



Sen. Emil Jones Jr.

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LRB095 05934 AJ0 48879 a

1 AMENDMENT TO SENATE BILL 2725

2 AMENDMENT NO. _____. Amend Senate Bill 2725 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 changing Sections 2-1402, 12-705, 12-706, 12-707, 12-715,
6 12-805, 12-806, 12-807, and 12-808 as 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. If third party
3 respondent is a corporation or company authorized to do
4 business in Illinois, service of a citation shall be at the
5 corporation or company's main Illinois administrative office.

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

18 (b) Any citation served upon a judgment debtor or any other
19 person shall include a certification by the attorney for the
20 judgment creditor or the judgment creditor setting forth the
21 amount of the judgment, the date of the judgment, or its
22 revival date, the balance due thereon, the name of the court,
23 and the number of the case, and a copy of the citation notice
24 required by this subsection. Whenever a citation is served upon
25 a person or party other than the judgment debtor, the officer
26 or person serving the citation shall send to the judgment

1 debtor, within three business days of the service upon the
2 cited party, a copy of the citation and the citation notice,
3 which may be sent by regular first-class mail to the judgment
4 debtor's last known address. In no event shall a citation
5 hearing be held sooner than five business days after the
6 mailing of the citation and citation notice to the judgment
7 debtor, except by agreement of the parties. The citation notice
8 need not be mailed to a corporation, partnership, or
9 association. The citation notice shall be in substantially the
10 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 also has the right to seek a declaration at an
25 earlier date, by notifying the clerk in writing at (insert
26 address of clerk). When so notified, the Clerk of the Court

1 will obtain a prompt hearing date from the court and will
2 provide the necessary forms that must be prepared by the
3 judgment debtor or the attorney for the judgment debtor and
4 sent to the judgment creditor and the judgment creditor's
5 attorney regarding the time and location of the hearing. This
6 notice may be sent by regular first class mail."

7 (c) When assets or income of the judgment debtor not exempt
8 from the satisfaction of a judgment, a deduction order or
9 garnishment are discovered, the court may, by appropriate order
10 or judgment:

11 (1) Compel the judgment debtor to deliver up, to be
12 applied in satisfaction of the judgment, in whole or in
13 part, money, choses in action, property or effects in his
14 or her possession or control, so discovered, capable of
15 delivery and to which his or her title or right of
16 possession is not substantially disputed.

17 (2) Compel the judgment debtor to pay to the judgment
18 creditor or apply on the judgment, in installments, a
19 portion of his or her income, however or whenever earned or
20 acquired, as the court may deem proper, having due regard
21 for the reasonable requirements of the judgment debtor and
22 his or her family, if dependent upon him or her, as well as
23 any payments required to be made by prior order of court or
24 under wage assignments outstanding; provided that the
25 judgment debtor shall not be compelled to pay income which
26 would be considered exempt as wages under the Wage

1 Deduction Statute. The court may modify an order for
2 installment payments, from time to time, upon application
3 of either party upon notice to the other.

4 (3) Compel any person cited, other than the judgment
5 debtor, to deliver up any assets so discovered, to be
6 applied in satisfaction of the judgment, in whole or in
7 part, when those assets are held under such circumstances
8 that in an action by the judgment debtor he or she could
9 recover them in specie or obtain a judgment for the
10 proceeds or value thereof as for conversion or
11 embezzlement. A judgment creditor may recover a corporate
12 judgment debtor's property on behalf of the judgment debtor
13 for use of the judgment creditor by filing an appropriate
14 petition within the citation proceedings.

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

17 (5) Compel any person cited to execute an assignment of
18 any chose in action or a conveyance of title to real or
19 personal property or resign memberships in exchanges,
20 clubs, or other entities in the same manner and to the same
21 extent as a court could do in any proceeding by a judgment
22 creditor to enforce payment of a judgment or in aid of the
23 enforcement of a judgment.

24 (6) Authorize the judgment creditor to maintain an
25 action against any person or corporation that, it appears
26 upon proof satisfactory to the court, is indebted to the

1 judgment debtor, for the recovery of the debt, forbid the
2 transfer or other disposition of the debt until an action
3 can be commenced and prosecuted to judgment, direct that
4 the papers or proof in the possession or control of the
5 debtor and necessary in the prosecution of the action be
6 delivered to the creditor or impounded in court, and
7 provide for the disposition of any moneys in excess of the
8 sum required to pay the judgment creditor's judgment and
9 costs allowed by the court.

10 (d) No order or judgment shall be entered under subsection
11 (c) in favor of the judgment creditor unless there appears of
12 record a certification of mailing showing that a copy of the
13 citation and a copy of the citation notice was mailed to the
14 judgment debtor as required by subsection (b).

