



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2470

Introduced 2/19/2021, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

765 ILCS 705/17 new

Amends the Landlord and Tenant Act. Provides that if a tenant has failed to comply with the payment terms of the lease for a period of 30 days, and no eviction proceedings can be commenced, performed, or completed because of obligations imposed by a State, county, or local public health order, the lessor has an immediate cause of action against the unit of State, county, or local government that issued the order or ordinance for instituting a taking of private property for a public purpose, impairment of property, and diminution. Provides that a landlord may perfect his or her right to recover by filing documentation with the unit of government as specified. Provides that if payment of lost rent as a consequence of the order or ordinance is not made within 30 days of providing notice, from that day forward, the lessor shall have against the unit of government an automatic lien, or right of setoff, at the lessor's option, as follows: (A) For an order imposed by the State, a tax credit against income to the State of an amount equal to 85% of residential or 65% of commercial rental income lost as a consequence of the public health order. (B) For an order imposed by a county or unit of local government, a tax credit against property tax levies equal to 85% of residential or 65% of commercial rental income lost as a consequence of the public health order or ordinance. Allows the unit of government to recoup any lost revenue from the nonpaying tenant under certain circumstances. Includes applicability language.

LRB102 14751 LNS 20104 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 Landlord and Tenant Act is amended by
5 adding Section 17 as follows:

6 (765 ILCS 705/17 new)

7 Sec. 17. Eviction moratorium; public taking.

8 (a) Notwithstanding any other provisions of law, if a
9 residential tenant has failed to comply with the payment terms
10 of his or her lease for a period of 30 days, and no eviction
11 proceedings can be commenced, performed, or completed because
12 of obligations imposed by a State, county, or local public
13 health order or ordinance, the lessor has an immediate cause
14 of action against the unit of State, county, or local
15 government that issued the order or ordinance for instituting
16 a taking of private property for a public purpose, impairment
17 of property, and diminution.

18 (1) To perfect the claim, the lessor shall provide a
19 copy of the lease, calculation of rental income lost, and
20 projected rental income lost for the upcoming quarter as
21 follows:

22 (A) For an order imposed by the State, a copy of
23 the lease for the unit to the Attorney General and the

1 Department of Revenue.

2 (B) For an order imposed by a unit of county or
3 township government, to the office of the State's
4 Attorney office encompassing that county or township.

5 (C) For an order imposed by a municipal
6 government, to the mayor or village president.

7 (2) If payment of lost rent as a consequence of the
8 order or ordinance is not made within 30 days of providing
9 notice, from that day forward, the lessor shall have
10 against the unit of government an automatic lien, or right
11 of setoff, at the lessor's option, as follows:

12 (A) For an order imposed by the State, a tax credit
13 against income to the State of an amount equal to 85%
14 of rental income lost as a consequence of the public
15 health order.

16 (B) For an order imposed by a county or unit of
17 local government, a tax credit against property tax
18 levies equal to 85% of rental income lost as a
19 consequence of the public health order or ordinance.

20 (b) Notwithstanding any other provisions of law, if a
21 commercial tenant has failed to comply with the payment terms
22 of his or her lease for a period of 30 days, and no eviction
23 proceedings can be commenced, performed, or completed because
24 of obligations associated with COVID-19 imposed by a State,
25 county, or local unit of government, the lessor has an
26 immediate cause of action against the unit of State, county,

1 or local government that issued the order or ordinance for
2 instituting a taking of private property for public purpose,
3 impairment of property, and diminution.

4 (1) To perfect the claim, the lessor shall provide a
5 copy of the lease, calculation of rental income lost, and
6 projected rental income lost for the upcoming quarter, as
7 follows:

8 (A) For an order imposed by the State, a copy of
9 the lease for the unit to the Attorney General and the
10 Department of Revenue.

11 (B) For an order imposed by a unit of county or
12 township government, to the office of the State's
13 Attorney office encompassing that county or township.

14 (C) For an order imposed by a municipal
15 government, to the mayor or village president.

16 (2) If payment of lost rent as a consequence of the
17 order or ordinance is not completed by the unit of
18 government within 30 days of providing notice, from that
19 day forward, the lessor shall have against the unit of
20 government an automatic lien, or right of setoff, at
21 lessor's option, as follows:

22 (A) For an order imposed by the State, a tax credit
23 against income to the State of an amount equal to 65%
24 of rental income lost as a consequence of the public
25 health order.

26 (B) For an order imposed by a county or unit of

1 local government, a tax credit against property tax
2 levies equal to 65% of rental income lost as a
3 consequence of the public health order or ordinance.

4 (c) If the State or a unit of local government makes
5 payment to a lessor under this Section, it has a right of
6 subrogation against the lessee to recover from the lessee the
7 amounts of rental income the State or unit of local government
8 had to pay, or provide setoff amounts for, if the State or unit
9 of local government proves, by a preponderance of the
10 evidence, that the lessee had the financial ability to pay
11 rent at the time it was due. This claim shall be filed within 2
12 years from the date of last payment to the lessor. If the
13 lessee does not contest at the time of filing the rental
14 amounts due and lessee's ability to pay, the amounts claimed
15 shall be reduced by 25%. If the lessee vacates the premises
16 before more than 90 days of unpaid rent accrues, or can
17 establish that the lessee's ability to pay rental amounts owed
18 was caused in whole or in part by public health orders or
19 ordinances of the State or unit of local government, no amount
20 shall be due to the State or unit of local government.

21 (d) This Section applies only to local government orders
22 or ordinances leading to nonpayment of rent taking effect
23 after the effective date of this amendatory Act of the 102nd
24 General Assembly, or March 31, 2021, whichever is earlier.
25 This Section applies to any State order or law resulting in the
26 nonpayment of rent taking effect on or after March 1, 2020.