



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1280

Introduced 2/9/2017, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 5/1102	from Ch. 120, par. 11-1102
35 ILCS 5/1103	from Ch. 120, par. 11-1103
35 ILCS 5/1105	from Ch. 120, par. 11-1105
35 ILCS 120/5a	from Ch. 120, par. 444a
35 ILCS 120/5b	from Ch. 120, par. 444b
35 ILCS 120/5c	from Ch. 120, par. 444c
35 ILCS 520/16	from Ch. 120, par. 2166
35 ILCS 520/17	from Ch. 120, par. 2167
35 ILCS 520/19	from Ch. 120, par. 2169
65 ILCS 5/8-3-15	from Ch. 24, par. 8-3-15
215 ILCS 155/22	from Ch. 73, par. 1422

Creates the State Tax Lien Registration Act. Provides that the Department of Revenue shall establish and maintain a public database known as the State Tax Lien Registry. Provides that, if any person neglects or refuses to pay any final tax liability, the Department of Revenue may file in the registry a notice of tax lien within 3 years from the date of the final tax liability. Provides that the tax lien is perfected upon inclusion in the registry and shall be attached to all of the existing and after-acquired property of the debtor. Provides that the Department of Revenue may impose filing fees and fees to release the lien. Provides that the Department of Revenue may sell at bulk the information appearing on the tax lien registry; however, that information may not be used by any party for survey, marketing, or solicitation purposes. Amends the Illinois Income Tax Act, the Retailers' Occupation Tax Act, the Cannabis and Controlled Substances Tax Act, and the Title Insurance Act to make conforming changes. Effective January 1, 2018.

LRB100 06027 HLH 16058 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 ARTICLE 1. STATE TAX LIEN REGISTRATION ACT

5 Section 1. Short title. This Act may be cited as the State
6 Tax Lien Registration Act.

7 Section 1-5. Purpose.

8 (a) The purpose of this Act is to provide a uniform
9 statewide system for filing notices of tax liens that are in
10 favor of or enforced by the Department. The Department shall
11 maintain the system.

12 (b) The scope of this Act is limited to tax liens in real
13 property and personal property, tangible and intangible, of
14 taxpayers or other persons against whom the Department has
15 liens pursuant to law for unpaid final tax liabilities
16 administered by the Department.

17 (c) Nothing in this Act shall be construed to invalidate
18 any lien filed by the Department with a county recorder of
19 deeds prior to the effective date of this Act.

20 Section 1-10. Definitions.

21 "Debtor" means a taxpayer or other person against whom

1 there is an unpaid final tax liability collectible by the
2 Department.

3 "Department" means the Department of Revenue.

4 "Final tax liability" means any State tax, fee, penalty, or
5 interest owed by a person to the Department where the
6 assessment of the liability is not subject to any further
7 timely filed administrative or judicial review.

8 "Last-known address of the debtor" means the address of the
9 debtor appearing in the records of the Department at the time
10 the notice of tax lien is filed in the registry.

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

16 "Registry" or "State Tax Lien Registry" means the public
17 database maintained by the Department wherein tax liens are
18 filed in favor of and enforced by the Department.

19 Section 1-15. Registry established.

20 (a) The Department shall establish and maintain a public
21 database known as the State Tax Lien Registry. If any person
22 neglects or refuses to pay any final tax liability, the
23 Department may file in the registry a notice of tax lien within
24 3 years from the date of the final tax liability.

25 (b) The notice of tax lien file shall include:

- 1 (1) the name and last-known address of the debtor;
- 2 (2) the name and address of the Department;
- 3 (3) the tax lien number assigned to the lien by the
4 Department; and
- 5 (4) the basis for the tax lien, including, but not
6 limited to, the amount owed by the debtor as of the date of
7 filing in the tax lien registry.

8 Section 1-20. Tax lien perfected.

9 (a) When a notice of tax lien is filed by the Department in
10 the registry, the tax lien is perfected and shall be attached
11 to all of the existing and after-acquired property of the
12 debtor, both real and personal, tangible and intangible, which
13 is located in any and all counties within the State of
14 Illinois.

15 (b) The amount of the tax lien shall be a debt due the
16 State of Illinois and shall remain a lien upon all property and
17 rights to property belonging to the debtor, both real and
18 personal, tangible and intangible, which is located in any and
19 all counties within the State of Illinois. Interest and penalty
20 shall accrue on the tax lien at the same rate and with the same
21 restrictions, if any, as specified by statute for the accrual
22 of interest and penalty for the type of tax or taxes for which
23 the tax lien was issued.

24 Section 1-25. Time period of lien.

1 (a) A notice of tax lien shall be a lien upon the debtor's
2 property located anywhere in the State for a period of 20 years
3 from the date of filing unless it is sooner released by the
4 Department.

5 (b) A notice of release of tax lien filed in the registry
6 shall constitute a release of the tax lien within the
7 Department, the registry, and the county in which the tax lien
8 was previously filed. The information contained on the registry
9 shall be controlling, and the registry shall supersede the
10 records of any county.

11 Section 1-30. Registry format.

12 (a) The Department shall maintain notices of tax liens
13 filed in the registry after the effective date of this Act in
14 its information management system in a form that permits the
15 information to be readily accessible in an electronic form
16 through the Internet and to be reduced to printed form. The
17 electronic and printed form shall include the following
18 information:

19 (1) the name of the taxpayer;

20 (2) the name and address of the Department;

21 (3) the tax lien number assigned to the lien by the
22 Department;

23 (4) the amount of the taxes, penalties, interest, and
24 fees indicated due on the notice of tax lien received from
25 the Department; and

1 (5) the date and time of filing.

2 (b) Information in the registry shall be searchable by name
3 of debtor or by tax lien number. The Department shall not
4 charge for access to information in the registry.

