



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1309

Introduced 2/9/2011, by Rep. Anthony DeLuca

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-120

Amends the Code of Civil Procedure. In provisions concerning leased premises used in furtherance of a criminal offense, provides that a written lease shall contain language that the commission of any act by the lessee, occupant, household member of the lessee or occupant, or guest of the lessee or occupant that would constitute a felony or Class A misdemeanor shall give the owner or lessor the right to void the lease and recover possession of the leased premises. Provides that under specified circumstances, an owner or lessor may assign to the State's Attorney of the county or the corporation counsel of the municipality in which the property is located (instead of the State's Attorney) the right to bring a forcible entry and detainer action on behalf of the owner or lessor. Effective immediately.

LRB097 07117 AJ0 47217 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 9-120 as follows:

6 (735 ILCS 5/9-120)

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

9 (a) If any lessee or occupant, on one or more occasions,
10 uses or permits the use of leased premises for the commission
11 of any act that would constitute a felony or a Class A
12 misdemeanor under the laws of this State, the lease or rental
13 agreement shall, at the option of the lessor or the lessor's
14 assignee become void, and the owner or lessor shall be entitled
15 to recover possession of the leased premises as against a
16 tenant holding over after the expiration of his or her term. A
17 written lease shall contain language that the commission of any
18 act by the lessee, occupant, household member of the lessee or
19 occupant, or guest of the lessee or occupant that would
20 constitute a felony or a Class A misdemeanor under the laws of
21 this State shall give the owner or lessor the right to void the
22 lease and recover possession of the leased premises. Failure to
23 include this language in a lease or if the lease is oral shall

1 not waive or impair the rights of the lessor or lessor's
2 assignee under this Section or the lease.

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

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

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

1 order entered pursuant to this Section within 7 days of its
2 entry, or within 7 days of the expiration of a stay of
3 judgment, if one is entered.

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

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

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