

1 AN ACT in relation to 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 Sections 2-1402, 12-901, 12-904, 12-906, 12-909,
6 12-910, 12-911, 12-912, and 12-1001 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
14 the enforcement of the judgment, a deduction order or
15 garnishment, and of compelling the application of non-exempt
16 assets or income discovered toward the payment of the amount
17 due under the judgment. A supplementary proceeding shall be
18 commenced by the service of a citation issued by the clerk.
19 The procedure for conducting supplementary proceedings shall
20 be prescribed by rules. It is not a prerequisite to the
21 commencement of a supplementary proceeding that a certified
22 copy of the judgment has been returned wholly or partly
23 unsatisfied. All citations issued by the clerk shall have the
24 following language, or language substantially similar
25 thereto, stated prominently on the front, in capital letters:
26 "YOUR FAILURE TO APPEAR IN COURT AS HEREIN DIRECTED MAY CAUSE
27 YOU TO BE ARRESTED AND BROUGHT BEFORE THE COURT TO ANSWER TO
28 A CHARGE OF CONTEMPT OF COURT, WHICH MAY BE PUNISHABLE BY
29 IMPRISONMENT IN THE COUNTY JAIL." The court shall not grant a
30 continuance of the supplementary proceeding except upon good
31 cause shown.

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

"CITATION NOTICE

(Name and address of Court)
 Name of Case: (Name of Judgment Creditor),
 Judgment Creditor v.
 (Name of Judgment Debtor),
 Judgment Debtor.
 Address of Judgment Debtor: (Insert last known
 address)
 Name and address of Attorney for Judgment
 Creditor or of Judgment Creditor (If no
 attorney is listed): (Insert name and address)
 Amount of Judgment: \$ (Insert amount)
 Name of Person Receiving Citation: (Insert name)
 Court Date and Time: (Insert return date and time
 specified in citation)

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

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

17 (1) Under Illinois or federal law, the exemptions
18 of personal property owned by the debtor include the
19 debtor's equity interest, not to exceed \$4,000 ~~\$2,000~~ in
20 value, in any personal property as chosen by the debtor;
21 Social Security and SSI benefits; public assistance
22 benefits; unemployment compensation benefits; worker's
23 compensation benefits; veteran's benefits; circuit
24 breaker property tax relief benefits; the debtor's equity
25 interest, not to exceed \$2,400 ~~\$1,200~~ in value, in any
26 one motor vehicle, and the debtor's equity interest, not
27 to exceed \$1,500 ~~\$750~~ in value, in any implements,
28 professional books, or tools of the trade of the debtor.

29 (2) Under Illinois law, every person is entitled to
30 an estate in homestead, when it is owned and occupied as
31 a residence, to the extent in value of \$15,000 ~~\$7,500~~,
32 which homestead is exempt from judgment.

33 (3) Under Illinois law, the amount of wages that
34 may be applied toward a judgment is limited to the lesser

1 of (i) 15% of gross weekly wages or (ii) the amount by
2 which disposable earnings for a week exceed the total of
3 45 times the federal minimum hourly wage.

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

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

11 The judgment debtor may have other possible exemptions
12 under the law.

13 THE JUDGMENT DEBTOR HAS THE RIGHT AT THE CITATION HEARING
14 TO DECLARE EXEMPT CERTAIN INCOME OR ASSETS OR BOTH. The
15 judgment debtor also has the right to seek a declaration at
16 an earlier date, by notifying the clerk in writing at (insert
17 address of clerk). When so notified, the Clerk of the Court
18 will obtain a prompt hearing date from the court and will
19 provide the necessary forms that must be prepared by the
20 judgment debtor or the attorney for the judgment debtor and
21 sent to the judgment creditor and the judgment creditor's
22 attorney regarding the time and location of the hearing.
23 This notice may be sent by regular first class mail."

24 (c) When assets or income of the judgment debtor not
25 exempt from the satisfaction of a judgment, a deduction order
26 or garnishment are discovered, the court may, by appropriate
27 order or judgment:

28 (1) Compel the judgment debtor to deliver up, to be
29 applied in satisfaction of the judgment, in whole or in
30 part, money, choses in action, property or effects in his
31 or her possession or control, so discovered, capable of
32 delivery and to which his or her title or right of
33 possession is not substantially disputed.

34 (2) Compel the judgment debtor to pay to the

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

14 (3) Compel any person cited, other than the
15 judgment debtor, to deliver up any assets so discovered,
16 to be applied in satisfaction of the judgment, in whole
17 or in part, when those assets are held under such
18 circumstances that in an action by the judgment debtor he
19 or she could recover them in specie or obtain a judgment
20 for the proceeds or value thereof as for conversion or
21 embezzlement.