5 (c) The Department is authorized to sell at bulk the
6 information appearing on the tax lien registry. In selling the
7 information, the Department shall adopt rules governing the
8 process by which the information will be sold and the media or
9 method by which it will be available to the purchaser and shall
10 set a price for the information that will at least cover the
11 cost of producing the information. The proceeds from the sale
12 of bulk information shall be retained by the Department and
13 used to cover its cost to produce the information sold and to
14 maintain the registry.

15 (d) Registry information, whether accessed by name of
16 debtor or by tax lien number at no charge, through a bulk sale
17 of information, or by other means, shall not be used for
18 survey, marketing, or solicitation purposes. Survey,
19 marketing, or solicitation purpose does not include any action
20 by the Department or its authorized agent to collect a debt
21 represented by a tax lien appearing in the registry. The
22 Attorney General may bring an action in any court of competent
23 jurisdiction to enjoin the unlawful use of registry information
24 for survey, marketing, or solicitation purposes and to recover
25 the cost of such action, including reasonable attorney's fees.

1 Section 1-35. Rulemaking. The Department may adopt rules in
2 accordance with the Illinois Administrative Procedure Act to
3 enforce the provisions of this Act.

4 Section 1-40. Conflicts. In the event of conflict between
5 this Act and any other law, this Act shall control.

6 ARTICLE 5. AMENDATORY PROVISIONS

7 Section 5-5. The Illinois Income Tax Act is amended by
8 changing Sections 1102, 1103, and 1105 as follows:

9 (35 ILCS 5/1102) (from Ch. 120, par. 11-1102)

10 Sec. 1102. Jeopardy Assessments.

11 (a) Jeopardy assessment and lien.

12 (1) Assessment. If the Department finds that a taxpayer
13 is about to depart from the State, or to conceal himself or
14 his property, or to do any other act tending to prejudice
15 or to render wholly or partly ineffectual proceedings to
16 collect any amount of tax or penalties imposed under this
17 Act unless court proceedings are brought without delay, or
18 if the Department finds that the collection of such amount
19 will be jeopardized by delay, the Department shall give the
20 taxpayer notice of such findings and shall make demand for
21 immediate return and payment of such amount, whereupon such
22 amount shall be deemed assessed and shall become

1 immediately due and payable.

2 (2) Filing of lien. If the taxpayer, within 5 days
3 after such notice (or within such extension of time as the
4 Department may grant), does not comply with such notice or
5 show to the Department that the findings in such notice are
6 erroneous, the Department may file a notice of jeopardy
7 assessment lien in the State Tax Lien Registry ~~office of~~
8 ~~the recorder of the county in which any property of the~~
9 ~~taxpayer may be located~~ and shall notify the taxpayer of
10 such filing. Such jeopardy assessment lien shall have the
11 same scope and effect as a statutory lien under this Act.
12 The taxpayer is liable for any administrative fee imposed
13 by the Department by rule in connection with the State Tax
14 Lien Registry ~~the filing fee incurred by the Department for~~
15 ~~filing the lien and the filing fee incurred by the~~
16 ~~Department to file the release of that lien.~~ The filing
17 fees shall be paid to the Department in addition to payment
18 of the tax, penalty, and interest included in the amount of
19 the lien.

20 (b) Termination of taxable year. In the case of a tax for a
21 current taxable year, the Director shall declare the taxable
22 period of the taxpayer immediately terminated and his notice
23 and demand for a return and immediate payment of the tax shall
24 relate to the period declared terminated, including therein
25 income accrued and deductions incurred up to the date of
26 termination if not otherwise properly includible or deductible

1 in respect of such taxable year.

2 (c) Protest. If the taxpayer believes that he does not owe
3 some or all of the amount for which the jeopardy assessment
4 lien against him has been filed, or that no jeopardy to the
5 revenue in fact exists, he may protest within 20 days after
6 being notified by the Department of the filing of such jeopardy
7 assessment lien and request a hearing, whereupon the Department
8 shall hold a hearing in conformity with the provisions of
9 section 908 and, pursuant thereto, shall notify the taxpayer of
10 its decision as to whether or not such jeopardy assessment lien
11 will be released.

12 (Source: P.A. 92-826, eff. 1-1-03.)

13 (35 ILCS 5/1103) (from Ch. 120, par. 11-1103)

14 Sec. 1103. Filing and Priority of Liens.

15 (a) Filing in the State Tax Lien Registry ~~with Recorder~~.
16 Nothing in this Article shall be construed to give the
17 Department a preference over the rights of any bona fide
18 purchaser, holder of a security interest, mechanics lienor,
19 mortgagee, or judgment lien creditor arising prior to the
20 filing of a regular notice of lien or a notice of jeopardy
21 assessment lien in the State Tax Lien Registry ~~office of the~~
22 ~~recorder in the county in which the property subject to the~~
23 ~~lien is located~~. For purposes of this Section ~~section~~, the term
24 "bona fide," shall not include any mortgage of real or personal
25 property or any other credit transaction that results in the

1 mortgagee or the holder of the security acting as trustee for
2 unsecured creditors of the taxpayer mentioned in the notice of
3 lien who executed such chattel or real property mortgage or the
4 document evidencing such credit transaction. Such lien shall be
5 inferior to the lien of general taxes, special assessments and
6 special taxes heretofore or hereafter levied by any political
7 subdivision of this State.

8 (b) Filing in the State Tax Lien Registry ~~with Registrar.~~
9 In case title to land to be affected by the notice of lien or
10 notice of jeopardy assessment lien is registered under the
11 provisions of "An Act concerning land titles," approved May 1,
12 1897, as amended, such notice shall also be filed in the State
13 Tax Lien Registry ~~office of the Registrar of Titles of the~~
14 ~~county within which the property subject to the lien is~~
15 ~~situated and shall be entered upon the register of titles as a~~
16 ~~memorial of charge upon each folium of the register of titles~~
17 ~~affected by such notice,~~ and the Department shall not have a
18 preference over the rights of any bona fide purchaser,
19 mortgagee, judgment creditor or other lien holder arising prior
20 to the registration of such notice.

