



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB4760

by Rep. Emanuel Chris Welch

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-121

735 ILCS 5/9-122 new

815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

Amends the Code of Civil Procedure. Provides that upon the filing of an eviction action, the clerk of the circuit court shall immediately seal the court file and mail a specified notice to the defendants in the action. Provides that the clerk shall unseal the file after 30 days after the entry of an eviction order under specified circumstances. Provides that unsealed files shall be re-sealed no later than 5 years after the eviction action was filed or by order of the court. Restricts access to a sealed court record to specified persons. Provides that the clerk of the circuit court shall maintain a record in the aggregate of the number of for-cause and not-for-cause eviction actions, and a count of the final dispositions of for-cause and not-for-cause eviction actions. Restricts the dissemination of any information contained in a sealed court file and provides that certain violations of the restrictions constitute an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. Makes a corresponding change in the Consumer Fraud and Deceptive Business Practices Act.

LRB100 19147 HEP 34412 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 9-121 and by adding Section 9-122 as follows:

6 (735 ILCS 5/9-121)

7 Sec. 9-121. Sealing of court file.

8 (a) ~~Definition.~~ As used in this Section: 7

9 "Court "court file" means the court file created when an  
10 eviction action is filed with the court, any documents filed in  
11 the eviction action, and any information or record of activity  
12 associated with the eviction action.

13 "Dissemination" or "disseminate" means to publish,  
14 produce, print, manufacture, copy, distribute, sell, lease,  
15 exhibit, broadcast, display, transmit, or otherwise share  
16 information in any format so as to make the information  
17 accessible to others.

18 "Seal" or "sealing" means to bar access to the court file  
19 to anyone other than persons listed in paragraphs (1) through  
20 (4) of subsection (e).

21 "Foreclosure-related eviction" means an eviction action  
22 brought against a tenant or occupant under Section 9-207.5 of  
23 this Code; as set forth in paragraph (6) of subsection (h) of

1 Section 15-1701 of this Code, or in which a bona fide tenant is  
2 named in the foreclosure case as a permissive party under  
3 Section 15-1501 of this Code.

4 "For-cause eviction" means an eviction action in which the  
5 court finds that a tenant or occupant has materially breached  
6 the lease, or, in an eviction action brought against a tenant  
7 or an occupant as set forth in paragraph (7) of subsection (a)  
8 of Section 9-102 of this Code, in which the court finds that  
9 the tenant or occupant materially violated the covenants,  
10 rules, regulations, or by-laws of the condominium association.

11 "Not-for-cause" means an eviction action in which the court  
12 does not find that a tenant or an occupant has materially  
13 breached the lease; or an eviction action brought against a  
14 tenant or an occupant as set forth in paragraph (7) of  
15 subsection (a) of Section 9-102 of this Code in which the court  
16 does not find that the tenant or occupant materially violated  
17 the covenants, rules, regulations, or by-laws of the  
18 condominium association.

19 (b) Upon the filing of an eviction action, the clerk of the  
20 circuit court shall do each of the following:

21 (1) immediately seal the court file; and

22 (2) not less than 7 days after issuance of the summons,  
23 mail notice of the filing of the eviction action in a  
24 sealed envelope by first class mail. The mailing shall be  
25 addressed to the named defendants and to all other  
26 residents and shall be mailed to the full address of the

1 premises as described in the eviction complaint. The notice  
2 shall be substantially in the following form:

3 "THIS NOTICE IS FOR INFORMATION ONLY. DEFENDANTS HAVE  
4 THE RIGHT TO BE SERVED WITH COURT PAPERS BEFORE GOING TO  
5 COURT.

6 To (insert name of all named defendants) and All Other  
7 Residents:

8 (Insert name of all plaintiffs) has filed an eviction  
9 action case against (insert name of all defendants) for  
10 possession of (insert full address of premises). The  
11 eviction case number is (insert full case number). A  
12 hearing may be on (insert hearing date and time on summons)  
13 in courtroom (insert courtroom on summons) if the  
14 defendants are served court papers.

15 The eviction case has been sealed and is not public. It  
16 can only be viewed by:

17 (i) a party to the action, including a party's  
18 attorney;

19 (ii) a person who provides the clerk with the names  
20 of at least one plaintiff and one defendant and the  
21 address of the premises, including the unit number, if  
22 any;

23 (iii) an occupant of the premises who provides the  
24 clerk of the court with the names of one of the parties  
25 or the case number and shows documentation of  
26 residency; or

1           (iv) a person who has, upon showing of good cause,  
2           obtained a court order to access a sealed court file.

