.5 as follows:

21           (735 ILCS 5/5-104.5 new)

22       Sec. 5-104.5. Credit worthiness inquiry. In an action filed  
23       under Section 9-109.7, 9-118, or 9-120 of this Code, the court  
24       may order that the filing fee paid by the plaintiff be waived

1 and refunded by the circuit clerk if the plaintiff shows that  
2 in advance of leasing the residential premises to the defendant  
3 a good faith effort was made by properly accessing public  
4 records and credit reporting agency records to determine  
5 whether the defendant was ever convicted of a crime or evicted  
6 from residential premises and whether the defendant is credit  
7 worthy. For purposes of this Section, a credit worthiness  
8 inquiry shall be limited to determining the amount and probable  
9 continuance of income levels, credit history, or another  
10 pertinent element of credit worthiness.

11 (735 ILCS 5/9-109.7)

12 Sec. 9-109.7. Stay of enforcement; drug related action. A  
13 judgment for possession of the premises entered in an action  
14 brought by a lessor or lessor's assignee, if the action was  
15 brought as a result of a lessor or lessor's assignee declaring  
16 a lease void pursuant to Section 11 of the Controlled Substance  
17 and Cannabis Nuisance Act, may not be stayed for any period in  
18 excess of 5 ~~7~~ days by the court. Thereafter the plaintiff shall  
19 be entitled to re-enter the premises immediately. The sheriff  
20 or other lawfully deputized officers shall execute an order  
21 entered pursuant to this Section within 5 ~~7~~ days of its entry,  
22 or within 5 ~~7~~ days of the expiration of a stay of judgment, if  
23 one is entered.

24 (Source: P.A. 90-557, eff. 6-1-98.)

1 (735 ILCS 5/9-118) (from Ch. 110, par. 9-118)  
2 Sec. 9-118. Emergency housing eviction proceedings.

3 (a) As used in this Section:

4 "Cannabis" has the meaning ascribed to that term in the  
5 Cannabis Control Act.

6 "Narcotics" and "controlled substance" have the meanings  
7 ascribed to those terms in the Illinois Controlled Substances  
8 Act.

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

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

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

16 (A) unlawful possessing, serving, storing,  
17 manufacturing, cultivating, delivering, using,  
18 selling, giving away, or trafficking in cannabis,  
19 methamphetamine, narcotics, or controlled substances  
20 within or upon the premises by or with the knowledge  
21 and consent of, or in concert with the person or  
22 persons named in the complaint; or

23 (B) the possession, use, sale, or delivery of a  
24 firearm which is otherwise prohibited by State law  
25 within or upon the premises by or with the knowledge  
26 and consent of, or in concert with, the person or

1 persons named in the complaint; or

2 (C) murder, attempted murder, kidnapping,  
3 attempted kidnapping, arson, attempted arson,  
4 aggravated battery, criminal sexual assault, attempted  
5 criminal sexual assault, aggravated criminal sexual  
6 assault, predatory criminal sexual assault of a child,  
7 or criminal sexual abuse within or upon the premises by  
8 or with the knowledge and consent of, or in concert  
9 with, the person or persons named in the complaint.

10 (3) Notice by verified complaint setting forth the  
11 relevant facts, and a demand for possession of the type  
12 specified in Section 9-104 is served on the tenant or  
13 occupant of the premises at least 3 ~~14~~ days before a  
14 hearing on the complaint is held, and proof of service of  
15 the complaint is submitted by the plaintiff to the court.

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

19 (c) When a complaint has been filed under this Section, a  
20 hearing on the complaint shall be scheduled on any day before  
21 ~~after~~ the expiration of 7 ~~14~~ days following the filing of the  
22 complaint. The summons shall advise the defendant that a  
23 hearing on the complaint shall be held at the specified date  
24 and time, and that the defendant should be prepared to present  
25 any evidence on his or her behalf at that time.

26 If a plaintiff ~~which is a public housing authority~~ accepts

1 rent from the defendant after an action is initiated under this  
2 Section, the acceptance of rent shall not be a cause for  
3 dismissal of the complaint.