21 (c) Index. The Department of Revenue shall maintain a State
22 Tax Lien Index of all tax liens filed in the State Tax Lien
23 Registry as provided for by the State Tax Lien Registration
24 Act. ~~The recorder of each county shall procure a file labeled~~
25 ~~"State Tax Lien Notices" and an index book labeled "State Tax~~
26 ~~Lien Index."~~ When notice of any lien or jeopardy assessment

1 ~~lien is presented to him for filing, he shall file it in~~
2 ~~numerical order in the file and shall enter it alphabetically~~
3 ~~in the index. The entry shall show the name and last known~~
4 ~~address of the person named in the notice, the serial number of~~
5 ~~the notice, the date and hour of filing, whether it is a~~
6 ~~regular lien or a jeopardy assessment lien, and the amount of~~
7 ~~tax and penalty due and unpaid, plus the amount of interest due~~
8 ~~at the time when the notice of lien or jeopardy assessment is~~
9 ~~filed.~~

10 (d) (Blank). ~~No recorder or registrar of titles of any~~
11 ~~county shall require that the Department pay any costs or fees~~
12 ~~in connection with recordation of any notice or other document~~
13 ~~filed by the Department under this Act at the time such notice~~
14 ~~or other document is presented for recordation. The recorder or~~
15 ~~registrar of each county, in order to receive payment for fees~~
16 ~~or costs incurred by the Department, shall present the~~
17 ~~Department with monthly statements indicating the amount of~~
18 ~~fees and costs incurred by the Department and for which no~~
19 ~~payment has been received. This amendatory Act of 1987 applies~~
20 ~~to all liens heretofore or hereafter filed.~~

21 (e) The taxpayer is liable for any the filing fees imposed
22 ~~fee incurred~~ by the Department for filing the lien in the State
23 Tax Lien Registry and any the filing fees imposed ~~fee incurred~~
24 by the Department for ~~to file~~ the release of that lien. The
25 filing fees shall be paid to the Department in addition to
26 payment of the tax, penalty, and interest included in the

1 amount of the lien.

2 (Source: P.A. 92-826, eff. 1-1-03.)

3 (35 ILCS 5/1105) (from Ch. 120, par. 11-1105)

4 Sec. 1105. Release of Liens.

5 (a) In general. Upon payment by the taxpayer to the
6 Department in cash or by guaranteed remittance of an amount
7 representing the filing fees and charges for the lien and the
8 filing fees and charges for the release of that lien, the
9 Department shall release all or any portion of the property
10 subject to any lien provided for in this Act and file that
11 complete or partial release of lien in the State Tax Lien
12 Registry ~~with the recorder of the county where that lien was~~
13 ~~filed~~ if it determines that the release will not endanger or
14 jeopardize the collection of the amount secured thereby.

15 (b) Judicial determination. If on judicial review the final
16 judgment of the court is that the taxpayer does not owe some or
17 all of the amount secured by the lien against him, or that no
18 jeopardy to the revenue exists, the Department shall release
19 its lien to the extent of such finding of nonliability, or to
20 the extent of such finding of no jeopardy to the revenue. The
21 taxpayer shall, however, be liable for the filing fee imposed
22 ~~paid~~ by the Department to file the lien and the filing fee
23 imposed to release ~~required to file a release of~~ the lien. The
24 filing fees shall be paid to the Department.

25 (c) Payment. The Department shall also release its jeopardy

1 assessment lien against the taxpayer whenever the tax and
2 penalty covered by such lien, plus any interest which may be
3 due and an amount representing the filing fee to file the lien
4 and the filing fee imposed to release ~~required to file a~~
5 ~~release of~~ that lien, are paid by the taxpayer to the
6 Department in cash or by guaranteed remittance.

7 (d) Certificate of release. The Department shall issue a
8 certificate of complete or partial release of the lien upon
9 payment by the taxpayer to the Department in cash or by
10 guaranteed remittance of an amount representing the filing fee
11 imposed ~~paid~~ by the Department to file the lien and the filing
12 fee imposed to release ~~required to file the release of~~ that
13 lien:

14 (1) to the extent that the fair market value of any
15 property subject to the lien exceeds the amount of the lien
16 plus the amount of all prior liens upon such property;

17 (2) to the extent that such lien shall become
18 unenforceable;

19 (3) to the extent that the amount of such lien is paid
20 by the person whose property is subject to such lien,
21 together with any interest and penalty which may become due
22 under this Act between the date when the notice of lien is
23 filed and the date when the amount of such lien is paid;

24 (4) to the extent that there is furnished to the
25 Department on a form to be approved and with a surety or
26 sureties satisfactory to the Department a bond that is

1 conditioned upon the payment of the amount of such lien,
2 together with any interest which may become due under this
3 Act after the notice of lien is filed, but before the
4 amount thereof is fully paid;

5 (5) to the extent and under the circumstances specified
6 in this Section.

7 A certificate of complete or partial release of any lien
8 shall be held conclusive that the lien upon the property
9 covered by the certificate is extinguished to the extent
10 indicated by such certificate.

11 Such release of lien shall be issued to the person, or his
12 agent, against whom the lien was obtained and shall contain in
13 legible letters a statement as follows:

14 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL
15 BE FILED IN THE UNIFORM TAX LIEN REGISTRY ~~WITH THE~~
16 ~~RECORDER OR THE REGISTRAR~~
17 ~~OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.~~

18 (e) Filing. When a certificate of complete or partial
19 release of lien issued by the Department is filed in the
20 Uniform Tax Lien Registry, the Department ~~presented for filing~~
21 ~~in the office of the recorder or Registrar of Titles where a~~
22 ~~notice of lien or notice of jeopardy assessment lien was filed:~~

23 ~~(1) the recorder, in the case of nonregistered~~
24 ~~property,~~ shall permanently attach the certificate of
25 release to the notice of lien or notice of jeopardy
26 assessment lien and shall enter the certificate of release

1 and the date in the "State Tax Lien Index" on the line
2 where the notice of lien or notice of jeopardy assessment
3 lien is entered. ~~and~~

4 ~~(2) in the case of registered property, the Registrar~~
5 ~~of Titles shall file and enter upon each folium of the~~
6 ~~register of titles affected thereby a memorial of the~~
7 ~~certificate of release which memorial when so entered shall~~
8 ~~act as a release pro tanto of any memorial of such notice~~
9 ~~of lien or notice of jeopardy assessment lien previously~~
10 ~~filed and registered.~~

11 (Source: P.A. 92-826, eff. 1-1-03.)