15 (e) All property ordered to be delivered up shall, except
16 as otherwise provided in this Section, be delivered to the
17 sheriff to be collected by the sheriff or sold at public sale
18 and the proceeds thereof applied towards the payment of costs
19 and the satisfaction of the judgment. If the judgment debtor's
20 property is of such a nature that it is not readily delivered
21 up to the sheriff for public sale or if another method of sale
22 is more appropriate to liquidate the property or enhance its
23 value at sale, the court may order the sale of such property by
24 the debtor, third party respondent, or by a selling agent other
25 than the sheriff upon such terms as are just and equitable. The
26 proceeds of sale, after deducting reasonable and necessary

1 expenses, are to be turned over to the creditor and applied to
2 the balance due on the judgment.

3 (f) (1) The citation may prohibit the party to whom it is
4 directed from making or allowing any transfer or other
5 disposition of, or interfering with, any property not
6 exempt from the enforcement of a judgment therefrom, a
7 deduction order or garnishment, belonging to the judgment
8 debtor or to which he or she may be entitled or which may
9 thereafter be acquired by or become due to him or her, and
10 from paying over or otherwise disposing of any moneys not
11 so exempt which are due or to become due to the judgment
12 debtor, until the further order of the court or the
13 termination of the proceeding, whichever occurs first. The
14 third party may not be obliged to withhold the payment of
15 any moneys beyond double the amount of the balance due
16 sought to be enforced by the judgment creditor. The court
17 may punish any party who intentionally violates the
18 restraining provision of a citation as and for a contempt,
19 or if the party is a third party, the court may enter
20 judgment against the third party ~~him or her~~ in the amount
21 of the of non-exempt money or property (other than wages)
22 owed the judgment debtor in possession or control of the
23 third party or in which the judgment debtor has an interest
24 at the time the citation is served and for such further
25 time the citation is in effect or unpaid portion of the
26 judgment and costs allowable under this Section, or in the

1 amount of the value of the property transferred, whichever
2 is lesser.

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

14 (g) If it appears that any property, chose in action,
15 credit or effect discovered, or any interest therein, is
16 claimed by any person, the court shall, as in garnishment
17 proceedings, permit or require the claimant to appear and
18 maintain his or her right. The rights of the person cited and
19 the rights of any adverse claimant shall be asserted and
20 determined pursuant to the law relating to garnishment
21 proceedings.

22 (h) Costs in proceedings authorized by this Section shall
23 be allowed, assessed and paid in accordance with rules,
24 provided that if the court determines, in its discretion, that
25 costs incurred by the judgment creditor were improperly
26 incurred, those costs shall be paid by the judgment creditor.

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

4 (j) This Section does not grant the power to any court to
5 order installment or other payments from, or compel the sale,
6 delivery, surrender, assignment or conveyance of any property
7 exempt by statute from the enforcement of a judgment thereon, a
8 deduction order, garnishment, attachment, sequestration,
9 process or other levy or seizure.

10 (k) (Blank).

11 (k-5) If the court determines that any property held by a
12 third party respondent is wages pursuant to Section 12-801, the
13 court shall proceed as if a wage deduction proceeding had been
14 filed and proceed to enter such necessary and proper orders as
15 would have been entered in a wage deduction proceeding
16 including but not limited to the granting of the statutory
17 exemptions allowed by Section 12-803 and all other remedies
18 allowed plaintiff and defendant pursuant to Part 8 of Article
19 12 of this Act.

20 (l) At any citation hearing at which the judgment debtor
21 appears and seeks a declaration that certain of his or her
22 income or assets are exempt, the court shall proceed to
23 determine whether the property which the judgment debtor
24 declares to be exempt is exempt from judgment. At any time
25 before the return date specified on the citation, the judgment
26 debtor may request, in writing, a hearing to declare exempt

1 certain income and assets by notifying the clerk of the court
2 before that time, using forms as may be provided by the clerk
3 of the court. The clerk of the court will obtain a prompt
4 hearing date from the court and will provide the necessary
5 forms that must be prepared by the judgment debtor or the
6 attorney for the judgment debtor and sent to the judgment
7 creditor, or the judgment creditor's attorney, regarding the
8 time and location of the hearing. This notice may be sent by
9 regular first class mail. At the hearing, the court shall
10 immediately, unless for good cause shown that the hearing is to
11 be continued, shall proceed to determine whether the property
12 which the judgment debtor declares to be exempt is exempt from
13 judgment. The restraining provisions of subsection (f) shall
14 not apply to any property determined by the court to be exempt.

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

20 (1) When the citation is directed against the judgment
21 debtor, upon all personal property belonging to the
22 judgment debtor in the possession or control of the
23 judgment debtor or which may thereafter be acquired or come
24 due to the judgment debtor to the time of the disposition
25 of the citation.

26 (2) When the citation is directed against a third

1 party, upon all personal property belonging to the judgment
2 debtor in the possession or control of the third party or
3 which thereafter may be acquired or come due the judgment
4 debtor and comes into the possession or control of the
5 third party to the time of the disposition of the citation.