4 (d) If the defendant does not appear at the hearing,  
5 judgment for possession of the premises in favor of the  
6 plaintiff shall be entered by default. If the defendant  
7 appears, a trial shall be held immediately as is prescribed in  
8 other proceedings for possession. The matter shall not be  
9 continued beyond 5 7 days from the date set for the first  
10 hearing on the complaint except by agreement of both the  
11 plaintiff and the defendant. After a trial, if the court finds,  
12 by a preponderance of the evidence, that the allegations in the  
13 complaint have been proven, the court shall enter judgment for  
14 possession of the premises in favor of the plaintiff and the  
15 court shall order that the plaintiff shall be entitled to  
16 re-enter the premises immediately.

17 (d-5) If cannabis, methamphetamine, narcotics, or  
18 controlled substances are found or used anywhere in the  
19 premises, there is a rebuttable presumption either (1) that the  
20 cannabis, methamphetamine, narcotics, or controlled substances  
21 were used or possessed by a tenant or occupant or (2) that a  
22 tenant or occupant permitted the premises to be used for that  
23 use or possession, and knew or should have reasonably known  
24 that the substance was used or possessed.

25 (e) A judgment for possession entered under this Section  
26 may not be stayed for any period in excess of 7 days by the

1 court. Thereafter the plaintiff shall be entitled to re-enter  
2 the premises immediately. The sheriff or other lawfully  
3 deputized officers shall give priority to service and execution  
4 of orders entered under this Section over other possession  
5 orders.

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

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

12 (735 ILCS 5/9-119)

13 Sec. 9-119. Emergency subsidized housing eviction  
14 proceedings.

15 (a) As used in this Section:

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

18 "HUD" means the United States Department of Housing and  
19 Urban Development, or the Federal Housing Administration or a  
20 local housing authority administering a HUD program.

21 "Section 8 contract" means a contract with HUD or FmHA  
22 which provides rent subsidies entered into pursuant to Section  
23 8 of the United States Housing Act of 1937 or the Section 8  
24 Existing Housing Program (24 C.F.R. Part 882).

25 "Subsidized housing" means:

1           (1) any housing or unit of housing subject to a Section  
2           8 contract;

3           (2) any housing or unit of housing owned, operated, or  
4           managed by a housing authority established under the  
5           Housing Authorities Act; or

6           (3) any housing or unit of housing financed by a loan  
7           or mortgage held by the Illinois Housing Development  
8           Authority, a local housing authority, or the federal  
9           Department of Housing and Urban Development ("HUD") that  
10          is:

11                 (i) insured or held by HUD under Section 221(d) (3)  
12                 of the National Housing Act and assisted under Section  
13                 101 of the Housing and Urban Development Act of 1965 or  
14                 Section 8 of the United States Housing Act of 1937;

15                 (ii) insured or held by HUD and bears interest at a  
16                 rate determined under the proviso of Section 221(d) (3)  
17                 of the National Housing Act;

18                 (iii) insured, assisted, or held by HUD under  
19                 Section 202 or 236 of the National Housing Act;

20                 (iv) insured or held by HUD under Section 514 or  
21                 515 of the Housing Act of 1949;

22                 (v) insured or held by HUD under the United States  
23                 Housing Act of 1937; or

24                 (vi) held by HUD and formerly insured under a  
25                 program listed in subdivision (i), (ii), (iii), (iv),  
26                 or (v).

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

3 (1) The verified complaint seeks possession of  
4 premises that are subsidized housing as defined under this  
5 Section.

6 (2) The verified complaint alleges that there is direct  
7 evidence of refusal by the tenant to allow the landlord or  
8 agent of the landlord or other person authorized by State  
9 or federal law or regulations or local ordinance to inspect  
10 the premises, provided that all of the following conditions  
11 have been met:

12 (A) on 2 separate occasions within a 30 day period  
13 the tenant, or another person on the premises with the  
14 consent of the tenant, refuses to allow the landlord or  
15 agent of the landlord or other person authorized by  
16 State or federal law or regulations or local ordinance  
17 to inspect the premises;

18 (B) the landlord then sends written notice to the  
19 tenant stating that (i) the tenant, or a person on the  
20 premises with the consent of the tenant, failed twice  
21 within a 30 day period to allow the landlord or agent  
22 of the landlord or other person authorized by State or  
23 federal law or regulations or local ordinance to  
24 inspect the premises and (ii) the tenant must allow the  
25 landlord or agent of the landlord or other person  
26 authorized by State or federal law or regulations or

