



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 377

2 AMENDMENT NO. _____. Amend Senate Bill 377, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Department of Revenue Law of the Civil
6 Administrative Code of Illinois is amended by adding Section
7 2505-660 as follows:

8 (20 ILCS 2505/2505-660 new)

9 Sec. 2505-660. Financial institution record sharing for
10 income tax debt collection.

11 (a) For the purpose of the collection of any income tax
12 debt owed to the State, the Department may require each
13 financial institution doing business in the State to provide
14 data concerning account holders, owners, or customers who
15 maintain one or more accounts with that institution.

16 (b) Definitions.

1 "Account" means a demand deposit account, checking or
2 negotiable withdrawal order account, savings account, time
3 deposit account, or money market mutual fund account.

4 "Financial institution" includes:

5 (1) a depository institution, which is any bank or
6 saving association;

7 (2) an insured depository institution, which is
8 any bank or saving institution the deposits of which
9 are insured pursuant to the Federal Deposit Insurance
10 Act, or any uninsured branch or agency of a foreign
11 bank or a commercial lending company owned or
12 controlled by a foreign bank;

13 (3) a federal depository institution, which is any
14 national bank, any federal savings association, or any
15 federal branch;

16 (4) a state depository institution, which is any
17 state bank, any state savings association, or any
18 insured branch that is not a federal branch;

19 (5) a federal credit union, which is a cooperative
20 association organized in accordance with the
21 provisions of the Federal Credit Union Act;

22 (6) a state chartered credit union that is
23 organized and operated according to the laws of this or
24 any other state, which laws provide for the
25 organization of credit unions similar in principle and
26 objectives to federal credit unions; and

1 (7) any benefit association, insurance company,
2 safe deposit company, money market mutual fund, or
3 similar entity authorized to do business in this State.

4 "Financial record" has the meaning given to that term
5 in Section 1101 of the federal Right to Financial Privacy
6 Act of 1978 (12 U.S.C. 3401).

7 "Income tax debt" means delinquent taxes owed to the
8 State for which a lien has attached pursuant to Section
9 1101 of the Illinois Income Tax Act (35 ILCS 5/1101).

10 "Persons" means any natural individual, firm,
11 partnership, association, joint stock company, joint
12 adventure, public or private corporation, limited
13 liability company, or a receiver, executor, trustee,
14 guardian, or other representative appointed by order of any
15 court.

16 (c) Financial institutions data matches.

17 (1) The Department may design and implement a data
18 match system pursuant to which the Department shall enter
19 into agreements with financial institutions doing business
20 in this State for the purpose of identifying accounts to be
21 used in the collection of income tax debt owed to the State
22 of Illinois.

23 (2) Every agreement entered into with a financial
24 institution under this Section shall provide, at the option
25 of the financial institution, either (i) that the financial
26 institution shall compare data concerning account holders,

1 owners, or customers who maintain one or more accounts at
2 the financial institution with data concerning persons
3 identified by the Department as responsible for owing
4 income tax debt and for each of whom the Department shall
5 provide the name, record address, and social security
6 number or tax identification number, or (ii) that the
7 financial institution shall provide the social security
8 number or tax identification number of the account holders,
9 owners, or customers who maintain one or more accounts at
10 the financial institution to the Department, which shall
11 compare that data with data concerning persons identified
12 as responsible for owing income tax debt.

13 (3) Every agreement shall provide that the Department
14 shall pay to the financial institution providing or
15 comparing the data a reasonable fee not to exceed the
16 institution's actual cost of providing the data or
17 performing the comparison.

18 (4) If the financial institution or Department
19 determines that the name and either social security number
20 or tax identification number of any person identified by
21 the Department under subdivision (c)(2) of this Section
22 match the name and either social security number or tax
23 identification number of the account holder, owner, or
24 customer who maintains one or more accounts at the
25 financial institution, then the financial institution
26 shall report the person's name and either social security

1 number or tax identification number to the Department, for
2 each calendar quarter in which the person is identified by
3 the Department as responsible for owing income tax debt.

4 (d) Types of accounts to be reported. The account reporting
5 requirements of subsection (c) of this Section apply to
6 accounts held or owned by "persons", as that term is defined in
7 subsection (b) of this Section. In the case of a joint account,
8 the account holder or owner shall be deemed to be the primary
9 account holder or owner established by the financial
10 institution in accordance with federal 1099 reporting
11 requirements.

12 (e) Accommodation of financial institutions. The
13 Department shall make a reasonable effort to accommodate those
14 financial institutions on which the requirements of this
15 Section would impose a hardship. In the case of a non-automated
16 financial institution, a paper copy including either social
17 security numbers or tax identification numbers would be an
18 acceptable format. In order to allow for data processing
19 implementation, no agreement shall become effective earlier
20 than 90 days after its execution.

21 (f) Financial institution's charges on account.

22 (1) If the Department requests a financial institution
23 to hold or encumber assets in an account, the financial
24 institution at which the account is maintained may charge
25 and collect its normally scheduled account activity fees to
26 maintain the account during the period of time the account

1 assets are held or encumbered.

