

**SB2489**



**101ST GENERAL ASSEMBLY**

**State of Illinois**

**2019 and 2020**

**SB2489**

Introduced 1/22/2020, by Sen. David Koehler

**SYNOPSIS AS INTRODUCED:**

735 ILCS 5/9-102

from Ch. 110, par. 9-102

Amends the Eviction Article of the Code of Civil Procedure. Deletes language that precludes an eviction action in the case of a vendee obtaining possession under a written or verbal agreement to purchase lands or tenements, failing to comply with the agreement, and withholding possession thereof, where the purchase price is to be paid in installments over a period in excess of 5 years and the amount unpaid under the terms of the contract at the time of the filing of a foreclosure complaint is less than 80% of the original purchase price, shall be foreclosed. Provides instead that an eviction action may be brought if the residential real estate is not subject to an installment contract or a specified provision under the Illinois Mortgage Foreclosure Law relating to real estate installment contracts. Effective immediately.

LRB101 16662 LNS 66049 b

**A BILL FOR**

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 9-102 as follows:

6 (735 ILCS 5/9-102) (from Ch. 110, par. 9-102)

7 Sec. 9-102. When action may be maintained.

8 (a) The person entitled to the possession of lands or  
9 tenements may be restored thereto under any of the following  
10 circumstances:

11 (1) When a forcible entry is made thereon.

12 (2) When a peaceable entry is made and the possession  
13 unlawfully withheld.

14 (3) When entry is made into vacant or unoccupied lands  
15 or tenements without right or title.

16 (4) When any lessee of the lands or tenements, or any  
17 person holding under such lessee, holds possession without  
18 right after the termination of the lease or tenancy by its  
19 own limitation, condition or terms, or by notice to quit or  
20 otherwise.

21 (5) When a vendee having obtained possession under a  
22 written or verbal agreement to purchase lands or tenements,  
23 and having failed to comply with the agreement, withholds

1 possession thereof, after demand in writing by the person  
2 entitled to such possession; provided, however, that any  
3 such agreement for residential real estate is not an  
4 installment sales contract, as defined in the Installment  
5 Sales Contract Act, and is not subject to paragraph (2) of  
6 subsection (a) of Section 15-1106 of ~~as defined in the~~  
7 ~~Illinois Mortgage Foreclosure Law entered into on or after~~  
8 ~~July 1, 1987 where the purchase price is to be paid in~~  
9 ~~installments over a period in excess of 5 years and the~~  
10 ~~amount unpaid under the terms of the contract at the time~~  
11 ~~of the filing of a foreclosure complaint under Article XV,~~  
12 ~~including principal and due and unpaid interest, is less~~  
13 ~~than 80% of the original purchase price shall be foreclosed~~  
14 ~~under~~ the Illinois Mortgage Foreclosure Law.

15 This amendatory Act of 1993 is declarative of existing  
16 law.

17 (6) When lands or tenements have been conveyed by any  
18 grantor in possession, or sold under the order or judgment  
19 of any court in this State, or by virtue of any sale in any  
20 mortgage or deed of trust contained and the grantor in  
21 possession or party to such order or judgment or to such  
22 mortgage or deed of trust, after the expiration of the time  
23 of redemption, when redemption is allowed by law, refuses  
24 or neglects to surrender possession thereof, after demand  
25 in writing by the person entitled thereto, or his or her  
26 agent.

1           (7) When any property is subject to the provisions of  
2 the Condominium Property Act, the owner of a unit fails or  
3 refuses to pay when due his or her proportionate share of  
4 the common expenses of such property, or of any other  
5 expenses lawfully agreed upon or any unpaid fine, the Board  
6 of Managers or its agents have served the demand set forth  
7 in Section 9-104.1 of this Article in the manner provided  
8 for in that Section and the unit owner has failed to pay  
9 the amount claimed within the time prescribed in the  
10 demand; or if the lessor-owner of a unit fails to comply  
11 with the leasing requirements prescribed by subsection (n)  
12 of Section 18 of the Condominium Property Act or by the  
13 declaration, by-laws, and rules and regulations of the  
14 condominium, or if a lessee of an owner is in breach of any  
15 covenants, rules, regulations, or by-laws of the  
16 condominium, and the Board of Managers or its agents have  
17 served the demand set forth in Section 9-104.2 of this  
18 Article in the manner provided in that Section.

19           (8) When any property is subject to the provisions of a  
20 declaration establishing a common interest community and  
21 requiring the unit owner to pay regular or special  
22 assessments for the maintenance or repair of common areas  
23 owned in common by all of the owners of the common interest  
24 community or by the community association and maintained  
25 for the use of the unit owners or of any other expenses of  
26 the association lawfully agreed upon, and the unit owner

1 fails or refuses to pay when due his or her proportionate  
2 share of such assessments or expenses and the board or its  
3 agents have served the demand set forth in Section 9-104.1  
4 of this Article in the manner provided for in that Section  
5 and the unit owner has failed to pay the amount claimed  
6 within the time prescribed in the demand.

7 (b) The provisions of paragraph (8) of subsection (a) of  
8 Section 9-102 and Section 9-104.3 of this Act shall not apply  
9 to any common interest community unless (1) the association is  
10 a not-for-profit corporation or a limited liability company,  
11 (2) unit owners are authorized to attend meetings of the board  
12 of directors or board of managers of the association in the  
13 same manner as provided for condominiums under the Condominium  
14 Property Act, and (3) the board of managers or board of  
15 directors of the common interest community association has,  
16 subsequent to the effective date of this amendatory Act of 1984  
17 voted to have the provisions of this Article apply to such  
18 association and has delivered or mailed notice of such action  
19 to the unit owners or unless the declaration of the association  
20 is recorded after the effective date of this amendatory Act of  
21 1985.

22 (c) For purposes of this Article:

23 (1) "Common interest community" means real estate  
24 other than a condominium or cooperative with respect to  
25 which any person by virtue of his or her ownership of a  
26 partial interest or unit therein is obligated to pay for

1 maintenance, improvement, insurance premiums, or real  
2 estate taxes of other real estate described in a  
3 declaration which is administered by an association.

4 (2) "Declaration" means any duly recorded instruments,  
5 however designated, that have created a common interest  
6 community and any duly recorded amendments to those  
7 instruments.

8 (3) "Unit" means a physical portion of the common  
9 interest community designated by separate ownership or  
10 occupancy by boundaries which are described in a  
11 declaration.

12 (4) "Unit owners' association" or "association" means  
13 the association of all owners of units in the common  
14 interest community acting pursuant to the declaration.

15 (d) If the board of a common interest community elects to  
16 have the provisions of this Article apply to such association  
17 or the declaration of the association is recorded after the  
18 effective date of this amendatory Act of 1985, the provisions  
19 of subsections (c) through (h) of Section 18.5 of the  
20 Condominium Property Act applicable to a Master Association and  
21 condominium unit subject to such association under subsections  
22 (c) through (h) of Section 18.5 shall be applicable to the  
23 community associations and to its unit owners.

24 (Source: P.A. 99-41, eff. 7-14-15.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.