



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB4311

Introduced 1/5/2022, by Rep. La Shawn K. Ford

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/Art. IXa heading new  
735 ILCS 5/9a-5 new  
735 ILCS 5/9a-10 new  
735 ILCS 5/9a-15 new  
735 ILCS 5/9a-20 new  
735 ILCS 5/9a-25 new  
735 ILCS 5/9a-30 new  
735 ILCS 5/9a-35 new  
735 ILCS 5/9a-40 new

Amends the Code of Civil Procedure. Adds an Article concerning the removal of unauthorized persons. Defines "unauthorized person" as a person who occupies an uninhabited or vacant residential premises without any current or prior agreement or consent of the owner or an authorized agent of the owner, whether written or oral, concerning the use of the residential premises. Provides that the owner of residential premises, or the owner's authorized agent, may initiate the investigation of and request the removal of an unauthorized person or persons from the residential premises by filing with the circuit court a complaint and a verified motion for a mandatory injunction restoring possession of the residential property to the owner or lawful occupant. Provides that the court shall conduct a hearing on the motion as soon as practicable, but in no event later than the next court day after the filing of the motion, unless a later date is requested by the moving party. Provides that, no later than 24 hours after receipt of an order for mandatory injunction, a sheriff or deputy sheriff, shall: (1) remove the person or persons from the residential premises, with or without arresting the person or persons; and (2) order the person or persons to remain off the residential premises or be subject to arrest for criminal trespass. Provides a statutory form for the verified motion and adds provisions governing: falsification of a verified motion; service of summons; defenses; judgment; and execution of orders.

LRB102 22698 HEP 31844 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 1. Findings. The General Assembly finds as  
5 follows:

6 (1) Individuals unlawfully entering onto residential  
7 property, commonly known as squatters, may use sophisticated  
8 methods to victimize property owners, such as finding vacant  
9 properties through online listings and using computers and  
10 printers to create fraudulent leases and other fraudulent  
11 legal documents. Some of these individuals change the locks  
12 and threaten anyone who asks them to leave.

13 (2) Despite the lack of a landlord-tenant relationship,  
14 existing landlord-tenant law sometimes gives protections to  
15 these individuals that are similar to the legal protections  
16 given to holdover tenants and tenants who are involved in  
17 disputes with their landlords.

18 (3) Some of these individuals vandalize the residences  
19 they occupy. Property owners may have little or no legal  
20 recourse against these individuals for such damage because  
21 these individuals may lie about their identity and abscond  
22 when they find it convenient.

23 (4) An expedited legal process is needed to enable owners  
24 of residential property to remove these individuals and

1 minimize vandalism.

2 Section 5. The Code of Civil Procedure is amended by  
3 adding Article IXa as follows:

4 (735 ILCS 5/Art. IXa heading new)

5 ARTICLE IXa.

6 REMOVAL OF UNAUTHORIZED PERSONS

7 (735 ILCS 5/9a-5 new)

8 Sec. 9a-5. Definitions. As used in this Article:

9 "Residential premises" means a dwelling unit, the  
10 structure of which the unit is a part, and any immediately  
11 surrounding property that is owned by or subject to the  
12 exclusive control of the same person as the dwelling unit  
13 itself.

14 "Unauthorized person" means a person who occupies an  
15 uninhabited or vacant residential premises without any current  
16 or prior agreement or consent of the owner or an authorized  
17 agent of the owner, whether written or oral, concerning the  
18 use of the residential premises. "Unauthorized person" does  
19 not include:

20 (1) a relative of the property owner or a relative of  
21 an authorized agent of the property owner, including a  
22 spouse, descendant, stepchild, parent, stepparent,  
23 grandparent, brother, sister, uncle, or aunt, whether

1 related by whole or half blood or by adoption;

2 (2) a person or persons from whom the owner or an  
3 authorized agent of the owner has accepted money or  
4 anything of value; or

5 (3) a person who was previously given permission to  
6 enter and remain on the premises.

7 (735 ILCS 5/9a-10 new)

8 Sec. 9a-10. Action to restore possession. The owner of  
9 residential premises, or the owner's authorized agent, may  
10 initiate the investigation of and request the removal of an  
11 unauthorized person or persons from the residential premises  
12 by filing with the circuit court a complaint and a verified  
13 motion for a mandatory injunction restoring possession of the  
14 residential property to the owner or lawful occupant. To the  
15 extent known or reasonably ascertainable, the verified motion  
16 must identify the unauthorized person or persons and include  
17 statements substantially as follows:

18 VERIFIED MOTION FOR ORDER TO REMOVE UNAUTHORIZED PERSONS

19 The undersigned owner, or authorized agent of the owner,  
20 of the residential premises located at ..... requests  
21 that the court hold a hearing within one court day and that the  
22 court enter a mandatory injunction and issue an order that the  
23 person or persons currently occupying the residential premises  
24 be removed from the premises and be ordered not to return to  
25 the premises. In support of the request, the undersigned owner

1 or authorized agent hereby represents and declares under the  
2 penalty of perjury that (initial each box):

3 1. (.....) The declarant is the owner of the premises or  
4 the authorized agent of the owner of the premises.

5 2. (.....) An unauthorized person or persons have entered  
6 and are remaining unlawfully on the premises.

7 3. (.....) Neither the owner nor an authorized agent of  
8 the owner has ever given permission for the unauthorized  
9 person or persons to enter and remain on the premises.

10 4. (.....) Neither the owner nor an authorized agent of  
11 the owner has ever had a written or oral agreement with the  
12 unauthorized person or persons regarding the use of the  
13 premises.

14 5. (.....) Neither the owner nor an authorized agent of  
15 the owner is related to the unauthorized person or persons.