2 (2) If the Department takes any action to enforce a
3 lien or levy imposed on an account and the financial
4 institution at which the account is maintained remits
5 moneys in the account to the Department as a result of
6 enforcement of a lien or levy on the account, the financial
7 institution at which the account is maintained may charge
8 to the account a fee of up to \$50 and shall deduct the
9 amount of the fee from the account before remitting any
10 moneys from the account to the Department.

11 (g) Confidentiality. All information provided to the
12 Department by a financial institution under this Section is
13 confidential and may be used only for the purpose of enforcing
14 collection of income tax debt owed to the State of Illinois.

15 (h) Financial institution's freedom from liability. A
16 financial institution that provides information under this
17 Section shall not be liable to any account holder, owner, or
18 other person in any civil, criminal, or administrative action
19 for any of the following:

20 (1) Disclosing the required information to the
21 Department, any other provisions of law notwithstanding.

22 (2) Holding, encumbering, or surrendering any accounts
23 in response to a lien or order to withhold and deliver
24 issued by:

25 (A) the Department under this Section; or

26 (B) a person or entity acting on behalf of the

1 Department.

2 (3) Any other action taken or omission made in good
3 faith to comply with this Section, including individual or
4 mechanical errors, provided that the action or omission
5 does not constitute gross negligence or willful
6 misconduct.

7 Section 10. The Uncollected State Claims Act is amended by
8 adding Section 2.1 as follows:

9 (30 ILCS 205/2.1 new)

10 Sec. 2.1. Sale of debts certified as uncollectible. After
11 accounts have been certified by the Attorney General as
12 uncollectible pursuant to this Act, the State Comptroller may
13 sell the debts to one or more outside private vendors. Sales
14 shall be conducted under rules adopted by the State Comptroller
15 using a request for proposals procedure similar to that
16 procedure under the Illinois Procurement Code. The outside
17 private vendors shall remit to the State Comptroller the
18 purchase price for debts sold under this Section. The State
19 Comptroller shall deposit the money received under this Section
20 into the General Revenue Fund. This Section does not apply to
21 any tax debt owing to the Department of Revenue.

22 Section 15. The Illinois State Collection Act of 1986 is
23 amended by adding Section 9 as follows:

1 (30 ILCS 210/9 new)

2 Sec. 9. Deferral and compromise of past due debt.

3 (a) In this Section, "past due debt" means any debt owed to
4 the State that has been outstanding for more than 12 months.
5 "Past due debt" does not include any debt if any of the actions
6 required under this Section would violate federal law or
7 regulation.

8 (b) State agencies may enter into a deferred payment plan
9 for the purpose of satisfying a past due debt. The deferred
10 payment plan must meet the following requirements:

11 (1) The term of the deferred payment plan may not
12 exceed 2 years.

13 (2) The first payment of the deferred payment plan must
14 be at least 10% of the total amount due.

15 (3) All subsequent monthly payments for the deferred
16 payment plan must be assessed as equal monthly principal
17 payments, together with interest.

18 (4) The deferred payment plan must include interest at
19 a rate that is the same as the interest required under the
20 State Prompt Payment Act.

21 (5) The deferred payment plan must be approved by the
22 Secretary or Director of the State agency.

23 (c) State agencies may compromise past due debts. Any
24 action taken by a State agency to compromise a past due debt
25 must meet the following requirements:

1 (1) The amount of the compromised debt shall be no less
2 than 80% of the total of the past due debt.

3 (2) Once a past due debt has been compromised, the
4 debtor must remit to the State agency the total amount of
5 the compromised debt. However, the State agency may collect
6 the compromised debt through a payment plan not to exceed 6
7 months. If the State agency accepts the compromised debt
8 through a payment plan, then the compromised debt shall be
9 subject to the same rate of interest as required under the
10 State Prompt Payment Act.

11 (3) Before a State agency accepts a compromised debt,
12 the amount of the compromised debt must be approved by the
13 State Comptroller.

14 (d) State agencies may sell a past due debt to one or more
15 outside private vendors. Sales shall be conducted under rules
16 adopted by the State Comptroller using a request for proposals
17 procedure similar to that procedure under the Illinois
18 Procurement Code. The outside private vendors shall remit to
19 the State Agency the purchase price for debts sold under this
20 subsection.

21 (e) The State agency shall deposit all amounts received
22 under this Section into the General Revenue Fund.

23 (f) This Section does not apply to any tax debt owing to
24 the Department of Revenue.

25 Section 20. The Tax Delinquency Amnesty Act is amended by

1 changing Section 10 as follows:

2 (35 ILCS 745/10)

3 Sec. 10. Amnesty program. The Department shall establish an
4 amnesty program for all taxpayers owing any tax imposed by
5 reason of or pursuant to authorization by any law of the State
6 of Illinois and collected by the Department.

7 The amnesty program shall be for a period from October 1,
8 2003 through November 15, 2003 and for a period beginning on
9 October 1, 2010 and ending November 15, 2010.

