

Evictions After the Moratorium

■ The COVID-19 emergency and economic recovery period

The Illinois legislature has enacted sections 9-121.5 and 9-122 of the Evictions Act which are both self-repealing on August 22, 2022. The statute impacts all residential evictions cases filed between March 20, 2020 and March 31, 2022, creating the “COVID-19 emergency and economic recovery period.” (735 ILCS 5/9-101 *et seq.*).

■ Restarting the filing and enforcement of residential evictions

With Executive Order 2021-15, Governor Pritzker has announced that beginning August 1, 2021, landlords will be able to commence residential evictions in the circuit courts. The Supreme Court will still require landlords filing suit to file a Certificate of Compliance along with a Tenant’s Declaration (available on www.IHDA.org) indicating whether the tenant in possession is a “Covered Person” within the meaning of Executive Order 2021-13.

Pursuant to Illinois Supreme Court Order, MR 30370, the circuit court will be stayed from entering any order of judgment or possession against a Covered Person prior to September 1, 2021. Additionally, Executive Order 2021-15, prohibits the Sheriff from enforcing eviction orders against “Covered Persons” until further order. (It is anticipated that this will be lifted as of September 1, 2021.)

Regardless of whether tenants in possession are Covered Persons, the Sheriff may still enforce possession orders involving those being evicted because they present a risk to the safety and/or health of other tenants or who present an immediate and severe risk to the property of the landlord.

Executive Orders 2021-13 and 2021-15 have authorized the Sheriff to enforce residential possession orders entered prior to March 20, 2020, but stayed due to the pandemic. If a possession order has been entered in a case filed prior to March 20, 2020, but has not been enforced, a plaintiff may file a motion seeking an amended possession order which sets a new possession date. As with all motions, notice must be provided to the defendant.

In those cases filed during the recovery period, if a defendant cannot or will not provide a signed Declaration that they are a Covered Person within the meaning of the moratorium, the case may proceed. Under Executive Order 2021-15, the Sheriff may enforce possession orders not involving Covered Persons.

■ Sealing of eviction files

Sections 9-121.5 and 9-122 of the Evictions Act are read together to require that all residential evictions cases commenced during the recovery period be filed under seal and not publicly available. (The statutes include penalties for disclosure of evictions cases.) Cases based on non-payment of rent will remain sealed regardless of the entry of an order of judgment and possession. In those cases specifically enumerated in section 9-122 a landlord may file a motion with the court seeking to have a residential eviction unsealed. This generally includes cases where the tenant has acted maliciously or criminally.

For the duration of the recovery period, in all LM (and in residential cases seeking more than \$50,000 in rent and designated as L cases) because the electronic files are under seal from the time of commencement, all filings, including the original complaint, will not be accepted by the circuit clerk by

electronic filing. Instead, any and all pleadings, notices and proposed orders must be filed in person, on paper, with the circuit clerk.

■ **Court annexed diversionary efforts**

Although the Sheriff will be able to enforce any and all eviction orders beginning September 1, 2021, the Supreme Court has established rules under which the circuit court is to attempt diversion of residential evictions to avoid eviction during the recovery period.

- a. Several alternative order forms allowing for alternatives to possession including, dismissal with leave to reinstate, stay-and-pay agreements and agreements to voluntarily leave. **The Evictions Act requires the use of Supreme Court form possession orders.**
<https://www.illinoiscourts.gov/forms/approved-forms/forms-approved-forms-circuit-court/eviction>

- b. The court is authorized to divert residential evictions to renter's assistance programs, self-help programs, mediation (court annexed or private) in order to avoid residential evictions.

Renters' assistance funded by the American Recovery Act is available for eligible renters and will pay landlords up to 15 months of rent and utilities, without a cap. It is expected that these programs will be funded through March of 2022. The Winnebago County Renters Assistance Program covers the County outside of the City of Rockford.

<https://wincoil.us/departments/county-board-office/rent-help/>

The City of Rockford Community Action Renters Assistance Program covers eligible renters and landlords in Rockford and Boone County. <https://portal.neighborlysoftware.com/ERAP-CommunityActionBooneandWinnebagoCountyIL/Participant>

- c. In residential evictions cases based on non-payment of rent, the court may order a 30-day status after the initial appearance in order to facilitate application for renter's assistance or other diversion.

■ **Strict compliance**

The court will continue to require strict compliance with the Evictions Act and Supreme Court Rules for evictions, particularly notice provisions under the Act (five-day notice to pay rent, ten-day notice of breach of lease, thirty day notice to quit, *etc.*), proper service of notices required under the Act, and Supreme Court Rule 139, regarding the required form of a complaint seeking possession (eviction).

The court will require strict compliance with the Evictions Act and Supreme Court Rules and Orders relating to evictions.

(July 27, 2021)