

1                                    AMENDMENT TO SENATE BILL 1234

2            AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1234, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5            "Section 5. The Code of Civil Procedure is amended by  
6 changing Sections 2-1402, 12-901, 12-904, 12-906, 12-909,  
7 12-910, 12-911, and 12-912 as follows:

8            (735 ILCS 5/2-1402) (from Ch. 110, par. 2-1402)  
9            Sec. 2-1402. Supplementary proceedings.

10           (a) A judgment creditor, or his or her successor in  
11 interest when that interest is made to appear of record, is  
12 entitled to prosecute supplementary proceedings for the  
13 purposes of examining the judgment debtor or any other person  
14 to discover assets or income of the debtor not exempt from  
15 the enforcement of the judgment, a deduction order or  
16 garnishment, and of compelling the application of non-exempt  
17 assets or income discovered toward the payment of the amount  
18 due under the judgment. A supplementary proceeding shall be  
19 commenced by the service of a citation issued by the clerk.  
20 The procedure for conducting supplementary proceedings shall  
21 be prescribed by rules. It is not a prerequisite to the  
22 commencement of a supplementary proceeding that a certified

1 copy of the judgment has been returned wholly or partly  
 2 unsatisfied. All citations issued by the clerk shall have the  
 3 following language, or language substantially similar  
 4 thereto, stated prominently on the front, in capital letters:  
 5 "YOUR FAILURE TO APPEAR IN COURT AS HEREIN DIRECTED MAY CAUSE  
 6 YOU TO BE ARRESTED AND BROUGHT BEFORE THE COURT TO ANSWER TO  
 7 A CHARGE OF CONTEMPT OF COURT, WHICH MAY BE PUNISHABLE BY  
 8 IMPRISONMENT IN THE COUNTY JAIL." The court shall not grant a  
 9 continuance of the supplementary proceeding except upon good  
 10 cause shown.

11 (b) Any citation served upon a judgment debtor or any  
 12 other person shall include a certification by the attorney  
 13 for the judgment creditor or the judgment creditor setting  
 14 forth the amount of the judgment, the date of the judgment,  
 15 or its revival date, the balance due thereon, the name of the  
 16 court, and the number of the case, and a copy of the citation  
 17 notice required by this subsection. Whenever a citation is  
 18 served upon a person or party other than the judgment debtor,  
 19 the officer or person serving the citation shall send to the  
 20 judgment debtor, within three business days of the service  
 21 upon the cited party, a copy of the citation and the citation  
 22 notice, which may be sent by regular first-class mail to the  
 23 judgment debtor's last known address. In no event shall a  
 24 citation hearing be held sooner than five business days after  
 25 the mailing of the citation and citation notice to the  
 26 judgment debtor, except by agreement of the parties. The  
 27 citation notice need not be mailed to a corporation,  
 28 partnership, or association. The citation notice shall be in  
 29 substantially the following form:

30 "CITATION NOTICE

31 (Name and address of Court)

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

33 Judgment Creditor v.

34 (Name of Judgment Debtor),

1 Judgment Debtor.  
2 Address of Judgment Debtor: (Insert last known  
3 address)  
4 Name and address of Attorney for Judgment  
5 Creditor or of Judgment Creditor (If no  
6 attorney is listed): (Insert name and address)  
7 Amount of Judgment: \$ (Insert amount)  
8 Name of Person Receiving Citation: (Insert name)  
9 Court Date and Time: (Insert return date and time  
10 specified in citation)

11 NOTICE: The court has issued a citation against the  
12 person named above. The citation directs that person to  
13 appear in court to be examined for the purpose of allowing  
14 the judgment creditor to discover income and assets belonging  
15 to the judgment debtor or in which the judgment debtor has an  
16 interest. The citation was issued on the basis of a judgment  
17 against the judgment debtor in favor of the judgment creditor  
18 in the amount stated above. On or after the court date  
19 stated above, the court may compel the application of any  
20 discovered income or assets toward payment on the judgment.

