



Rep. Ann Williams

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LRB097 16836 JLS 67232 a

1 AMENDMENT TO HOUSE BILL 5434

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5434 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by  
5 changing Section 2-1402 and by adding Section 12-107.5 as  
6 follows:

7 (735 ILCS 5/2-1402) (from Ch. 110, par. 2-1402)

8 Sec. 2-1402. Supplementary proceedings.

9 (a) A judgment creditor, or his or her successor in  
10 interest when that interest is made to appear of record, is  
11 entitled to prosecute supplementary proceedings for the  
12 purposes of examining the judgment debtor or any other person  
13 to discover assets or income of the debtor not exempt from the  
14 enforcement of the judgment, a deduction order or garnishment,  
15 and of compelling the application of non-exempt assets or  
16 income discovered toward the payment of the amount due under

1 the judgment. A supplementary proceeding shall be commenced by  
2 the service of a citation issued by the clerk. The procedure  
3 for conducting supplementary proceedings shall be prescribed  
4 by rules. It is not a prerequisite to the commencement of a  
5 supplementary proceeding that a certified copy of the judgment  
6 has been returned wholly or partly unsatisfied. All citations  
7 issued by the clerk shall have the following language, or  
8 language substantially similar thereto, stated prominently on  
9 the front, in capital letters: "IF YOU FAIL YOUR FAILURE TO  
10 APPEAR IN COURT AS ~~HEREIN~~ DIRECTED IN THIS NOTICE, YOU MAY  
11 ~~CAUSE YOU TO~~ BE ARRESTED AND BROUGHT BEFORE THE COURT TO ANSWER  
12 TO A CHARGE OF CONTEMPT OF COURT, WHICH MAY BE PUNISHABLE BY  
13 IMPRISONMENT IN THE COUNTY JAIL." The court shall not grant a  
14 continuance of the supplementary proceeding except upon good  
15 cause shown.

16 (b) Any citation served upon a judgment debtor or any other  
17 person shall include a certification by the attorney for the  
18 judgment creditor or the judgment creditor setting forth the  
19 amount of the judgment, the date of the judgment, or its  
20 revival date, the balance due thereon, the name of the court,  
21 and the number of the case, ~~and~~ a copy of the citation notice  
22 required by this subsection, and a copy of the Income and Asset  
23 Form required by this Section. Service of a citation upon a  
24 judgment debtor shall be personal service or abode service as  
25 provided in Section 2-203. Whenever a citation is served upon a  
26 person or party other than the judgment debtor, the officer or

1 person serving the citation shall send to the judgment debtor,  
2 within three business days of the service upon the cited party,  
3 a copy of the citation and the citation notice, which may be  
4 sent by regular first-class mail to the judgment debtor's last  
5 known address. In no event shall a citation hearing be held  
6 sooner than five business days after the mailing of the  
7 citation and citation notice to the judgment debtor, except by  
8 agreement of the parties. The citation notice need not be  
9 mailed to a corporation, partnership, or association. The  
10 citation notice shall be in substantially the following form:

11 "CITATION NOTICE

12 (Name and address of Court)

13 Name of Case: (Name of Judgment Creditor),

14 Judgment Creditor v.

15 (Name of Judgment Debtor),

16 Judgment Debtor.

17 Address of Judgment Debtor: (Insert last known  
18 address)

19 Name and address of Attorney for Judgment  
20 Creditor or of Judgment Creditor (If no  
21 attorney is listed): (Insert name and address)

22 Amount of Judgment: \$ (Insert amount)

23 Name of Person Receiving Citation: (Insert name)

24 Court Date and Time: (Insert return date and time  
25 specified in citation)

26 NOTICE: The court has issued a citation against the person

1 named above. The citation directs that person to appear in  
2 court to be examined for the purpose of allowing the judgment  
3 creditor to discover income and assets belonging to the  
4 judgment debtor or in which the judgment debtor has an  
5 interest. The citation was issued on the basis of a judgment  
6 against the judgment debtor in favor of the judgment creditor  
7 in the amount stated above. On or after the court date stated  
8 above, the court may compel the application of any discovered  
9 income or assets toward payment on the judgment.