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

25 (5) Compel any person cited to execute an
26 assignment of any chose in action or a conveyance of
27 title to real or personal property, in the same manner
28 and to the same extent as a court could do in any
29 proceeding by a judgment creditor to enforce payment of a
30 judgment or in aid of the enforcement of a judgment.

31 (6) Authorize the judgment creditor to maintain an
32 action against any person or corporation that, it appears
33 upon proof satisfactory to the court, is indebted to the
34 judgment debtor, for the recovery of the debt, forbid the

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

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

14 (e) All property ordered to be delivered up shall,
15 except as otherwise provided in this Section, be delivered to
16 the sheriff to be collected by the sheriff or sold at public
17 sale and the proceeds thereof applied towards the payment of
18 costs and the satisfaction of the judgment.

19 (f) (1) The citation may prohibit the party to whom it
20 is directed from making or allowing any transfer or other
21 disposition of, or interfering with, any property not
22 exempt from the enforcement of a judgment therefrom, a
23 deduction order or garnishment, belonging to the judgment
24 debtor or to which he or she may be entitled or which may
25 thereafter be acquired by or become due to him or her,
26 and from paying over or otherwise disposing of any moneys
27 not so exempt which are due or to become due to the
28 judgment debtor, until the further order of the court or
29 the termination of the proceeding, whichever occurs
30 first. The third party may not be obliged to withhold
31 the payment of any moneys beyond double the amount of the
32 balance due sought to be enforced by the judgment
33 creditor. The court may punish any party who violates
34 the restraining provision of a citation as and for a

1 contempt, or if the party is a third party may enter
2 judgment against him or her in the amount of the unpaid
3 portion of the judgment and costs allowable under this
4 Section, or in the amount of the value of the property
5 transferred, whichever is lesser.

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

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

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

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

34 (j) This Section does not grant the power to any court

1 to order installment or other payments from, or compel the
2 sale, delivery, surrender, assignment or conveyance of any
3 property exempt by statute from the enforcement of a judgment
4 thereon, a deduction order, garnishment, attachment,
5 sequestration, process or other levy or seizure.

6 (k) (Blank).

7 (l) At any citation hearing at which the judgment debtor
8 appears and seeks a declaration that certain of his or her
9 income or assets are exempt, the court shall proceed to
10 determine whether the property which the judgment debtor
11 declares to be exempt is exempt from judgment. At any time
12 before the return date specified on the citation, the
13 judgment debtor may request, in writing, a hearing to declare
14 exempt certain income and assets by notifying the clerk of
15 the court before that time, using forms as may be provided by
16 the clerk of the court. The clerk of the court will obtain a
17 prompt hearing date from the court and will provide the
18 necessary forms that must be prepared by the judgment debtor
19 or the attorney for the judgment debtor and sent to the
20 judgment creditor, or the judgment creditor's attorney,
21 regarding the time and location of the hearing. This notice
22 may be sent by regular first class mail. At the hearing, the
23 court shall immediately, unless for good cause shown that the
24 hearing is to be continued, shall proceed to determine
25 whether the property which the judgment debtor declares to be
26 exempt is exempt from judgment. The restraining provisions
27 of subsection (f) shall not apply to any property determined
28 by the court to be exempt.

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

34 (1) When the citation is directed against the

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

6 (2) When the citation is directed against a third
 7 party, upon all personal property belonging to the
 8 judgment debtor in the possession or control of the third
 9 party or which thereafter may be acquired or come due the
 10 judgment debtor and comes into the possession or control
 11 of the third party to the time of the disposition of the
 12 citation.

13 The lien established under this Section does not affect
 14 the rights of citation respondents in property prior to the
 15 service of the citation upon them and does not affect the
 16 rights of bona fide purchasers or lenders without notice of
 17 the citation. The lien is effective for the period specified
 18 by Supreme Court Rule.

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

21 (n) If any provision of this Act or its application to
 22 any person or circumstance is held invalid, the invalidity of
 23 that provision or application does not affect the provisions
 24 or applications of the Act that can be given effect without
 25 the invalid provision or application.

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

28 (735 ILCS 5/12-901) (from Ch. 110, par. 12-901)

29 Sec. 12-901. Amount. Every individual is entitled to an
 30 estate of homestead to the extent in value of \$15,000 \$7,500
 31 of his or her interest in a farm or lot of land and buildings
 32 thereon, a condominium, or personal property, owned or
 33 rightly possessed by lease or otherwise and occupied by him

1 or her as a residence, or in a cooperative that owns property
2 that the individual uses as a residence. That homestead and
3 all right in and title to that homestead is exempt from
4 attachment, judgment, levy, or judgment sale for the payment
5 of his or her debts or other purposes and from the laws of
6 conveyance, descent, and legacy, except as provided in this
7 Code or in Section 20-6 of the Probate Act of 1975. This
8 Section is not applicable between joint tenants or tenants in
9 common but it is applicable as to any creditors of those
10 persons. If 2 or more individuals own property that is exempt
11 as a homestead, the value of the exemption of each individual
12 may not exceed his or her proportionate share of \$30,000
13 ~~\$15,000~~ based upon percentage of ownership.

