



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3741

Introduced 2/25/2009, by Rep. Michael J. Zalewski

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2505/2505-660 new

205 ILCS 645/3

215 ILCS 5/238.1

215 ILCS 5/299.1b

215 ILCS 5/337.1

from Ch. 17, par. 2710

Amends the Department of Revenue Law of the Civil Administrative Code of Illinois, the Foreign Banking Office Act, and the Illinois Insurance Code. Allows the Department of Revenue to require financial institutions doing business with the State to provide data concerning those holding accounts with the institution for use in collecting debts owed to the State. Provides for data matches, accommodation of the institutions and charges, confidentiality, and liability.

LRB096 08991 RCE 19130 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning debt collection.

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

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

7 (20 ILCS 2505/2505-660 new)

8 Sec. 2505-660. Financial institution record sharing for  
9 debt collection. For the purpose of the collection of any debt  
10 owed to the State, the Department may require each financial  
11 institution doing business in the State to provide data  
12 concerning account holders, owners, or customers who maintain  
13 one or more accounts with that institution.

14 (a) Definitions.

15 "Account" means a demand deposit account, checking or  
16 negotiable withdrawal order account, savings account, time  
17 deposit account, or money market mutual fund account.

18 "Financial institution" includes:

19 (1) a depository institution, which is any bank or  
20 saving association;

21 (2) an insured depository institution, which is any  
22 bank or saving institution the deposits of which are  
23 insured pursuant to the Federal Deposit Insurance Act, or

1 any uninsured branch or agency of a foreign bank or a  
2 commercial lending company owned or controlled by a foreign  
3 bank;

4 (3) a federal depository institution, which is any  
5 national bank, any federal savings association, or any  
6 federal branch;

7 (4) a state depository institution, which is any state  
8 bank, any state savings association, or any insured branch  
9 that is not a federal branch;

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

13 (6) a state chartered credit union that is organized  
14 and operated according to the laws of this or any other  
15 state, which laws provide for the organization of credit  
16 unions similar in principle and objectives to federal  
17 credit unions; and

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

21 "Financial record" has the meaning given to that term in  
22 Section 1101 of the federal Right to Financial Privacy Act of  
23 1978 (12 U.S.C. 3401).

24 "Person" means any natural individual, firm, partnership,  
25 association, joint stock company, joint adventure, public or  
26 private corporation, limited liability company, or a receiver,

1 executor, trustee, guardian, or other representative appointed  
2 by order of any court.

3 (b) Financial institutions data matches.

4 (1) The Department may design and implement a data  
5 match system pursuant to which the Department shall enter  
6 into agreements with financial institutions doing business  
7 in this State for the purpose of identifying accounts to be  
8 used in the collection of debts owed to the State of  
9 Illinois.

10 (2) Every agreement entered into with a financial  
11 institution under this Section shall provide, at the option  
12 of the financial institution, either (i) that the financial  
13 institution shall compare data concerning account holders,  
14 owners, or customers who maintain one or more accounts at  
15 the financial institution with data concerning persons  
16 identified by the Department as responsible for owing debt  
17 and for each of whom the Department shall provide the name,  
18 record address, and social security number or tax  
19 identification number, or (ii) that the financial  
20 institution shall provide the social security number or tax  
21 identification number of the account holders, owners, or  
22 customers who maintain one or more accounts at the  
23 financial institution to the Department, which shall  
24 compare that data with data concerning persons identified  
25 as responsible for owing debt.

26 (3) Every agreement shall provide that the Department

1 shall pay to the financial institution providing or  
2 comparing the data a reasonable fee not to exceed the  
3 institution's actual cost of providing the data or  
4 performing the comparison.