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

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

14 (n) If any provision of this Act or its application to any
15 person or circumstance is held invalid, the invalidity of that
16 provision or application does not affect the provisions or
17 applications of the Act that can be given effect without the
18 invalid provision or application.

19 (Source: P.A. 94-293, eff. 1-1-06; 94-306, eff. 1-1-06; 95-331,
20 eff. 8-21-07; 95-661, eff. 1-1-08.)

21 (735 ILCS 5/12-705) (from Ch. 110, par. 12-705)

22 Sec. 12-705. Summons.

23 (a) Summons shall be returnable not less than 21 nor more
24 than 30 days after the date of issuance. Summons with 4 copies
25 of the interrogatories shall be served and returned as in other

1 civil cases. If the garnishee is served with summons less than
2 10 days prior to the return date, the court shall continue the
3 case to a new return date 14 days after the return date stated
4 on the summons. The summons shall be in a form consistent with
5 local court rules. The summons shall be accompanied by a copy
6 of the underlying judgment or a certification by the clerk of
7 the court that entered the judgment, or by the attorney for the
8 judgment creditor, setting forth the amount of the judgment,
9 the name of the court and the number of the case and one copy of
10 a garnishment notice in substantially the following form:

11 "GARNISHMENT NOTICE

12 (Name and address of Court)

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

14 Judgment Creditor v.

15 (Name of Judgement Debtor),

16 Judgment Debtor.

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

18 Name and address of Attorney for Judgment

19 Creditor or of Judgment Creditor (If no

20 attorney is listed): (Insert name and address)

21 Amount of Judgment: \$(Insert amount)

22 Name of Garnishee: (Insert name)

23 Return Date: (Insert return date specified in summons)

24 NOTICE: The court has issued a garnishment summons against
25 the garnishee named above for money or property (other than
26 wages) belonging to the judgment debtor or in which the

1 judgment debtor has an interest at the time the garnishment
2 writ is served on garnishee. The garnishment summons was issued
3 on the basis of a judgment against the judgment debtor in favor
4 of the judgment creditor in the amount stated above.

5 The amount of money or property (other than wages) that may
6 be garnished is limited by federal and Illinois law. The
7 judgment debtor has the right to assert statutory exemptions
8 against certain money or property of the judgment debtor which
9 may not be used to satisfy the judgment in the amount stated
10 above.

11 Under Illinois or federal law, the exemptions of personal
12 property owned by the debtor include the debtor's equity
13 interest, not to exceed \$4,000 in value, in any personal
14 property as chosen by the debtor; Social Security and SSI
15 benefits; public assistance benefits; unemployment
16 compensation benefits; workers' compensation benefits;
17 veterans' benefits; circuit breaker property tax relief
18 benefits; the debtor's equity interest, not to exceed \$2,400 in
19 value, in any one motor vehicle, and the debtor's equity
20 interest, not to exceed \$1,500 in value, in any implements,
21 professional books or tools of the trade of the debtor.

22 The judgment debtor may have other possible exemptions from
23 garnishment under the law.

24 The judgment debtor has the right to request a hearing
25 before the court to dispute the garnishment or to declare
26 exempt from garnishment certain money or property or both. To

1 obtain a hearing in counties with a population of 1,000,000 or
2 more, the judgment debtor must notify the Clerk of the Court in
3 person and in writing at (insert address of Clerk) before the
4 return date specified above or appear in court on the date and
5 time on that return date. To obtain a hearing in counties with
6 a population of less than 1,000,000, the judgment debtor must
7 notify the Clerk of the Court in writing at (insert address of
8 Clerk) on or before the return date specified above. The Clerk
9 of the Court will provide a hearing date and the necessary
10 forms that must be prepared by the judgment debtor or the
11 attorney for the judgment debtor and sent to the judgment
12 creditor and the garnishee regarding the time and location of
13 the hearing. This notice may be sent by regular first class
14 mail."

15 (b) An officer or other person authorized by law to serve
16 process shall serve the summons, interrogatories and the
17 garnishment notice required by subsection (a) of this Section
18 upon the garnishee and shall, (1) within 2 business days of the
19 service upon the garnishee, mail a copy of the garnishment
20 notice and the summons to the judgment debtor by first class
21 mail at the judgment debtor's address indicated in the
22 garnishment notice and (2) within 4 business days of the
23 service upon the garnishee file with the clerk of the court a
24 certificate of mailing in substantially the following form:

25 "CERTIFICATE OF MAILING

26 I hereby certify that, within 2 business days of service

1 upon the garnishee of the garnishment summons, interrogatories
 2 and garnishment notice, I served upon the judgment debtor in
 3 this cause a copy of the garnishment summons and garnishment
 4 notice by first class mail to the judgment debtor's address as
 5 indicated in the garnishment notice.