10 The amount of income or assets that may be applied toward  
11 the judgment is limited by federal and Illinois law. The  
12 JUDGMENT DEBTOR HAS THE RIGHT TO ASSERT STATUTORY EXEMPTIONS  
13 AGAINST CERTAIN INCOME OR ASSETS OF THE JUDGMENT DEBTOR WHICH  
14 MAY NOT BE USED TO SATISFY THE JUDGMENT IN THE AMOUNT STATED  
15 ABOVE:

16 (1) Under Illinois or federal law, the exemptions of  
17 personal property owned by the debtor include the debtor's  
18 equity interest, not to exceed \$4,000 in value, in any  
19 personal property as chosen by the debtor; Social Security  
20 and SSI benefits; public assistance benefits; unemployment  
21 compensation benefits; worker's compensation benefits;  
22 veteran's benefits; circuit breaker property tax relief  
23 benefits; the debtor's equity interest, not to exceed  
24 \$2,400 in value, in any one motor vehicle, and the debtor's  
25 equity interest, not to exceed \$1,500 in value, in any  
26 implements, professional books, or tools of the trade of

1 the debtor.

2 (2) Under Illinois law, every person is entitled to an  
3 estate in homestead, when it is owned and occupied as a  
4 residence, to the extent in value of \$15,000, which  
5 homestead is exempt from judgment.

6 (3) Under Illinois law, the amount of wages that may be  
7 applied toward a judgment is limited to the lesser of (i)  
8 15% of gross weekly wages or (ii) the amount by which  
9 disposable earnings for a week exceed the total of 45 times  
10 the federal minimum hourly wage or, under a wage deduction  
11 summons served on or after January 1, 2006, the Illinois  
12 minimum hourly wage, whichever is greater.

13 (4) Under federal law, the amount of wages that may be  
14 applied toward a judgment is limited to the lesser of (i)  
15 25% of disposable earnings for a week or (ii) the amount by  
16 which disposable earnings for a week exceed 30 times the  
17 federal minimum hourly wage.

18 (5) Pension and retirement benefits and refunds may be  
19 claimed as exempt under Illinois law.

20 The judgment debtor may have other possible exemptions  
21 under the law.

22 THE JUDGMENT DEBTOR HAS THE RIGHT AT THE CITATION HEARING  
23 TO DECLARE EXEMPT CERTAIN INCOME OR ASSETS OR BOTH. THE  
24 JUDGMENT DEBTOR IS ENCOURAGED TO USE THE ENCLOSED INCOME AND  
25 ASSET FORM TO ASSIST WITH THIS PROCESS. The judgment debtor  
26 also has the right to seek a declaration at an earlier date, by

1 notifying the clerk in writing at (insert address of clerk).  
 2 When so notified, the Clerk of the Court will obtain a prompt  
 3 hearing date from the court and will provide the necessary  
 4 forms that must be prepared by the judgment debtor or the  
 5 attorney for the judgment debtor and sent to the judgment  
 6 creditor and the judgment creditor's attorney regarding the  
 7 time and location of the hearing. This notice may be sent by  
 8 regular first class mail."

9 INCOME AND ASSET FORM

10 (CASE CAPTION)

11 To Judgment Debtor: Please complete this form and bring  
 12 it with you to the hearing at (DATE, TIME, LOCATION). The  
 13 information you provide will help the court determine  
 14 whether you have any property or income that can be used to  
 15 satisfy the judgment entered against you in this matter.  
 16 The information you provide must be accurate to the best of  
 17 your knowledge.

18 If you fail to appear at this hearing, you could be  
 19 held in contempt of court and possibly arrested.

20 In answer to the citation and supplemental proceedings  
 21 served upon (INSERT NAME OF JUDGMENT DEBTOR), he or she  
 22 answers as follows:

23 Name:.....

24 Home Phone Number:.....

1 Home Address:.....

2 Date of Birth:.....

3 Marital Status:.....

4 I have.....dependents.

5 Do you have a job? YES NO

6 Company's name I work for:.....

7 Company's address:.....

8 Job:

9 I earn \$..... per.....

10 If self employed, list here your business name and  
11 address:

12 .....

13 Income from self employment is \$..... per  
14 year.

15 I have the following benefits with my employer:

16 .....

17 I do not have a job, but I support myself through:

18 Government Assistance \$..... per month

19 Unemployment \$..... per month

20 Social Security \$..... per month

21 SSI \$..... per month

22 Pension \$..... per month

23 Other \$..... per month

24 Real Estate:

25 Do you own any real estate? YES NO

1 I own real estate at....., with names of other  
2 owners

3 .....

