



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6221

Introduced 2/11/2016, by Rep. David Harris

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 Uniform State Tax Lien Registration Act. Provides that the Secretary of State shall establish and maintain a public database known as the Uniform 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 Secretary of State may impose filing fees and fees to release the lien. Provides that the Secretary of State 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, 2017.

LRB099 19736 HLH 44134 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. UNIFORM STATE TAX LIEN REGISTRATION ACT

5 Section 1. Short title. This Act may be cited as the
6 Uniform State 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 Secretary of State
11 shall 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 "Uniform State Tax Lien Registry" means the
17 public database maintained by the Department wherein tax liens
18 are filed in favor of and enforced by the Department.

19 "Secretary of State" means the Index Department of the
20 Office of the Secretary of State.

21 Section 1-15. Registry established.

22 (a) The Secretary of State shall establish and maintain a
23 public database known as the Uniform State Tax Lien Registry.
24 If any person neglects or refuses to pay any final tax
25 liability, the Department may file in the registry a notice of

1 tax lien within 3 years from the date of the final tax
2 liability.

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

4 (1) the name and last-known address of the debtor;

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

6 (3) the tax lien number assigned to the lien by the
7 Department; and

8 (4) the basis for the tax lien, including, but not
9 limited to, the amount owed by the debtor as of the date of
10 filing in the tax lien registry.

11 Section 1-20. Tax lien perfected.

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

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

1 the tax lien was issued.

2 Section 1-25. Time period of lien.

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

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

13 Section 1-30. Registry format.

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

21 (1) the name of the taxpayer;

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

23 (3) the tax lien number assigned to the lien by the
24 Department;

1 (4) the amount of the taxes, penalties, interest, and
2 fees indicated due on the notice of tax lien received from
3 the Department; and

4 (5) the date and time of filing.

5 (b) Information in the registry shall be searchable by name
6 of debtor or by tax lien number. The Secretary of State shall
7 not charge for access to information in the registry.

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

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

1 for survey, marketing, or solicitation purposes and to recover
2 the cost of such action, including reasonable attorney's fees.

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

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

8 ARTICLE 5. AMENDATORY PROVISIONS

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

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

12 Sec. 1102. Jeopardy Assessments.

13 (a) Jeopardy assessment and lien.

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

1 taxpayer notice of such findings and shall make demand for
2 immediate return and payment of such amount, whereupon such
3 amount shall be deemed assessed and shall become
4 immediately due and payable.

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

23 (b) Termination of taxable year. In the case of a tax for a
24 current taxable year, the Director shall declare the taxable
25 period of the taxpayer immediately terminated and his notice
26 and demand for a return and immediate payment of the tax shall

1 relate to the period declared terminated, including therein
2 income accrued and deductions incurred up to the date of
3 termination if not otherwise properly includible or deductible
4 in respect of such taxable year.

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

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

16 (35 ILCS 5/1103) (from Ch. 120, par. 11-1103)

17 Sec. 1103. Filing and Priority of Liens.

18 (a) Filing in the Uniform State Tax Lien Registry ~~with~~
19 ~~Recorder~~. Nothing in this Article shall be construed to give
20 the Department a preference over the rights of any bona fide
21 purchaser, holder of a security interest, mechanics lienor,
22 mortgagee, or judgment lien creditor arising prior to the
23 filing of a regular notice of lien or a notice of jeopardy
24 assessment lien in the Uniform State Tax Lien Registry ~~office~~
25 ~~of the recorder in the county in which the property subject to~~

1 ~~the lien is located.~~ For purposes of this Section ~~section~~, the
2 term "bona fide," shall not include any mortgage of real or
3 personal property or any other credit transaction that results
4 in the mortgagee or the holder of the security acting as
5 trustee for unsecured creditors of the taxpayer mentioned in
6 the notice of lien who executed such chattel or real property
7 mortgage or the document evidencing such credit transaction.
8 Such lien shall be inferior to the lien of general taxes,
9 special assessments and special taxes heretofore or hereafter
10 levied by any political subdivision of this State.