6 Date:.....

7 Signature"

8 In the case of service of the summons for garnishment upon
 9 the garnishee by certified or registered mail, as provided in
 10 subsection (c) of this Section, no sooner than 2 business days
 11 nor later than 4 business days after the date of mailing, the
 12 clerk shall mail a copy of the garnishment notice and the
 13 summons to the judgment debtor by first class mail at the
 14 judgment debtor's address indicated in the garnishment notice,
 15 shall prepare the Certificate of Mailing described by this
 16 subsection, and shall include the Certificate of Mailing in a
 17 permanent record.

18 (c) In a county with a population of less than 1,000,000,
 19 unless otherwise provided by circuit court rule, at the request
 20 of the judgment creditor or his or her attorney and instead of
 21 personal service, service of a summons for garnishment may be
 22 made as follows:

23 (1) For each garnishee to be served, the judgment
 24 creditor or his or her attorney shall pay to the clerk of
 25 the court a fee of \$2, plus the cost of mailing, and
 26 furnish to the clerk an original and 2 copies of a summons,

1 an original and one copy of the interrogatories, an
2 affidavit setting forth the garnishee's mailing address,
3 an original and 2 copies of the garnishment notice required
4 by subsection (a) of this Section, and a copy of the
5 judgment or certification described in subsection (a) of
6 this Section. The original judgment shall be retained by
7 the clerk.

8 (2) The clerk shall mail to the garnishee, at the
9 address appearing in the affidavit, the copy of the
10 judgment or certification described in subsection (a) of
11 this Section, the summons, the interrogatories, and the
12 garnishment notice required by subsection (a) of this
13 Section, by certified or registered mail, return receipt
14 requested, showing to whom delivered and the date and
15 address of delivery. This Mailing shall be mailed on a
16 "restricted delivery" basis when service is directed to a
17 natural person. The envelope and return receipt shall bear
18 the return address of the clerk, and the return receipt
19 shall be stamped with the docket number of the case. The
20 receipt for certified or registered mail shall state the
21 name and address of the addressee, the date of the mailing,
22 shall identify the documents mailed, and shall be attached
23 to the original summons.

24 (3) The return receipt must be attached to the original
25 summons and, if it shows delivery at least 10 days before
26 the day for the return date, shall constitute proof of

1 service of any documents identified on the return receipt
2 as having been mailed.

3 (4) The clerk shall note the fact of service in a
4 permanent record.

5 (Source: P.A. 94-293, eff. 1-1-06.)

6 (735 ILCS 5/12-706) (from Ch. 110, par. 12-706)

7 Sec. 12-706. Conditional judgment. (a) When any person
8 summoned as garnishee (if an individual at garnishee's last
9 known address or if a business at garnishee's main Illinois
10 administrative office) fails to appear and answer as required
11 by Part 7 of Article XII of this Act, the court may enter a
12 conditional judgment against the garnishee for the amount due
13 upon the judgment against the judgment debtor. A summons to
14 confirm the conditional judgment may issue against the
15 garnishee, returnable in the same manner as provided in Section
16 12-705 of this Act, commanding the garnishee to show cause why
17 the judgment should not be made final. If the garnishee, after
18 being served with summons to confirm the conditional judgment
19 or after being notified as provided in subsection (b) hereof,
20 fails to appear and answer, the court shall confirm such
21 judgment ~~to the amount of the judgment against the judgment~~
22 ~~debtor~~ and award costs. If the garnishee appears and answers,
23 the same proceedings may be had as in other cases.

24 (b) If any garnishee becomes a non-resident, goes out of
25 this State, or is concealed within this State so that the

1 summons to confirm the conditional judgment cannot be served
2 upon him or her, upon the filing by the plaintiff or his or her
3 agent of an affidavit as in cases of non-resident defendants in
4 attachments, the garnishee may be notified in the same manner
5 as a non-resident defendant in attachment; and upon notice
6 being given to him or her as above stated, he or she may be
7 proceeded against in the same manner as if he or she had been
8 personally served with summons to confirm the conditional
9 judgment.

10 (Source: P.A. 83-707.)

11 (735 ILCS 5/12-707) (from Ch. 110, par. 12-707)

12 Sec. 12-707. Duties of garnishee.

13 (a) To the extent of the amount due upon the judgment and
14 costs, the garnishee shall hold, subject to the order of the
15 court any non-exempt indebtedness or other non-exempt property
16 in his or her possession, custody or control belonging to the
17 judgment debtor or in which the judgment debtor has any
18 interest. The judgment or balance due thereon, whichever is
19 less, becomes a lien on the indebtedness and other property
20 held by the garnishee at the time of the service of garnishment
21 summons and remains a lien thereon pending the garnishment
22 proceeding.

23 (b) The garnishee shall file, on or before the return date,
24 or within the further time that the court for cause may allow,
25 a written answer under oath to the interrogatories, setting

1 forth as of the date of service of the garnishment summons any
2 indebtedness due or to become due to the judgment debtor and
3 any other property in his, her or its possession, custody or
4 control belonging to the judgment debtor or in which the
5 judgment debtor has an interest. The garnishee shall mail, by
6 first class mail, a copy of the answer to the judgment creditor
7 or its attorney and to the judgment debtor at the address
8 specified in the affidavit filed under Section 12-701 of this
9 Act, or at any other address or location of the judgment debtor
10 known to the garnishee, and shall certify in the answer that it
11 was so mailed to the judgment debtor.