4 Additional real estate I own: .....

5 I have a beneficial interest in a land trust. The name  
6 and address of the trustee is:..... The beneficial  
7 interest is listed in my name and .....

8 There is a mortgage on my real estate. State the  
9 mortgage company's name and address for each parcel of real  
10 estate owned:

11 .....

12 An assignment of beneficial interest in the land trust  
13 was signed to secure a loan from.....

14 I have the following accounts:

15 Checking account at .....;

16 account balance \$.....

17 Savings account at .....;

18 account balance \$.....

19 Money market or certificate of deposit at .....

20 Safe deposit box at .....

21 Other accounts (please identify): .....

22 I own:

23 A vehicle (state year, make, model, and VIN): ....

24 Jewelry (please specify): .....

25 Other property described as:.....

26 Stocks/Bonds.....



- 1           Personal computer.....
- 2           DVD player.....
- 3           Television.....
- 4           Stove.....
- 5           Microwave.....
- 6           Work tools.....
- 7           Business equipment.....
- 8           Farm equipment.....
- 9           Other property (please specify):
- 10           .....
- 11           Signature:.....

12           (c) No order to pay money shall be entered until the court  
 13 has determined that the judgment debtor has been served with a  
 14 citation, citation notice, and an Income and Asset Form in  
 15 accordance with subsection (b) of this Section and has had an  
 16 opportunity to assert exemptions, and that the source of the  
 17 payments is non-exempt sources. When assets or income of the  
 18 judgment debtor not exempt from the satisfaction of a judgment,  
 19 a deduction order or garnishment are discovered, the court may,  
 20 by appropriate order or judgment:

21           (1) Compel the judgment debtor to deliver up, to be  
 22 applied in satisfaction of the judgment, in whole or in  
 23 part, money, choses in action, property or effects in his  
 24 or her possession or control, so discovered, capable of  
 25 delivery and to which his or her title or right of  
 26 possession is not substantially disputed.

1           (2) Compel the judgment debtor to pay to the judgment  
2 creditor or apply on the judgment, in installments, a  
3 portion of his or her income, however or whenever earned or  
4 acquired, as the court may deem proper, having due regard  
5 for the reasonable requirements of the judgment debtor and  
6 his or her family, if dependent upon him or her, as well as  
7 any payments required to be made by prior order of court or  
8 under wage assignments outstanding; provided that the  
9 judgment debtor shall not be compelled to pay income which  
10 would be considered exempt as wages under the Wage  
11 Deduction Statute. The court may modify an order for  
12 installment payments, from time to time, upon application  
13 of either party upon notice to the other.

14           (3) Compel any person cited, other than the judgment  
15 debtor, to deliver up any assets so discovered, to be  
16 applied in satisfaction of the judgment, in whole or in  
17 part, when those assets are held under such circumstances  
18 that in an action by the judgment debtor he or she could  
19 recover them in specie or obtain a judgment for the  
20 proceeds or value thereof as for conversion or  
21 embezzlement. A judgment creditor may recover a corporate  
22 judgment debtor's property on behalf of the judgment debtor  
23 for use of the judgment creditor by filing an appropriate  
24 petition within the citation proceedings.

25           (4) Enter any order upon or judgment against the person  
26 cited that could be entered in any garnishment proceeding.

1           (5) Compel any person cited to execute an assignment of  
2 any chose in action or a conveyance of title to real or  
3 personal property or resign memberships in exchanges,  
4 clubs, or other entities in the same manner and to the same  
5 extent as a court could do in any proceeding by a judgment  
6 creditor to enforce payment of a judgment or in aid of the  
7 enforcement of a judgment.

8           (6) Authorize the judgment creditor to maintain an  
9 action against any person or corporation that, it appears  
10 upon proof satisfactory to the court, is indebted to the  
11 judgment debtor, for the recovery of the debt, forbid the  
12 transfer or other disposition of the debt until an action  
13 can be commenced and prosecuted to judgment, direct that  
14 the papers or proof in the possession or control of the  
15 debtor and necessary in the prosecution of the action be  
16 delivered to the creditor or impounded in court, and  
17 provide for the disposition of any moneys in excess of the  
18 sum required to pay the judgment creditor's judgment and  
19 costs allowed by the court.

20           (d) No order or judgment shall be entered under subsection  
21 (c) in favor of the judgment creditor unless there appears of  
22 record a certification ~~of mailing~~ showing that a copy of the  
23 citation, ~~and~~ a copy of the citation notice, and the Income and  
24 Asset Form were served upon ~~was mailed to~~ the judgment debtor  
25 as required by subsection (b).