5 (4) If the financial institution or Department  
6 determines that the name and either social security number  
7 or tax identification number of any person identified by  
8 the Department under subsection (b)(2) of this section  
9 match the name and either social security number or tax  
10 identification number of the account holder, owner, or  
11 customer who maintains one or more accounts at the  
12 financial institution, then the financial institution  
13 shall report the person's name and either social security  
14 number or tax identification number to the Department, for  
15 each calendar quarter in which the person is identified by  
16 the Department as responsible for owing debt.

17 (c) Types of accounts to be reported. The account reporting  
18 requirements of subsection (b) of this Section apply to  
19 accounts held or owned by "persons", as that term is defined in  
20 subsection (a) of this Section. In the case of a joint account,  
21 the account holder or owner shall be deemed to be the primary  
22 account holder or owner established by the financial  
23 institution in accordance with federal 1099 reporting  
24 requirements.

25 (d) Accommodation of financial institutions. The  
26 Department shall make a reasonable effort to accommodate those

1 financial institutions on which the requirements of this  
2 Section would impose a hardship. In the case of a non-automated  
3 financial institution, a paper copy including either social  
4 security numbers or tax identification numbers would be an  
5 acceptable format. In order to allow for data processing  
6 implementation, no agreement shall become effective earlier  
7 than 90 days after its execution.

8 (e) Financial institution's charges on account.

9 (1) If the Department requests a financial institution  
10 to hold or encumber assets in an account, the financial  
11 institution at which the account is maintained may charge  
12 and collect its normally scheduled account activity fees to  
13 maintain the account during the period of time the account  
14 assets are held or encumbered.

15 (2) If the Department takes any action to enforce a  
16 lien or levy imposed on an account and the financial  
17 institution at which the account is maintained remits  
18 moneys in the account to the Department as a result of  
19 enforcement of a lien or levy on the account, the financial  
20 institution at which the account is maintained may charge  
21 to the account a fee of up to \$50 and shall deduct the  
22 amount of the fee from the account before remitting any  
23 moneys from the account to the Department.

24 (f) Confidentiality. All information provided to the  
25 Department by a financial institution under this Section is  
26 confidential and may be used only for the purpose of enforcing

1 collection of debts owed to the State of Illinois.

2 (g) Financial institution's freedom from liability. A  
3 financial institution that provides information under this  
4 Section shall not be liable to any account holder, owner, or  
5 other person in any civil, criminal, or administrative action  
6 for any of the following:

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

9 (2) Holding, encumbering, or surrendering any accounts  
10 in response to a lien or order to withhold and deliver  
11 issued by:

12 (A) the Department under this Section, or

13 (B) a person or entity acting on behalf of the  
14 Department.

15 (3) Any other action taken or omission made in good  
16 faith to comply with this Section, including individual or  
17 mechanical errors, provided that the action or omission  
18 does not constitute gross negligence or willful  
19 misconduct.

20 Section 10. The Foreign Banking Office Act is amended by  
21 changing Section 3 as follows:

22 (205 ILCS 645/3) (from Ch. 17, par. 2710)

23 Sec. 3. Certificates of authority; qualifications; rights;  
24 supervision. A foreign banking corporation, upon receipt of a

1 certificate of authority from the Commissioner, may establish  
2 and maintain an Illinois banking office to conduct thereat a  
3 general banking business and may apply for, and procure from  
4 the Commissioner, a certificate of authority to conduct thereat  
5 a trust business pursuant to the Corporate Fiduciary Act. No  
6 such foreign banking corporation is, however, entitled to a  
7 certificate of authority under this Act unless, under the laws  
8 of the country under which such foreign banking corporation was  
9 organized, a State bank and a national bank may be authorized  
10 to maintain a banking office which may engage in a general  
11 banking business or may be authorized to own all the shares  
12 (except for directors' qualifying shares) of a banking  
13 organization organized under the laws of such country.

