

SB0758



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB0758

Introduced 2/1/2017, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-107
735 ILCS 5/9-211

from Ch. 110, par. 9-107
from Ch. 110, par. 9-211

Amends the Forcible Entry and Detainer Article of the Code of Civil Procedure. Provides that if the landlord, or his or her agent or attorney, is unable to personally serve the demand on the tenant, then constructive service of the demand may be accomplished. Makes corresponding changes.

LRB100 06944 HEP 16995 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 9-107 and 9-211 as follows:

6 (735 ILCS 5/9-107) (from Ch. 110, par. 9-107)

7 Sec. 9-107. Constructive service. If: (1) the plaintiff,
8 his or her agent, or attorney files a forcible detainer action,
9 with or without joinder of a claim for rent in the complaint,
10 and is unable to obtain personal service on the defendant or
11 unknown occupant and a summons duly issued in such action is
12 returned without service stating that service can not be
13 obtained; or (2) the landlord, or his or her agent or attorney,
14 is unable to personally serve the demand on the tenant by any
15 of the means listed in Section 9-211 of this Code, then the
16 plaintiff or landlord or, his or her agent or attorney may file
17 an affidavit stating that the defendant or unknown occupant is
18 not a resident of this State, or has departed from this State,
19 or on due inquiry cannot be found, or is concealed within this
20 State so that the demand or process cannot be served upon him
21 or her, and also stating the place of residence of the
22 defendant or unknown occupant, if known, or if not known, that
23 upon diligent inquiry the affiant has not been able to

1 ascertain the defendant's or unknown occupant's place of
2 residence, then in all such forcible detainer cases whether or
3 not a claim for rent is joined with the complaint for
4 possession, the defendant or unknown occupant may be notified
5 by posting and mailing of notices; or by publication and
6 mailing, as provided for in Section 2-206 of this Act. However,
7 in cases where the defendant or unknown occupant is notified by
8 posting and mailing of notices or by publication and mailing,
9 and the defendant or unknown occupant does not appear
10 generally, the court may rule only on the portion of the
11 complaint which seeks judgment for possession, and the court
12 shall not enter judgment as to any rent claim joined in the
13 complaint or enter personal judgment for any amount owed by a
14 unit owner for his or her proportionate share of the common
15 expenses, however, an in rem judgment may be entered against
16 the unit for the amount of common expenses due, any other
17 expenses lawfully agreed upon or the amount of any unpaid fine,
18 together with reasonable attorney fees, if any, and costs. The
19 claim for rent may remain pending until such time as the
20 defendant or unknown occupant appears generally or is served
21 with summons, but the order for possession shall be final,
22 enforceable and appealable if the court makes an express
23 written finding that there is no just reason for delaying
24 enforcement or appeal, as provided by Supreme Court rule of
25 this State.

26 The contents of the demand shall be as provided in this

1 Article. The notice of the summons ~~Such notice~~ shall be in the
2 name of the clerk of the court, be directed to the defendant or
3 unknown occupant, shall state the nature of the cause against
4 the defendant or unknown occupant and at whose instance issued
5 and the time and place for trial, and shall also state that
6 unless the defendant or unknown occupant appears at the time
7 and place fixed for trial, judgment will be entered by default,
8 and shall specify the character of the judgment that will be
9 entered in such cause. The sheriff shall post 3 copies of the
10 demand or notice of summons ~~notice~~ in 3 public places in the
11 neighborhood of the court where the cause is to be tried, at
12 least 10 days prior to the day set for the appearance, and, if
13 the place of residence of the defendant or unknown occupant is
14 stated in any affidavit on file, shall at the same time mail
15 one copy of the notice addressed to such defendant or unknown
16 occupant at such place of residence shown in such affidavit. On
17 or before the day set for the appearance, the sheriff shall
18 file the notice with an endorsement thereon stating the time
19 when and places where the sheriff posted and to whom and at
20 what address he or she mailed copies as required by this
21 Section. For want of sufficient notice any cause may be
22 continued from time to time until the court has jurisdiction of
23 the defendant or unknown occupant.

24 (Source: P.A. 92-823, eff. 8-21-02.)

25 (735 ILCS 5/9-211) (from Ch. 110, par. 9-211)

1 Sec. 9-211. Service of demand or notice. Except as provided
2 in Section 9-107, any ~~Any~~ demand may be made or notice served
3 by delivering a written or printed, or partly written and
4 printed, copy thereof to the tenant, or by leaving the same
5 with some person of the age of 13 years or upwards, residing on
6 or in possession of the premises; or by sending a copy of the
7 notice to the tenant by certified or registered mail, with a
8 returned receipt from the addressee; and in case no one is in
9 the actual possession of the premises, then by posting the same
10 on the premises.

11 (Source: P.A. 83-355.)