



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB3080

by Rep. Deborah Mell

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-120  
735 ILCS 5/9-120.5 new

Amends the Code of Civil Procedure. Provides that a gang-related activity, as defined by the Illinois Streetgang Terrorism Omnibus Prevention Act, is a sufficient basis to terminate a lessee's lease. Provides a procedure and standards for a person who resides, works, or owns property in a building, or a neighbor within a 2-block radius of the building, to report that a tenant in the building is using a leased premises in gang-related activity. Provides that a person reporting the gang-related activity may give notice of the activity and demand that the landlord commence an investigation and, if warranted, a forcible entry and detainer action. Provides that if the landlord, after receipt of a notice and demand, refuses to investigate or finds no gang-related activity, the person who issued the notice and demand may petition the court to determine if the tenant allowed gang-related activity to occur at the leased premises, and if so, to order the tenant to vacate the premises. Provides remedies to the prevailing party in an action initiated under the new provisions by a person other than the landlord.

LRB098 06685 HEP 36731 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 and by adding Section 9-120.5 as  
6 follows:

7 (735 ILCS 5/9-120)

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

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

1 of an oral lease shall not waive or impair the rights of the  
2 lessor or lessor's assignee under this Section or the lease.  
3 This Section shall not be construed so as to diminish the  
4 rights of a lessor, if any, to terminate a lease for other  
5 reasons permitted under law or pursuant to the lease agreement.

6 (a-5) If a lessee or occupant, on one or more occasions,  
7 uses or permits the use of a leased premises for gang-related  
8 activity, as defined in Section 10 of the Illinois Streetgang  
9 Terrorism Omnibus Prevention Act, the lease or rental agreement  
10 shall, at the option of the lessor or the lessor's assignee,  
11 become void and the owner or lessor shall be entitled to  
12 recover possession of the leased premises as against a tenant  
13 holding over after the expiration of his or her term. A written  
14 lease shall notify the lessee that if any lessee or occupant,  
15 on one or more occasions, uses or permits the use of the leased  
16 premises for gang-related activity, the lessor shall have the  
17 right to void the lease and recover the leased premises.  
18 Failure to include this language in a written lease or the use  
19 of an oral lease shall not waive or impair the rights of the  
20 lessor or lessor's assignee under this Section or the lease.  
21 This Section shall not be construed so as to diminish the  
22 rights of a lessor, if any, to terminate a lease for other  
23 reasons permitted under law or the lease agreement.

24 (b) The owner or lessor may bring a forcible entry and  
25 detainer action, or, if the State's Attorney of the county in  
26 which the real property is located or the corporation counsel

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

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

20 (d) If a lessor or the lessor's assignee voids a lease or  
21 contract under the provisions of this Section and the tenant or  
22 occupant has not vacated the premises within 5 days after  
23 receipt of a written notice to vacate the premises, the lessor  
24 or lessor's assignee may seek relief under this Article IX.  
25 Notwithstanding Sections 9-112, 9-113, and 9-114 of this Code,  
26 judgment for costs against a plaintiff seeking possession of

1 the premises under this Section shall not be awarded to the  
2 defendant unless the action was brought by the plaintiff in bad  
3 faith. An action to possess premises under this Section shall  
4 not be deemed to be in bad faith when the plaintiff based his  
5 or her cause of action on information provided to him or her by  
6 a law enforcement agency, the State's Attorney, or the  
7 municipality.

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

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

25 (g) Nothing in this Section shall limit the rights of an  
26 owner or lessor to bring a forcible entry and detainer action

1 on the basis of other applicable law.

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

3 (735 ILCS 5/9-120.5 new)

4 Sec. 9-120.5. Leased premises used in furtherance of  
5 gang-related activity; demand on landlord to commence action.

6 (a) A person, whose life, safety, health, or use of  
7 property is harmed or endangered by a tenant's gang-related  
8 activity, and who resides, works, or owns property in the same  
9 multi-family building or apartment complex or within a 2-block  
10 radius, may serve the landlord with a 10-day notice and demand  
11 that the landlord commence a forcible entry and detainer action  
12 against the tenant. The notice and demand must set forth, in  
13 reasonable detail, facts and circumstances that lead the person  
14 to believe gang-related activity is occurring. The notice and  
15 demand shall be served by delivering a copy personally to the  
16 landlord or the landlord's agent. If the person is unable to  
17 personally serve the landlord after exercising due diligence,  
18 the person may deposit the notice and demand in the mail,  
19 postage prepaid, to the landlord's or the landlord's agent's  
20 last known address.

21 (b) A copy of the notice and demand must also be served  
22 upon the tenant engaging in the gang-related activity by  
23 delivering a copy personally to the tenant. However, if the  
24 person is prevented from personally serving the tenant due to  
25 threats or violence, or if personal service is not reasonable

1 under the circumstances, the person may deposit the notice and  
2 demand in the mail, postage prepaid, to the tenant's address,  
3 or leave a copy of the notice and demand in a conspicuous  
4 location at the tenant's residence.

5 (c) Within 10 days after the time the notice and demand are  
6 served, the landlord has a duty to take reasonable steps to  
7 investigate the tenant's alleged non-compliance with  
8 subsection (a-5) of Section 9-120 of this Code. The landlord  
9 must notify the person who gave the notice and demand that an  
10 investigation is occurring. The landlord has 10 days from the  
11 time he or she notifies the person in which to conduct a  
12 reasonable investigation.

13 (d) If, after a reasonable investigation, the landlord  
14 finds that the tenant is subject to action under subsection  
15 (a-5) of Section 9-120 of this Code, the landlord may proceed  
16 directly to file a forcible entry and detainer action or take  
17 reasonable steps to ensure that the tenant discontinues the  
18 prohibited activity. The landlord shall notify the person who  
19 gave the notice and demand of whatever action the landlord  
20 takes.

21 (e) If, after a reasonable investigation, the landlord  
22 finds that the tenant is not subject to action under subsection  
23 (a-5) of Section 9-120 of this Code, the landlord shall notify  
24 the person who gave the notice and demand of the landlord's  
25 findings.

26 (f) The person who served the notice and demand may

1 petition the appropriate court to have the tenancy terminated  
2 and the tenant removed from the premises if: (i) within 10 days  
3 after service of the notice and demand, the tenant fails to  
4 discontinue the gang-related activity and the landlord fails to  
5 conduct a reasonable investigation; (ii) the landlord notifies  
6 the person that the landlord conducted a reasonable  
7 investigation and found that the tenant is not subject to  
8 action under subsection (a-5) of Section 9-120 of this Code; or  
9 (iii) the landlord took reasonable steps to have the tenant  
10 discontinue the use of the leased premises for gang-related  
11 activity.

12 (g) If the court finds that the tenant is subject to action  
13 under subsection (a-5) of Section 9-120 of this Code, the court  
14 shall enter an order terminating the tenancy and requiring the  
15 tenant to vacate the premises. The court shall not issue the  
16 order terminating the tenancy unless it has found that the  
17 allegations of gang-related activity are corroborated by a  
18 source other than the person who has petitioned the court.

19 (h) The prevailing party shall recover reasonable  
20 attorney's fees and costs. The court may impose sanctions, in  
21 addition to attorney's fees, on a person who brought an action  
22 under this Section against the same tenant on more than one  
23 occasion if the court finds that the petition was brought with  
24 the intent to harass. However, the court must order the  
25 landlord to pay costs and reasonable attorneys' fees to the  
26 person petitioning for termination of the tenancy if the court



1 finds that the landlord failed to comply with the duty to  
2 investigate, regardless of which party prevails.