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

24 (c) Index. The Secretary of State shall maintain a State
25 Tax Lien Index of all tax liens filed in the Uniform State Tax
26 Lien Registry as provided for by the Uniform State Tax Lien

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

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

24 (e) The taxpayer is liable for any the filing fees imposed
25 fee incurred by the Department for filing the lien in the
26 Uniform State Tax Lien Registry and any the filing fees imposed

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

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

6 (35 ILCS 5/1105) (from Ch. 120, par. 11-1105)

7 Sec. 1105. Release of Liens.

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

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

1 ~~imposed to release required to file a release~~ of the lien. The
2 filing fees shall be paid to the Department.

3 (c) Payment. The Department shall also release its jeopardy
4 assessment lien against the taxpayer whenever the tax and
5 penalty covered by such lien, plus any interest which may be
6 due and an amount representing the filing fee to file the lien
7 and the filing fee imposed to release ~~required to file a~~
8 ~~release~~ of that lien, are paid by the taxpayer to the
9 Department in cash or by guaranteed remittance.

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

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

20 (2) to the extent that such lien shall become
21 unenforceable;

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

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

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

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

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

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

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

26 ~~(1) the recorder, in the case of nonregistered~~

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

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

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

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

17 (35 ILCS 120/5a) (from Ch. 120, par. 444a)

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

1 payment of the tax or penalty shown therein to be due,
2 including all such property of such persons acquired after
3 receipt of such assessment or filing of such return. The
4 taxpayer is liable for the filing fee imposed ~~incurred~~ by the
5 Department for filing the lien and the filing fee imposed
6 ~~incurred~~ by the Department to ~~file the~~ release the ~~of that~~
7 lien. The filing fees shall be paid to the Department in
8 addition to payment of the tax, penalty, and interest included
9 in the amount of the lien.

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

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

22 The lien created by the issuance of a final assessment
23 shall terminate unless a notice of lien is filed, as provided
24 in Section 5b hereof, within 3 years from the date all
25 proceedings in court for the review of such final assessment
26 have terminated or the time for the taking thereof has expired

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

19 If the Department finds that a taxpayer is about to depart
20 from the State, or to conceal himself or his property, or to do
21 any other act tending to prejudice or to render wholly or
22 partly ineffectual proceedings to collect such tax unless such
23 proceedings are brought without delay, or if the Department
24 finds that the collection of the amount due from any taxpayer
25 will be jeopardized by delay, the Department shall give the
26 taxpayer notice of such findings and shall make demand for

1 immediate return and payment of such tax, whereupon such tax
2 shall become immediately due and payable. If the taxpayer,
3 within 5 days after such notice (or within such extension of
4 time as the Department may grant), does not comply with such
5 notice or show to the Department that the findings in such
6 notice are erroneous, the Department may file a notice of
7 jeopardy assessment lien in the Uniform State Tax Lien Registry
8 ~~office of the recorder of the county in which any property of~~
9 ~~the taxpayer may be located~~ and shall notify the taxpayer of
10 such filing. Such jeopardy assessment lien shall have the same
11 scope and effect as the statutory lien hereinbefore provided
12 for in this Section.

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

26 On and after July 1, 2013, protests concerning matters that

1 are subject to the jurisdiction of the Illinois Independent Tax
2 Tribunal shall be filed with the Tribunal, and hearings on
3 those matters shall be held before the Tribunal in accordance
4 with the Illinois Independent Tax Tribunal Act of 2012. The
5 Tribunal shall notify the taxpayer of its findings as to
6 whether or not such jeopardy assessment lien will be released.
7 If not, and if the taxpayer is aggrieved by this decision, he
8 may file an action for judicial review of such final
9 determination of the Department in accordance with Section 12
10 of this Act and the Illinois Independent Tax Tribunal Act of
11 2012.

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

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

1 covered by the jeopardy assessment lien against him, or that no
2 jeopardy to the revenue exists, the Department shall release
3 its jeopardy assessment lien to the extent of such finding of
4 nonliability for the tax, or to the extent of such finding of
5 no jeopardy to the revenue.

