

1 92ND GENERAL ASSEMBLY
2 FIRST CONFERENCE COMMITTEE REPORT
3 ON SENATE BILL 39

4 -----
5 -----

6 To the President of the Senate and the Speaker of the
7 House of Representatives:

8 We, the conference committee appointed to consider the
9 differences between the houses in relation to House Amendment
10 No. 1 to Senate Bill 39, recommend the following:

11 (1) that the House recede from House Amendment No. 1;
12 and

13 (2) that Senate Bill 39 be amended by replacing
14 everything after the enacting clause with the following:

15 "Section 5. The Code of Civil Procedure is amended by
16 changing Sections 2-1601 and 12-101 and adding Section 2-1602
17 as follows:

18 (735 ILCS 5/2-1601) (from Ch. 110, par. 2-1601)

19 Sec. 2-1601. Scire facias abolished. Any relief which
20 heretofore might have been obtained by scire facias may be
21 had by employing a petition filed in the case in which the
22 original judgment was entered in accordance with Section
23 2-1602 ~~, and notice shall be given in accordance with rules.~~

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

25 (735 ILCS 5/2-1602 new)

26 Sec. 2-1602. Revival of judgment.

27 (a) A judgment may be revived in the seventh year after
28 its entry, or in the seventh year after its last revival, or
29 at any other time thereafter within 20 years after its entry.

30 (b) A petition to revive a judgment shall be filed in
31 the original case in which the judgment was entered. The

1 petition shall include a statement as to the original date
2 and amount of the judgment, court costs expended, accrued
3 interest, and credits to the judgment, if any.

4 (c) Service of notice of the petition to revive a
5 judgment shall be made in accordance with Supreme Court Rule
6 106.

7 (d) An order reviving a judgment shall be for the
8 original amount of the judgment. The plaintiff may recover
9 interest and court costs from the date of the original
10 judgment. Credits to the judgment shall be reflected by the
11 plaintiff in supplemental proceedings or execution.

12 (e) If a judgment debtor has filed for protection under
13 the United States Bankruptcy Code and failed to successfully
14 adjudicate and remove a lien filed by a judgment creditor,
15 then the judgment may be revived only as to the property to
16 which a lien attached before the filing of the bankruptcy
17 action.

18 (f) A judgment may be revived as to fewer than all
19 judgment debtors, and such order for revival of judgment
20 shall be final, appealable, and enforceable.

21 (g) This Section does not apply to a child support
22 judgment or to a judgment recovered in an action for damages
23 for an injury described in Section 13-214.1, which need not
24 be revived as provided in this Section and which may be
25 enforced at any time as provided in Section 12-108.

26 (735 ILCS 5/12-101) (from Ch. 110, par. 12-101)

27 Sec. 12-101. Lien of judgment. With respect to the
28 creation of liens on real estate by judgments, all real
29 estate in the State of Illinois is divided into 2 classes.

30 The first class consists of all real property, the title
31 to which is registered under "An Act concerning land titles",
32 approved May 1, 1897, as amended.

33 The second class consists of all real property not
34 registered under "An Act concerning land titles".

1 As to real estate in class one, a judgment is a lien on
2 the real estate of the person against whom it is entered for
3 the same period as in class two, when Section 85 of "An Act
4 concerning land titles", has been complied with.

5 As to real estate included within class two, a judgment
6 is a lien on the real estate of the person against whom it is
7 entered in any county in this State, including the county in
8 which it is entered, only from the time a transcript,
9 certified copy or memorandum of the judgment is filed in the
10 office of the recorder in the county in which the real estate
11 is located. The lien may be foreclosed by an action brought
12 in the name of the judgment creditor or its assignee of
13 record under Article XV in the same manner as a mortgage of
14 real property, except that the redemption period shall be 6
15 months from the date of sale and the real estate homestead
16 exemption under Section 12-901 shall apply. A judgment
17 resulting from the entry of an order requiring child support
18 payments shall be a lien upon the real estate of the person
19 obligated to make the child support payments, but shall not
20 be enforceable in any county of this State until a
21 transcript, certified copy, or memorandum of the lien is
22 filed in the office of the recorder in the county in which
23 the real estate is located. Any lien hereunder arising out
24 of an order for support shall be a lien only as to and from
25 the time that an installment or payment is due under the
26 terms of the order. Further, the order for support shall not
27 be a lien on real estate to the extent of payments made as
28 evidenced by the records of the Clerk of the Circuit Court or
29 State agency receiving payments pursuant to the order. In
30 the event payments made pursuant to that order are not paid
31 to the Clerk of the Circuit Court or a State agency, then
32 each lien imposed by this Section may be released in the
33 following manner:

- 34 (a) A Notice of Filing and an affidavit stating
35 that all installments of child support required to be

1 paid pursuant to the order under which the lien or liens
 2 were imposed have been paid shall be filed with the
 3 office of recorder in each county in which each such lien
 4 appears of record, together with proof of service of such
 5 notice and affidavit upon the recipient of such payments.

