

1 AMENDMENT TO SENATE BILL 1934

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1934 by replacing  
3 everything after the enacting clause with the following:

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

1 to serve process, his or her return is prima facie evidence  
2 of the facts therein stated, and if such demand is made by  
3 any person not an officer, the return may be sworn to by the  
4 person serving the same, and is then prima facie evidence of  
5 the facts therein stated. The demand for possession may be in  
6 the following form: To ....

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

9 The demand shall be signed by the person claiming such  
10 possession, his or her agent, or attorney.

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

12 (735 ILCS 5/9-107) (from Ch. 110, par. 9-107)

13 Sec. 9-107. Constructive service. If the plaintiff, his  
14 or her agent, or attorney files a forcible detainer action,  
15 with or without joinder of a claim for rent in the complaint,  
16 and is unable to obtain personal service on the defendant or  
17 unknown occupant and a summons duly issued in such action is  
18 returned without service stating that service can not be  
19 obtained, then the plaintiff, his or her agent or attorney  
20 may file an affidavit stating that the defendant or unknown  
21 occupant is not a resident of this State, or has departed  
22 from this State, or on due inquiry cannot be found, or is  
23 concealed within this State so that process cannot be served  
24 upon him or her, and also stating the place of residence of  
25 the defendant or unknown occupant, if known, or if not known,  
26 that upon diligent inquiry the affiant has not been able to  
27 ascertain the defendant's or unknown occupant's place of  
28 residence, then in all such forcible detainer cases whether  
29 or not a claim for rent is joined with the complaint for  
30 possession, the defendant or unknown occupant may be notified  
31 by posting and mailing of notices; or by publication and  
32 mailing, as provided for in Section 2-206 of this Act.  
33 However, in cases where the defendant or unknown occupant is

1 notified by posting and mailing of notices or by publication  
2 and mailing, and the defendant or unknown occupant does not  
3 appear generally, the court may rule only on the portion of  
4 the complaint which seeks judgment for possession, and the  
5 court shall not enter judgment as to any rent claim joined in  
6 the complaint or enter personal judgment for any amount owed  
7 by a unit owner for his or her proportionate share of the  
8 common expenses, however, an in rem judgment may be entered  
9 against the unit for the amount of common expenses due, any  
10 other expenses lawfully agreed upon or the amount of any  
11 unpaid fine, together with reasonable attorney fees, if any,  
12 and costs. The claim for rent may remain pending until such  
13 time as the defendant or unknown occupant appears generally  
14 or is served with summons, but the order for possession shall  
15 be final, enforceable and appealable if the court makes an  
16 express written finding that there is no just reason for  
17 delaying enforcement or appeal, as provided by Supreme Court  
18 rule of this State.

19 Such notice shall be in the name of the clerk of the  
20 court, be directed to the defendant or unknown occupant,  
21 shall state the nature of the cause against the defendant or  
22 unknown occupant and at whose instance issued and the time  
23 and place for trial, and shall also state that unless the  
24 defendant or unknown occupant appears at the time and place  
25 fixed for trial, judgment will be entered by default, and  
26 shall specify the character of the judgment that will be  
27 entered in such cause. The sheriff shall post 3 copies of  
28 the notice in 3 public places in the neighborhood of the  
29 court where the cause is to be tried, at least 10 days prior  
30 to the day set for the appearance, and, if the place of  
31 residence of the defendant or unknown occupant is stated in  
32 any affidavit on file, shall at the same time mail one copy  
33 of the notice addressed to such defendant or unknown occupant  
34 at such place of residence shown in such affidavit. On or

1 before the day set for the appearance, the sheriff shall file  
2 the notice with an endorsement thereon stating the time when  
3 and places where the sheriff posted and to whom and at what  
4 address he or she mailed copies as required by this Section.  
5 For want of sufficient notice any cause may be continued from  
6 time to time until the court has jurisdiction of the  
7 defendant or unknown occupant.

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

9 (735 ILCS 5/9-107.5 new)

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

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

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

1 occupant's petition shall be held by the court within 7 days  
2 of the filing of the petition with the clerk. The unknown  
3 occupants shall have the burden of proof in establishing a  
4 legal right to continued possession.

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

7 (d) Nothing in this Section may be construed so as to  
8 vest any rights to persons who are criminal trespassers, nor  
9 may this Section be construed in any way that interferes with  
10 the ability of law enforcement officials removing persons or  
11 property from the premises when there is a criminal trespass.

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.".