14 Upon receipt of a certificate of authority under this Act,  
15 a foreign banking corporation may conduct its banking business  
16 in this State with the same, but no greater, rights and  
17 privileges as a State bank, and except as otherwise provided in  
18 this Act, subject to the same duties, restrictions, penalties  
19 and liabilities now or hereafter imposed under the Illinois  
20 Banking Act upon a State bank. Any such banking office shall be  
21 maintained subject to supervision and examination by the  
22 Commissioner and such reports and examinations as are required  
23 of State banks under the Illinois Banking Act applicable to  
24 such banking office.

25 This Section does not prohibit the furnishing of  
26 information pursuant to any other statute that by its terms or



1 by regulations promulgated thereunder requires the disclosure  
2 of financial records other than by subpoena, summons, warrant,  
3 or court order.

4 This Section does not prohibit the furnishing of  
5 information in accordance with the federal Personal  
6 Responsibility and Work Opportunity Reconciliation Act of  
7 1996. Any foreign banking corporation governed by this Act  
8 shall enter into an agreement for data exchanges with a State  
9 agency provided the State agency pays to the foreign banking  
10 corporation a reasonable fee not to exceed its actual cost  
11 incurred. A foreign banking corporation providing information  
12 in accordance with this item shall not be liable to any account  
13 holder or other person for any disclosure of information to a  
14 State agency, for encumbering or surrendering any assets held  
15 by the foreign banking corporation in response to a lien or  
16 order to withhold and deliver issued by a State agency, or for  
17 any other action taken pursuant to this item, including  
18 individual or mechanical errors, provided the action does not  
19 constitute gross negligence or willful misconduct. A foreign  
20 banking corporation shall have no obligation to hold, encumber,  
21 or surrender assets until it has been served with a subpoena,  
22 summons, warrant, court or administrative order, lien, or levy.  
23 (Source: P.A. 89-208, eff. 6-1-97; 89-364, eff. 8-18-95;  
24 89-626, eff. 8-9-96; 90-18, eff. 7-1-97.)

25 Section 15. The Illinois Insurance Code is amended by

1 changing Sections 238.1, 299.1b, and 337.1 as follows:

2 (215 ILCS 5/238.1)

3 Sec. 238.1. Data exchanges; administrative liens.

4 (a) Any insurance company doing business in the State and  
5 governed by this Code shall enter into an agreement for data  
6 exchanges with the Department of Healthcare and Family Services  
7 for the purpose of locating accounts as defined in Section  
8 10-24 of the Illinois Public Aid Code of responsible relatives  
9 to satisfy past-due child support owed by responsible relatives  
10 under an order for support entered by a court or administrative  
11 body of this or any other State on behalf of resident or  
12 non-resident persons.

13 (b) This Section does not prohibit the furnishing of  
14 information pursuant to any other statute that by its terms or  
15 by regulations promulgated thereunder requires the disclosure  
16 of financial records other than by subpoena, summons, warrant,  
17 or court order.

18 (c) ~~(b)~~ Notwithstanding any provisions in this Code to the  
19 contrary, an insurance company shall not be liable to any  
20 person:

21 (1) for any disclosure of information to the Department  
22 of Healthcare and Family Services (formerly Illinois  
23 Department of Public Aid) under subsection (a) or for any  
24 disclosure of information to any other entity under  
25 subsection (b);

1           (2) for encumbering or surrendering any accounts as  
2 defined in Section 10-24 of the Illinois Public Aid Code  
3 held by such insurance company in response to a notice of  
4 lien or levy issued by the Department of Healthcare and  
5 Family Services (formerly Illinois Department of Public  
6 Aid), or by any other state's child support enforcement  
7 agency, as provided for in Section 238 of this Code; or

8           (3) for any other action taken in good faith to comply  
9 with the requirements of subsections ~~subsection~~ (a) or (b).