12 Section 5-10. The Retailers' Occupation Tax Act is amended
13 by changing Sections 5a, 5b, and 5c as follows:

14 (35 ILCS 120/5a) (from Ch. 120, par. 444a)

15 Sec. 5a. The Department shall have a lien for the tax
16 herein imposed or any portion thereof, or for any penalty
17 provided for in this Act, or for any amount of interest which
18 may be due as provided for in Section 5 of this Act, upon all
19 the real and personal property of any person to whom a final
20 assessment or revised final assessment has been issued as
21 provided in this Act, or whenever a return is filed without
22 payment of the tax or penalty shown therein to be due,
23 including all such property of such persons acquired after
24 receipt of such assessment or filing of such return. The

1 taxpayer is liable for the filing fee imposed ~~incurred~~ by the
2 Department for filing the lien and the filing fee imposed
3 ~~incurred~~ by the Department to ~~file the~~ release the ~~of that~~
4 lien. The filing fees shall be paid to the Department in
5 addition to payment of the tax, penalty, and interest included
6 in the amount of the lien.

7 However, where the lien arises because of the issuance of a
8 final assessment or revised final assessment by the Department,
9 such lien shall not attach and the notice hereinafter referred
10 to in this Section shall not be filed until all proceedings in
11 court for review of such final assessment or revised final
12 assessment have terminated or the time for the taking thereof
13 has expired without such proceedings being instituted.

14 Upon the granting of a rehearing or departmental review
15 pursuant to Section 4 or Section 5 of this Act after a lien has
16 attached, such lien shall remain in full force except to the
17 extent to which the final assessment may be reduced by a
18 revised final assessment following such rehearing or review.

19 The lien created by the issuance of a final assessment
20 shall terminate unless a notice of lien is filed, as provided
21 in Section 5b hereof, within 3 years from the date all
22 proceedings in court for the review of such final assessment
23 have terminated or the time for the taking thereof has expired
24 without such proceedings being instituted, or (in the case of a
25 revised final assessment issued pursuant to a rehearing or
26 departmental review) within 3 years from the date all

1 proceedings in court for the review of such revised final
2 assessment have terminated or the time for the taking thereof
3 has expired without such proceedings being instituted; and
4 where the lien results from the filing of a return without
5 payment of the tax or penalty shown therein to be due, the lien
6 shall terminate unless a notice of lien is filed, as provided
7 in Section 5b hereof, within 3 years from the date when such
8 return is filed with the Department: Provided that the time
9 limitation period on the Department's right to file a notice of
10 lien shall not run (1) during any period of time in which the
11 order of any court has the effect of enjoining or restraining
12 the Department from filing such notice of lien, or (2) during
13 the term of a repayment plan that taxpayer has entered into
14 with the Department, as long as taxpayer remains in compliance
15 with the terms of the repayment plan.

16 If the Department finds that a taxpayer is about to depart
17 from the State, or to conceal himself or his property, or to do
18 any other act tending to prejudice or to render wholly or
19 partly ineffectual proceedings to collect such tax unless such
20 proceedings are brought without delay, or if the Department
21 finds that the collection of the amount due from any taxpayer
22 will be jeopardized by delay, the Department shall give the
23 taxpayer notice of such findings and shall make demand for
24 immediate return and payment of such tax, whereupon such tax
25 shall become immediately due and payable. If the taxpayer,
26 within 5 days after such notice (or within such extension of

1 time as the Department may grant), does not comply with such
2 notice or show to the Department that the findings in such
3 notice are erroneous, the Department may file a notice of
4 jeopardy assessment lien in the State Tax Lien Registry ~~office~~
5 ~~of the recorder of the county in which any property of the~~
6 ~~taxpayer may be located~~ and shall notify the taxpayer of such
7 filing. Such jeopardy assessment lien shall have the same scope
8 and effect as the statutory lien hereinbefore provided for in
9 this Section.

10 If the taxpayer believes that he does not owe some or all
11 of the tax for which the jeopardy assessment lien against him
12 has been filed, or that no jeopardy to the revenue in fact
13 exists, he may protest within 20 days after being notified by
14 the Department of the filing of such jeopardy assessment lien
15 and request a hearing, whereupon the Department shall hold a
16 hearing in conformity with the provisions of this Act and,
17 pursuant thereto, shall notify the taxpayer of its findings as
18 to whether or not such jeopardy assessment lien will be
19 released. If not, and if the taxpayer is aggrieved by this
20 decision, he may file an action for judicial review of such
21 final determination of the Department in accordance with
22 Section 12 of this Act and the Administrative Review Law.

23 On and after July 1, 2013, protests concerning matters that
24 are subject to the jurisdiction of the Illinois Independent Tax
25 Tribunal shall be filed with the Tribunal, and hearings on
26 those matters shall be held before the Tribunal in accordance

1 with the Illinois Independent Tax Tribunal Act of 2012. The
2 Tribunal shall notify the taxpayer of its findings as to
3 whether or not such jeopardy assessment lien will be released.
4 If not, and if the taxpayer is aggrieved by this decision, he
5 may file an action for judicial review of such final
6 determination of the Department in accordance with Section 12
7 of this Act and the Illinois Independent Tax Tribunal Act of
8 2012.

