

1 AN ACT in relation to civil procedure.

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 9-104 and 9-107 and by adding Section
6 9-107.5 as follows:

7 (735 ILCS 5/9-104) (from Ch. 110, par. 9-104)

8 Sec. 9-104. Demand - Notice - Return. The demand
9 required by Section 9-102 of this Act may be made by
10 delivering a copy thereof to the tenant, or by leaving such a
11 copy with some person of the age of 13 years or upwards,
12 residing on, or being in charge of, the premises; or in case
13 no one is in the actual possession of the premises, then by
14 posting the same on the premises; or if those in possession
15 are unknown occupants who are not parties to any written
16 lease, rental agreement, or right to possession agreement for
17 the premises, then by delivering a copy of the notice,
18 directed to "unknown occupants", to the occupant or by
19 leaving a copy of the notice with some person of the age of
20 13 years or upwards occupying the premises, or by posting a
21 copy of the notice on the premises directed to "unknown
22 occupants". When such demand is made by an officer authorized
23 to serve process, his or her return is prima facie evidence
24 of the facts therein stated, and if such demand is made by
25 any person not an officer, the return may be sworn to by the
26 person serving the same, and is then prima facie evidence of
27 the facts therein stated. The demand for possession may be in
28 the following form: To

29 I hereby demand immediate possession of the following
30 described premises: (describing the same.)

31 The demand shall be signed by the person claiming such

1 possession, his or her agent, or attorney.

2 (Source: P.A. 83-1362.)

3 (735 ILCS 5/9-107) (from Ch. 110, par. 9-107)

4 Sec. 9-107. Constructive service. If the plaintiff, his
5 or her agent, or attorney files a forcible detainer action,
6 with or without joinder of a claim for rent in the complaint,
7 and is unable to obtain personal service on the defendant or
8 unknown occupant and a summons duly issued in such action is
9 returned without service stating that service can not be
10 obtained, then the plaintiff, his or her agent or attorney
11 may file an affidavit stating that the defendant or unknown
12 occupant is not a resident of this State, or has departed
13 from this State, or on due inquiry cannot be found, or is
14 concealed within this State so that process cannot be served
15 upon him or her, and also stating the place of residence of
16 the defendant or unknown occupant, if known, or if not known,
17 that upon diligent inquiry the affiant has not been able to
18 ascertain the defendant's or unknown occupant's place of
19 residence, then in all such forcible detainer cases whether
20 or not a claim for rent is joined with the complaint for
21 possession, the defendant or unknown occupant may be notified
22 by posting and mailing of notices; or by publication and
23 mailing, as provided for in Section 2-206 of this Act.
24 However, in cases where the defendant or unknown occupant is
25 notified by posting and mailing of notices or by publication
26 and mailing, and the defendant or unknown occupant does not
27 appear generally, the court may rule only on the portion of
28 the complaint which seeks judgment for possession, and the
29 court shall not enter judgment as to any rent claim joined in
30 the complaint or enter personal judgment for any amount owed
31 by a unit owner for his or her proportionate share of the
32 common expenses, however, an in rem judgment may be entered
33 against the unit for the amount of common expenses due, any

1 other expenses lawfully agreed upon or the amount of any
2 unpaid fine, together with reasonable attorney fees, if any,
3 and costs. The claim for rent may remain pending until such
4 time as the defendant or unknown occupant appears generally
5 or is served with summons, but the order for possession shall
6 be final, enforceable and appealable if the court makes an
7 express written finding that there is no just reason for
8 delaying enforcement or appeal, as provided by Supreme Court
9 rule of this State.

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

33 (Source: P.A. 83-1528.)

1 (735 ILCS 5/9-107.5 new)

2 Sec. 9-107.5. Notice to unknown occupants.

3 (a) Service of process upon an unknown occupant may be
4 had by delivering a copy of the summons and complaint naming
5 "unknown occupants" to the tenant or any unknown occupant or
6 person of the age of 13 or upwards occupying the premises.

7 (b) If unknown occupants are not named in the initial
8 summons and complaint and a judgment for possession in favor
9 of the plaintiff is entered, but the order does not include
10 unknown occupants and the sheriff determines when executing
11 the judgment for possession that persons not included in the
12 order are in possession of the premises, then the sheriff
13 shall leave with a person of the age of 13 years or upwards
14 occupying the premises, a copy of the order, or if no one is
15 present in the premises to accept the order or refuses to
16 accept the order, then by posting a copy of the order on the
17 premises. In addition to leaving a copy of the order or
18 posting of the order, the sheriff shall also leave or post a
19 notice addressed to "unknown occupants" that states unless
20 any unknown occupants file a written petition with the clerk
21 that sets forth the unknown occupant's legal claim for
22 possession within 5 days of the date the notice is posted or
23 left with any unknown occupant, the unknown occupants shall
24 be evicted from the premises. If any unknown occupants file
25 such a petition, a hearing on the merits of the unknown
26 occupant's petition shall be held by the court within 7 days
27 of the filing of the petition with the clerk. The unknown
28 occupants shall have the burden of proof in establishing a
29 legal right to continued possession.

30 (c) The plaintiff may obtain a judgment for possession
31 only and not for rent as to any unknown occupants.

32 (d) Nothing in this Section may be construed so as to
33 vest any rights to persons who are criminal trespassers, nor
34 may this Section be construed in any way that interferes with

1 the ability of law enforcement officials removing persons or
2 property from the premises when there is a criminal trespass.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.