



Rep. Gary Hannig

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09400HB2706ham003

LRB094 03732 BDD 44278 a

1 AMENDMENT TO HOUSE BILL 2706

2 AMENDMENT NO. _____. Amend House Bill 2706, AS AMENDED,
3 with reference to page and line numbers of House Amendment No.
4 1, as follows:

5 on page 22, line 6, by changing "704 and 902" to "704, 902, and
6 1109"; and

7 on page 28, immediately below line 12, by inserting the
8 following:

9 "(35 ILCS 5/1109) (from Ch. 120, par. 11-1109)

10 Sec. 1109. Demand and Seizure. In addition to any other
11 remedy provided for by the laws of this State, if the tax
12 imposed by this Act is not paid within the time required by
13 this Act, the Department, or some person designated by it, may
14 cause a demand to be made on the taxpayer for the payment
15 thereof. If such tax remains unpaid for 10 days after such
16 demand has been made and no proceedings have been taken to
17 review the same, the Department may issue a warrant directed to
18 any sheriff, agent of the Department's Bureau of Criminal
19 Investigations, or other person authorized to serve process,
20 commanding the sheriff, agent, or other person to levy upon the
21 property and rights to property (whether real or personal,
22 tangible or intangible) of the taxpayer, without exemption,
23 found within his jurisdiction, for the payment of the amount

1 thereof with the added penalties, interest and the cost of
2 executing the warrant. The term "levy" includes the power of
3 distrain and seizure by any means. In any case in which the
4 warrant to levy has been issued, the sheriff, agent, or other
5 person to whom the warrant was directed may seize and sell such
6 property or rights to property. Such warrant shall be returned
7 to the Department together with the money collected by virtue
8 thereof within the time therein specified, which shall not be
9 less than 20 nor more than 90 days from the date of the
10 warrant. The sheriff, agent, or other person to whom such
11 warrant is directed shall proceed in the same manner as
12 prescribed by law in respect to the enforcement against
13 property upon judgments by a court, and shall be entitled to
14 the same fees for his services in executing the warrant, to be
15 collected in the same manner. The Department, or some officer,
16 employee or agent designated by it, is hereby authorized to bid
17 for and purchase any property sold under the provisions hereof.
18 No proceedings for a levy under this Section shall be commenced
19 more than 20 years after the latest date for filing of the
20 notice of lien under the provisions of Section 1103, without
21 regard to whether such notice was actually filed.

22 Any officer or employee of the Department designated in
23 writing by the Director is authorized to serve process under
24 this Section to levy upon accounts or other intangible assets
25 of a taxpayer held by a financial organization, as defined in
26 Section 1501 of this Act. In addition to any other provisions
27 of this Section, any officer or employee of the Department
28 designated in writing by the Director may levy upon the
29 following property and rights to property belonging to a
30 taxpayer: contractual payments, accounts and notes receivable
31 and other evidences of debt, and interest on bonds, by serving
32 a notice of levy on the person making such payment. Levy shall
33 not be made until the Department has caused a demand to be made
34 on the taxpayer in the manner provided above. In addition to

1 any other provisions of this Section, any officer or employee
2 of the Department designated in writing by the Director, may
3 levy upon the salary, wages, commissions and bonuses of any
4 employee, including officers, employees, or elected officials
5 of the United States as authorized by Section 5520a of the
6 Government Organization and Employees Act (5 U.S.C. 5520a), but
7 not upon the salary or wages of officers, employees, or elected
8 officials of any state other than this State, by serving a
9 notice of levy on the employer, as defined in Section 701(d).
10 Levy shall not be made until the Department has caused a demand
11 to be made on the employee in the manner provided above. The
12 provisions of Section 12-803 of the Code of Civil Procedure
13 relating to maximum compensation subject to collection under
14 wage deduction orders shall apply to all levies made upon
15 compensation under this Section. To the extent of the amount
16 due on the levy, the employer or other person making payments
17 to the taxpayer shall hold any non-exempt wages or other
18 payments due or which subsequently come due. The levy or
19 balance due thereon is a lien on wages or other payments due at
20 the time of the service of the notice of levy, and such lien
21 shall continue as to subsequent earnings and other payments
22 until the total amount due upon the levy is paid, except that
23 such lien on subsequent earnings or other payments shall
24 terminate sooner if the employment relationship is terminated
25 or if the notice of levy is rescinded or modified. The employer
26 or other person making payments to the taxpayer shall file, on
27 or before the return dates stated in the notice of levy (which
28 shall not be more often than bimonthly) a written answer under
29 oath to interrogatories, setting forth the amount due as wages
30 or other payments to the taxpayer for the payment periods
31 ending immediately prior to the appropriate return date. A lien
32 obtained hereunder shall have priority over any subsequent lien
33 obtained pursuant to Section 12-808 of the Code of Civil
34 Procedure, except that liens for the support of a spouse or

1 dependent children shall have priority over all liens obtained
2 hereunder.