12 (Source: P.A. 87-1252.)

13 (735 ILCS 5/12-715) (from Ch. 110, par. 12-715)

14 Sec. 12-715. Neglect ~~Refusal or neglect~~ of garnishee to
15 deliver property.

16 (a) If a garnishee is served in accordance with this Part 7
17 ~~and refuses or~~ neglects to deliver property in garnishee's ~~his~~
18 ~~or her~~ possession when ordered by the court or upon request by
19 the officer holding a certified copy of the judgment for
20 enforcement thereof against the judgment debtor, ~~the garnishee~~
21 ~~may be attached and punished for contempt, or~~ the court may
22 enter judgment against the garnishee for the value of the
23 property owed the judgment debtor at the time the garnishee is
24 served or the unpaid amount due upon the judgment and costs,
25 whichever is the lesser, and have same enforced against the

1 garnishee.

2 (Source: P.A. 82-280.)

3 (735 ILCS 5/12-805) (from Ch. 110, par. 12-805)

4 Sec. 12-805. Summons; Issuance.

5 (a) Upon the filing by a judgment creditor, its attorney or
6 other designee of (1) an affidavit that the affiant believes
7 any person is indebted to the judgment debtor for wages due or
8 to become due, as provided in Part 8 of Article XII of this
9 Act, and includes the last address of the judgment debtor known
10 to the affiant as well as the name of the judgment debtor, and
11 a certification by the judgment creditor or his attorney that,
12 before filing the affidavit, the wage deduction notice has been
13 mailed to the judgment debtor by first class mail at the
14 judgment debtor's last known address, and (2) written
15 interrogatories to be answered by the employer with respect to
16 the indebtedness, the clerk of the court in which the judgment
17 was entered shall issue summons against the person named in the
18 affidavit as employer at the employer's main Illinois
19 administrative office commanding the employer to appear in the
20 court and answer the interrogatories in writing under oath. The
21 interrogatories shall elicit all the information necessary to
22 determine the proper amount of non-exempt wages. The
23 interrogatories shall require that the employer certify that a
24 copy of the completed interrogatories as specified in
25 subsection (c) of Section 12-808 has been mailed or hand

1 delivered to the judgment debtor and shall be in a form
2 consistent with local court rules. The summons shall further
3 command federal agency employers, upon effective service of
4 summons pursuant to 5 USC 5520a, to commence to pay over
5 deducted wages in accordance with Section 12-808. The summons
6 shall be in a form consistent with local court rules. The
7 summons shall be accompanied by a copy of the underlying
8 judgment or a certification by the clerk of the court that
9 entered the judgment, or by the attorney for the judgment
10 creditor, setting forth the date and amount of the judgment,
11 allowable costs expended, interest accumulated, credits paid
12 by or on behalf of the judgment debtor and the balance due the
13 judgment creditor, and one copy of a wage deduction notice in
14 substantially the following form:

15 "WAGE DEDUCTION NOTICE

16 (Name and address of Court)

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

18 Judgment Creditor v.

19 (Name of Judgment Debtor),

20 Judgment Debtor.

21 Address of Judgment Debtor: (Insert last known address)

22 Name and Address of Attorney for Judgment

23 Creditor or of Judgment Creditor (if no

24 attorney is listed): (Insert name and address)

25 Amount of Judgment: \$.....

26 Employer: (Name of Employer)

1 Return Date: (Insert return date specified in summons)

2 NOTICE: The court shall be asked to issue a wage deduction
3 summons against the employer named above for wages due or about
4 to become due to you. The wage deduction summons may be issued
5 on the basis of a judgment against you in favor of the judgment
6 creditor in the amount stated above.

7 The amount of wages that may be deducted is limited by
8 federal and Illinois law.

9 (1) Under Illinois law, the amount of wages that may be
10 deducted is limited to the lesser of (i) 15% of gross
11 weekly wages or (ii) the amount by which disposable
12 earnings for a week exceed the total of 45 times the
13 federal minimum hourly wage or, under a wage deduction
14 summons served on or after January 1, 2006, the minimum
15 hourly wage prescribed by Section 4 of the Minimum Wage
16 Law, whichever is greater.

17 (2) Under federal law, the amount of wages that may be
18 deducted is limited to the lesser of (i) 25% of disposable
19 earnings for a week or (ii) the amount by which disposable
20 earnings for a week exceed 30 times the federal minimum
21 hourly wage.

22 (3) Pension and retirement benefits and refunds may be
23 claimed as exempt from wage deduction under Illinois law.