1 local ordinance to inspect the premises within the next  
2 30 days or face emergency eviction proceedings under  
3 this Section;

4 (C) the tenant subsequently fails to allow the  
5 landlord or agent of the landlord or other person  
6 authorized by State or federal law or regulations or  
7 local ordinance to inspect the premises within 30 days  
8 of receiving the notice from the landlord; and

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

12 (3) Notice, by verified complaint setting forth the  
13 relevant facts, and a demand for possession of the type  
14 specified in Section 9-104 is served on the tenant or  
15 occupant of the premises at least 7 ~~14~~ days before a  
16 hearing on the complaint is held, and proof of service of  
17 the complaint is submitted by the plaintiff to the court.

18 (c) When a complaint has been filed under this Section, a  
19 hearing on the complaint shall be scheduled on any day after  
20 the expiration of 7 ~~14~~ days following the filing of the  
21 complaint. The summons shall advise the defendant that a  
22 hearing on the complaint shall be held at the specified date  
23 and time, and that the defendant should be prepared to present  
24 any evidence on his or her behalf at that time.

25 (d) If the defendant does not appear at the hearing,  
26 judgment for possession of the premises in favor of the

1 plaintiff shall be entered by default. If the defendant  
2 appears, a trial shall be held immediately as is prescribed in  
3 other proceedings for possession. The matter shall not be  
4 continued beyond 7 days from the date set for the first hearing  
5 on the complaint except by agreement of both the plaintiff and  
6 the defendant. After a trial, if the court finds, by a  
7 preponderance of the evidence, that the allegations in the  
8 complaint have been proven, the court shall enter judgment for  
9 possession of the premises in favor of the plaintiff and the  
10 court shall order that the plaintiff shall be entitled to  
11 re-enter the premises immediately.

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

20 (735 ILCS 5/9-120)

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

23 (a) If any lessee or occupant, on one or more occasions,  
24 uses or permits the use of leased premises for the commission  
25 of any act that would constitute a felony or a Class A

1 misdemeanor under the laws of this State, the lease or rental  
2 agreement shall, at the option of the lessor or the lessor's  
3 assignee become void, and the owner or lessor shall be entitled  
4 to recover possession of the leased premises as against a  
5 tenant holding over after the expiration of his or her term.

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

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

25 (d) If a lessor or the lessor's assignee voids a lease or  
26 contract under the provisions of this Section and the tenant or

1 occupant has not vacated the premises within 3 ~~5~~ days after  
2 receipt of a written notice to vacate the premises, the lessor  
3 or lessor's assignee may seek relief under this Article IX.  
4 Notwithstanding Sections 9-112, 9-113, and 9-114 of this Code,  
5 judgment for costs against a plaintiff seeking possession of  
6 the premises under this Section shall not be awarded to the  
7 defendant unless the action was brought by the plaintiff in bad  
8 faith. An action to possess premises under this Section shall  
9 not be deemed to be in bad faith when the plaintiff based his  
10 or her cause of action on information provided to him or her by  
11 a law enforcement agency or the State's Attorney.

12 (e) After a trial, if the court finds, by a preponderance  
13 of the evidence, that the allegations in the complaint have  
14 been proven, the court shall enter judgment for possession of  
15 the premises in favor of the plaintiff and the court shall  
16 order that the plaintiff shall be entitled to re-enter the  
17 premises immediately.

18 (f) A judgment for possession of the premises entered in an  
19 action brought by a lessor or lessor's assignee, if the action  
20 was brought as a result of a lessor or lessor's assignee  
21 declaring a lease void pursuant to this Section, may not be  
22 stayed for any period in excess of 5 ~~7~~ days by the court unless  
23 all parties agree to a longer period. Thereafter the plaintiff  
24 shall be entitled to re-enter the premises immediately. The  
25 sheriff or other lawfully deputized officers shall execute an  
26 order entered pursuant to this Section within 5 ~~7~~ days of its

1 entry, or within 5 7 days of the expiration of a stay of  
2 judgment, if one is entered.

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

6 (Source: P.A. 90-360, eff. 1-1-98.)