



Sen. Jacqueline Y. Collins

**Filed: 4/6/2005**

09400SB1752sam001

LRB094 10620 LCB 44316 a

1 AMENDMENT TO SENATE BILL 1752

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1752 on page 1,  
3 line 5, by replacing "and 12-803" with ", 12-803, 12-805, and  
4 12-808"; and

5 on page 3, line 32, after "or", by inserting ", under a wage  
6 deduction summons served on or after January 1, 2006,"; and

7 on page 9, line 14, after "or", by inserting ", under a wage  
8 deduction summons served on or after January 1, 2006,"; and

9 on page 9, by replacing lines 25 and 26 with the following:

10 "(735 ILCS 5/12-805) (from Ch. 110, par. 12-805)

11 Sec. 12-805. Summons; Issuance.

12 (a) Upon the filing by a judgment creditor, its attorney or  
13 other designee of (1) an affidavit that the affiant believes  
14 any person is indebted to the judgment debtor for wages due or  
15 to become due, as provided in Part 8 of Article XII of this  
16 Act, and includes the last address of the judgment debtor known  
17 to the affiant as well as the name of the judgment debtor, and  
18 a certification by the judgment creditor or his attorney that,  
19 before filing the affidavit, the wage deduction notice has been  
20 mailed to the judgment debtor by first class mail at the  
21 judgment debtor's last known address, and (2) written  
22 interrogatories to be answered by the employer with respect to

1 the indebtedness, the clerk of the court in which the judgment  
2 was entered shall issue summons against the person named in the  
3 affidavit as employer commanding the employer to appear in the  
4 court and answer the interrogatories in writing under oath. The  
5 interrogatories shall elicit all the information necessary to  
6 determine the proper amount of non-exempt wages. The  
7 interrogatories shall require that the employer certify that a  
8 copy of the completed interrogatories as specified in  
9 subsection (c) of Section 12-808 has been mailed or hand  
10 delivered to the judgment debtor and shall be in a form  
11 consistent with local court rules. The summons shall further  
12 command federal agency employers, upon effective service of  
13 summons pursuant to 5 USC 5520a, to commence to pay over  
14 deducted wages in accordance with Section 12-808. The summons  
15 shall be in a form consistent with local court rules. The  
16 summons shall be accompanied by a copy of the underlying  
17 judgment or a certification by the clerk of the court that  
18 entered the judgment, or by the attorney for the judgment  
19 creditor, setting forth the date and amount of the judgment,  
20 allowable costs expended, interest accumulated, credits paid  
21 by or on behalf of the judgment debtor and the balance due the  
22 judgment creditor, and one copy of a wage deduction notice in  
23 substantially the following form:

24 "WAGE DEDUCTION NOTICE

25 (Name and address of Court)

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

27 Judgment Creditor v.

28 (Name of Judgment Debtor),

29 Judgment Debtor.

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

31 Name and Address of Attorney for Judgment

32 Creditor or of Judgment Creditor (if no

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

34 Amount of Judgment: \$.....

1           Employer: (Name of Employer)

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

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

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

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

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

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

25           You have the right to request a hearing before the court to  
26 dispute the wage deduction because the wages are exempt. To  
27 obtain a hearing in counties with a population of 1,000,000 or  
28 more, you must notify the Clerk of the Court in person and in  
29 writing at (insert address of Clerk) before the Return Date  
30 specified above or appear in court on the date and time on that  
31 Return Date. To obtain a hearing in counties with a population  
32 of less than 1,000,000, you must notify the Clerk of the Court  
33 in writing at (insert address of clerk) on or before the Return  
34 Date specified above. The Clerk of the Court will provide a

1 hearing date and the necessary forms that must be prepared by  
2 you or your attorney and sent to the judgment creditor and the  
3 employer, or their attorney, regarding the time and location of  
4 the hearing. This notice may be sent by regular first class  
5 mail."

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

11 (1) For each employer to be served, the judgment  
12 creditor or his or her attorney shall pay to the clerk of  
13 the court a fee of \$2, plus the cost of mailing, and  
14 furnish to the clerk an original and one copy of a summons,  
15 an original and one copy of the interrogatories and an  
16 affidavit setting forth the employer's mailing address, an  
17 original and one copy of the wage deduction notice required  
18 by subsection (a) of this Section, and a copy of the  
19 judgment or certification described in subsection (a) of  
20 this Section. The original judgment shall be retained by  
21 the clerk.