24 You have the right to request a hearing before the court to
25 dispute the wage deduction because the wages are exempt. To
26 obtain a hearing in counties with a population of 1,000,000 or

1 more, you must notify the Clerk of the Court in person and in
2 writing at (insert address of Clerk) before the Return Date
3 specified above or appear in court on the date and time on that
4 Return Date. To obtain a hearing in counties with a population
5 of less than 1,000,000, you must notify the Clerk of the Court
6 in writing at (insert address of clerk) on or before the Return
7 Date specified above. The Clerk of the Court will provide a
8 hearing date and the necessary forms that must be prepared by
9 you or your attorney and sent to the judgment creditor and the
10 employer, or their attorney, regarding the time and location of
11 the hearing. This notice may be sent by regular first class
12 mail."

13 (b) In a county with a population of less than 1,000,000,
14 unless otherwise provided by circuit court rule, at the request
15 of the judgment creditor or his or her attorney and instead of
16 personal service, service of a summons for a wage deduction may
17 be made as follows:

18 (1) For each employer to be served, the judgment
19 creditor or his or her attorney shall pay to the clerk of
20 the court a fee of \$2, plus the cost of mailing, and
21 furnish to the clerk an original and one copy of a summons,
22 an original and one copy of the interrogatories and an
23 affidavit setting forth the employer's main Illinois
24 administrative office mailing address, an original and one
25 copy of the wage deduction notice required by subsection
26 (a) of this Section, and a copy of the judgment or

1 certification described in subsection (a) of this Section.
2 The original judgment shall be retained by the clerk.

3 (2) The clerk shall mail to the employer, at the
4 address appearing in the affidavit, the copy of the
5 judgment or certification described in subsection (a) of
6 this Section, the summons, the interrogatories, and the
7 wage deduction notice required by subsection (a) of this
8 Section, by certified or registered mail, return receipt
9 requested, showing to whom delivered and the date and
10 address of delivery. This Mailing shall be mailed on a
11 "restricted delivery" basis when service is directed to a
12 natural person. The envelope and return receipt shall bear
13 the return address of the clerk, and the return receipt
14 shall be stamped with the docket number of the case. The
15 receipt for certified or registered mail shall state the
16 name and address of the addressee, the date of the mailing,
17 shall identify the documents mailed, and shall be attached
18 to the original summons.

19 (3) The return receipt must be attached to the original
20 summons and, if it shows delivery at least 3 days before
21 the return date, shall constitute proof of service of any
22 documents identified on the return receipt as having been
23 mailed.

24 (4) The clerk shall note the fact of service in a
25 permanent record.

26 (c) Instead of personal service, a summons for a wage

1 deduction may be served and returned in the manner provided by
2 Supreme Court rule for service, otherwise than by publication,
3 of a notice for additional relief upon a party in default.

4 (Source: P.A. 94-306, eff. 1-1-06.)

5 (735 ILCS 5/12-806) (from Ch. 110, par. 12-806)

6 Sec. 12-806. Service and return of summons. Summons shall
7 be returnable not less than 21 nor more than 40 days after the
8 date of issuance. Summons with 4 copies of the interrogatories
9 and one copy of the judgment or certification and one copy of
10 the wage deduction notice specified in Section 12-805 of this
11 Act shall be served on the employer at employer's main Illinois
12 administrative office and returned as in other civil cases.

13 If the employer is served served at employer's main
14 Illinois administrative office with summons less than 3 days
15 prior to the return date, the court shall continue the case to
16 a new return date not less than 21 days after the service of
17 the summons.

18 (Source: P.A. 90-677, eff. 1-1-99.)

19 (735 ILCS 5/12-807) (from Ch. 110, par. 12-807)

20 Sec. 12-807. Failure of employer to appear. (a) If an
21 employer fails to appear and answer as required by Part 8 of
22 Article XII of this Act, the court may enter a conditional
23 judgment against the employer for the amount of the non-exempt
24 wages owed the judgment debtor until the employer appears and

1 ~~answers due upon the judgment against the judgment debtor.~~ A
2 summons to confirm the conditional judgment may issue against
3 the employer returnable not less than 21 nor more than 30 days
4 after the date of issuance, commanding the employer to show
5 cause why the judgment should not be made final. If the
6 employer, after being served with summons to confirm the
7 conditional judgment or after being notified as provided in
8 subsection (b) hereof, fails to appear and answer, the court
9 shall confirm such judgment ~~to the amount of the judgment~~
10 ~~against the judgment debtor~~ and award costs. If the employer
11 appears and answers, the same proceedings may be had as in
12 other cases.

13 (b) If an employer becomes a non-resident, goes out of this
14 State, or is concealed within this State so that the summons to
15 confirm the conditional judgment cannot be served upon him or
16 her, upon the filing by the plaintiff or his or her agent of an
17 affidavit as in cases of non-resident defendants in
18 attachments, the employer may be notified in the same manner as
19 a non-resident defendant in attachment; and upon notice being
20 given to him or her as above stated, he or she may be proceeded
21 against in the same manner as if he or she had been personally
22 served with summons to confirm the conditional judgment.