21 The amount of income or assets that may be applied toward  
22 the judgment is limited by federal and Illinois law. The  
23 JUDGMENT DEBTOR HAS THE RIGHT TO ASSERT STATUTORY EXEMPTIONS  
24 AGAINST CERTAIN INCOME OR ASSETS OF THE JUDGMENT DEBTOR WHICH  
25 MAY NOT BE USED TO SATISFY THE JUDGMENT IN THE AMOUNT STATED  
26 ABOVE:

27 (1) Under Illinois or federal law, the exemptions  
28 of personal property owned by the debtor include the  
29 debtor's equity interest, not to exceed \$2,000 in value,  
30 in any personal property as chosen by the debtor; Social  
31 Security and SSI benefits; public assistance benefits;  
32 unemployment compensation benefits; worker's compensation  
33 benefits; veteran's benefits; circuit breaker property  
34 tax relief benefits; the debtor's equity interest, not to

1 exceed \$1,200 in value, in any one motor vehicle, and the  
2 debtor's equity interest, not to exceed \$750 in value, in  
3 any implements, professional books, or tools of the trade  
4 of the debtor.

5 (2) Under Illinois law, every person is entitled to  
6 an estate in homestead, when it is owned and occupied as  
7 a residence, to the extent in value of \$15,000 (except as  
8 otherwise provided in subsection (b) of Section 12-901 of  
9 the Code of Civil Procedure) \$7,500, which homestead is  
10 exempt from judgment.

11 (3) Under Illinois law, the amount of wages that  
12 may be applied toward a judgment is limited to the lesser  
13 of (i) 15% of gross weekly wages or (ii) the amount by  
14 which disposable earnings for a week exceed the total of  
15 45 times the federal minimum hourly wage.

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

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

23 The judgment debtor may have other possible exemptions  
24 under the law.

25 THE JUDGMENT DEBTOR HAS THE RIGHT AT THE CITATION HEARING  
26 TO DECLARE EXEMPT CERTAIN INCOME OR ASSETS OR BOTH. The  
27 judgment debtor also has the right to seek a declaration at  
28 an earlier date, by notifying the clerk in writing at (insert  
29 address of clerk). When so notified, the Clerk of the Court  
30 will obtain a prompt hearing date from the court and will  
31 provide the necessary forms that must be prepared by the  
32 judgment debtor or the attorney for the judgment debtor and  
33 sent to the judgment creditor and the judgment creditor's  
34 attorney regarding the time and location of the hearing.

1 This notice may be sent by regular first class mail."

2 (c) When assets or income of the judgment debtor not  
3 exempt from the satisfaction of a judgment, a deduction order  
4 or garnishment are discovered, the court may, by appropriate  
5 order or judgment:

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

12 (2) Compel the judgment debtor to pay to the  
13 judgment creditor or apply on the judgment, in  
14 installments, a portion of his or her income, however or  
15 whenever earned or acquired, as the court may deem  
16 proper, having due regard for the reasonable requirements  
17 of the judgment debtor and his or her family, if  
18 dependent upon him or her, as well as any payments  
19 required to be made by prior order of court or under wage  
20 assignments outstanding; provided that the judgment  
21 debtor shall not be compelled to pay income which would  
22 be considered exempt as wages under the Wage Deduction  
23 Statute. The court may modify an order for installment  
24 payments, from time to time, upon application of either  
25 party upon notice to the other.

26 (3) Compel any person cited, other than the  
27 judgment debtor, to deliver up any assets so discovered,  
28 to be applied in satisfaction of the judgment, in whole  
29 or in part, when those assets are held under such  
30 circumstances that in an action by the judgment debtor he  
31 or she could recover them in specie or obtain a judgment  
32 for the proceeds or value thereof as for conversion or  
33 embezzlement.

34 (4) Enter any order upon or judgment against the

1 person cited that could be entered in any garnishment  
2 proceeding.

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

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

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

26 (e) All property ordered to be delivered up shall,  
27 except as otherwise provided in this Section, be delivered to  
28 the sheriff to be collected by the sheriff or sold at public  
29 sale and the proceeds thereof applied towards the payment of  
30 costs and the satisfaction of the judgment.