9 With respect to protests filed with the Department prior to
10 July 1, 2013 that would otherwise be subject to the
11 jurisdiction of the Illinois Independent Tax Tribunal, the
12 taxpayer may elect to be subject to the provisions of the
13 Illinois Independent Tax Tribunal Act of 2012 at any time on or
14 after July 1, 2013, but not later than 30 days after the date
15 on which the protest was filed. If made, the election shall be
16 irrevocable.

17 If, pursuant to such hearing (or after an independent
18 determination of the facts by the Department without a
19 hearing), the Department or the Tribunal determines that some
20 or all of the tax covered by the jeopardy assessment lien is
21 not owed by the taxpayer, or that no jeopardy to the revenue
22 exists, or if on judicial review the final judgment of the
23 court is that the taxpayer does not owe some or all of the tax
24 covered by the jeopardy assessment lien against him, or that no
25 jeopardy to the revenue exists, the Department shall release
26 its jeopardy assessment lien to the extent of such finding of

1 nonliability for the tax, or to the extent of such finding of
2 no jeopardy to the revenue.

3 The Department shall also release its jeopardy assessment
4 lien against the taxpayer whenever the tax and penalty covered
5 by such lien, plus any interest which may be due, are paid and
6 the taxpayer has paid the Department in cash or by guaranteed
7 remittance an amount representing the filing fee for the lien
8 and the filing fee for the release of that lien. The Department
9 shall file that release of lien in the State Tax Lien Registry
10 ~~with the recorder of the county where that lien was filed.~~

11 Nothing in this Section shall be construed to give the
12 Department a preference over the rights of any bona fide
13 purchaser, holder of a security interest, mechanics
14 lienholder, mortgagee, or judgment lien creditor arising prior
15 to the filing of a regular notice of lien or a notice of
16 jeopardy assessment lien in the State Tax Lien Registry ~~office~~
17 ~~of the recorder in the county in which the property subject to~~
18 ~~the lien is located:~~ Provided, however, that the word "bona
19 fide", as used in this Section shall not include any mortgage
20 of real or personal property or any other credit transaction
21 that results in the mortgagee or the holder of the security
22 acting as trustee for unsecured creditors of the taxpayer
23 mentioned in the notice of lien who executed such chattel or
24 real property mortgage or the document evidencing such credit
25 transaction. Such lien shall be inferior to the lien of general
26 taxes, special assessments and special taxes heretofore or

1 hereafter levied by any political subdivision of this State.

2 In case title to land to be affected by the notice of lien
3 or notice of jeopardy assessment lien is registered under the
4 provisions of "An Act concerning land titles", approved May 1,
5 1897, as amended, such notice shall also be filed in the State
6 Tax Lien Registry ~~office of the Registrar of Titles of the~~
7 ~~county within which the property subject to the lien is~~
8 ~~situated and shall be entered upon the register of titles as a~~
9 ~~memorial or charge upon each folium of the register of titles~~
10 ~~affected by such notice,~~ and the Department shall not have a
11 preference over the rights of any bona fide purchaser,
12 mortgagee, judgment creditor or other lien holder arising prior
13 to the registration of such notice: Provided, however, that the
14 word "bona fide" shall not include any mortgage of real or
15 personal property or any other credit transaction that results
16 in the mortgagee or the holder of the security acting as
17 trustee for unsecured creditors of the taxpayer mentioned in
18 the notice of lien who executed such chattel or real property
19 mortgage or the document evidencing such credit transaction.

20 Such regular lien or jeopardy assessment lien shall not be
21 effective against any purchaser with respect to any item in a
22 retailer's stock in trade purchased from the retailer in the
23 usual course of such retailer's business.

24 (Source: P.A. 97-1129, eff. 8-28-12; 98-446, eff. 8-16-13.)

25 (35 ILCS 120/5b) (from Ch. 120, par. 444b)

1 Sec. 5b. State Tax Lien Index. The Department of Revenue
2 shall maintain a State Tax Lien Index of all tax liens filed in
3 the State Tax Lien Registry as provided for by the State Tax
4 Lien Registration Act. ~~The recorder of each county shall~~
5 ~~procure a file labeled "State Tax Lien Notices" and an index~~
6 ~~book labeled "State Tax Lien Index". When notice of any lien or~~
7 ~~jeopardy assessment lien is presented to him for filing, he~~
8 ~~shall file it in numerical order in the file and shall enter it~~
9 ~~alphabetically in the index. The entry shall show the name and~~
10 ~~last known business address of the person named in the notice,~~
11 ~~the serial number of the notice, the date and hour of filing,~~
12 ~~whether it is a regular lien or a jeopardy assessment lien, and~~
13 ~~the amount of tax and penalty due and unpaid, plus the amount~~
14 ~~of interest due under Section 5 of this Act at the time when~~
15 ~~the notice of lien or jeopardy assessment lien is filed.~~

16 ~~No recorder or registrar of titles of any county shall~~
17 ~~require that the Department pay any costs or fees in connection~~
18 ~~with recordation of any notice or other document filed by the~~
19 ~~Department under this Act at the time such notice or other~~
20 ~~document is presented for recordation. The recorder or~~
21 ~~registrar of each county, in order to receive payment for fees~~
22 ~~or costs incurred by the Department, shall present the~~
23 ~~Department with monthly statements indicating the amount of~~
24 ~~fees and costs incurred by the Department and for which no~~
25 ~~payment has been received.~~

26 A notice of lien may be filed after the issuance of a

1 revised final assessment pursuant to a rehearing or
2 departmental review under Section 4 or Section 5 of this Act.