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

15 Nothing in this Section shall be construed to give the
16 Department a preference over the rights of any bona fide
17 purchaser, holder of a security interest, mechanics
18 lienholder, mortgagee, or judgment lien creditor arising prior
19 to the filing of a regular notice of lien or a notice of
20 jeopardy assessment lien in the Uniform State Tax Lien Registry
21 ~~office of the recorder in the county in which the property~~
22 ~~subject to the lien is located:~~ Provided, however, that the
23 word "bona fide", as used in this Section shall not include any
24 mortgage of real or personal property or any other credit
25 transaction that results in the mortgagee or the holder of the
26 security acting as trustee for unsecured creditors of the

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

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

25 Such regular lien or jeopardy assessment lien shall not be
26 effective against any purchaser with respect to any item in a

1 retailer's stock in trade purchased from the retailer in the
2 usual course of such retailer's business.

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

4 (35 ILCS 120/5b) (from Ch. 120, par. 444b)

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

21 ~~No recorder or registrar of titles of any county shall~~
22 ~~require that the Department pay any costs or fees in connection~~
23 ~~with recordation of any notice or other document filed by the~~
24 ~~Department under this Act at the time such notice or other~~
25 ~~document is presented for recordation. The recorder or~~

1 ~~registrar of each county, in order to receive payment for fees~~
2 ~~or costs incurred by the Department, shall present the~~
3 ~~Department with monthly statements indicating the amount of~~
4 ~~fees and costs incurred by the Department and for which no~~
5 ~~payment has been received.~~

6 A notice of lien may be filed after the issuance of a
7 revised final assessment pursuant to a rehearing or
8 departmental review under Section 4 or Section 5 of this Act.

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

18 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL
19 BE FILED IN THE UNIFORM STATE TAX LIEN REGISTRY ~~WITH THE~~
20 ~~RECORDER OR THE REGISTRAR~~
21 ~~OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.~~

22 When a certificate of complete or partial release of lien
23 issued by the Department is filed in the Uniform State Tax Lien
24 Registry, the Secretary of State ~~presented for filing in the~~
25 ~~office of the recorder or Registrar of Titles where a notice of~~
26 ~~lien or notice of jeopardy assessment lien was filed, the~~

1 ~~recorder, in the case of nonregistered property,~~ shall
2 permanently attach the certificate of release to the notice of
3 lien or notice of jeopardy assessment lien and shall enter the
4 certificate of release and the date in the "State Tax Lien
5 Index" on the line where the notice of lien or notice of
6 jeopardy assessment lien is entered.

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

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

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

15 Sec. 5c. Upon payment by the taxpayer to the Department in
16 cash or by guaranteed remittance of an amount representing the
17 filing fee for the lien and the filing fee for the release of
18 that lien, the Department shall issue a certificate of complete
19 or partial release of the lien and file that complete or
20 partial release of lien in the Uniform State Tax Lien Registry
21 ~~with the recorder of the county where the lien was filed:~~

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

25 (b) to the extent that such lien shall become

1 unenforceable;

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

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

15 (e) to the extent and under the circumstances specified
16 in Section 5a of this Act in the case of jeopardy
17 assessment liens;

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

21 A certificate of complete or partial release of any lien
22 shall be held conclusive that the lien upon the property
23 covered by the certificate is extinguished to the extent
24 indicated by such certificate.

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

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

3 (35 ILCS 520/16) (from Ch. 120, par. 2166)

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

5 (a) Assessment. An assessment for a dealer not possessing
6 valid stamps or other official indicia showing that the tax has
7 been paid shall be considered a jeopardy assessment or
8 collection, as provided by Section 1102 of the Illinois Income
9 Tax Act. The Department shall determine and assess a tax and
10 applicable penalties and interest according to the best
11 judgment and information available to the Department, which
12 amount so fixed by the Department shall be prima facie correct
13 and shall be prima facie evidence of the correctness of the
14 amount of tax due, as shown in such determination. When,
15 according to the best judgment and information available to the
16 Department with regard to all real and personal property and
17 rights to property of the dealer, there is no reasonable
18 expectation of collection of the amount of tax and penalty to
19 be assessed, the Department may issue an assessment under this
20 Section for the amount of tax without penalty.