22 (2) The clerk shall mail to the employer, at the  
23 address appearing in the affidavit, the copy of the  
24 judgment or certification described in subsection (a) of  
25 this Section, the summons, the interrogatories, and the  
26 wage deduction notice required by subsection (a) of this  
27 Section, by certified or registered mail, return receipt  
28 requested, showing to whom delivered and the date and  
29 address of delivery. This Mailing shall be mailed on a  
30 "restricted delivery" basis when service is directed to a  
31 natural person. The envelope and return receipt shall bear  
32 the return address of the clerk, and the return receipt  
33 shall be stamped with the docket number of the case. The  
34 receipt for certified or registered mail shall state the

1 name and address of the addressee, the date of the mailing,  
2 shall identify the documents mailed, and shall be attached  
3 to the original summons.

4 (3) The return receipt must be attached to the original  
5 summons and, if it shows delivery at least 3 days before  
6 the return date, shall constitute proof of service of any  
7 documents identified on the return receipt as having been  
8 mailed.

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

11 (c) Instead of personal service, a summons for a wage  
12 deduction may be served and returned in the manner provided by  
13 Supreme Court rule for service, otherwise than by publication,  
14 of a notice for additional relief upon a party in default.

15 (Source: P.A. 89-28, eff. 6-23-95; 90-677, eff. 1-1-99.)

16 (735 ILCS 5/12-808) (from Ch. 110, par. 12-808)

17 Sec. 12-808. Duty of employer.

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

20 (b) To the extent of the amount due upon the judgment and  
21 costs, the employer shall hold, subject to order of court, any  
22 non-exempt wages due or which subsequently come due. The  
23 judgment or balance due thereon is a lien on wages due at the  
24 time of the service of summons, and such lien shall continue as  
25 to subsequent earnings until the total amount due upon the  
26 judgment and costs is paid, except that such lien on subsequent  
27 earnings shall terminate sooner if the employment relationship  
28 is terminated or if the underlying judgment is vacated or  
29 modified.

30 (b-5) If the employer is a federal agency employer and the  
31 creditor is represented by an attorney, then the employer, upon  
32 service of summons and to the extent of the amount due upon the  
33 judgment and costs, shall commence to pay over to the attorney

1 for the judgment creditor any non-exempt wages due or that  
2 subsequently come due. The attorney for the judgment creditor  
3 shall thereafter hold the deducted wages subject to further  
4 order of the court and shall make answer to the court regarding  
5 amounts received from the federal agency employer. The federal  
6 agency employer's periodic payments shall be considered a  
7 sufficient answer to the interrogatories.

8 (c) Except as provided in subsection (b-5), the employer  
9 shall file, on or before the return date or within the further  
10 time that the court for cause may allow, a written answer under  
11 oath to the interrogatories, setting forth the amount due as  
12 wages to the judgment debtor for the payroll periods ending  
13 immediately prior to the service of the summons and a summary  
14 of the computation used to determine the amount of non-exempt  
15 wages. Except as provided in subsection (b-5), the employer  
16 shall mail by first class mail or hand deliver a copy of the  
17 answer to the judgment debtor at the address specified in the  
18 affidavit filed under Section 12-805 of this Act, or at any  
19 other address or location of the judgment debtor known to the  
20 employer.

21 A lien obtained hereunder shall have priority over any  
22 subsequent lien obtained hereunder, except that liens for the  
23 support of a spouse or dependent children shall have priority  
24 over all other liens obtained hereunder. Subsequent summonses  
25 shall be effective in the order in which they are served.

26 (d) The Illinois Supreme Court may by rule allow an  
27 employer to file answers to interrogatories by facsimile  
28 transmission.

29 (e) Pursuant to answer under oath to the interrogatories by  
30 the employer, an order shall be entered compelling the employer  
31 to deduct from wages of the judgment debtor subject to  
32 collection under a deduction order an amount not to exceed the  
33 lesser of (i) 15% of the gross amount of the wages or (ii) the  
34 amount by which disposable earnings for a week exceed 45 times

1 the Federal Minimum Hourly Wage prescribed by Section 206(a) (1)  
2 of Title 29 of the United States Code, as amended, in effect at  
3 the time the amounts are payable, for each pay period in which  
4 statutory exemptions under Section 12-804 and child support  
5 garnishments, if any, leave funds to be remitted or, under a  
6 wage deduction summons served on or after January 1, 2006, the  
7 minimum hourly wage prescribed by Section 4 of the Minimum Wage  
8 Law, whichever is greater. The order shall further provide that  
9 deducted wages shall be remitted to the creditor or creditor's  
10 attorney on a monthly basis.

11 (Source: P.A. 89-28, eff. 6-23-95; 90-677, eff. 1-1-99.)

12 Section 99. Effective date. This Act takes effect January  
13 1, 2006."