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

11           (215 ILCS 5/299.1b)

12           (Section scheduled to be repealed on January 1, 2017)

13           Sec. 299.1b. Data exchanges; administrative liens.

14           (a) Any benefit association doing business in the State and  
15 governed by this Code shall enter into an agreement for data  
16 exchanges with the Department of Healthcare and Family Services  
17 for the purpose of locating accounts as defined in Section  
18 10-24 of the Illinois Public Aid Code of responsible relatives  
19 to satisfy past-due child support owed by responsible relatives  
20 under an order for support entered by a court or administrative  
21 body of this or any other State on behalf of resident or  
22 non-resident persons.

23           (b) This Section does not prohibit the furnishing of  
24 information pursuant to any other statute that by its terms or  
25 by regulations promulgated thereunder requires the disclosure

1 of financial records other than by subpoena, summons, warrant,  
2 or court order.

3 (c) ~~(b)~~ Notwithstanding any provisions in this Code to the  
4 contrary, a benefit association shall not be liable to any  
5 person:

6 (1) for any disclosure of information to the Department  
7 of Healthcare and Family Services (formerly Illinois  
8 Department of Public Aid) under subsection (a) or for any  
9 disclosure of information to any other entity under  
10 subsection (b);

11 (2) for encumbering or surrendering any accounts as  
12 defined in Section 10-24 of the Illinois Public Aid Code  
13 held by such benefit association in response to a notice of  
14 lien or levy issued by the Department of Healthcare and  
15 Family Services (formerly Illinois Department of Public  
16 Aid), or by any other state's child support enforcement  
17 agency, as provided for in Section 299.1a of this Code; or

18 (3) for any other action taken in good faith to comply  
19 with the requirements of subsections ~~subsection~~ (a) or (b).

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

21 (215 ILCS 5/337.1)

22 Sec. 337.1. Data exchanges; administrative liens.

23 (a) Any benefit association governed by this Article XVIII  
24 shall encumber or surrender accounts as defined in Section  
25 10-24 of the Illinois Public Aid Code held by the benefit

1 association on behalf of any responsible relative who is  
2 subject to a child support lien, upon notice of the lien or  
3 levy by the Department of Healthcare and Family Services  
4 (formerly Illinois Department of Public Aid) or its successor  
5 agency pursuant to Section 10-25.5 of the Illinois Public Aid  
6 Code, or upon notice of interstate lien from any other state's  
7 agency responsible for implementing the child support  
8 enforcement program set forth in Title IV, Part D of the Social  
9 Security Act.

10 (b) This Section shall not prohibit the furnishing of  
11 information in accordance with the federal Personal  
12 Responsibility and Work Opportunity Reconciliation Act of  
13 1996. Any benefit association governed by this Article XVIII  
14 shall enter into an agreement for data exchanges with the  
15 Department of Healthcare and Family Services provided the  
16 Department of Healthcare and Family Services pays to the  
17 benefit association a reasonable fee not to exceed its actual  
18 cost incurred. A benefit association providing information in  
19 accordance with this item shall not be liable to any owner of  
20 an account as defined in Section 10-24 of the Illinois Public  
21 Aid Code or other person for any disclosure of information to  
22 the Department of Healthcare and Family Services (formerly  
23 Department of Public Aid), for encumbering or surrendering any  
24 accounts held by the benefit association in response to a lien  
25 or order to withhold and deliver issued by the Department of  
26 Healthcare and Family Services (formerly Department of Public

1 Aid), or for any other action taken pursuant to this item,  
2 including individual or mechanical errors, provided the action  
3 does not constitute gross negligence or willful misconduct. A  
4 benefit association shall have no obligation to hold, encumber,  
5 or surrender the accounts or portions thereof as defined in  
6 Section 10-24 of the Illinois Public Aid Code until it has been  
7 served with a subpoena, summons, warrant, court or  
8 administrative order, lien, or levy.

9 (c) This Section does not prohibit the furnishing of  
10 information pursuant to any other statute that by its terms or  
11 by regulations promulgated thereunder requires the disclosure  
12 of financial records other than by subpoena, summons, warrant,  
13 or court order.

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