3           If the court enters an eviction order, the eviction may  
4           be unsealed unless the court decides it should remain  
5           sealed. If you qualify to view the file, you may wish to go  
6           to the court house at (insert court address). You may also  
7           wish to speak with an attorney. In (insert name of county)  
8           County you may contact (insert name and contact information  
9           of local bar association, if any; insert name and contact  
10           information of local civil legal aid providers, if any;  
11           insert name and contact information of any local legal  
12           clinics, if any; and any other local attorney referral  
13           resources) to seek the help of an attorney.".

14           (c) Except as provided in paragraphs (1) through (5) of  
15           this subsection, the clerk of the circuit court shall unseal  
16           the court file no sooner than 30 days after the court enters an  
17           eviction order. The court file shall remain under seal in the  
18           following cases:

19           (1) a foreclosure-related eviction action;

20           (2) an eviction action brought against a tenant or an  
21           occupant as set forth in paragraph (7) of subsection (a) of  
22           Section 9-102 of this Code, unless the eviction action is a  
23           for-cause eviction;

24           (3) an eviction action brought against a tenant or an  
25           occupant on the basis that a tenant or an occupant remains  
26           in the property after the termination of the lease, rental

1 agreement, or tenancy by its own limitation, condition, or  
2 terms;

3 (4) any other not-for-cause eviction; or

4 (5) the parties to the eviction action so agree.

5 (d) All court files that are unsealed shall be sealed by  
6 the clerk of the circuit court in the following situations:

7 (1) no later than 5 years after the eviction action was  
8 filed;

9 (2) upon motion and a showing to the court that one of  
10 the exceptions in paragraphs (1) through (5) of subsection  
11 (c) applies;

12 (3) upon a finding by the court ~~(b) Discretionary~~  
13 ~~sealing of court file. The court may order that a court~~  
14 ~~file in an eviction action be placed under seal if the~~  
15 ~~court finds~~ that the plaintiff's action is sufficiently  
16 without a basis in fact or law, which may include a lack of  
17 jurisdiction, or if the case has not gone to judgment, that  
18 there is a colorable defense to the eviction; that placing  
19 the court file under seal is ~~clearly~~ in the interests of  
20 justice; ~~7~~ and that those interests are not outweighed by  
21 the public's interest in knowing about the record.

22 ~~(c) Mandatory sealing of court file. The court file~~  
23 ~~relating to an eviction action brought against a tenant under~~  
24 ~~Section 9-207.5 of this Code or as set forth in subdivision~~  
25 ~~(h)(6) of Section 15-1701 of this Code shall be placed under~~  
26 ~~seal.~~

1       Paragraphs (2) and (3) of this subsection apply to eviction  
2 actions retroactively.

3       (e) The clerk of the circuit court shall not provide access  
4 to or disseminate a sealed court file to anyone other than the  
5 following persons:

6           (1) a party to the action, including a party's  
7 attorney;

8           (2) a person who provides the clerk with the names of  
9 at least one plaintiff and one defendant and the address of  
10 the premises, including the unit number, if any;

11           (3) an occupant of the premises who provides the clerk  
12 with the names of one of the parties or the case number and  
13 shows documentation of residency;

14           (4) a person who has, upon a showing of good cause,  
15 obtained a court order to access a sealed court file.

16       (f) The clerk of the circuit court shall maintain a record  
17 in the aggregate of the number of for-cause and not-for-cause  
18 eviction actions, and a count of the final dispositions of  
19 for-cause and not-for-cause eviction actions. If an eviction  
20 order is entered against a defendant, the court shall do each  
21 of the following:

22           (1) determine whether the eviction action qualifies to  
23 remain sealed as provided in paragraphs (1) through (5) of  
24 subsection (c); and

25           (2) identify whether the eviction action is a for-cause  
26 or a not-for-cause eviction.

1       (g) Except as provided in subsection (d), this Section  
2 applies to eviction actions filed on or after the effective  
3 date of this amendatory Act of the 100th General Assembly.

4 (Source: P.A. 100-173, eff. 1-1-18.)