10 The amnesty program shall provide that, upon payment by a
11 taxpayer of all taxes due from that taxpayer to the State of
12 Illinois for any taxable period ending (i) after June 30, 1983
13 and prior to July 1, 2002 for the tax amnesty period occurring
14 from October 1, 2003 through November 15, 2003, and (ii) after
15 June 30, 2002 and prior to July 1, 2009 for the tax amnesty
16 period beginning on October 1, 2010 through November 15, 2010,
17 the Department shall abate and not seek to collect any interest
18 or penalties that may be applicable and the Department shall
19 not seek civil or criminal prosecution for any taxpayer for the
20 period of time for which amnesty has been granted to the
21 taxpayer. Failure to pay all taxes due to the State for a
22 taxable period shall invalidate any amnesty granted under this
23 Act. Amnesty shall be granted only if all amnesty conditions
24 are satisfied by the taxpayer.

25 Amnesty shall not be granted to taxpayers who are a party

1 to any criminal investigation or to any civil or criminal
2 litigation that is pending in any circuit court or appellate
3 court or the Supreme Court of this State for nonpayment,
4 delinquency, or fraud in relation to any State tax imposed by
5 any law of the State of Illinois.

6 Participation in an amnesty program shall not preclude a
7 taxpayer from claiming a refund for an overpayment of tax on an
8 issue unrelated to the issues for which the taxpayer claimed
9 amnesty or for an overpayment of tax by taxpayers estimating a
10 non-final liability for the amnesty program pursuant to Section
11 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)).

12 Voluntary payments made under this Act shall be made by
13 cash, check, guaranteed remittance, or ACH debit.

14 The Department shall adopt rules as necessary to implement
15 the provisions of this Act.

16 Except as otherwise provided in this Section, all money
17 collected under this Act that would otherwise be deposited into
18 the General Revenue Fund shall be deposited as follows: (i)
19 one-half into the Common School Fund; (ii) one-half into the
20 General Revenue Fund. Two percent of all money collected under
21 this Act shall be deposited by the State Treasurer into the Tax
22 Compliance and Administration Fund and, subject to
23 appropriation, shall be used by the Department to cover costs
24 associated with the administration of this Act.

25 (Source: P.A. 93-26, eff. 6-20-03.)

1 Section 25. The Uniform Penalty and Interest Act is amended
2 by changing Sections 3-2, 3-3, 3-4, 3-5, 3-6, and 3-7.5 as
3 follows:

4 (35 ILCS 735/3-2) (from Ch. 120, par. 2603-2)

5 Sec. 3-2. Interest.

6 (a) Interest paid by the Department to taxpayers and
7 interest charged to taxpayers by the Department shall be paid
8 at the annual rate determined by the Department. For periods
9 prior to January 1, 2004, that rate shall be the underpayment
10 rate established under Section 6621 of the Internal Revenue
11 Code. For periods after December 31, 2003, that rate shall be:

12 (1) for the one-year period beginning with the date of
13 underpayment or overpayment, the short-term federal rate
14 established under Section 6621 of the Internal Revenue
15 Code.

16 (2) for any period beginning the day after the one-year
17 period described in paragraph (1) of this subsection (a),
18 the underpayment rate established under Section 6621 of the
19 Internal Revenue Code.

20 (b) The interest rate shall be adjusted on a semiannual
21 basis, on January 1 and July 1, based upon the underpayment
22 rate or short-term federal rate going into effect on that
23 January 1 or July 1 under Section 6621 of the Internal Revenue
24 Code.

25 (c) This subsection (c) is applicable to returns due on and

1 before December 31, 2000. Interest shall be simple interest
2 calculated on a daily basis. Interest shall accrue upon tax and
3 penalty due. If notice and demand is made for the payment of
4 any amount of tax due and if the amount due is paid within 30
5 days after the date of such notice and demand, interest under
6 this Section on the amount so paid shall not be imposed for the
7 period after the date of the notice and demand.

8 (c-5) This subsection (c-5) is applicable to returns due on
9 and after January 1, 2001. Interest shall be simple interest
10 calculated on a daily basis. Interest shall accrue upon tax
11 due. If notice and demand is made for the payment of any amount
12 of tax due and if the amount due is paid within 30 days after
13 the date of the notice and demand, interest under this Section
14 on the amount so paid shall not be imposed for the period after
15 the date of the notice and demand.

16 (d) No interest shall be paid upon any overpayment of tax
17 if the overpayment is refunded or a credit approved within 90
18 days after the last date prescribed for filing the original
19 return, or within 90 days of the receipt of the processable
20 return, or within 90 days after the date of overpayment,
21 whichever date is latest, as determined without regard to
22 processing time by the Comptroller or without regard to the
23 date on which the credit is applied to the taxpayer's account.
24 In order for an original return to be processable for purposes
25 of this Section, it must be in the form prescribed or approved
26 by the Department, signed by the person authorized by law, and

1 contain all information, schedules, and support documents
2 necessary to determine the tax due and to make allocations of
3 tax as prescribed by law. For the purposes of computing
4 interest, a return shall be deemed to be processable unless the
5 Department notifies the taxpayer that the return is not
6 processable within 90 days after the receipt of the return;
7 however, interest shall not accumulate for the period following
8 this date of notice. Interest on amounts refunded or credited
9 pursuant to the filing of an amended return or claim for refund
10 shall be determined from the due date of the original return or
11 the date of overpayment, whichever is later, to the date of
12 payment by the Department without regard to processing time by
13 the Comptroller or the date of credit by the Department or
14 without regard to the date on which the credit is applied to
15 the taxpayer's account. If a claim for refund relates to an
16 overpayment attributable to a net loss carryback as provided by
17 Section 207 of the Illinois Income Tax Act, the date of
18 overpayment shall be the last day of the taxable year in which
19 the loss was incurred.