16 6. (.....) Neither the owner nor an authorized agent of  
17 the owner has ever accepted money or anything of value from the  
18 unauthorized person or persons regarding the use of the  
19 premises.

20 7. (.....) The declarant has demanded that the  
21 unauthorized person or persons vacate the premises, but they  
22 have not done so.

23 8. (.....) The declarant has informed the unauthorized  
24 person or persons that he or she is going to court to request a  
25 mandatory injunction restoring the owner to possession and  
26 shall deliver a copy of this Verified Motion for Order to

1 Remove Unauthorized Persons to the unauthorized person or  
2 persons.

3 9. (.....) Additional optional explanatory comments or  
4 statement that the premises has been altered or damaged:  
5 .....

6 (735 ILCS 5/9a-15 new)

7 Sec. 9a-15. Falsification of verified motion. A declarant  
8 who falsely swears on a motion filed with the court under  
9 Section 9a-10 may be:

- 10 (1) subject to sanctions by the court;
- 11 (2) held in contempt of court; or
- 12 (3) prosecuted for perjury.

13 (735 ILCS 5/9a-20 new)

14 Sec. 9a-20. Expedited hearing required. The court shall  
15 consider the complaint and motion for mandatory injunction  
16 under this Article and conduct a hearing on the motion as soon  
17 as practicable, but in no event later than the next court day  
18 after the filing of the motion, unless a later date is  
19 requested by the moving party.

20 (735 ILCS 5/9a-25 new)

21 Sec. 9a-25. Service of summons.

22 (a) The summons, complaint, motion, and notice required by  
23 subsection (c) shall be served by personal service upon the

1 defendant, as in any civil action, by a person qualified to  
2 serve process, or service may be made by posting a copy of the  
3 summons, complaint, motion, and notice required by subsection  
4 (c) in some conspicuous place upon the premises.

5 (b) Personal service or service by posting must be made at  
6 least 24 hours before the time for appearance specified in the  
7 summons and notice, and the time and manner of the service must  
8 be endorsed upon such summons by the person making service  
9 thereof.

10 (c) The written notice of the date, time, and location of  
11 the hearing must be served with the complaint. The notice must  
12 be printed in black ink and have a font size of not less than  
13 12 and in substantially the following form:

14 NOTICE

15 On (date), (year), at (time) in Courtroom (number),  
16 (courthouse name), (courthouse address), the Court will hold a  
17 hearing on a Motion for an Order for Mandatory Injunction and  
18 Order to require the removal from the residential premises  
19 located at (residential premises address) of each unauthorized  
20 person identified in the motion that accompanies this notice.  
21 If you are identified as an unauthorized person and if you  
22 believe that is not true, then you must attend the hearing and  
23 present any evidence supporting your position. IF YOU FAIL TO  
24 ATTEND THE HEARING, THE COURT MAY ENTER AN ORDER INSTRUCTING  
25 THE SHERIFF TO REMOVE YOU FROM THE RESIDENTIAL PREMISES  
26 IMMEDIATELY.

1 (735 ILCS 5/9a-30 new)

2 Sec. 9a-30. Defense permitted. Any occupant of the  
3 residential premises who disputes that the occupant is an  
4 unauthorized person may appear at the hearing and must be  
5 permitted to provide testimony and other evidence that the  
6 occupant is not an unauthorized person. The court, in its  
7 discretion, may accept a written statement submitted to the  
8 court prior to the commencement of the hearing in lieu of  
9 personal testimony from the occupant.

10 (735 ILCS 5/9a-35 new)

11 Sec. 9a-35. Judgment.

12 (a) If no person identified in the motion as an  
13 unauthorized person appears at the hearing, and no written  
14 statement that the court deems sufficient is filed in  
15 opposition to the motion, the court may proceed to rule on the  
16 motion based on the contents of the motion and any additional  
17 testimony offered by the moving party. The court may, but need  
18 not, require the moving party to confirm in oral testimony the  
19 facts recited in the motion and may make such other inquiry of  
20 the owner or authorized agent as the court determines proper  
21 under the circumstances. After taking testimony from the  
22 moving party and any occupant who contests the motion or after  
23 considering the content of the motion or written statement,  
24 the court shall determine whether the occupant is an



1 unauthorized person. If the court determines that the occupant  
2 is an unauthorized person, the court shall enter an order for a  
3 mandatory injunction and issue an order prior to adjourning  
4 the hearing, which order may include such additional terms or  
5 limitations as the court may in its discretion determine  
6 necessary and equitable under the circumstances. If the court  
7 determines that the occupant is not an unauthorized person,  
8 the court shall deny the motion for an order for mandatory  
9 injunction. If an order for mandatory injunction is denied,  
10 the owner is not prejudiced from thereafter commencing an  
11 eviction under Article IX.

12 (b) The court shall not require the appointment of an  
13 attorney to represent any occupant or other interested person  
14 as a condition of considering a motion under this Article.

15 (c) If the court enters the order for mandatory injunction  
16 and issues a removal order, the owner or his or her authorized  
17 agent may deliver the order for mandatory injunction to the  
18 sheriff having jurisdiction to enforce the order.

19 (735 ILCS 5/9a-40 new)

20 Sec. 9a-40. Execution of order.

21 (a) An order under this Article may not be stayed for any  
22 period in excess of 7 days by the court unless all parties  
23 agree to a longer period. Thereafter, the owner shall be  
24 entitled to re-enter the premises immediately.

25 (b) No later than 24 hours after receipt of an order for

1 mandatory injunction, a sheriff or deputy sheriff shall:

2 (1) remove the unauthorized person or persons from the  
3 residential premises, with or without arresting the person  
4 or persons; and

5 (2) order the unauthorized person or persons to remain  
6 off the residential premises or be subject to arrest for  
7 criminal trespass.