26           (d-5) If the court determines that the judgment debtor does

1 not possess any non-exempt income or assets, then the citation  
2 shall be dismissed.

3 (e) All property ordered to be delivered up shall, except  
4 as otherwise provided in this Section, be delivered to the  
5 sheriff to be collected by the sheriff or sold at public sale  
6 and the proceeds thereof applied towards the payment of costs  
7 and the satisfaction of the judgment. If the judgment debtor's  
8 property is of such a nature that it is not readily delivered  
9 up to the sheriff for public sale or if another method of sale  
10 is more appropriate to liquidate the property or enhance its  
11 value at sale, the court may order the sale of such property by  
12 the debtor, third party respondent, or by a selling agent other  
13 than the sheriff upon such terms as are just and equitable. The  
14 proceeds of sale, after deducting reasonable and necessary  
15 expenses, are to be turned over to the creditor and applied to  
16 the balance due on the judgment.

17 (f) (1) The citation may prohibit the party to whom it is  
18 directed from making or allowing any transfer or other  
19 disposition of, or interfering with, any property not  
20 exempt from the enforcement of a judgment therefrom, a  
21 deduction order or garnishment, belonging to the judgment  
22 debtor or to which he or she may be entitled or which may  
23 thereafter be acquired by or become due to him or her, and  
24 from paying over or otherwise disposing of any moneys not  
25 so exempt which are due or to become due to the judgment  
26 debtor, until the further order of the court or the

1 termination of the proceeding, whichever occurs first. The  
2 third party may not be obliged to withhold the payment of  
3 any moneys beyond double the amount of the balance due  
4 sought to be enforced by the judgment creditor. The court  
5 may punish any party who violates the restraining provision  
6 of a citation as and for a contempt, or if the party is a  
7 third party may enter judgment against him or her in the  
8 amount of the unpaid portion of the judgment and costs  
9 allowable under this Section, or in the amount of the value  
10 of the property transferred, whichever is lesser.

11 (2) The court may enjoin any person, whether or not a  
12 party to the supplementary proceeding, from making or  
13 allowing any transfer or other disposition of, or  
14 interference with, the property of the judgment debtor not  
15 exempt from the enforcement of a judgment, a deduction  
16 order or garnishment, or the property or debt not so exempt  
17 concerning which any person is required to attend and be  
18 examined until further direction in the premises. The  
19 injunction order shall remain in effect until vacated by  
20 the court or until the proceeding is terminated, whichever  
21 first occurs.

22 (g) If it appears that any property, chose in action,  
23 credit or effect discovered, or any interest therein, is  
24 claimed by any person, the court shall, as in garnishment  
25 proceedings, permit or require the claimant to appear and  
26 maintain his or her right. The rights of the person cited and

1 the rights of any adverse claimant shall be asserted and  
2 determined pursuant to the law relating to garnishment  
3 proceedings.

4 (h) Costs in proceedings authorized by this Section shall  
5 be allowed, assessed and paid in accordance with rules,  
6 provided that if the court determines, in its discretion, that  
7 costs incurred by the judgment creditor were improperly  
8 incurred, those costs shall be paid by the judgment creditor.

9 (i) This Section is in addition to and does not affect  
10 enforcement of judgments or proceedings supplementary thereto,  
11 by any other methods now or hereafter provided by law.

12 (j) This Section does not grant the power to any court to  
13 order installment or other payments from, or compel the sale,  
14 delivery, surrender, assignment or conveyance of any property  
15 exempt by statute from the enforcement of a judgment thereon, a  
16 deduction order, garnishment, attachment, sequestration,  
17 process or other levy or seizure.

18 (k) (Blank).

19 (k-5) If the court determines that any property held by a  
20 third party respondent is wages pursuant to Section 12-801, the  
21 court shall proceed as if a wage deduction proceeding had been  
22 filed and proceed to enter such necessary and proper orders as  
23 would have been entered in a wage deduction proceeding  
24 including but not limited to the granting of the statutory  
25 exemptions allowed by Section 12-803 and all other remedies  
26 allowed plaintiff and defendant pursuant to Part 8 of Article

1 12 of this Act.