20 (e) Interest on erroneous refunds. Any portion of the tax
21 imposed by an Act to which this Act is applicable or any
22 interest or penalty which has been erroneously refunded and
23 which is recoverable by the Department shall bear interest from
24 the date of payment of the refund. However, no interest will be
25 charged if the erroneous refund is for an amount less than \$500
26 and is due to a mistake of the Department.

1 (f) If a taxpayer has a tax liability for the taxable
2 period ending after June 30, 1983 and prior to July 1, 2002
3 that is eligible for amnesty under the Tax Delinquency Amnesty
4 Act and the taxpayer fails to satisfy the tax liability during
5 the amnesty period provided for in that Act for that taxable
6 period, then the interest charged by the Department under this
7 Section shall be imposed at a rate that is 200% of the rate
8 that would otherwise be imposed under this Section.

9 (g) If a taxpayer has a tax liability for the taxable
10 period ending after June 30, 2002 and prior to July 1, 2009
11 that is eligible for amnesty under the Tax Delinquency Amnesty
12 Act, except for any tax liability reported pursuant to Section
13 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
14 is not final, and the taxpayer fails to satisfy the tax
15 liability during the amnesty period provided for in that Act
16 for that taxable period, then the interest charged by the
17 Department under this Section shall be imposed in an amount
18 that is 200% of the amount that would otherwise be imposed
19 under this Section.

20 (h) No interest shall be paid to a taxpayer on any refund
21 allowed under Section 15 of the Tax Delinquency Amnesty Act.

22 (Source: P.A. 95-331, eff. 8-21-07.)

23 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

24 Sec. 3-3. Penalty for failure to file or pay.

25 (a) This subsection (a) is applicable before January 1,

1 1996. A penalty of 5% of the tax required to be shown due on a
2 return shall be imposed for failure to file the tax return on
3 or before the due date prescribed for filing determined with
4 regard for any extension of time for filing (penalty for late
5 filing or nonfiling). If any unprocessable return is corrected
6 and filed within 21 days after notice by the Department, the
7 late filing or nonfiling penalty shall not apply. If a penalty
8 for late filing or nonfiling is imposed in addition to a
9 penalty for late payment, the total penalty due shall be the
10 sum of the late filing penalty and the applicable late payment
11 penalty. Beginning on the effective date of this amendatory Act
12 of 1995, in the case of any type of tax return required to be
13 filed more frequently than annually, when the failure to file
14 the tax return on or before the date prescribed for filing
15 (including any extensions) is shown to be nonfraudulent and has
16 not occurred in the 2 years immediately preceding the failure
17 to file on the prescribed due date, the penalty imposed by
18 Section 3-3(a) shall be abated.

19 (a-5) This subsection (a-5) is applicable to returns due on
20 and after January 1, 1996 and on or before December 31, 2000. A
21 penalty equal to 2% of the tax required to be shown due on a
22 return, up to a maximum amount of \$250, determined without
23 regard to any part of the tax that is paid on time or by any
24 credit that was properly allowable on the date the return was
25 required to be filed, shall be imposed for failure to file the
26 tax return on or before the due date prescribed for filing

1 determined with regard for any extension of time for filing.
2 However, if any return is not filed within 30 days after notice
3 of nonfiling mailed by the Department to the last known address
4 of the taxpayer contained in Department records, an additional
5 penalty amount shall be imposed equal to the greater of \$250 or
6 2% of the tax shown on the return. However, the additional
7 penalty amount may not exceed \$5,000 and is determined without
8 regard to any part of the tax that is paid on time or by any
9 credit that was properly allowable on the date the return was
10 required to be filed (penalty for late filing or nonfiling). If
11 any unprocessable return is corrected and filed within 30 days
12 after notice by the Department, the late filing or nonfiling
13 penalty shall not apply. If a penalty for late filing or
14 nonfiling is imposed in addition to a penalty for late payment,
15 the total penalty due shall be the sum of the late filing
16 penalty and the applicable late payment penalty. In the case of
17 any type of tax return required to be filed more frequently
18 than annually, when the failure to file the tax return on or
19 before the date prescribed for filing (including any
20 extensions) is shown to be nonfraudulent and has not occurred
21 in the 2 years immediately preceding the failure to file on the
22 prescribed due date, the penalty imposed by Section 3-3(a-5)
23 shall be abated.

