



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3913

Introduced 1/21/2022, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

735 ILCS 5/9-121
735 ILCS 5/9-121.5
735 ILCS 5/9-122
815 ILCS 505/2Z.5

Amends the Eviction Article of the Code of Civil Procedure. Provides that a sealed court file shall be made available to a State or local government employee or contractor responsible for processing court-based rental assistance. Requires prospective counsel to request a sealed court file in a specified form. Allows a scholarly, public policy, court reform agency, educational, journalistic, or governmental body to access all sealed files by filing a motion with the judge presiding over evictions in that judicial district or county. Changes operative and repeal dates to August 1, 2024 (currently August 1, 2022). Makes conforming changes in the Article and the Consumer Fraud and Deceptive Business Practices Act. Effective immediately.

LRB102 23420 LNS 32589 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 Sections 9-121, 9-121.5, and 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, "court file"
9 means the court file created when an eviction action is filed
10 with the court.

11 (b) Discretionary sealing of court file. The court may
12 order that a court file in an eviction action be placed under
13 seal if the court finds that the plaintiff's action is
14 sufficiently without a basis in fact or law, which may include
15 a lack of jurisdiction, that placing the court file under seal
16 is clearly in the interests of justice, and that those
17 interests are not outweighed by the public's interest in
18 knowing about the record.

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

1 (d) This Section is operative on and after August 1, 2024
2 ~~2022~~.

3 (Source: P.A. 102-5, eff. 5-17-21.)

4 (735 ILCS 5/9-121.5)

5 (Section scheduled to be repealed on August 1, 2022)

6 Sec. 9-121.5. Sealing of court file.

7 (a) As used in this Section, "court file" means the court
8 file created when an eviction action is filed with the court.

9 (b) The court shall order the sealing of any court file in
10 a residential eviction action if:

11 (1) the interests of justice in sealing the court file
12 outweigh the public interest in maintaining a public
13 record;

14 (2) the parties to the eviction action agree to seal
15 the court file;

16 (3) there was no material violation of the terms of
17 the tenancy by the tenant; or

18 (4) the case was dismissed with or without prejudice.

19 (c) The court file relating to an eviction action brought
20 against a tenant under Section 9-207.5 of this Code or as set
21 forth in subdivision (h)(6) of Section 15-1701 of this Code
22 shall be placed under seal.

23 (d) A sealed court file shall be made available only to the
24 litigants in the case, their counsel or prospective counsel,
25 and public employees responsible for processing the

1 residential eviction action, and State or local government
2 employees or contractors responsible for processing
3 court-based rental assistance. Prospective counsel shall make
4 a request for the court file in substantially the form
5 provided below:

6 "The Eviction Article of the Code of Civil Procedure
7 allows a party to an eviction case, and the party's
8 counsel and prospective counsel, to access the party's
9 impounded or sealed eviction court file. The undersigned
10 (and employees of the undersigned's law office, if
11 applicable) may present this certificate to the clerk of
12 the court to review the above-captioned sealed eviction
13 file. To protect the party's right to confidentiality,
14 this certificate shall not be filed or served on other
15 parties."

16 Upon presentation of the form to the office of the clerk of
17 the court, the clerk shall make the file available to the
18 prospective counsel.

19 (e) A scholarly, public policy, court reform agency,
20 educational, journalistic, or governmental body may access all
21 sealed files by filing a motion with the judge presiding over
22 evictions in that judicial district or county. The presiding
23 judge shall grant the motion and enter an order upon a showing
24 of scholarly, educational, public policy, court reform,

1 journalistic, or governmental credential and purpose. ~~Upon~~
2 ~~motion and order of the court, a sealed court file may be made~~
3 ~~available for scholarly, educational, journalistic, or~~
4 ~~governmental purposes only, balancing the interests of the~~
5 ~~parties and the public in nondisclosure with the interests of~~
6 ~~the requesting party.~~ Identifying information of the parties
7 shall remain sealed, unless the court determines that release
8 of the information is necessary to fulfill the purpose of the
9 request and the interests of justice so dictate. Nothing in
10 this subsection shall permit the release of a sealed court
11 file or the information contained therein for a commercial
12 purpose. The public policy agency may include a legal aid
13 provider; however, the file shall be used only for its public
14 policy purposes.

15 (f) Except as provided in subsections (d) and (e), any
16 person who disseminates a court file sealed under this
17 Section, or the information contained therein, for commercial
18 purposes shall be liable for a civil penalty of \$2,000, or
19 twice the actual and consequential damages sustained,
20 whichever is greater, as well as the costs of the action,
21 including reasonable attorney's fees.

22 (g) The Attorney General may enforce a violation of this
23 Section as an unlawful practice under the Consumer Fraud and
24 Deceptive Business Practices Act. All remedies, penalties, and
25 authority granted to the Attorney General by the Consumer
26 Fraud and Deceptive Business Practices Act shall be available

1 to him or her for the enforcement of this Section.

2 (h) Nothing in this Section prohibits a landlord from
3 receiving a reference from a previous landlord of a
4 prospective tenant. Nothing in this Section prohibits a
5 landlord from providing a reference for a previous or current
6 tenant to a prospective landlord of that tenant.

7 (i) This Section is repealed on August 1, 2024 ~~2022~~.

8 (Source: P.A. 102-5, eff. 5-17-21.)

9 (735 ILCS 5/9-122)

10 Sec. 9-122. COVID-19 emergency sealing of court file.

11 (a) As used in this Section, "COVID-19 emergency and
12 economic recovery period" means the period beginning on March
13 9, 2020, when the Governor issued the first disaster
14 proclamation for the State to address the circumstances
15 related to COVID-19, and ending on August 1, 2024 ~~March 31,~~
16 ~~2022~~.

17 (b) The court file shall be sealed upon the commencement
18 of any residential eviction action during the COVID-19
19 emergency and economic recovery period. If a residential
20 eviction action filed during the COVID-19 emergency and
21 economic recovery period is pending on the effective date of
22 this Act and is not sealed, the court shall order the sealing
23 of the court file. In accordance with Section 9-121.5, no
24 sealed court file, sealed under this Section, shall be
25 disseminated.

1 (c) If the court enters a judgment in favor of the
2 landlord, the court may also enter an order to unseal the court
3 file under this Section. A court shall order the court file to
4 be unsealed if:

5 (1) the action is not based in whole or in part on the
6 nonpayment of rent during the COVID-19 emergency and
7 economic recovery period; and

8 (2) The requirements of subsection (b) or (c) of
9 Section 9-121.5 have not been met.

10 (d) Subsections (d) through (h) of Section 9-121.5 shall
11 also be applicable and incorporated into this Section.

12 (Source: P.A. 102-5, eff. 5-17-21.)

13 Section 10. The Consumer Fraud and Deceptive Business
14 Practices Act is amended by changing Section 2Z.5 as follows:

15 (815 ILCS 505/2Z.5)

16 (Section scheduled to be repealed on August 1, 2022)

17 Sec. 2Z.5. Dissemination of a sealed court file.

18 (a) A private entity or person who violates Section
19 9-121.5 of the Code of Civil Procedure commits an unlawful
20 practice within the meaning of this Act.

21 (b) This Section is repealed on August 1, 2024 ~~2022~~.

22 (Source: P.A. 102-5, eff. 5-17-21; 102-687, eff. 12-17-21.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.