31 (f) (1) The citation may prohibit the party to whom it  
32 is directed from making or allowing any transfer or other  
33 disposition of, or interfering with, any property not  
34 exempt from the enforcement of a judgment therefrom, a

1 deduction order or garnishment, belonging to the judgment  
2 debtor or to which he or she may be entitled or which may  
3 thereafter be acquired by or become due to him or her,  
4 and from paying over or otherwise disposing of any moneys  
5 not so exempt which are due or to become due to the  
6 judgment debtor, until the further order of the court or  
7 the termination of the proceeding, whichever occurs  
8 first. The third party may not be obliged to withhold  
9 the payment of any moneys beyond double the amount of the  
10 balance due sought to be enforced by the judgment  
11 creditor. The court may punish any party who violates  
12 the restraining provision of a citation as and for a  
13 contempt, or if the party is a third party may enter  
14 judgment against him or her in the amount of the unpaid  
15 portion of the judgment and costs allowable under this  
16 Section, or in the amount of the value of the property  
17 transferred, whichever is lesser.

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

29 (g) If it appears that any property, chose in action,  
30 credit or effect discovered, or any interest therein, is  
31 claimed by any person, the court shall, as in garnishment  
32 proceedings, permit or require the claimant to appear and  
33 maintain his or her right. The rights of the person cited  
34 and the rights of any adverse claimant shall be asserted and

1 determined pursuant to the law relating to garnishment  
2 proceedings.

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

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

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

18 (k) (Blank).

19 (l) At any citation hearing at which the judgment debtor  
20 appears and seeks a declaration that certain of his or her  
21 income or assets are exempt, the court shall proceed to  
22 determine whether the property which the judgment debtor  
23 declares to be exempt is exempt from judgment. At any time  
24 before the return date specified on the citation, the  
25 judgment debtor may request, in writing, a hearing to declare  
26 exempt certain income and assets by notifying the clerk of  
27 the court before that time, using forms as may be provided by  
28 the clerk of the court. The clerk of the court will obtain a  
29 prompt hearing date from the court and will provide the  
30 necessary forms that must be prepared by the judgment debtor  
31 or the attorney for the judgment debtor and sent to the  
32 judgment creditor, or the judgment creditor's attorney,  
33 regarding the time and location of the hearing. This notice  
34 may be sent by regular first class mail. At the hearing, the



1 court shall immediately, unless for good cause shown that the  
2 hearing is to be continued, shall proceed to determine  
3 whether the property which the judgment debtor declares to be  
4 exempt is exempt from judgment. The restraining provisions  
5 of subsection (f) shall not apply to any property determined  
6 by the court to be exempt.

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

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

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

25 The lien established under this Section does not affect  
26 the rights of citation respondents in property prior to the  
27 service of the citation upon them and does not affect the  
28 rights of bona fide purchasers or lenders without notice of  
29 the citation. The lien is effective for the period specified  
30 by Supreme Court Rule.

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

33 (n) If any provision of this Act or its application to  
34 any person or circumstance is held invalid, the invalidity of

1 that provision or application does not affect the provisions  
2 or applications of the Act that can be given effect without  
3 the invalid provision or application.

4 (Source: P.A. 88-48; 88-299; 88-667, eff. 9-16-94; 88-670,  
5 eff. 12-2-94; 89-364, eff. 1-1-96.)

6 (735 ILCS 5/12-901) (from Ch. 110, par. 12-901)  
7 Sec. 12-901. Amount.

8 (a) Except as otherwise provided in subsection (b),  
9 every individual is entitled to an estate of homestead to the  
10 extent in value of \$15,000 ~~\$7,500~~ of his or her interest in a  
11 farm or lot of land and buildings thereon, a condominium, or  
12 personal property, owned or rightly possessed by lease or  
13 otherwise and occupied by him or her as a residence, or in a  
14 cooperative that owns property that the individual uses as a  
15 residence. That homestead and all right in and title to that  
16 homestead is exempt from attachment, judgment, levy, or  
17 judgment sale for the payment of his or her debts or other  
18 purposes and from the laws of conveyance, descent, and  
19 legacy, except as provided in this Code or in Section 20-6 of  
20 the Probate Act of 1975. This subsection (a) ~~Section~~ is not  
21 applicable between joint tenants or tenants in common but it  
22 is applicable as to any creditors of those persons. If 2 or  
23 more individuals own property that is exempt as a homestead,  
24 the value of the exemption of each individual may not exceed  
25 his or her proportionate share of \$30,000 ~~\$15,000~~ based upon  
26 percentage of ownership.