24 (a-10) This subsection (a-10) is applicable to returns due
25 on and after January 1, 2001. A penalty equal to 2% of the tax
26 required to be shown due on a return, up to a maximum amount of

1 \$250, reduced by any tax that is paid on time or by any credit
2 that was properly allowable on the date the return was required
3 to be filed, shall be imposed for failure to file the tax
4 return on or before the due date prescribed for filing
5 determined with regard for any extension of time for filing.
6 However, if any return is not filed within 30 days after notice
7 of nonfiling mailed by the Department to the last known address
8 of the taxpayer contained in Department records, an additional
9 penalty amount shall be imposed equal to the greater of \$250 or
10 2% of the tax shown on the return. However, the additional
11 penalty amount may not exceed \$5,000 and is determined without
12 regard to any part of the tax that is paid on time or by any
13 credit that was properly allowable on the date the return was
14 required to be filed (penalty for late filing or nonfiling). If
15 any unprocessable return is corrected and filed within 30 days
16 after notice by the Department, the late filing or nonfiling
17 penalty shall not apply. If a penalty for late filing or
18 nonfiling is imposed in addition to a penalty for late payment,
19 the total penalty due shall be the sum of the late filing
20 penalty and the applicable late payment penalty. In the case of
21 any type of tax return required to be filed more frequently
22 than annually, when the failure to file the tax return on or
23 before the date prescribed for filing (including any
24 extensions) is shown to be nonfraudulent and has not occurred
25 in the 2 years immediately preceding the failure to file on the
26 prescribed due date, the penalty imposed by Section 3-3(a-10)

1 shall be abated.

2 (b) This subsection is applicable before January 1, 1998. A
3 penalty of 15% of the tax shown on the return or the tax
4 required to be shown due on the return shall be imposed for
5 failure to pay:

6 (1) the tax shown due on the return on or before the
7 due date prescribed for payment of that tax, an amount of
8 underpayment of estimated tax, or an amount that is
9 reported in an amended return other than an amended return
10 timely filed as required by subsection (b) of Section 506
11 of the Illinois Income Tax Act (penalty for late payment or
12 nonpayment of admitted liability); or

13 (2) the full amount of any tax required to be shown due
14 on a return and which is not shown (penalty for late
15 payment or nonpayment of additional liability), within 30
16 days after a notice of arithmetic error, notice and demand,
17 or a final assessment is issued by the Department. In the
18 case of a final assessment arising following a protest and
19 hearing, the 30-day period shall not begin until all
20 proceedings in court for review of the final assessment
21 have terminated or the period for obtaining a review has
22 expired without proceedings for a review having been
23 instituted. In the case of a notice of tax liability that
24 becomes a final assessment without a protest and hearing,
25 the penalty provided in this paragraph (2) shall be imposed
26 at the expiration of the period provided for the filing of

1 a protest.

2 (b-5) This subsection is applicable to returns due on and
3 after January 1, 1998 and on or before December 31, 2000. A
4 penalty of 20% of the tax shown on the return or the tax
5 required to be shown due on the return shall be imposed for
6 failure to pay:

7 (1) the tax shown due on the return on or before the
8 due date prescribed for payment of that tax, an amount of
9 underpayment of estimated tax, or an amount that is
10 reported in an amended return other than an amended return
11 timely filed as required by subsection (b) of Section 506
12 of the Illinois Income Tax Act (penalty for late payment or
13 nonpayment of admitted liability); or

14 (2) the full amount of any tax required to be shown due
15 on a return and which is not shown (penalty for late
16 payment or nonpayment of additional liability), within 30
17 days after a notice of arithmetic error, notice and demand,
18 or a final assessment is issued by the Department. In the
19 case of a final assessment arising following a protest and
20 hearing, the 30-day period shall not begin until all
21 proceedings in court for review of the final assessment
22 have terminated or the period for obtaining a review has
23 expired without proceedings for a review having been
24 instituted. In the case of a notice of tax liability that
25 becomes a final assessment without a protest and hearing,
26 the penalty provided in this paragraph (2) shall be imposed

1 at the expiration of the period provided for the filing of
2 a protest.

3 (b-10) This subsection (b-10) is applicable to returns due
4 on and after January 1, 2001 and on or before December 31,
5 2003. A penalty shall be imposed for failure to pay:

6 (1) the tax shown due on a return on or before the due
7 date prescribed for payment of that tax, an amount of
8 underpayment of estimated tax, or an amount that is
9 reported in an amended return other than an amended return
10 timely filed as required by subsection (b) of Section 506
11 of the Illinois Income Tax Act (penalty for late payment or
12 nonpayment of admitted liability). The amount of penalty
13 imposed under this subsection (b-10) (1) shall be 2% of any
14 amount that is paid no later than 30 days after the due
15 date, 5% of any amount that is paid later than 30 days
16 after the due date and not later than 90 days after the due
17 date, 10% of any amount that is paid later than 90 days
18 after the due date and not later than 180 days after the
19 due date, and 15% of any amount that is paid later than 180
20 days after the due date. If notice and demand is made for
21 the payment of any amount of tax due and if the amount due
22 is paid within 30 days after the date of the notice and
23 demand, then the penalty for late payment or nonpayment of
24 admitted liability under this subsection (b-10) (1) on the
25 amount so paid shall not accrue for the period after the
26 date of the notice and demand.