2 (k-10) If a creditor discovers personal property of the  
3 judgment debtor that is subject to the lien of a citation to  
4 discover assets, the creditor may have the court impress a lien  
5 against a specific item of personal property, including a  
6 beneficial interest in a land trust. The lien survives the  
7 termination of the citation proceedings and remains as a lien  
8 against the personal property in the same manner that a  
9 judgment lien recorded against real property pursuant to  
10 Section 12-101 remains a lien on real property. If the judgment  
11 is revived before dormancy, the lien shall remain. A lien  
12 against personal property may, but need not, be recorded in the  
13 office of the recorder or filed as an informational filing  
14 pursuant to the Uniform Commercial Code.

15 (l) At any citation hearing at which the judgment debtor  
16 appears and seeks a declaration that certain of his or her  
17 income or assets are exempt, the court shall proceed to  
18 determine whether the property which the judgment debtor  
19 declares to be exempt is exempt from judgment. At any time  
20 before the return date specified on the citation, the judgment  
21 debtor may request, in writing, a hearing to declare exempt  
22 certain income and assets by notifying the clerk of the court  
23 before that time, using forms as may be provided by the clerk  
24 of the court. The clerk of the court will obtain a prompt  
25 hearing date from the court and will provide the necessary  
26 forms that must be prepared by the judgment debtor or the

1 attorney for the judgment debtor and sent to the judgment  
2 creditor, or the judgment creditor's attorney, regarding the  
3 time and location of the hearing. This notice may be sent by  
4 regular first class mail. At the hearing, the court shall  
5 immediately, unless for good cause shown that the hearing is to  
6 be continued, shall proceed to determine whether the property  
7 which the judgment debtor declares to be exempt is exempt from  
8 judgment. The restraining provisions of subsection (f) shall  
9 not apply to any property determined by the court to be exempt.

10 (m) The judgment or balance due on the judgment becomes a  
11 lien when a citation is served in accordance with subsection  
12 (a) of this Section. The lien binds nonexempt personal  
13 property, including money, choses in action, and effects of the  
14 judgment debtor as follows:

15 (1) When the citation is directed against the judgment  
16 debtor, upon all personal property belonging to the  
17 judgment debtor in the possession or control of the  
18 judgment debtor or which may thereafter be acquired or come  
19 due to the judgment debtor to the time of the disposition  
20 of the citation.

21 (2) When the citation is directed against a third  
22 party, upon all personal property belonging to the judgment  
23 debtor in the possession or control of the third party or  
24 which thereafter may be acquired or come due the judgment  
25 debtor and comes into the possession or control of the  
26 third party to the time of the disposition of the citation.



1           The lien established under this Section does not affect the  
2 rights of citation respondents in property prior to the service  
3 of the citation upon them and does not affect the rights of  
4 bona fide purchasers or lenders without notice of the citation.  
5 The lien is effective for the period specified by Supreme Court  
6 Rule.

7           This subsection (m), as added by Public Act 88-48, is a  
8 declaration of existing law.

9           (n) If any provision of this Act or its application to any  
10 person or circumstance is held invalid, the invalidity of that  
11 provision or application does not affect the provisions or  
12 applications of the Act that can be given effect without the  
13 invalid provision or application.

14           (o) The changes to this Section made by this amendatory Act  
15 of the 97th General Assembly apply only to supplementary  
16 proceedings commenced under this Section on or after the  
17 effective date of this amendatory Act of the 97th General  
18 Assembly.

19           (Source: P.A. 97-350, eff. 1-1-12.)

20           (735 ILCS 5/12-107.5 new)

21           Sec. 12-107.5. Body attachment order.

22           (a) No order of body attachment or other civil order for  
23 the incarceration or detention of an individual to answer for a  
24 charge of indirect civil contempt shall issue unless the  
25 respondent has first had an opportunity, after personal service

1 or abode service of notice as provided in Section 2-203, to  
2 appear in court to show cause why the respondent should not be  
3 held in contempt.

4 (b) The notice shall be an order to show cause.

5 (c) Any order issued pursuant to subsection (a) shall  
6 expire 6 months after the date of issue.

7 (d) Absent good cause, the first order issued pursuant to  
8 subsection (a) and directed to a respondent shall be in the  
9 nature of a recognizance bond in the sum of no more than  
10 \$1,000.

11 (e) Upon discharge of any bond secured by the posting of  
12 funds, the funds shall be returned to the respondent or other  
13 party posting the bond. In no case shall the respondent be  
14 required to pay the funds to the plaintiff.

15 Section 99. Effective date. This Act takes effect upon  
16 becoming law.".