27 (b) With regard solely to a lien arising under Section 9  
28 of the Condominium Property Act, every individual is entitled  
29 to an estate of homestead to the extent in value of \$7,500  
30 of his or her interest in a condominium that the individual  
31 uses as a residence. That homestead and all right in and  
32 title to that homestead is exempt from attachment,  
33 judgment, levy, or judgment sale for the payment of his

1 or her debts or other purposes and from the laws of  
2 conveyance, descent, and legacy, except as provided in this  
3 Code or in Section 20-6 of the Probate Act of 1975. This  
4 subsection (b) is not applicable between joint tenants  
5 or tenants in common but it is applicable as to any creditors  
6 of those persons. If 2 or more individuals own property that  
7 is exempt as a homestead, the value of the exemption of each  
8 individual may not exceed his or her proportionate share of  
9 \$15,000 based upon percentage of ownership.

10 (Source: P.A. 88-672, eff. 12-14-94.)

11 (735 ILCS 5/12-904) (from Ch. 110, par. 12-904)

12 Sec. 12-904. Release, waiver or conveyance. No release,  
13 waiver or conveyance of the estate so exempted shall be  
14 valid, unless the same is in writing, signed by the  
15 individual and his or her spouse, if he or she have one, or  
16 possession is abandoned or given pursuant to the conveyance;  
17 or if the exception is continued to a child or children  
18 without the order of a court directing a release thereof; but  
19 if a conveyance is made by an individual as grantor to his or  
20 her spouse, such conveyance shall be effectual to pass the  
21 title expressed therein to be conveyed thereby, whether or  
22 not the grantor in such conveyance is joined therein by his  
23 or her spouse. A waiver under this Section must be in the  
24 form of a written Declaration of Waiver. In addition, no  
25 release or waiver of the estate so exempted is valid unless  
26 the release or waiver is granted to (i) a financial  
27 institution as defined in Section 1402 of the Illinois  
28 Insurance Code, or (ii) a licensee under the Residential  
29 Mortgage License Act of 1987, or (iii) an individual or  
30 individuals in connection with a privately financed mortgage  
31 or a contract for deed. In any case where such release,  
32 waiver or conveyance is taken by way of mortgage or security,  
33 the same shall only be operative as to such specific release,

1 waiver or conveyance; and when the same includes different  
2 pieces of land, or the homestead is of greater value than  
3 \$15,000 (or \$7,500 if subsection (b) of Section 12-901  
4 applies) \$7,500, the other lands shall first be sold before  
5 resorting to the homestead, and in case of the sale of such  
6 homestead, if any balance remains after the payment of the  
7 debt and costs, such balance shall, to the extent of \$15,000  
8 (or \$7,500 if subsection (b) of Section 12-901 applies)  
9 \$7,500 be exempt, and be applied upon such homestead  
10 exemption in the manner provided by law.  
11 (Source: P.A. 82-783.)

12 (735 ILCS 5/12-906) (from Ch. 110, par. 12-906)  
13 Sec. 12-906. Proceeds of sale. When a homestead is  
14 conveyed by the owner thereof, such conveyance shall not  
15 subject the premises to any lien or incumbrance to which it  
16 would not be subject in the possession of such owner; and the  
17 proceeds thereof, to the extent of the amount of \$15,000 (or  
18 \$7,500 if subsection (b) of Section 12-901 applies) \$7,500,  
19 shall be exempt from judgment or other process, for one year  
20 after the receipt thereof, by the person entitled to the  
21 exemption, and if reinvested in a homestead the same shall be  
22 entitled to the same exemption as the original homestead.  
23 (Source: P.A. 82-783.)

24 (735 ILCS 5/12-909) (from Ch. 110, par. 12-909)  
25 Sec. 12-909. Bid for less than exempted amount. No sale  
26 shall be made of the premises on such judgment unless a  
27 greater sum than \$15,000 (or \$7,500 if subsection (b) of  
28 Section 12-901 applies) \$7,500 is bid therefor. If a greater  
29 sum is not so bid, the judgment may be set aside or modified,  
30 or the enforcement of the judgment released, as for lack of  
31 property.  
32 (Source: P.A. 82-783.)