1 (2) the full amount of any tax required to be shown due
2 on a return and that is not shown (penalty for late payment
3 or nonpayment of additional liability), within 30 days
4 after a notice of arithmetic error, notice and demand, or a
5 final assessment is issued by the Department. In the case
6 of a final assessment arising following a protest and
7 hearing, the 30-day period shall not begin until all
8 proceedings in court for review of the final assessment
9 have terminated or the period for obtaining a review has
10 expired without proceedings for a review having been
11 instituted. The amount of penalty imposed under this
12 subsection (b-10)(2) shall be 20% of any amount that is not
13 paid within the 30-day period. In the case of a notice of
14 tax liability that becomes a final assessment without a
15 protest and hearing, the penalty provided in this
16 subsection (b-10)(2) shall be imposed at the expiration of
17 the period provided for the filing of a protest.

18 (b-15) This subsection (b-15) is applicable to returns due
19 on and after January 1, 2004 and on or before December 31,
20 2004. A penalty shall be imposed for failure to pay the tax
21 shown due or required to be shown due on a return on or before
22 the due date prescribed for payment of that tax, an amount of
23 underpayment of estimated tax, or an amount that is reported in
24 an amended return other than an amended return timely filed as
25 required by subsection (b) of Section 506 of the Illinois
26 Income Tax Act (penalty for late payment or nonpayment of

1 admitted liability). The amount of penalty imposed under this
2 subsection (b-15)(1) shall be 2% of any amount that is paid no
3 later than 30 days after the due date, 10% of any amount that
4 is paid later than 30 days after the due date and not later
5 than 90 days after the due date, 15% of any amount that is paid
6 later than 90 days after the due date and not later than 180
7 days after the due date, and 20% of any amount that is paid
8 later than 180 days after the due date. If notice and demand is
9 made for the payment of any amount of tax due and if the amount
10 due is paid within 30 days after the date of this notice and
11 demand, then the penalty for late payment or nonpayment of
12 admitted liability under this subsection (b-15)(1) on the
13 amount so paid shall not accrue for the period after the date
14 of the notice and demand.

15 (b-20) This subsection (b-20) is applicable to returns due
16 on and after January 1, 2005.

17 (1) A penalty shall be imposed for failure to pay,
18 prior to the due date for payment, any amount of tax the
19 payment of which is required to be made prior to the filing
20 of a return or without a return (penalty for late payment
21 or nonpayment of estimated or accelerated tax). The amount
22 of penalty imposed under this paragraph (1) shall be 2% of
23 any amount that is paid no later than 30 days after the due
24 date and 10% of any amount that is paid later than 30 days
25 after the due date.

26 (2) A penalty shall be imposed for failure to pay the

1 tax shown due or required to be shown due on a return on or
2 before the due date prescribed for payment of that tax or
3 an amount that is reported in an amended return other than
4 an amended return timely filed as required by subsection
5 (b) of Section 506 of the Illinois Income Tax Act (penalty
6 for late payment or nonpayment of tax). The amount of
7 penalty imposed under this paragraph (2) shall be 2% of any
8 amount that is paid no later than 30 days after the due
9 date, 10% of any amount that is paid later than 30 days
10 after the due date and prior to the date the Department has
11 initiated an audit or investigation of the taxpayer, and
12 20% of any amount that is paid after the date the
13 Department has initiated an audit or investigation of the
14 taxpayer; provided that the penalty shall be reduced to 15%
15 if the entire amount due is paid not later than 30 days
16 after the Department has provided the taxpayer with an
17 amended return (following completion of an occupation,
18 use, or excise tax audit) or a form for waiver of
19 restrictions on assessment (following completion of an
20 income tax audit); provided further that the reduction to
21 15% shall be rescinded if the taxpayer makes any claim for
22 refund or credit of the tax, penalties, or interest
23 determined to be due upon audit, except in the case of a
24 claim filed pursuant to subsection (b) of Section 506 of
25 the Illinois Income Tax Act or to claim a carryover of a
26 loss or credit, the availability of which was not

1 determined in the audit. For purposes of this paragraph
2 (2), any overpayment reported on an original return that
3 has been allowed as a refund or credit to the taxpayer
4 shall be deemed to have not been paid on or before the due
5 date for payment and any amount paid under protest pursuant
6 to the provisions of the State Officers and Employees Money
7 Disposition Act shall be deemed to have been paid after the
8 Department has initiated an audit and more than 30 days
9 after the Department has provided the taxpayer with an
10 amended return (following completion of an occupation,
11 use, or excise tax audit) or a form for waiver of
12 restrictions on assessment (following completion of an
13 income tax audit).

14 (3) The penalty imposed under this subsection (b-20)
15 shall be deemed assessed at the time the tax upon which the
16 penalty is computed is assessed, except that, if the
17 reduction of the penalty imposed under paragraph (2) of
18 this subsection (b-20) to 15% is rescinded because a claim
19 for refund or credit has been filed, the increase in
20 penalty shall be deemed assessed at the time the claim for
21 refund or credit is filed.

22 (c) For purposes of the late payment penalties, the basis
23 of the penalty shall be the tax shown or required to be shown
24 on a return, whichever is applicable, reduced by any part of
25 the tax which is paid on time and by any credit which was
26 properly allowable on the date the return was required to be

1 filed.