6 (b) Service of such affidavit shall be by any means
 7 authorized under Sections 2-203 and 2-208 of the Code of
 8 Civil Procedure or under Supreme Court Rules 11 or
 9 105(b).

10 (c) The Notice of Filing shall set forth the name
 11 and address of the judgment debtor and the judgment
 12 creditor, the court file number of the order giving rise
 13 to the judgment and, in capital letters, the following
 14 statement:

15 YOU ARE HEREBY NOTIFIED THAT ON (insert date) THE
 16 ATTACHED AFFIDAVIT WAS FILED IN THE OFFICE OF THE RECORDER OF
 17 COUNTY, ILLINOIS, WHOSE ADDRESS IS, ILLINOIS.
 18 IF, WITHIN 28 DAYS OF THE DATE OF THIS NOTICE, YOU FAIL TO
 19 FILE AN AFFIDAVIT OBJECTING TO THE RELEASE OF THE STATED
 20 JUDGMENT LIEN OR LIENS, IN THE ABOVE OFFICE, SUCH JUDGMENT
 21 LIEN WILL BE DEEMED TO BE RELEASED AND NO LONGER SUBJECT TO
 22 FORECLOSURE. THIS RELEASE OF LIEN WILL NOT ACT AS A
 23 SATISFACTION OF SUCH JUDGMENT.

24 (d) If no affidavit objecting to the release of the
 25 lien or liens is filed within 28 days of the Notice
 26 described in paragraph (c) of this Section such lien or
 27 liens shall be deemed to be released and no longer
 28 subject to foreclosure.

29 A judgment is not a lien on real estate for longer than 7
 30 years from the time it is entered or revived, unless the
 31 judgment is revived within 7 years after its entry or last
 32 revival and a memorandum of judgment is filed before the
 33 expiration of the prior memorandum of judgment.

34 When a judgment is revived it is a lien on the real
 35 estate of the person against whom it was entered in any

1 county in this State from the time a transcript, certified
2 copy or memorandum of the order of revival is filed in the
3 office of the recorder in the county in which the real estate
4 is located.

5 A foreign judgment registered pursuant to Sections 12-601
6 through 12-618 of this Act is a lien upon the real estate of
7 the person against whom it was entered only from the time (1)
8 a certified copy of the verified petition for registration of
9 the foreign judgment or (2) a transcript, certified copy or
10 memorandum of the final judgment of the court of this State
11 entered on that foreign judgment is filed in the office of
12 the recorder in the county in which the real estate is
13 located. However, no such judgment shall be a lien on any
14 real estate registered under "An Act concerning land titles",
15 as amended, until Section 85 of that Act has been complied
16 with.

17 The release of any transcript, certified copy or
18 memorandum of judgment or order of revival which has been
19 recorded shall be filed by the person receiving the release
20 in the office of the recorder in which such judgment or order
21 has been recorded.

22 Such release shall contain in legible letters a statement
23 as follows:

24 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL BE
25 FILED WITH THE RECORDER OR THE REGISTRAR OF TITLES
26 IN WHOSE OFFICE THE LIEN WAS FILED.

27 The term "memorandum" as used in this Section means a
28 memorandum or copy of the judgment signed by a judge or a
29 copy attested by the clerk of the court entering it and
30 showing the court in which entered, date, amount, number of
31 the case in which it was entered, name of the party in whose
32 favor and name and last known address of the party against
33 whom entered. If the address of the party against whom the
34 judgment was entered is not known, the memorandum or copy of
35 judgment shall so state.

1 The term "memorandum" as used in this Section also means
 2 a memorandum or copy of a child support order signed by a
 3 judge or a copy attested by the clerk of the court entering
 4 it or a copy attested by the administrative body entering it.

5 This Section shall not be construed as showing an
 6 intention of the legislature to create a new classification
 7 of real estate, but shall be construed as showing an
 8 intention of the legislature to continue a classification
 9 already existing.

10 (Source: P.A. 90-18, eff. 7-1-97; 91-357, eff. 7-29-99.)

11 Section 99. Effective date. This Act takes effect upon
 12 becoming law."

13 Submitted on May 30, 2002.

14 s/Sen. Carl Hawkinson

15 Sen. Ed Petka

16 s/Sen. Kirk Dillard

17 s/Sen. John Cullerton

18 s/Sen. Ira Silverstein

19 Committee for the Senate

s/Rep. Lou Lang

s/Rep. Barbara Flynn Currie

s/Rep. Thomas Dart

Rep. Art Tenhouse

s/Rep. Dale Righter

Committee for the House