



Sen. Kimberly A. Lightford

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1 AMENDMENT TO HOUSE BILL 3683

2 AMENDMENT NO. _____. Amend House Bill 3683 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Aid Code is amended by
5 changing Sections 10-25 and 10-25.5 as follows:

6 (305 ILCS 5/10-25)

7 Sec. 10-25. Administrative liens and levies on real
8 property for past-due child support and for fines against a
9 payor who wilfully fails to withhold or pay over income
10 pursuant to a properly served income withholding notice or
11 otherwise fails to comply with any duties imposed by the Income
12 Withholding for Support Act.

13 (a) Notwithstanding any other State or local law to the
14 contrary, the State shall have a lien on all legal and
15 equitable interests of responsible relatives in their real
16 property in the amount of past-due child support owing pursuant

1 to an order for child support entered under Sections 10-10 and
2 10-11 of this Code, or under the Illinois Marriage and
3 Dissolution of Marriage Act, the Non-Support of Spouse and
4 Children Act, the Non-Support Punishment Act, the Uniform
5 Interstate Family Support Act, or the Illinois Parentage Act of
6 1984.

7 (a-5) The State shall have a lien on all legal and
8 equitable interests of a payor, as that term is described in
9 the Income Withholding for Support Act, in the payor's real
10 property in the amount of any fine imposed by the Illinois
11 Department pursuant to the Income Withholding for Support Act.

12 (b) The Illinois Department shall provide by rule for
13 notice to and an opportunity to be heard by each responsible
14 relative or payor affected, and any final administrative
15 decision rendered by the Illinois Department shall be reviewed
16 only under and in accordance with the Administrative Review
17 Law.

18 (c) When enforcing a lien under subsection (a) of this
19 Section, the Illinois Department shall have the authority to
20 execute notices of administrative liens and levies, which shall
21 contain the name and address of the responsible relative or
22 payor, a legal description of the real property to be levied,
23 the fact that a lien is being claimed for past-due child
24 support or for the fines imposed on a payor pursuant to the
25 Income Withholding for Support Act, and such other information
26 as the Illinois Department may by rule prescribe. The Illinois

1 Department shall record the notice of lien with the recorder or
2 registrar of titles of the county or counties in which the real
3 estate is located.

4 (d) The State's lien under subsection (a) shall be
5 enforceable upon the recording or filing of a notice of lien
6 with the recorder or registrar of titles of the county or
7 counties in which the real estate is located. The lien shall be
8 prior to any lien thereafter recorded or filed and shall be
9 notice to a subsequent purchaser, assignor, or encumbrancer of
10 the existence and nature of the lien. The lien shall be
11 inferior to the lien of general taxes, special assessment, and
12 special taxes heretofore or hereafter levied by any political
13 subdivision or municipal corporation of the State.

14 In the event that title to the land to be affected by the
15 notice of lien is registered under the Registered Titles
16 (Torrens) Act, the notice shall be filed in the office of the
17 registrar of titles as a memorial or charge upon each folium of
18 the register of titles affected by the notice; but the State
19 shall not have a preference over the rights of any bona fide
20 purchaser, mortgagee, judgment creditor, or other lien holders
21 registered prior to the registration of the notice.

22 (e) The recorder or registrar of titles of each county
23 shall procure a file labeled "Child Support Lien Notices" and
24 an index book labeled "Child Support Lien Notices". When notice
25 of any lien is presented to the recorder or registrar of titles
26 for filing, the recorder or registrar of titles shall file it

1 in numerical order in the file and shall enter it
2 alphabetically in the index. The entry shall show the name and
3 last known address of the person or payor named in the notice,
4 the serial number of the notice, the date and hour of filing,
5 and the amount of child support or the amount of the fine
6 imposed on the payor due at the time when the lien is filed.

7 (f) The Illinois Department shall not be required to
8 furnish bond or make a deposit for or pay any costs or fees of
9 any court or officer thereof in any legal proceeding involving
10 the lien.

11 (g) To protect the lien of the State for past-due child
12 support and for any fine imposed against a payor, the Illinois
13 Department may, from funds that are available for that purpose,
14 pay or provide for the payment of necessary or essential
15 repairs, purchase tax certificates, pay balances due on land
16 contracts, or pay or cause to be satisfied any prior liens on
17 the property to which the lien hereunder applies.

18 (h) A lien on real property under this Section shall be
19 released pursuant to Section 12-101 of the Code of Civil
20 Procedure.

21 (i) The Illinois Department, acting in behalf of the State,
22 may foreclose the lien in a judicial proceeding to the same
23 extent and in the same manner as in the enforcement of other
24 liens. The process, practice, and procedure for the foreclosure
25 shall be the same as provided in the Code of Civil Procedure.

26 (Source: P.A. 97-186, eff. 7-22-11.)

1 (305 ILCS 5/10-25.5)

2 Sec. 10-25.5. Administrative liens and levies on personal
3 property for past-due child support and for fines against a
4 payor who wilfully fails to withhold or pay over income
5 pursuant to a properly served income withholding notice or
6 otherwise fails to comply with any duties imposed by the Income
7 Withholding for Support Act.

8 (a) Notwithstanding any other State or local law to the
9 contrary, the State shall have a lien on all legal and
10 equitable interests of responsible relatives in their personal
11 property, including any account in a financial institution as
12 defined in Section 10-24, or in the case of an insurance
13 company or benefit association only in accounts as defined in
14 Section 10-24, in the amount of past-due child support owing
15 pursuant to an order for child support entered under Sections
16 10-10 and 10-11 of this Code, or under the Illinois Marriage
17 and Dissolution of Marriage Act, the Non-Support of Spouse and
18 Children Act, the Non-Support Punishment Act, the Uniform
19 Interstate Family Support Act, or the Illinois Parentage Act of
20 1984.

