



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4257

Introduced 1/27/2020, by Rep. Aaron M. Ortiz

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-106.2

735 ILCS 5/9-106.3

Amends the Eviction Article of the Code of Civil Procedure. Changes "action" to "eviction action" in provisions regarding certain affirmative defenses. Provides that a landlord's right to terminate a tenancy pursuant to State or local law (rather than existing State or local law) is not enlarged or diminished. Effective immediately.

LRB101 16639 LNS 66024 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 9-106.2 and 9-106.3 as follows:

6 (735 ILCS 5/9-106.2)

7 Sec. 9-106.2. Affirmative defense for violence; barring
8 persons from property.

9 (a) It shall be an affirmative defense to an eviction
10 action maintained under this Article ~~IX~~ if the court makes one
11 of the following findings that the demand for possession is:

12 (1) based solely on the tenant's, lessee's, or
13 household member's status as a victim of domestic violence
14 or sexual violence as those terms are defined in Section 10
15 of the Safe Homes Act, stalking as that term is defined in
16 the Criminal Code of 2012, or dating violence;

17 (2) based solely upon an incident of actual or
18 threatened domestic violence, dating violence, stalking,
19 or sexual violence against a tenant, lessee, or household
20 member;

21 (3) based solely upon criminal activity directly
22 relating to domestic violence, dating violence, stalking,
23 or sexual violence engaged in by a member of a tenant's or

1 lessee's household or any guest or other person under the
2 tenant's, lessee's, or household member's control, and
3 against the tenant, lessee, or household member; or

4 (4) based upon a demand for possession pursuant to
5 subsection (f) where the tenant, lessee, or household
6 member who was the victim of domestic violence, sexual
7 violence, stalking, or dating violence did not knowingly
8 consent to the barred person entering the premises or a
9 valid court order permitted the barred person's entry onto
10 the premises.

11 (b) When asserting the affirmative defense, at least one
12 form of the following types of evidence shall be provided to
13 support the affirmative defense: medical, court, or police
14 records documenting the violence or a statement from an
15 employee of a victim service organization or from a medical
16 professional from whom the tenant, lessee, or household member
17 has sought services.

18 (c) Nothing in subsection (a) shall prevent the landlord
19 from seeking possession solely against a tenant, household
20 member, or lessee of the premises who perpetrated the violence
21 referred to in subsection (a).

22 (d) Nothing in subsection (a) shall prevent the landlord
23 from seeking possession against the entire household,
24 including the tenant, lessee, or household member who is a
25 victim of domestic violence, dating violence, stalking, or
26 sexual violence if the tenant, lessee, or household member's

1 continued tenancy would pose an actual and imminent threat to
2 other tenants, lessees, household members, the landlord or
3 their agents at the property.

4 (e) Nothing in subsection (a) shall prevent the landlord
5 from seeking possession against the tenant, lessee, or
6 household member who is a victim of domestic violence, dating
7 violence, stalking, or sexual violence if that tenant, lessee,
8 or household member has committed the criminal activity on
9 which the demand for possession is based.

10 (f) A landlord shall have the power to bar the presence of
11 a person from the premises owned by the landlord who is not a
12 tenant or lessee or who is not a member of the tenant's or
13 lessee's household. A landlord bars a person from the premises
14 by providing written notice to the tenant or lessee that the
15 person is no longer allowed on the premises. That notice shall
16 state that if the tenant invites the barred person onto any
17 portion of the premises, then the landlord may treat this as a
18 breach of the lease, whether or not this provision is contained
19 in the lease. Subject to paragraph (4) of subsection (a), the
20 landlord may evict the tenant.

21 (g) Further, a landlord may give notice to a person that
22 the person is barred from the premises owned by the landlord. A
23 person has received notice from the landlord within the meaning
24 of this subsection if he has been notified personally, either
25 orally or in writing including a valid court order as defined
26 by subsection (7) of Section 112A-3 of the Code of Criminal

1 Procedure of 1963 granting remedy (2) of subsection (b) of
2 Section 112A-14 of that Code, or if a printed or written notice
3 forbidding such entry has been conspicuously posted or
4 exhibited at the main entrance to such land or the forbidden
5 part thereof. Any person entering the landlord's premises after
6 such notice has been given shall be guilty of criminal trespass
7 to real property as set forth in Section 21-3 of the Criminal
8 Code of 2012. After notice has been given, an invitation to the
9 person to enter the premises shall be void if made by a tenant,
10 lessee, or member of the tenant's or lessee's household and
11 shall not constitute a valid invitation to come upon the
12 premises or a defense to a criminal trespass to real property.

13 (Source: P.A. 96-1188, eff. 7-22-10; 97-1150, eff. 1-25-13.)

14 (735 ILCS 5/9-106.3)

15 Sec. 9-106.3. Affirmative defenses for eviction action
16 ~~retaliation~~ on the basis of immigration status.

17 (a) It is an affirmative defense to an eviction action
18 maintained under this Article if the court finds that:

19 (1) the landlord's demand for possession is based
20 solely or in part on the citizenship or immigration status
21 of the tenant; or

22 (2) the landlord's demand for possession is based
23 solely or in part on the tenant's failure to provide a
24 social security number, information required to obtain a
25 consumer credit report, or a form of identification deemed

1 acceptable by the landlord, and the lease with the tenant
2 has commenced, and the tenant has taken possession.

3 (b) This Section does not prohibit a landlord from
4 complying with any legal obligation under federal, State, or
5 local law, including, but not limited to, any legal obligation
6 under any government program that provides for rent limitations
7 or rental assistance to a qualified tenant or a subpoena,
8 warrant, or other court order.

9 (c) This Section does not prohibit a landlord from
10 requesting information or documentation necessary to determine
11 or verify the financial qualifications of a prospective tenant.

12 (d) This Section does not prohibit a landlord from
13 delivering to the tenant an oral or written notice regarding
14 conduct by the tenant that violates, may violate, or has
15 violated an applicable rental agreement, including the lease or
16 any rule, regulation, or law.

17 (e) This Section does not enlarge or diminish a landlord's
18 right to terminate a tenancy pursuant to ~~existing~~ State or
19 local law, nor does this Section enlarge or diminish the
20 ability of a unit of local government to regulate or enforce a
21 prohibition against a landlord's harassment of a tenant.

22 (Source: P.A. 101-439, eff. 8-21-19.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.