3 When the lien obtained pursuant to this Act has been
4 satisfied and the taxpayer has paid the Department in cash or
5 by guaranteed remittance an amount representing the filing fee
6 for the lien and the filing fee for the release of that lien,
7 the Department shall issue a release of lien and file that
8 release of lien in the State Tax Lien Registry ~~with the~~
9 ~~recorder of the county where that lien was filed.~~ The release
10 of lien shall contain in legible letters a statement as
11 follows:

12 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL
13 BE FILED IN THE STATE TAX LIEN REGISTRY ~~WITH THE RECORDER~~
14 ~~OR THE REGISTRAR~~
15 ~~OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.~~

16 When a certificate of complete or partial release of lien
17 issued by the Department is filed in the State Tax Lien
18 Registry, the Department of Revenue ~~presented for filing in the~~
19 ~~office of the recorder or Registrar of Titles where a notice of~~
20 ~~lien or notice of jeopardy assessment lien was filed, the~~
21 ~~recorder, in the case of nonregistered property,~~ shall
22 permanently attach the certificate of release to the notice of
23 lien or notice of jeopardy assessment lien and shall enter the
24 certificate of release and the date in the "State Tax Lien
25 Index" on the line where the notice of lien or notice of
26 jeopardy assessment lien is entered.

1 ~~In the case of registered property, the Registrar of Titles~~
2 ~~shall file and enter upon each folium of the register of titles~~
3 ~~affected thereby a memorial of the certificate of release which~~
4 ~~memorial when so entered shall act as a release pro tanto of~~
5 ~~any memorial of such notice of lien or notice of jeopardy~~
6 ~~assessment lien previously filed and registered.~~

7 (Source: P.A. 92-826, eff. 1-1-03.)

8 (35 ILCS 120/5c) (from Ch. 120, par. 444c)

9 Sec. 5c. Upon payment by the taxpayer to the Department in
10 cash or by guaranteed remittance of an amount representing the
11 filing fee for the lien and the filing fee for the release of
12 that lien, the Department shall issue a certificate of complete
13 or partial release of the lien and file that complete or
14 partial release of lien in the State Tax Lien Registry ~~with the~~
15 ~~recorder of the county where the lien was filed:~~

16 (a) to the extent that the fair market value of any
17 property subject to the lien exceeds the amount of the lien
18 plus the amount of all prior liens upon such property;

19 (b) to the extent that such lien shall become
20 unenforceable;

21 (c) to the extent that the amount of such lien is paid
22 by the retailer whose property is subject to such lien,
23 together with any interest which may become due under
24 Section 5 of this Act between the date when the notice of
25 lien is filed and the date when the amount of such lien is

1 paid;

2 (d) to the extent that there is furnished to the
3 Department on a form to be approved and with a surety or
4 sureties satisfactory to the Department a bond that is
5 conditioned upon the payment of the amount of such lien,
6 together with any interest which may become due under
7 Section 5 of this Act after the notice of lien is filed,
8 but before the amount thereof is fully paid;

9 (e) to the extent and under the circumstances specified
10 in Section 5a of this Act in the case of jeopardy
11 assessment liens;

12 (f) to the extent to which an assessment is reduced
13 pursuant to a rehearing or departmental review under
14 Section 4 or Section 5 of this Act.

15 A certificate of complete or partial release of any lien
16 shall be held conclusive that the lien upon the property
17 covered by the certificate is extinguished to the extent
18 indicated by such certificate.

19 (Source: P.A. 92-826, eff. 1-1-03.)

20 Section 5-15. The Cannabis and Controlled Substances Tax
21 Act is amended by changing Sections 16, 17, and 19 as follows:

22 (35 ILCS 520/16) (from Ch. 120, par. 2166)

23 Sec. 16. All assessments are Jeopardy Assessments - lien.

24 (a) Assessment. An assessment for a dealer not possessing

1 valid stamps or other official indicia showing that the tax has
2 been paid shall be considered a jeopardy assessment or
3 collection, as provided by Section 1102 of the Illinois Income
4 Tax Act. The Department shall determine and assess a tax and
5 applicable penalties and interest according to the best
6 judgment and information available to the Department, which
7 amount so fixed by the Department shall be prima facie correct
8 and shall be prima facie evidence of the correctness of the
9 amount of tax due, as shown in such determination. When,
10 according to the best judgment and information available to the
11 Department with regard to all real and personal property and
12 rights to property of the dealer, there is no reasonable
13 expectation of collection of the amount of tax and penalty to
14 be assessed, the Department may issue an assessment under this
15 Section for the amount of tax without penalty.

16 (b) Filing of Lien. Upon issuance of a jeopardy assessment
17 as provided by subsection (a) of this Section, the Department
18 may file a notice of jeopardy assessment lien in the Uniform
19 Tax Lien Registry ~~office of the recorder of the county in which~~
20 ~~any property of the taxpayer may be located~~ and shall notify
21 the taxpayer of such filing.

22 (c) Protest. If the taxpayer believes that he does not owe
23 some or all of the amount for which the jeopardy assessment
24 lien against him has been filed, he may protest within 20 days
25 after being notified by the Department of the filing of such
26 jeopardy assessment lien and request a hearing, whereupon the

1 Department shall hold a hearing in conformity with the
2 provisions of Section 908 of the Illinois Income Tax Act and,
3 pursuant thereto, shall notify the taxpayer of its decision as
4 to whether or not such jeopardy assessment lien will be
5 released.