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

15 (735 ILCS 5/12-904) (from Ch. 110, par. 12-904)

16 Sec. 12-904. Release, waiver or conveyance. No release,
17 waiver or conveyance of the estate so exempted shall be
18 valid, unless the same is in writing, signed by the
19 individual and his or her spouse, if he or she have one, or
20 possession is abandoned or given pursuant to the conveyance;
21 or if the exception is continued to a child or children
22 without the order of a court directing a release thereof; but
23 if a conveyance is made by an individual as grantor to his or
24 her spouse, such conveyance shall be effectual to pass the
25 title expressed therein to be conveyed thereby, whether or
26 not the grantor in such conveyance is joined therein by his
27 or her spouse. In any case where such release, waiver or
28 conveyance is taken by way of mortgage or security, the same
29 shall only be operative as to such specific release, waiver
30 or conveyance; and when the same includes different pieces of
31 land, or the homestead is of greater value than \$15,000
32 ~~\$7,500~~, the other lands shall first be sold before resorting
33 to the homestead, and in case of the sale of such homestead,

1 if any balance remains after the payment of the debt and
 2 costs, such balance shall, to the extent of \$15,000 ~~\$7,500~~ be
 3 exempt, and be applied upon such homestead exemption in the
 4 manner provided by law.

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

6 (735 ILCS 5/12-906) (from Ch. 110, par. 12-906)

7 Sec. 12-906. Proceeds of sale. When a homestead is
 8 conveyed by the owner thereof, such conveyance shall not
 9 subject the premises to any lien or incumbrance to which it
 10 would not be subject in the possession of such owner; and the
 11 proceeds thereof, to the extent of the amount of \$15,000
 12 ~~\$7,500~~, shall be exempt from judgment or other process, for
 13 one year after the receipt thereof, by the person entitled to
 14 the exemption, and if reinvested in a homestead the same
 15 shall be entitled to the same exemption as the original
 16 homestead.

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

18 (735 ILCS 5/12-909) (from Ch. 110, par. 12-909)

19 Sec. 12-909. Bid for less than exempted amount. No sale
 20 shall be made of the premises on such judgment unless a
 21 greater sum than \$15,000 ~~\$7,500~~ is bid therefor. If a greater
 22 sum is not so bid, the judgment may be set aside or modified,
 23 or the enforcement of the judgment released, as for lack of
 24 property.

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

26 (735 ILCS 5/12-910) (from Ch. 110, par. 12-910)

27 Sec. 12-910. Proceedings to enforce judgment. If in the
 28 opinion of the judgment creditors, or the officer holding a
 29 certified copy of a judgment for enforcement against such
 30 individuals, the premises claimed by him or her as exempt are
 31 worth more than \$15,000 ~~\$7,500~~, such officer shall summon 3

1 individuals, as commissioners, who shall, upon oath, to be
2 administered to them by the officer, appraise the premises,
3 and if, in their opinion, the property may be divided without
4 damage to the interest of the parties, they shall set off so
5 much of the premises, including the dwelling house, as in
6 their opinion is worth \$15,000 \$7,500, and the residue of the
7 premises may be advertised and sold by such officer. Each
8 commissioner shall receive for his or her services the sum of
9 \$5 per day for each day necessarily engaged in such service.
10 The officer summoning such commissioners shall receive such
11 fees as may be allowed for serving summons, but shall be
12 entitled to charge mileage for only the actual distance
13 traveled from the premises to be appraised, to the residence
14 of the commissioners summoned. The officer shall not be
15 required to summon commissioners until the judgment creditor,
16 or some one for him or her, shall advance to the officer one
17 day's fees for the commissioners, and unless the creditor
18 shall advance such fees the officer shall not be required to
19 enforce the judgment. The costs of such appraisement shall
20 not be taxed against the judgment debtor unless such
21 appraisement shows that the judgment debtor has property
22 subject to such judgment.

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

24 (735 ILCS 5/12-911) (from Ch. 110, par. 12-911)

25 Sec. 12-911. Notice to judgment debtor. In case the
26 value of the premises is, in the opinion of the
27 commissioners, more than \$15,000 \$7,500, and cannot be
28 divided as is provided for in Section 12-910 of this Act,
29 they shall make and sign an appraisal of the value thereof,
30 and deliver the same to the officer, who shall deliver a copy
31 thereof to the judgment debtor, or to some one of the family
32 of the age of 13 years or upwards, with a notice thereto
33 attached that unless the judgment debtor pays to such officer

1 the surplus over and above \$15,000 ~~\$7,500~~ on the amount due
2 on the judgment within 60 days thereafter, such premises will
3 be sold.