5 (735 ILCS 5/9-122 new)

6 Sec. 9-122. Prohibition on dissemination of information  
7 contained in a sealed court file.

8 (a) A person shall not disseminate any information  
9 contained in a sealed court file if the person knows or has  
10 reasonable cause to believe that the information is derived  
11 from a sealed court file.

12 (b) A person who regularly and in the ordinary course of  
13 business furnishes information to a consumer reporting agency,  
14 including a tenant screening service, and has furnished  
15 information that the person knows, or reasonably should know,  
16 is contained in a sealed court file, shall promptly notify the  
17 consumer reporting agency of that determination, and shall not  
18 thereafter furnish any of the information contained in the  
19 sealed court file.

20 (c) A consumer reporting agency, including a tenant  
21 screening service, shall not disclose the existence of a sealed  
22 eviction action in a report pertaining to the person for whom  
23 dissemination has been barred or use the eviction action as a  
24 factor to determine any score or recommendation to be included  
25 in a tenant screening report pertaining to the person for whom



1 dissemination has been barred.

2 (d) Any violation of subsection (b) or (c) constitutes an  
3 unlawful practice under the Consumer Fraud and Deceptive  
4 Business Practices Act.

5 (e) A tenant or occupant may bring a private cause of  
6 action seeking compliance with this Section.

7 (f) If a person acts in violation of this Section, the  
8 tenant or occupant has the right to recover an amount equal to  
9 and not more than 2 months' rent or twice the damages  
10 sustained, whichever is greater, and reasonable attorney's  
11 fees.

12 (g) This Section does not apply to the tenant or occupant  
13 whose court file was sealed.

14 (h) Nothing in this Section prohibits the dissemination of  
15 information regarding a money judgment for the sole purpose of  
16 collection.

17 (i) As used in this Section, "court file", "dissemination",  
18 and "seal" have the meanings provided in Section 9-121.

19 (j) This Section applies to eviction actions filed on or  
20 after the effective date of this amendatory Act of the 100th  
21 General Assembly.

22 Section 10. The Consumer Fraud and Deceptive Business  
23 Practices Act is amended by changing Section 2Z as follows:

24 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

1           Sec. 2Z. Violations of other Acts. Any person who knowingly  
2 violates the Automotive Repair Act, the Automotive Collision  
3 Repair Act, the Home Repair and Remodeling Act, the Dance  
4 Studio Act, the Physical Fitness Services Act, the Hearing  
5 Instrument Consumer Protection Act, the Illinois Union Label  
6 Act, the Installment Sales Contract Act, the Job Referral and  
7 Job Listing Services Consumer Protection Act, the Travel  
8 Promotion Consumer Protection Act, the Credit Services  
9 Organizations Act, the Automatic Telephone Dialers Act, the  
10 Pay-Per-Call Services Consumer Protection Act, the Telephone  
11 Solicitations Act, the Illinois Funeral or Burial Funds Act,  
12 the Cemetery Oversight Act, the Cemetery Care Act, the Safe and  
13 Hygienic Bed Act, the Illinois Pre-Need Cemetery Sales Act, the  
14 High Risk Home Loan Act, the Payday Loan Reform Act, the  
15 Mortgage Rescue Fraud Act, subsection (a) or (b) of Section  
16 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section  
17 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the  
18 Internet Caller Identification Act, paragraph (6) of  
19 subsection (k) of Section 6-305 of the Illinois Vehicle Code,  
20 Section 11-1431, 18d-115, 18d-120, 18d-125, 18d-135, 18d-150,  
21 or 18d-153 of the Illinois Vehicle Code, Article 3 of the  
22 Residential Real Property Disclosure Act, the Automatic  
23 Contract Renewal Act, the Reverse Mortgage Act, Section 25 of  
24 the Youth Mental Health Protection Act, subsection (b) or (c)  
25 of Section 9-122 of the Code of Civil Procedure, the Personal  
26 Information Protection Act, or the Student Online Personal

1 Protection Act commits an unlawful practice within the meaning  
2 of this Act.

3 (Source: P.A. 99-331, eff. 1-1-16; 99-411, eff. 1-1-16; 99-642,  
4 eff. 7-28-16; 100-315, eff. 8-24-17; 100-416, eff. 1-1-18;  
5 revised 10-6-17.)