6 After the expiration of the period within which the person
7 assessed may file an action for judicial review without such
8 action being filed, a certified copy of the final assessment or
9 revised final assessment of the Department may be filed with
10 the Circuit Court of the county in which the dealer resides, or
11 of Cook County in the case of a dealer who does not reside in
12 this State, or in the county where the violation of this Act
13 took place. The certified copy of the final assessment or
14 revised final assessment shall be accompanied by a
15 certification which recites facts that are sufficient to show
16 that the Department complied with the jurisdictional
17 requirements of the Act in arriving at its final assessment or
18 its revised final assessment and that the dealer had this
19 opportunity for an administrative hearing and for judicial
20 review, whether he availed himself or herself of either or both
21 of these opportunities or not. If the court is satisfied that
22 the Department complied with the jurisdictional requirements
23 of the Act in arriving at its final assessment or its revised
24 final assessment and that the taxpayer had his opportunity for
25 an administrative hearing and for judicial review, whether he
26 availed himself of either or both of these opportunities or

1 not, the court shall render judgment in favor of the Department
2 and against the taxpayer for the amount shown to be due by the
3 final assessment or the revised final assessment, plus any
4 interest which may be due, and such judgment shall be entered
5 in the judgment docket of the court. Such judgment shall bear
6 the same rate of interest and shall have the same effect as
7 other judgments. The judgment may be enforced, and all laws
8 applicable to sales for the enforcement of a judgment shall be
9 applicable to sales made under such judgments. The Department
10 shall file the certified copy of its assessment, as herein
11 provided, with the Circuit Court within 2 years after such
12 assessment becomes final except when the taxpayer consents in
13 writing to an extension of such filing period, and except that
14 the time limitation period on the Department's right to file
15 the certified copy of its assessment with the Circuit Court
16 shall not run during any period of time in which the order of
17 any court has the effect of enjoining or restraining the
18 Department from filing such certified copy of its assessment
19 with the Circuit Court.

20 If, when the cause of action for a proceeding in court
21 accrues against a person, he or she is out of the State, the
22 action may be commenced within the times herein limited, after
23 his or her coming into or returning to the State; and if, after
24 the cause of action accrues, he or she departs from and remains
25 out of the State, the time of his or her absence from the
26 State, the time of his or her absence is no part of the time

1 limited for the commencement of the action; but the foregoing
2 provisions concerning absence from the State shall not apply to
3 any case in which, at the time the cause of action accrues, the
4 party against whom the cause of action accrues is not a
5 resident of this State. The time within which a court action is
6 to be commenced by the Department hereunder shall not run from
7 the date the taxpayer files a petition in bankruptcy under the
8 Federal Bankruptcy Act until 30 days after notice of
9 termination or expiration of the automatic stay imposed by the
10 Federal Bankruptcy Act.

11 No claim shall be filed against the estate of any deceased
12 person or any person under legal disability for any tax or
13 penalty or part of either, or interest, except in the manner
14 prescribed and within the time limited by the Probate Act of
15 1975, as amended.

16 The collection of tax or penalty or interest by any means
17 provided for herein shall not be a bar to any prosecution under
18 this Act.

19 In addition to any penalty provided for in this Act, any
20 amount of tax which is not paid when due shall bear interest at
21 the rate determined in accordance with the Uniform Penalty and
22 Interest Act, per month or fraction thereof from the date when
23 such tax becomes past due until such tax is paid or a judgment
24 therefor is obtained by the Department. If the time for making
25 or completing an audit of a taxpayer's books and records is
26 extended with the taxpayer's consent, at the request of and for

1 the convenience of the Department, beyond the date on which the
2 statute of limitations upon the issuance of a notice of tax
3 liability by the Department otherwise run, no interest shall
4 accrue during the period of such extension. Interest shall be
5 collected in the same manner and as part of the tax.

6 If the Department determines that an amount of tax or
7 penalty or interest was incorrectly assessed, whether as the
8 result of a mistake of fact or an error of law, the Department
9 shall waive the amount of tax or penalty or interest that
10 accrued due to the incorrect assessment.

11 (Source: P.A. 97-1129, eff. 8-28-12.)

12 (35 ILCS 520/17) (from Ch. 120, par. 2167)

13 Sec. 17. Filing and Priority of Liens. (a) Filing in the
14 Uniform Tax Lien Registry ~~with Recorder~~. Nothing in this Act
15 shall be construed to give the Department a preference over the
16 rights of any bona fide purchaser, holder of a security
17 interest, mechanics lienholder, mortgagee, or judgment lien
18 creditor arising prior to the filing of a regular notice of
19 lien or a notice of jeopardy assessment lien in the Uniform Tax
20 Lien Registry ~~office of the recorder in the county in which the~~
21 ~~property subject to the lien is located~~. For purposes of this
22 section, the term "bona fide," shall not include any mortgage
23 of real or personal property or any other credit transaction
24 that results in the mortgagee or the holder of the security
25 acting as trustee for unsecured creditors of the taxpayer

1 mentioned in the notice of lien who executed such chattel or
2 real property mortgage or the document evidencing such credit
3 transaction. Such lien shall be inferior to the lien of general
4 taxes, special assessments and special taxes heretofore or
5 hereafter levied by any political subdivision of this State.

6 (b) ~~Filing with Registrar.~~ In case title to land to be
7 affected by the notice of lien or notice of jeopardy assessment
8 lien is registered under the provisions of "An Act concerning
9 land titles," approved May 1, 1897, as amended, such notice
10 shall also be filed in the Uniform Tax Lien Registry ~~office of~~
11 ~~the Registrar of Titles of the county within which the property~~
12 ~~subject to the lien is situated and shall be entered upon the~~
13 ~~register of titles as a memorial of charge upon each folium of~~
14 ~~the register of titles affected by such notice,~~ and the
15 Department shall not have a preference over the rights of any
16 bona fide purchaser, mortgagee, judgment creditor or other lien
17 holder arising prior to the registration of such notice.

18 (c) (Blank). ~~No recorder or registrar of titles of any~~
19 ~~county shall require that the Department pay any costs or fees~~
20 ~~in connection with recordation of any notice or other document~~
21 ~~filed by the Department under this Act at the time such notice~~
22 ~~or other document is presented for recordation.~~

23 (Source: P.A. 86-905.)