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

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

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

7 In case of such surplus, or the amount due on the judgment is
8 not paid within the 60 days, the officer may advertise and
9 sell the premises, and out of the proceeds of such sale pay
10 to such judgment debtor the sum of \$15,000 ~~\$7,500~~, and apply
11 the balance on the judgment.

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

13 (735 ILCS 5/12-1001) (from Ch. 110, par. 12-1001)

14 Sec. 12-1001. Personal property exempt. The following
15 personal property, owned by the debtor, is exempt from
16 judgment, attachment, or distress for rent:

17 (a) The necessary wearing apparel, bible, school
18 books, and family pictures of the debtor and the debtor's
19 dependents;

20 (b) The debtor's equity interest, not to exceed
21 \$4,000 ~~\$2,000~~ in value, in any other property;

22 (c) The debtor's interest, not to exceed \$2,400
23 ~~\$1,200~~ in value, in any one motor vehicle;

24 (d) The debtor's equity interest, not to exceed
25 \$1,500 ~~\$750~~ in value, in any implements, professional
26 books, or tools of the trade of the debtor;

27 (e) Professionally prescribed health aids for the
28 debtor or a dependent of the debtor;

29 (f) All proceeds payable because of the death of
30 the insured and the aggregate net cash value of any or
31 all life insurance and endowment policies and annuity
32 contracts payable to a wife or husband of the insured, or

1 to a child, parent, or other person dependent upon the
2 insured, whether the power to change the beneficiary is
3 reserved to the insured or not and whether the insured or
4 the insured's estate is a contingent beneficiary or not;

5 (g) The debtor's right to receive:

6 (1) a social security benefit, unemployment
7 compensation, or public assistance benefit;

8 (2) a veteran's benefit;

9 (3) a disability, illness, or unemployment
10 benefit; and

11 (4) alimony, support, or separate maintenance,
12 to the extent reasonably necessary for the support
13 of the debtor and any dependent of the debtor.

14 (h) The debtor's right to receive, or property that
15 is traceable to:

16 (1) an award under a crime victim's reparation
17 law;

18 (2) a payment on account of the wrongful death
19 of an individual of whom the debtor was a dependent,
20 to the extent reasonably necessary for the support
21 of the debtor;

22 (3) a payment under a life insurance contract
23 that insured the life of an individual of whom the
24 debtor was a dependent, to the extent reasonably
25 necessary for the support of the debtor or a
26 dependent of the debtor;

27 (4) a payment, not to exceed \$15,000 ~~\$7,500~~ in
28 value, on account of personal bodily injury of the
29 debtor or an individual of whom the debtor was a
30 dependent; and

31 (5) any restitution payments made to persons
32 pursuant to the federal Civil Liberties Act of 1988
33 and the Aleutian and Pribilof Island Restitution
34 Act, P.L. 100-383.

1 For purposes of this subsection (h), a debtor's
2 right to receive an award or payment shall be exempt for
3 a maximum of 2 years after the debtor's right to receive
4 the award or payment accrues; property traceable to an
5 award or payment shall be exempt for a maximum of 5 years
6 after the award or payment accrues; and an award or
7 payment and property traceable to an award or payment
8 shall be exempt only to the extent of the amount of the
9 award or payment, without interest or appreciation from
10 the date of the award or payment.

11 (i) The debtor's right to receive an award under
12 Part 20 of Article II of this Code relating to crime
13 victims' awards.

14 Money due the debtor from the sale of any personal
15 property that was exempt from judgment, attachment, or
16 distress for rent at the time of the sale is exempt from
17 attachment and garnishment to the same extent that the
18 property would be exempt had the same not been sold by the
19 debtor.

20 If a debtor owns property exempt under this Section and
21 he or she purchased that property with the intent of
22 converting nonexempt property into exempt property or in
23 fraud of his or her creditors, that property shall not be
24 exempt from judgment, attachment, or distress for rent.
25 Property acquired within 6 months of the filing of the
26 petition for bankruptcy shall be presumed to have been
27 acquired in contemplation of bankruptcy.

28 The personal property exemptions set forth in this
29 Section shall apply only to individuals and only to personal
30 property that is used for personal rather than business
31 purposes. The personal property exemptions set forth in this
32 Section shall not apply to or be allowed against any money,
33 salary, or wages due or to become due to the debtor that are
34 required to be withheld in a wage deduction proceeding under

1 Part 8 of this Article XII.

2 (Source: P.A. 88-378; 89-686, eff. 12-31-96.)

3 Section 99. Effective date. This Act takes effect on

4 January 1, 2004.