

SB2138



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2138

Introduced 2/14/2008, by Sen. Dave Syverson

SYNOPSIS AS INTRODUCED:

735 ILCS 5/12-183

from Ch. 110, par. 12-183

Amends the Code of Civil Procedure. Provides that every judgment creditor to whom tender has been made of all sums due to him or her, including interest, from the judgment debtor shall file with the circuit court clerk a written release or satisfaction of the judgment within 30 days after the receipt of all moneys due. Effective January 1, 2009.

LRB095 18827 AJO 44954 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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 12-183 as follows:

6 (735 ILCS 5/12-183) (from Ch. 110, par. 12-183)

7 Sec. 12-183. Release of judgment.

8 (a) Every judgment creditor, his or her assignee of record
9 or other legal representative having received full
10 satisfaction or payment of all such sums of money as are really
11 due to him or her from the judgment debtor on any judgment
12 rendered in a court shall, at the request of the judgment
13 debtor or his or her legal representative, execute and deliver
14 to the judgment debtor or his or her legal representative an
15 instrument in writing releasing such judgment.

16 (a-5) Every judgment creditor to whom tender has been made
17 of all sums of money due him or her from the judgment debtor,
18 including interest, shall file with the circuit court clerk a
19 written release or satisfaction of the judgment within 30 days
20 after the receipt of all sums of money due.

21 (b) If the judgment creditor, his or her assigns of record
22 or other legal representative to whom tender has been made of
23 all sums of money due him or her from the judgment debtor

1 including interest, on any judgment entered by a court,
2 wilfully fails or refuses, at the request of the judgment
3 debtor or his or her legal representative to execute and
4 deliver to the judgment debtor or his or her legal
5 representative an instrument in writing releasing such
6 judgment, the judgment debtor may petition the court in which
7 such judgment is of record, making tender therewith to the
8 court of all sums due in principal and interest on such
9 judgment, for the use of the judgment creditor, his or her
10 executors, administrators or assigns, whereupon the court
11 shall enter an order satisfying the judgment and releasing all
12 liens based on such judgment.

13 (c) For the recording of assignment of any judgment the
14 clerk of the court in which such judgment is of record is
15 allowed a fee of \$2.

16 (d) A satisfaction of a judgment may be delivered to the
17 judgment debtor, his or her attorney or to the clerk of the
18 court in which such judgment is of record.

19 (e) The clerk shall not be allowed any fee for recording
20 the satisfaction of judgment. The clerk of the court shall make
21 appropriate notation on the judgment docket of the book and
22 page where any release or assignment of any judgment is
23 recorded.

24 (f) No judgment shall be released of record except by an
25 instrument in writing recorded in the court in which such
26 judgment is of record. However, nothing contained in this

1 Section affects in any manner the validity of any release of
2 judgment made, prior to January 1, 1952, in judgment and
3 execution dockets by the judgment creditor, his or her
4 attorney, assignee or other legal representative.

5 (g) The writ of audita querela is abolished and all relief
6 heretofore obtainable and grounds for such relief heretofore
7 available, whether by the writ of audita querela or otherwise,
8 shall be available in every case by petition hereunder,
9 regardless of the nature of the order or judgment from which
10 relief is sought or of the proceeding in which it was entered.
11 There shall be no distinction between actions and other
12 proceedings, statutory or otherwise, as to availability of
13 relief, grounds for relief or relief obtainable. The petition
14 shall be filed in the same proceeding in which the order or
15 judgment was entered and shall be supported by affidavit or
16 other appropriate showing as to matters not of record. All
17 parties to the petition shall be notified as provided by rule.

18 (h) Upon the filing of a release or satisfaction in full
19 satisfaction of judgment, signed by the party in whose favor
20 the judgment was entered or his or her attorney, the court
21 shall vacate the judgment, and dismiss the action.

22 (i) Any judgment arising out of an order for support shall
23 not be a judgment to the extent of payments made as evidenced
24 by the records of the Clerk of the Circuit Court or State
25 agency receiving payments pursuant to the order. In the event
26 payments made pursuant to that order are not paid to the Clerk

1 of the Circuit Court or a State agency, then any judgment
2 arising out of each order for support may be released in the
3 following manner:

4 (1) A Notice of Filing and an affidavit stating that
5 all installments of child support required to be paid
6 pursuant to the order under which the judgment or judgments
7 were entered have been paid shall be filed with the office
8 of the court or agency entering said order for support,
9 together with proof of service of such notice and affidavit
10 upon the recipient of such payments.

11 (2) Service of such affidavit shall be by any means
12 authorized under Sections 2-203 and 2-208 of the Code of
13 Civil Procedure or under Supreme Court Rules 11 or 105(b).

14 (3) The Notice of Filing shall set forth the name and
15 address of the judgment debtor and the judgment creditor,
16 the court file number of the order giving rise to the
17 judgment and, in capital letters, the following statement:

18 YOU ARE HEREBY NOTIFIED THAT ON (insert date) THE
19 ATTACHED AFFIDAVIT WAS FILED IN THE OFFICE OF THE CLERK OF
20 THE CIRCUIT COURT OF COUNTY, ILLINOIS, WHOSE ADDRESS
21 IS, ILLINOIS. IF, WITHIN 28 DAYS OF THE DATE OF
22 THIS NOTICE, YOU FAIL TO FILE AN AFFIDAVIT OBJECTING TO THE
23 SATISFACTION OF THE STATED JUDGMENT OR JUDGMENTS IN THE
24 ABOVE OFFICE, THE SAID JUDGMENTS WILL BE DEEMED TO BE
25 SATISFIED AND NOT ENFORCEABLE. THE SATISFACTION WILL NOT
26 PREVENT YOU FROM ENFORCING THE ORDER FOR SUPPORT THROUGH

1 THE COURT.

2 (4) If no affidavit objecting to the satisfaction of
3 the judgment or judgments is filed within 28 days of the
4 Notice described in paragraph (3) of this subsection (i),
5 such judgment or judgments shall be deemed to be satisfied
6 and not enforceable.

7 (Source: P.A. 91-357, eff. 7-29-99.)

8 Section 99. Effective date. This Act takes effect January
9 1, 2009.