

## **735 ILCS 5/2-619, Part 1 of 2**

\*\*\* Statutes current with legislation through P.A. 103-1068 of the 2024 Regular Session of the 103rd General Assembly.\*\*\*

*Illinois Compiled Statutes Annotated* > *Chapter 735 CIVIL PROCEDURE (§§ 5/1-101 — 30)* > *Code of Civil Procedure (Arts. I — XXIII)* > *Article II. Civil Practice (Pts. 1 — 23)* > *Part 6. Pleading (§§ 5/2-601 — 5/2-624)*

### **735 ILCS 5/2-619 Involuntary dismissal based upon certain defects or defenses.**

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(a) Defendant may, within the time for pleading, file a motion for dismissal of the action or for other appropriate relief upon any of the following grounds. If the grounds do not appear on the face of the pleading attacked the motion shall be supported by affidavit:

- (1) That the court does not have jurisdiction of the subject matter of the action, provided the defect cannot be removed by a transfer of the case to a court having jurisdiction.
- (2) That the plaintiff does not have legal capacity to sue or that the defendant does not have legal capacity to be sued.
- (3) That there is another action pending between the same parties for the same cause.
- (4) That the cause of action is barred by a prior judgment.
- (5) That the action was not commenced within the time limited by law.
- (6) That the claim set forth in the plaintiff's pleading has been released, satisfied of record, or discharged in bankruptcy.
- (7) That the claim asserted is unenforceable under the provisions of the Statute of Frauds.
- (8) That the claim asserted against defendant is unenforceable because of his or her minority or other disability.
- (9) That the claim asserted against defendant is barred by other affirmative matter avoiding the legal effect of or defeating the claim.

(b) A similar motion may be made by any other party against whom a claim is asserted.

(c) If, upon the hearing of the motion, the opposite party presents affidavits or other proof denying the facts alleged or establishing facts obviating the grounds of defect, the court may hear and determine the same and may grant or deny the motion. If a material and genuine disputed question of fact is raised the court may decide the motion upon the affidavits and evidence offered by the parties, or may deny the motion without prejudice to the right to raise the subject matter of the motion by answer and shall so deny it if the action is one in which a party is entitled to a trial by jury and a jury demand has been filed by the opposite party in apt time.

(d) The raising of any of the foregoing matters by motion under this Section does not preclude the raising of them subsequently by answer unless the court has disposed of the motion on its merits; and a failure to raise any of them by motion does not preclude raising them by answer.

(e) Pleading over after denial by the court of a motion under this Section is not a waiver of any error in the decision denying the motion.

(f) The form and contents of and procedure relating to affidavits under this Section shall be as provided by rule.

## History

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P.A. 83-707.

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