3 In any case where property or rights to property have been
4 seized by an officer of the Illinois Department of State
5 Police, or successor agency thereto, under the authority of a
6 warrant to levy issued by the Department of Revenue, the
7 Department of Revenue may take possession of and may sell such
8 property or rights to property and the Department of Revenue
9 may contract with third persons to conduct sales of such
10 property or rights to the property. In the conduct of such
11 sales, the Department of Revenue shall proceed in the same
12 manner as is prescribed by law for proceeding against property
13 to enforce judgments which are entered by a circuit court of
14 this State. If, in the Department of Revenue's opinion, no
15 offer to purchase at such sale is acceptable and the State's
16 interest would be better served by retaining the property for
17 sale at a later date, then the Department may decline to accept
18 any bid and may retain the property for sale at a later date.
19 (Source: P.A. 89-399, eff. 8-20-95.); and

20 on page 28, by replacing line 14 with the following:
21 "changing Sections 5f and 5j as follows:

22 (35 ILCS 120/5f) (from Ch. 120, par. 444f)
23 Sec. 5f. In addition to any other remedy provided for by
24 the laws of this State, if the tax imposed by this Act is not
25 paid within the time required by this Act, the Department, or
26 some person designated by it, may cause a demand to be made on
27 the taxpayer for the payment of the tax. If the tax remains
28 unpaid for 10 days after demand has been made and no
29 proceedings have been taken for review, the Department may
30 issue a warrant directed to the sheriff of any county of the
31 State, to an agent of the Department's Bureau of Criminal
32 Investigations, or to any State officer authorized to serve

1 process, commanding the sheriff, agent, or other officer to
2 levy upon property and rights to property (whether real or
3 personal, tangible or intangible) of the taxpayer, without
4 exemption, found within his or her jurisdiction, for the
5 payment of the amount of unpaid tax with the added penalties,
6 interest and the cost of executing the warrant. The term "levy"
7 includes the power of distraint and seizure by any means. In
8 any case in which the warrant to levy has been issued, the
9 sheriff, agent, or other person to whom the warrant was
10 directed may seize and sell such property or rights to
11 property. Such warrant shall be returned to the Department
12 together with the money collected by virtue of the warrant
13 within the time specified in the warrant, which may not be less
14 than 20 nor more than 90 days from the date of the warrant. The
15 sheriff, agent, or other officer to whom such warrant is
16 directed shall proceed in the same manner as is prescribed by
17 law for proceeding against property to enforce judgments which
18 are entered by a circuit court of this State, and is entitled
19 to the same fees for his or her services in executing the
20 warrant, to be collected in the same manner. The Department, or
21 some officer, employee or agent designated by it, may bid for
22 and purchase any such property sold.

23 No proceedings for a levy under this Section may be
24 commenced more than 20 years after the latest date for filing
25 of the notice of lien under Section 5b of this Act, without
26 regard to whether such notice was actually filed.

27 Any officer or employee of the Department designated in
28 writing by the Director is authorized to serve process under
29 this Section to levy upon accounts or other intangible assets
30 of a taxpayer held by a financial organization, as defined by
31 Section 1501 of the Illinois Income Tax Act. In addition to any
32 other provisions of this Section, any officer or employee of
33 the Department designated in writing by the Director may levy
34 upon the following property and rights to property belonging to

1 a taxpayer: contractual payments, accounts and notes
2 receivable and other evidences of debt, and interest on bonds,
3 by serving a notice of levy on the person making such payment.
4 Levy shall not be made until the Department has caused a demand
5 to be made on the taxpayer in the manner provided above. In
6 addition to any other provisions of this Section, any officer
7 or employee of the Department designated in writing by the
8 Director, may levy upon the salary, wages, commissions and
9 bonuses of any employee, including officers, employees, or
10 elected officials of the United States as authorized by Section
11 5520a of the Government Organization and Employees Act (5
12 U.S.C. 5520a), but not upon the salary or wages of officers,
13 employees, or elected officials of any state other than this
14 State, by serving a notice of levy on the employer. Levy shall
15 not be made until the Department has caused a demand to be made
16 on the employee in the manner provided above. The provisions of
17 Section 12-803 of the Code of Civil Procedure relating to
18 maximum compensation subject to collection under wage
19 deduction orders shall apply to all levies made upon
20 compensation under this Section. To the extent of the amount
21 due on the levy, the employer or other person making payments
22 to the taxpayer shall hold any non-exempt wages or other
23 payments due or which subsequently come due. The levy or
24 balance due thereon is a lien on wages or other payments due at
25 the time of the service of the notice of levy, and such lien
26 shall continue as to subsequent earnings and other payments
27 until the total amount due upon the levy is paid, except that
28 such lien on subsequent earnings or other payments shall
29 terminate sooner if the employment relationship is terminated
30 or if the notice of levy is rescinded or modified. The employer
31 or other person making payments to the taxpayer shall file, on
32 or before the return dates stated in the notice of levy (which
33 shall not be more often than bimonthly) a written answer under
34 oath to interrogatories, setting forth the amount due as wages

1 or other payments to the taxpayer for the payment periods
2 ending immediately prior to the appropriate return date. A lien
3 obtained hereunder shall have priority over any subsequent lien
4 obtained pursuant to Section 12-808 of the Code of Civil
5 Procedure, except that liens for the support of a spouse or
6 dependent children shall have priority over all liens obtained
7 hereunder.

8 In any case where property or rights to property have been
9 seized by an officer of the Illinois Department of Law
10 Enforcement, or successor agency thereto, under the authority
11 of a warrant to levy issued by the Department of Revenue, the
12 Department of Revenue may take possession of and may sell such
13 property or rights to property and the Department of Revenue
14 may contract with third persons to conduct sales of such
15 property or rights to the property. In the conduct of such
16 sales, the Department of Revenue shall proceed in the same
17 manner as is prescribed by law for proceeding against property
18 to enforce judgments which are entered by a circuit court of
19 this State. If, in the Department's opinion, no offer to
20 purchase at such sale is acceptable and the State's interest
21 would be better served by retaining the property for sale at a
22 later date, then the Department may decline to accept any bid
23 and may retain the property for sale at a later date.

24 (Source: P.A. 89-399, eff. 8-20-95.)".