

1 AMENDMENT TO SENATE BILL 39

2 AMENDMENT NO. _____. Amend Senate Bill 39 by replacing
3 the title with the following:

4 "AN ACT in relation to civil procedure."; and

5 by replacing everything after the enacting clause with the
6 following:

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

10 (735 ILCS 5/2-1601) (from Ch. 110, par. 2-1601)

11 Sec. 2-1601. Scire facias abolished. Any relief which
12 heretofore might have been obtained by scire facias may be
13 had by employing a petition filed in the case in which the
14 original judgment was entered~~7--and-notice-shall-be--given--in~~
15 accordance with rules in accordance with Section 2-1602.

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

17 (735 ILCS 5/2-1602 new)

18 Sec. 2-1602. Revival of judgment.

19 (a) A judgment may be revived in the seventh year after
20 its entry, or in the seventh year after its last revival, or

1 at any other time thereafter within 20 years after its entry.

2 (b) A petition to revive a judgment shall be filed in
3 the original case in which the judgment was entered. The
4 petition shall include a statement as to the original date
5 and amount of the judgment, court costs expended, accrued
6 interest, and credits to the judgment, if any.

7 (c) Service of notice of the petition to revive a
8 judgment shall be made in accordance with Supreme Court Rule
9 106.

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

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

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

24 (735 ILCS 5/12-101) (from Ch. 110, par. 12-101)

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

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

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

33 As to real estate in class one, a judgment is a lien on

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

4 As to real estate included within class two, a judgment
5 is a lien on the real estate of the person against whom it is
6 entered in any county in this State, including the county in
7 which it is entered, only from the time a transcript,
8 certified copy or memorandum of the judgment is filed in the
9 office of the recorder in the county in which the real estate
10 is located. A judgment resulting from the entry of an order
11 requiring child support payments shall be a lien upon the
12 real estate of the person obligated to make the child support
13 payments, but shall not be enforceable in any county of this
14 State until a transcript, certified copy, or memorandum of
15 the lien is filed in the office of the recorder in the county
16 in which the real estate is located. Any lien hereunder
17 arising out of an order for support shall be a lien only as
18 to and from the time that an installment or payment is due
19 under the terms of the order. Further, the order for support
20 shall not be a lien on real estate to the extent of payments
21 made as evidenced by the records of the Clerk of the Circuit
22 Court or State agency receiving payments pursuant to the
23 order. In the event payments made pursuant to that order are
24 not paid to the Clerk of the Circuit Court or a State agency,
25 then each lien imposed by this Section may be released in the
26 following manner:

27 (a) A Notice of Filing and an affidavit stating
28 that all installments of child support required to be
29 paid pursuant to the order under which the lien or liens
30 were imposed have been paid shall be filed with the
31 office of recorder in each county in which each such lien
32 appears of record, together with proof of service of such
33 notice and affidavit upon the recipient of such payments.

34 (b) Service of such affidavit shall be by any means

1 authorized under Sections 2-203 and 2-208 of the Code of
2 Civil Procedure or under Supreme Court Rules 11 or
3 105(b).

4 (c) The Notice of Filing shall set forth the name
5 and address of the judgment debtor and the judgment
6 creditor, the court file number of the order giving rise
7 to the judgment and, in capital letters, the following
8 statement:

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

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

23 A judgment is not a lien on real estate for longer than 7
24 years from the time it is entered or revived, unless the
25 judgment is revived within 7 years after its entry or last
26 revival and a memorandum of judgment is filed before the
27 expiration of the prior memorandum of judgment.

28 When a judgment is revived it is a lien on the real
29 estate of the person against whom it was entered in any
30 county in this State from the time a transcript, certified
31 copy or memorandum of the order of revival is filed in the
32 office of the recorder in the county in which the real estate
33 is located.

34 A foreign judgment registered pursuant to Sections 12-601

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

12 The release of any transcript, certified copy or
13 memorandum of judgment or order of revival which has been
14 recorded shall be filed by the person receiving the release
15 in the office of the recorder in which such judgment or order
16 has been recorded.

17 Such release shall contain in legible letters a statement
18 as follows:

19 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL BE
20 FILED WITH THE RECORDER OR THE REGISTRAR OF TITLES
21 IN WHOSE OFFICE THE LIEN WAS FILED.

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

31 The term "memorandum" as used in this Section also means
32 a memorandum or copy of a child support order signed by a
33 judge or a copy attested by the clerk of the court entering
34 it or a copy attested by the administrative body entering it.

1 This Section shall not be construed as showing an
2 intention of the legislature to create a new classification
3 of real estate, but shall be construed as showing an
4 intention of the legislature to continue a classification
5 already existing.

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

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.".