2 (d) A penalty shall be applied to the tax required to be
3 shown even if that amount is less than the tax shown on the
4 return.

5 (e) This subsection (e) is applicable to returns due before
6 January 1, 2001. If both a subsection (b)(1) or (b-5)(1)
7 penalty and a subsection (b)(2) or (b-5)(2) penalty are
8 assessed against the same return, the subsection (b)(2) or
9 (b-5)(2) penalty shall be assessed against only the additional
10 tax found to be due.

11 (e-5) This subsection (e-5) is applicable to returns due on
12 and after January 1, 2001. If both a subsection (b-10)(1)
13 penalty and a subsection (b-10)(2) penalty are assessed against
14 the same return, the subsection (b-10)(2) penalty shall be
15 assessed against only the additional tax found to be due.

16 (f) If the taxpayer has failed to file the return, the
17 Department shall determine the correct tax according to its
18 best judgment and information, which amount shall be prima
19 facie evidence of the correctness of the tax due.

20 (g) The time within which to file a return or pay an amount
21 of tax due without imposition of a penalty does not extend the
22 time within which to file a protest to a notice of tax
23 liability or a notice of deficiency.

24 (h) No return shall be determined to be unprocessable
25 because of the omission of any information requested on the
26 return pursuant to Section 2505-575 of the Department of

1 Revenue Law (20 ILCS 2505/2505-575).

2 (i) If a taxpayer has a tax liability for the taxable
3 period ending after June 30, 1983 and prior to July 1, 2002
4 that is eligible for amnesty under the Tax Delinquency Amnesty
5 Act and the taxpayer fails to satisfy the tax liability during
6 the amnesty period provided for in that Act for that taxable
7 period, then the penalty imposed by the Department under this
8 Section shall be imposed in an amount that is 200% of the
9 amount that would otherwise be imposed under this Section.

10 (j) If a taxpayer has a tax liability for the taxable
11 period ending after June 30, 2002 and prior to July 1, 2009
12 that is eligible for amnesty under the Tax Delinquency Amnesty
13 Act, except for any tax liability reported pursuant to Section
14 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
15 is not final, and the taxpayer fails to satisfy the tax
16 liability during the amnesty period provided for in that Act
17 for that taxable period, then the penalty imposed by the
18 Department under this Section shall be imposed in an amount
19 that is 200% of the amount that would otherwise be imposed
20 under this Section.

21 (Source: P.A. 92-742, eff. 7-25-02; 93-26, eff. 6-20-03; 93-32,
22 eff. 6-20-03; 93-1068, eff. 1-15-05.)

23 (35 ILCS 735/3-4) (from Ch. 120, par. 2603-4)

24 Sec. 3-4. Penalty for failure to file correct information
25 returns.

1 (a) Failure to file correct information returns -
2 imposition of penalty.

3 (1) In general. Unless otherwise provided in a tax Act,
4 in the case of a failure described in paragraph (2) of this
5 subsection (a) by any person with respect to an information
6 return, that person shall pay a penalty of \$5 for each
7 return or statement with respect to which the failure
8 occurs, but the total amount imposed on that person for all
9 such failures during any calendar year shall not exceed
10 \$25,000.

11 (2) Failures subject to penalty. The following
12 failures are subject to the penalty imposed in paragraph
13 (1) of this subsection (a):

14 (A) any failure to file an information return with
15 the Department on or before the required filing date,
16 or

17 (B) any failure to include all of the information
18 required to be shown on the return or the inclusion of
19 incorrect information.

20 (b) Reduction where correction in specified period.

21 (1) Correction within 60 days. If any failure described
22 in subsection (a) (2) is corrected within 60 days after the
23 required filing date:

24 (A) the penalty imposed by subsection (a) shall be
25 reduced by 50%; and

26 (B) the total amount imposed on the person for all

1 such failures during any calendar year which are so
2 corrected shall not exceed 50% of the maximum
3 prescribed in subsection (a) (1).

4 (c) Information return defined. An information return is
5 any tax return required by a tax Act to be filed with the
6 Department that does not, by law, require the payment of a tax
7 liability.

8 (d) If a taxpayer has a tax liability for the taxable
9 period ending after June 30, 1983 and prior to July 1, 2002
10 that is eligible for amnesty under the Tax Delinquency Amnesty
11 Act and the taxpayer fails to satisfy the tax liability during
12 the amnesty period provided for in that Act for that taxable
13 period, then the penalty imposed by the Department under this
14 Section shall be imposed in an amount that is 200% of the
15 amount that would otherwise be imposed under this Section.

16 (e) If a taxpayer has a tax liability for the taxable
17 period ending after June 30, 2002 and prior to July 1, 2009
18 that is eligible for amnesty under the Tax Delinquency Amnesty
19 Act, except for any tax liability reported pursuant to Section
20 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
21 is not final, and the taxpayer fails to satisfy the tax
22 liability during the amnesty period provided for in that Act
23 for that taxable period, then the penalty imposed by the
24 Department under this Section shall be imposed in an amount
25 that is 200% of the amount that would otherwise be imposed
26 under this Section.