23 (Source: P.A. 86-603.)

24 (735 ILCS 5/12-808) (from Ch. 110, par. 12-808)

25 Sec. 12-808. Duty of employer.

1 (a) An employer served as herein provided shall pay the
2 employee the amount of his or her exempt wages.

3 (b) To the extent of the amount due upon the judgment and
4 costs, the employer shall hold, subject to order of court, any
5 non-exempt wages due or which subsequently come due. The
6 judgment or balance due thereon is a lien on wages due at the
7 time of the service of summons, and such lien shall continue as
8 to subsequent earnings until the total amount due upon the
9 judgment and costs is paid, except that such lien on subsequent
10 earnings shall terminate sooner if the employment relationship
11 is terminated or if the underlying judgment is vacated or
12 modified.

13 (b-5) If the employer is a federal agency employer and the
14 creditor is represented by an attorney, then the employer, upon
15 service of summons and to the extent of the amount due upon the
16 judgment and costs, shall commence to pay over to the attorney
17 for the judgment creditor any non-exempt wages due or that
18 subsequently come due. The attorney for the judgment creditor
19 shall thereafter hold the deducted wages subject to further
20 order of the court and shall make answer to the court regarding
21 amounts received from the federal agency employer. The federal
22 agency employer's periodic payments shall be considered a
23 sufficient answer to the interrogatories.

24 (c) Except as provided in subsection (b-5), the employer
25 shall file, on or before the return date or within the further
26 time that the court for cause may allow, a written answer under

1 oath to the interrogatories, setting forth the amount due as
2 wages to the judgment debtor for the payroll periods ending
3 immediately prior to the service of the summons and a summary
4 of the computation used to determine the amount of non-exempt
5 wages. Except as provided in subsection (b-5), the employer
6 shall mail by first class mail or hand deliver a copy of the
7 answer to the judgment debtor at the address specified in the
8 affidavit filed under Section 12-805 of this Act, or at any
9 other address or location of the judgment debtor known to the
10 employer.

11 A lien obtained hereunder shall have priority over any
12 subsequent lien obtained hereunder, except that liens for the
13 support of a spouse or dependent children shall have priority
14 over all other liens obtained hereunder. Subsequent summonses
15 shall be effective in the order in which they are served.

16 (d) The Illinois Supreme Court may by rule allow an
17 employer to file answers to interrogatories by facsimile
18 transmission.

19 (e) Pursuant to answer under oath to the interrogatories by
20 the employer, an order shall be entered compelling the employer
21 to deduct from wages of the judgment debtor subject to
22 collection under a deduction order an amount which is the
23 lesser of (i) 15% of the gross amount of the wages or (ii) the
24 amount by which disposable earnings for a week exceed 45 times
25 the Federal Minimum Hourly Wage prescribed by Section 206(a)(1)
26 of Title 29 of the United States Code, as amended, in effect at

1 the time the amounts are payable, for each pay period in which
2 statutory exemptions under Section 12-804 and child support
3 garnishments, if any, leave funds to be remitted or, under a
4 wage deduction summons served on or after January 1, 2006, the
5 minimum hourly wage prescribed by Section 4 of the Minimum Wage
6 Law, whichever is greater. The order shall further provide that
7 deducted wages shall be remitted to the creditor or creditor's
8 attorney on a monthly basis.

9 (f) If after the entry of a deduction order, the employer
10 ceases to remit funds to the plaintiff pursuant to the order
11 without a lawful excuse (which would terminate the employer's
12 obligation under the deduction order such as the debtor having
13 filed a bankruptcy, the debtor having left employment or the
14 employer having received service of a support order against the
15 judgment debtor having priority over the wage deduction
16 proceedings), the court shall, upon plaintiff's motion, enter a
17 conditional judgment against the employer for the the
18 non-exempt wages owed the judgment debtor until the employer
19 appears and answers ~~balance due on the judgment~~. The plaintiff
20 may then issue a Summons After Conditional Judgment. After
21 service of the Summons After Conditional Judgment at the
22 employer's main Illinois administrative office address, the
23 employer may show cause why the conditional judgment, or some
24 portion thereof should not be made a final judgment. If the
25 employer shall fail to respond or show cause why the
26 conditional judgment or some portion thereof should not be made

1 final, the court shall confirm the conditional judgment and
2 make it final as to the employer plus additional court costs.

3 (Source: P.A. 94-306, eff. 1-1-06; 95-661, eff. 1-1-08.)