21 (a-5) The State shall have a lien on all legal and
22 equitable interests of a payor, as that term is described in
23 the Income Withholding for Support Act, in the payor's personal
24 property in the amount of any fine imposed by the Illinois
25 Department pursuant to the Income Withholding for Support Act.

1 (b) The Illinois Department shall provide by rule for
2 notice to and an opportunity to be heard by each responsible
3 relative or payor affected, and any final administrative
4 decision rendered by the Illinois Department shall be reviewed
5 only under and in accordance with the Administrative Review
6 Law.

7 (c) When enforcing a lien under subsection (a) of this
8 Section, the Illinois Department shall have the authority to
9 execute notices of administrative liens and levies, which shall
10 contain the name and address of the responsible relative or
11 payor, a description of the property to be levied, the fact
12 that a lien is being claimed for past-due child support, and
13 such other information as the Illinois Department may by rule
14 prescribe. The Illinois Department may serve the notice of lien
15 or levy upon any financial institution where the accounts as
16 defined in Section 10-24 of the responsible relative may be
17 held, for encumbrance or surrender of the accounts as defined
18 in Section 10-24 by the financial institution.

19 (d) The Illinois Department shall enforce its lien against
20 the responsible relative's or payor's personal property, other
21 than accounts as defined in Section 10-24 in financial
22 institutions, and levy upon such personal property in the
23 manner provided for enforcement of judgments contained in
24 Article XII of the Code of Civil Procedure.

25 (e) The Illinois Department shall not be required to
26 furnish bond or make a deposit for or pay any costs or fees of

1 any court or officer thereof in any legal proceeding involving
2 the lien.

3 (f) To protect the lien of the State for past-due child
4 support and for any fine imposed on a payor, the Illinois
5 Department may, from funds that are available for that purpose,
6 pay or provide for the payment of necessary or essential
7 repairs, purchase tax certificates, or pay or cause to be
8 satisfied any prior liens on the property to which the lien
9 hereunder applies.

10 (g) A lien on personal property under this Section shall be
11 released in the manner provided under Article XII of the Code
12 of Civil Procedure. Notwithstanding the foregoing, a lien under
13 this Section on accounts as defined in Section 10-24 shall
14 expire upon the passage of 120 days from the date of issuance
15 of the Notice of Lien or Levy by the Illinois Department.
16 However, the lien shall remain in effect during the pendency of
17 any appeal or protest.

18 (h) A lien created under this Section is subordinate to any
19 prior lien of the financial institution or any prior lien
20 holder or any prior right of set-off that the financial
21 institution may have against the assets, or in the case of an
22 insurance company or benefit association only in the accounts
23 as defined in Section 10-24.

24 (i) A financial institution has no obligation under this
25 Section to hold, encumber, or surrender the assets, or in the
26 case of an insurance company or benefit association only the

1 accounts as defined in Section 10-24, until the financial
2 institution has been properly served with a subpoena, summons,
3 warrant, court or administrative order, or administrative lien
4 and levy requiring that action.

5 (Source: P.A. 97-186, eff. 7-22-11.)

6 Section 10. The Income Withholding for Support Act is
7 amended by adding Section 50.5 as follows:

8 (750 ILCS 28/50.5 new)

9 Sec. 50.5. Administrative fines imposed by the Department
10 of Healthcare and Family Services.

11 (a) The administrative fines provided for under this
12 Section are in addition to any existing fines or penalties
13 against a payor provided for in other Sections of this Act and
14 do not affect who would be entitled to receive those existing
15 fines and penalties. In addition to any fines or penalties
16 provided for in this Act, when a payor wilfully fails, after
17 receiving 2 reminders from the Department of Healthcare and
18 Family Services, to withhold or pay over income pursuant to a
19 properly served income withholding notice or otherwise fails to
20 comply with any duties imposed by this Act, the Department may
21 impose a fine upon the payor not to exceed \$1,000 per payroll
22 period. The fine shall be payable to the Department of
23 Healthcare and Family Services and may be used to defray the
24 costs incurred by the Department in the collection of the

1 past-due support and penalties provided for in this Act. The
2 Department of Healthcare and Family Services shall place the
3 finances collected into a special fund created to implement the
4 purposes of this Section and the fines shall be utilized for
5 the purposes provided for in this Section. After deducting the
6 costs incurred by the Department of Healthcare and Family
7 Services in the collection of the past-due support and
8 penalties provided for in this Act, the remainder of the fines
9 collected under this Section shall be distributed
10 proportionally to the counties based on their population. The
11 counties shall use these funds to assist low income families in
12 defraying the costs associated with seeking parenting time.

13 (b) The Department of Healthcare and Family Services may
14 collect the fine through administrative liens and levies on the
15 real and personal property of the payor as provided in Sections
16 10-25 and 10-25.5 of the Illinois Public Aid Code.

17 (c) The payor may contest the fine as provided in Sections
18 10-25 and 10-25.5 of the Illinois Public Aid Code.

19 (d) The Department of Healthcare and Family Services may
20 adopt rules necessary for the implementation of this Section.

21 Section 99. Effective date. This Act takes effect July 1,
22 2017.".