1 (Source: P.A. 93-26, eff. 6-20-03.)

2 (35 ILCS 735/3-5) (from Ch. 120, par. 2603-5)

3 Sec. 3-5. Penalty for negligence.

4 (a) If any return or amended return is prepared
5 negligently, but without intent to defraud, and filed, in
6 addition to any penalty imposed under Section 3-3 of this Act,
7 a penalty shall be imposed in an amount equal to 20% of any
8 resulting deficiency.

9 (b) Negligence includes any failure to make a reasonable
10 attempt to comply with the provisions of any tax Act and
11 includes careless, reckless, or intentional disregard of the
12 law or regulations.

13 (c) No penalty shall be imposed under this Section if it is
14 shown that failure to comply with the tax Act is due to
15 reasonable cause. A taxpayer is not negligent if the taxpayer
16 shows substantial authority to support the return as filed.

17 (d) If a taxpayer has a tax liability for the taxable
18 period ending after June 30, 1983 and prior to July 1, 2002
19 that is eligible for amnesty under the Tax Delinquency Amnesty
20 Act and the taxpayer fails to satisfy the tax liability during
21 the amnesty period provided for in that Act for that taxable
22 period, then the penalty imposed by the Department shall be
23 imposed in an amount that is 200% of the amount that would
24 otherwise be imposed in accordance with this Section.

25 (e) If a taxpayer has a tax liability for the taxable

1 period ending after June 30, 2002 and prior to July 1, 2009
2 that is eligible for amnesty under the Tax Delinquency Amnesty
3 Act, except for any tax liability reported pursuant to Section
4 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
5 is not final, and the taxpayer fails to satisfy the tax
6 liability during the amnesty period provided for in that Act
7 for that taxable period, then the penalty imposed by the
8 Department under this Section shall be imposed in an amount
9 that is 200% of the amount that would otherwise be imposed
10 under this Section.

11 (Source: P.A. 93-26, eff. 6-20-03.)

12 (35 ILCS 735/3-6) (from Ch. 120, par. 2603-6)

13 Sec. 3-6. Penalty for fraud.

14 (a) If any return or amended return is filed with intent to
15 defraud, in addition to any penalty imposed under Section 3-3
16 of this Act, a penalty shall be imposed in an amount equal to
17 50% of any resulting deficiency.

18 (b) If any claim is filed with intent to defraud, a penalty
19 shall be imposed in an amount equal to 50% of the amount
20 fraudulently claimed for credit or refund.

21 (c) If a taxpayer has a tax liability for the taxable
22 period ending after June 30, 1983 and prior to July 1, 2002
23 that is eligible for amnesty under the Tax Delinquency Amnesty
24 Act and the taxpayer fails to satisfy the tax liability during
25 the amnesty period provided for in that Act for that taxable

1 period, then the penalty imposed by the Department under this
2 Section shall be imposed in an amount that is 200% of the
3 amount that would otherwise be imposed under this Section.

4 (d) If a taxpayer has a tax liability for the taxable
5 period ending after June 30, 2002 and prior to July 1, 2009
6 that is eligible for amnesty under the Tax Delinquency Amnesty
7 Act, except for any tax liability reported pursuant to Section
8 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
9 is not final, and the taxpayer fails to satisfy the tax
10 liability during the amnesty period provided for in that Act
11 for that taxable period, then the penalty imposed by the
12 Department under this Section shall be imposed in an amount
13 that is 200% of the amount that would otherwise be imposed
14 under this Section.

15 (Source: P.A. 93-26, eff. 6-20-03.)

16 (35 ILCS 735/3-7.5)

17 Sec. 3-7.5. Bad check penalty.

18 (a) In addition to any other penalty provided in this Act,
19 a penalty of \$25 shall be imposed on any person who issues a
20 check or other draft to the Department that is not honored upon
21 presentment. The penalty imposed under this Section shall be
22 deemed assessed at the time of presentment of the check or
23 other draft and shall be treated for all purposes, including
24 collection and allocation, as part of the tax or other
25 liability for which the check or other draft represented

1 payment.

2 (b) If a taxpayer has a tax liability for the taxable
3 period ending after June 30, 1983 and prior to July 1, 2002
4 that is eligible for amnesty under the Tax Delinquency Amnesty
5 Act and the taxpayer fails to satisfy the tax liability during
6 the amnesty period provided for in that Act for that taxable
7 period, then the penalty imposed by the Department under this
8 Section shall be imposed in an amount that is 200% of the
9 amount that would otherwise be imposed under this Section.

10 (c) If a taxpayer has a tax liability for the taxable
11 period ending after June 30, 2002 and prior to July 1, 2009
12 that is eligible for amnesty under the Tax Delinquency Amnesty
13 Act, except for any tax liability reported pursuant to Section
14 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
15 is not final, and the taxpayer fails to satisfy the tax
16 liability during the amnesty period provided for in that Act
17 for that taxable period, then the penalty imposed by the
18 Department under this Section shall be imposed in an amount
19 that is 200% of the amount that would otherwise be imposed
20 under this Section.

21 (Source: P.A. 93-26, eff. 6-20-03.)

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."