4 Section 10. The Trusts and Trustees Act is amended by
5 adding Section 5.4 as follows:

6 (760 ILCS 5/5.4 new)

7 Sec. 5.4. Spendthrift trusts.

8 (a) For trusts created on or after the effective date of
9 this amendatory Act of the 95th General Assembly, a settlor who
10 in writing irrevocably transfers property in any manner to a
11 trust having at least one trustee as defined in subsection (b)
12 of this Section may, subject to the limitations in subsection
13 (c) of this Section, provide that the income or principal
14 interest of the settlor as beneficiary may not be either
15 voluntarily or involuntarily transferred before payment or
16 delivery to the settlor as beneficiary by the trustee. This
17 Section shall be considered to be a restriction on the transfer
18 of the settlor's beneficial interest in the trust that is
19 enforceable under applicable nonbankruptcy law within the
20 meaning of Section 541(c)(2) of the Bankruptcy Code or any
21 successor provision.

22 (b) (1) If the settlor is a beneficiary of the trust, at
23 least one trustee of a trust described in this Section must be
24 a corporate fiduciary authorized by the laws of this State to

1 act as a trustee and whose activities are subject to
2 supervision by the Director of the Division of Banking of this
3 State, the Office of the Comptroller of the Currency, or the
4 Office of Thrift Supervision, or any successor thereto; and

5 (2) maintains or arranges for custody in this State of
6 some or all of the property that is the subject of the
7 trust described in this Section, maintains records for the
8 trust on an exclusive or nonexclusive basis, prepares or
9 arranges for the preparation of fiduciary income tax
10 returns for the trust, or otherwise materially
11 participates in the administration of the trust.

12 (c) (1) Except as provided in this subsection, if a trust
13 has a restriction as provided in subsection (a) of this
14 Section, a creditor or other claimant of the settlor may not
15 satisfy a claim, or liability on a claim, in either law or
16 equity, out of the settlor's transfer or the settlor's
17 beneficial interest in the trust. For purposes of this Section,
18 a creditor includes one holding or seeking to enforce a
19 judgment entered by a court or other body having adjudicative
20 authority as well as one with a right to payment, whether or
21 not reduced to judgment, liquidated, unliquidated, fixed,
22 contingent, matured, unmatured, disputed, undisputed, legal,
23 equitable, secured, or unsecured.

24 (2) A trust described in this Section does not prevent
25 a creditor or person described in this subsection (c) from
26 satisfying a claim or liability out of the settlor's

1 beneficial interest in or transfer into trust if:

2 (i) the claim is a judgment, order, decree, or
3 other legally enforceable decision or ruling resulting
4 from a judicial, arbitration, mediation, or
5 administrative proceeding commenced prior to or within
6 3 years after the trust is created;

7 (ii) the settlor's transfer into trust is made with
8 actual intent to hinder, delay, or defraud that
9 creditor or claimant;

10 (iii) the trust provides that the settlor may
11 revoke or terminate all or part of the trust;

12 (iv) the claim is for a payment owed by the settlor
13 under a child support judgment or order;

14 (v) the claim is by a spouse or former spouse of
15 the settlor on account of an agreement or court order
16 for the payment of support or maintenance or for a
17 division or distribution of property;

18 (vi) the claim is a tax or other amount owed by the
19 settlor to any governmental entity;

20 (vii) the claim is by a governmental entity for
21 recovery of public assistance received by the settlor
22 from the governmental entity;

23 (viii) the transfer is made when the settlor is
24 insolvent or the transfer renders the settlor
25 insolvent;

26 (ix) the claim is a judgment, award, order,

1 sentence, fine, penalty, or other determination of
2 liability of the settlor for conduct of the settlor
3 constituting fraud, intentional infliction of harm, or
4 a crime; or

5 (x) the settlor transferred assets into the trust
6 that: (1) were listed in a written representation of
7 the settlor's assets given to a claimant to induce the
8 claimant to enter into a transaction or agreement with
9 the settlor; or (2) were transferred from the settlor's
10 control in breach of any written agreement, covenant,
11 or security interest between the settlor and the
12 claimant.

13 (d) The statute of limitations for actions to satisfy a
14 claim or liability out of the settlor's beneficial interest in
15 or transfer into trust under this Section is the statute of
16 limitations applicable to the underlying action.

17 (e) The satisfaction of a claim under this Section is
18 limited to that part of the trust or transfer to which it
19 applies.

20 (f) For purposes of this Section, a trust is not revoked or
21 terminated by:

22 (i) a power to veto a distribution from the trust;

23 (ii) a testamentary special power of appointment or
24 similar power;

25 (iii) the right to receive a distribution of income,
26 principal, or both in the discretion of another, including

1 a trustee other than the settlor;

2 (iv) an interest in a charitable remainder unitrust or
3 charitable remainder annuity trust as defined in Internal
4 Revenue Code Section 664 or any successor provision;

5 (v) a right to receive principal subject to an
6 ascertainable standard set forth in the trust; or

7 (vi) the power to appoint a nonsubordinate adviser or
8 trust protector who can remove and appoint trustees, who
9 can direct, consent to, or disapprove distributions, or who
10 is an investment advisor or has the power to appoint an
11 investment adviser or investment director pursuant to the
12 laws of this State.

13 (g) The courts of this State shall have exclusive
14 jurisdiction over any action brought under this Section."