



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
SB2354

Introduced 1/28/2004, by James F. Clayborne Jr.

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-1401

from Ch. 110, par. 2-1401

Amends the Code of Civil Procedure. Makes a technical change in a Section concerning relief from judgments.

LRB093 20592 LCB 46409 b

1 AN ACT concerning 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 Section 2-1401 as follows:

6 (735 ILCS 5/2-1401) (from Ch. 110, par. 2-1401)

7 Sec. 2-1401. Relief from judgments.

8 (a) Relief from final orders and judgments, after 30 days
9 from the entry thereof, may be had upon petition as provided in
10 this Section. Writs of error coram nobis and coram vobis, bills
11 of review and bills in the nature of bills of review are
12 abolished. All relief ~~heretofore~~ obtainable and the grounds for
13 such relief ~~heretofore~~ available, whether by any of the
14 foregoing remedies or otherwise, shall be available in every
15 case, by proceedings hereunder, regardless of the nature of the
16 order or judgment from which relief is sought or of the
17 proceedings in which it was entered. Except as provided in
18 Section 6 of the Illinois Parentage Act of 1984, there shall be
19 no distinction between actions and other proceedings,
20 statutory or otherwise, as to availability of relief, grounds
21 for relief or the relief obtainable.

22 (b) The petition must be filed in the same proceeding in
23 which the order or judgment was entered but is not a
24 continuation thereof. The petition must be supported by
25 affidavit or other appropriate showing as to matters not of
26 record. All parties to the petition shall be notified as
27 provided by rule.

28 (c) Except as provided in Section 20b of the Adoption Act
29 and Section 2-32 ~~3-32~~ of the Juvenile Court Act of 1987 or in a
30 petition based upon Section 116-3 of the Code of Criminal
31 Procedure of 1963, the petition must be filed not later than 2
32 years after the entry of the order or judgment. Time during

1 which the person seeking relief is under legal disability or
2 duress or the ground for relief is fraudulently concealed shall
3 be excluded in computing the period of 2 years.

4 (d) The filing of a petition under this Section does not
5 affect the order or judgment, or suspend its operation.

6 (e) Unless lack of jurisdiction affirmatively appears from
7 the record proper, the vacation or modification of an order or
8 judgment pursuant to the provisions of this Section does not
9 affect the right, title or interest in or to any real or
10 personal property of any person, not a party to the original
11 action, acquired for value after the entry of the order or
12 judgment but before the filing of the petition, nor affect any
13 right of any person not a party to the original action under
14 any certificate of sale issued before the filing of the
15 petition, pursuant to a sale based on the order or judgment.

16 (f) Nothing contained in this Section affects any existing
17 right to relief from a void order or judgment, or to employ any
18 existing method to procure that relief.

19 (Source: P.A. 90-18, eff. 7-1-97; 90-27, eff. 1-1-98; 90-141,
20 eff. 1-1-98; 90-655, eff. 7-30-98; revised 11-06-02.)