24 (35 ILCS 520/19) (from Ch. 120, par. 2169)

25 Sec. 19. Release of Liens.

1 (a) In general. The Department shall release all or any
2 portion of the property subject to any lien provided for in
3 this Act if it determines that the release will not endanger or
4 jeopardize the collection of the amount secured thereby. The
5 Department shall release its lien on property which is the
6 subject of forfeiture proceedings under the Narcotics Profit
7 Forfeiture Act, the Criminal Code of 2012, or the Drug Asset
8 Forfeiture Procedure Act until all forfeiture proceedings are
9 concluded. Property forfeited shall not be subject to a lien
10 under this Act.

11 (b) Judicial determination. If on judicial review the final
12 judgment of the court is that the taxpayer does not owe some or
13 all of the amount secured by the lien against him, or that no
14 jeopardy to the revenue exists, the Department shall release
15 its lien to the extent of such finding of nonliability, or to
16 the extent of such finding of no jeopardy to the revenue.

17 (c) Payment. The Department shall also release its jeopardy
18 assessment lien against the taxpayer whenever the tax and
19 penalty covered by such lien, plus any interest which may be
20 due, are paid.

21 (d) Certificate of release. The Department shall issue a
22 certificate of complete or partial release of the lien:

23 (1) To the extent that the fair market value of any
24 property subject to the lien exceeds the amount of the lien
25 plus the amount of all prior liens upon such property;

26 (2) To the extent that such lien shall become

1 unenforceable;

2 (3) To the extent that the amount of such lien is paid
3 by the person whose property is subject to such lien,
4 together with any interest and penalty which may become due
5 under this Act between the date when the notice of lien is
6 filed and the date when the amount of such lien is paid;

7 (4) To the extent and under the circumstances specified
8 in this Section. A certificate of complete or partial
9 release of any lien shall be held conclusive that the lien
10 upon the property covered by the certificate is
11 extinguished to the extent indicated by such certificate.

12 Such release of lien shall be issued to the person, or his
13 agent, against whom the lien was obtained and shall contain in
14 legible letters a statement as follows:

15 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL
16 BE FILED IN THE STATE TAX LIEN REGISTRY ~~WITH THE RECORDER~~
17 ~~OR THE REGISTRAR~~
18 ~~OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.~~

19 (e) Filing. When a certificate of complete or partial
20 release of lien issued by the Department is filed in the State
21 Tax Lien Registry, the Department ~~presented for filing in the~~
22 ~~office of the recorder or Registrar of Titles where a notice of~~
23 ~~lien or notice of jeopardy assessment lien was filed:~~

24 ~~(1) The recorder, in the case of nonregistered~~
25 ~~property,~~ shall permanently attach the certificate of
26 release to the notice of lien or notice of jeopardy

1 assessment lien and shall enter the certificate of release
2 and the date in the "State Tax Lien Index" on the line
3 where the notice of lien or notice of jeopardy assessment
4 lien is entered. ~~and~~

5 ~~(2) In the case of registered property, the Registrar~~
6 ~~of Titles shall file and enter upon each folium of the~~
7 ~~register of titles affected thereby a memorial of the~~
8 ~~certificate of release which memorial when so entered shall~~
9 ~~act as a release pro tanto of any memorial of such notice~~
10 ~~of lien or notice of jeopardy assessment lien previously~~
11 ~~filed and registered.~~

12 (Source: P.A. 97-1150, eff. 1-25-13.)

13 Section 5-20. The Illinois Municipal Code is amended by
14 changing Section 8-3-15 as follows:

15 (65 ILCS 5/8-3-15) (from Ch. 24, par. 8-3-15)

16 Sec. 8-3-15. The corporate authorities of each
17 municipality shall have all powers necessary to enforce the
18 collection of any tax imposed and collected by such
19 municipality, whether such tax was imposed pursuant to its home
20 rule powers or statutory authorization, including but not
21 limited to subpoena power and the power to create and enforce
22 liens. No such lien shall affect the rights of bona fide
23 purchasers, mortgagees, judgment creditors or other
24 lienholders who acquire their interests in such property prior

1 to the time a notice of such lien is placed on record in the
2 office of the recorder or the registrar of titles of the county
3 in which the property is located. However, nothing in this
4 Section shall permit a municipality to place a lien upon
5 property not located or found within its corporate boundaries.
6 A municipality creating a lien may provide that the procedures
7 for its notice and enforcement shall be the same as that
8 provided in the Retailers' Occupation Tax Act, as that Act
9 existed prior to the adoption of the State Tax Lien
10 Registration Act ~~now or hereafter amended~~, for State tax liens,
11 and any recorder or registrar of titles with whom a notice of
12 such lien is filed shall treat such lien as a State tax lien
13 for recording purposes.

14 (Source: P.A. 86-680.)

15 Section 5-25. The Title Insurance Act is amended by
16 changing Section 22 as follows:

17 (215 ILCS 155/22) (from Ch. 73, par. 1422)

18 Sec. 22. Tax indemnity; notice. A corporation authorized to
19 do business under this Act shall notify the Director of Revenue
20 of the State of Illinois, by notice directed to his office in
21 the City of Chicago, of each trust account or similar account
22 established which relates to title exceptions due to a judgment
23 lien or any other lien arising under any tax Act administered
24 by the Illinois Department of Revenue, when notice of such lien

1 has been filed with the registrar of titles or recorder or in
2 the State Tax Lien Registry, as the case may be, in the manner
3 prescribed by law. Such notice shall contain the name, address,
4 and tax identification number of the debtor, the permanent real
5 estate index numbers, if any, and the address and legal
6 description of the property, the type of lien claimed by the
7 Department and identification of any trust fund or similar
8 account held by such corporation or any agent thereof relating
9 to such lien. Any trust fund or similar account established by
10 such corporation or agent relating to any such lien shall
11 include provisions requiring such corporation or agent to apply
12 such fund in satisfaction or release of such lien upon written
13 demand therefor by the Department of Revenue.

14 (Source: P.A. 94-893, eff. 6-20-06.)

15 ARTICLE 99. EFFECTIVE DATE

16 Section 99-999. Effective date. This Act takes effect
17 January 1, 2018.