(735 ILCS 5/12-910) (from Ch. 110, par. 12-910)

Sec. 12-910. Proceedings to enforce judgment. If in the opinion of the judgment creditors, their successors or assigns, or the officer holding a certified copy of a judgment for enforcement against such individuals, the premises claimed by him or her as exempt are worth more than \$15,000 (or \$7,500 if subsection (b) of Section 12-901 applies) \$7,500, the judgment creditor or the successor or assignee of the judgment creditor shall first deliver to the officer holding a certified copy of the judgment a written appraisal of the premises prepared by a State certified general real estate appraiser or a State certified residential real estate appraiser, and if in the opinion of the person, firm, corporation, or other entity conducting the appraisal, such--officer--shall--summon--3--individuals,--as commissioners,--who--shall,--upon-oath,--to-be-administered-to them-by-the-officer,--appraise-the-premises,--and-if,--in--their opinion, the property may be divided without damage to the interest of the parties, the State certified general real estate appraiser or State certified residential real estate appraiser they shall set off so much of the premises, including the dwelling house, as in the State certified general real estate appraiser's or the State certified residential real estate appraiser's their opinion is worth \$15,000 (or \$7,500 if subsection (b) of Section 12-901 applies) \$7,500, and the residue of the premises may be advertised and sold by the such officer, subject to any existing encumbrances. Each-commissioner--shall--receive--for his--or--her--services--the--sum--of--\$5-per-day-for-each-day necessarily-engaged-in-such-service.--The--officer--summoning such--commissioners--shall--receive--such--fees--as--may--be--allowed for-serving-summons,--but--shall--be--entitled--to--charge--mileage for-only-the-actual-distance-traveled-from-the-premises-to-be appraised,--to--the--residence-of-the-commissioners-summoned.

1 The officer shall not be required to summon commissioners  
 2 until the judgment creditor, or some one for him or her,  
 3 shall advance to the officer one day's fees for the  
 4 commissioners, and unless the creditor shall advance such  
 5 fees the officer shall not be required to enforce the  
 6 judgment. The costs of such appraisal shall not be taxed  
 7 against the judgment debtor unless the such appraisal  
 8 shows that the judgment debtor has property subject to the  
 9 such judgment.

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

11 (735 ILCS 5/12-911) (from Ch. 110, par. 12-911)

12 Sec. 12-911. Notice to judgment debtor. In case the  
 13 value of the premises is, in the opinion of the State  
 14 certified general real estate appraiser or State certified  
 15 residential real estate appraiser commissioners, more than  
 16 \$15,000 (or \$7,500 if subsection (b) of Section 12-901  
 17 applies) \$7,500, and cannot be divided as is provided for in  
 18 Section 12-910 of this Act, the State certified general real  
 19 estate appraiser or State certified residential real estate  
 20 appraiser they shall make and sign an appraisal of the value  
 21 thereof, which shall be delivered to the officer. The  
 22 officer shall then mail by certified mail, or cause to be  
 23 mailed by certified mail, a notice to the judgment debtor  
 24 stating that unless the judgment is satisfied the property  
 25 will be sold. The notice shall contain the scheduled date of  
 26 sale which shall not be less than 60 days from the date of  
 27 the notice. and deliver the same to the officer, who shall  
 28 deliver a copy thereof to the judgment debtor, or to some one  
 29 of the family of the age of 13 years or upwards, with a  
 30 notice thereto attached that unless the judgment debtor pays  
 31 to such officer the surplus over and above \$7,500 on the  
 32 amount due on the judgment within 60 days thereafter, such  
 33 premises will be sold.

1 (Source: P.A. 83-356.)

2 (735 ILCS 5/12-912) (from Ch. 110, par. 12-912)

3 Sec. 12-912. Sale of premises - Distribution of proceeds.

4 In case of such surplus, or the amount due on the judgment is  
5 not paid within the 60 days, the officer may advertise and  
6 sell the premises, and out of the proceeds of such sale pay  
7 to such judgment debtor the sum of \$15,000 (or \$7,500 if  
8 subsection (b) of Section 12-901 applies) \$7,500, and apply  
9 the balance on the judgment.

10 (Source: P.A. 82-783.)

11 Section 99. Effective date. This Act takes effect on  
12 January 1, 2002."