21 (b) Filing of Lien. Upon issuance of a jeopardy assessment
22 as provided by subsection (a) of this Section, the Department
23 may file a notice of jeopardy assessment lien in the Uniform
24 Tax Lien Registry ~~office of the recorder of the county in which~~
25 ~~any property of the taxpayer may be located~~ and shall notify

1 the taxpayer of such filing.

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, he may protest within 20 days
5 after being notified by the Department of the filing of such
6 jeopardy assessment lien and request a hearing, whereupon the
7 Department shall hold a hearing in conformity with the
8 provisions of Section 908 of the Illinois Income Tax Act and,
9 pursuant thereto, shall notify the taxpayer of its decision as
10 to whether or not such jeopardy assessment lien will be
11 released.

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

1 of these opportunities or not. If the court is satisfied that
2 the Department complied with the jurisdictional requirements
3 of the Act in arriving at its final assessment or its revised
4 final assessment and that the taxpayer had his opportunity for
5 an administrative hearing and for judicial review, whether he
6 availed himself of either or both of these opportunities or
7 not, the court shall render judgment in favor of the Department
8 and against the taxpayer for the amount shown to be due by the
9 final assessment or the revised final assessment, plus any
10 interest which may be due, and such judgment shall be entered
11 in the judgment docket of the court. Such judgment shall bear
12 the same rate of interest and shall have the same effect as
13 other judgments. The judgment may be enforced, and all laws
14 applicable to sales for the enforcement of a judgment shall be
15 applicable to sales made under such judgments. The Department
16 shall file the certified copy of its assessment, as herein
17 provided, with the Circuit Court within 2 years after such
18 assessment becomes final except when the taxpayer consents in
19 writing to an extension of such filing period, and except that
20 the time limitation period on the Department's right to file
21 the certified copy of its assessment with the Circuit Court
22 shall not run during any period of time in which the order of
23 any court has the effect of enjoining or restraining the
24 Department from filing such certified copy of its assessment
25 with the Circuit Court.

26 If, when the cause of action for a proceeding in court

1 accrues against a person, he or she is out of the State, the
2 action may be commenced within the times herein limited, after
3 his or her coming into or returning to the State; and if, after
4 the cause of action accrues, he or she departs from and remains
5 out of the State, the time of his or her absence from the
6 State, the time of his or her absence is no part of the time
7 limited for the commencement of the action; but the foregoing
8 provisions concerning absence from the State shall not apply to
9 any case in which, at the time the cause of action accrues, the
10 party against whom the cause of action accrues is not a
11 resident of this State. The time within which a court action is
12 to be commenced by the Department hereunder shall not run from
13 the date the taxpayer files a petition in bankruptcy under the
14 Federal Bankruptcy Act until 30 days after notice of
15 termination or expiration of the automatic stay imposed by the
16 Federal Bankruptcy Act.

17 No claim shall be filed against the estate of any deceased
18 person or any person under legal disability for any tax or
19 penalty or part of either, or interest, except in the manner
20 prescribed and within the time limited by the Probate Act of
21 1975, as amended.

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

25 In addition to any penalty provided for in this Act, any
26 amount of tax which is not paid when due shall bear interest at

1 the rate determined in accordance with the Uniform Penalty and
2 Interest Act, per month or fraction thereof from the date when
3 such tax becomes past due until such tax is paid or a judgment
4 therefor is obtained by the Department. If the time for making
5 or completing an audit of a taxpayer's books and records is
6 extended with the taxpayer's consent, at the request of and for
7 the convenience of the Department, beyond the date on which the
8 statute of limitations upon the issuance of a notice of tax
9 liability by the Department otherwise run, no interest shall
10 accrue during the period of such extension. Interest shall be
11 collected in the same manner and as part of the tax.

12 If the Department determines that an amount of tax or
13 penalty or interest was incorrectly assessed, whether as the
14 result of a mistake of fact or an error of law, the Department
15 shall waive the amount of tax or penalty or interest that
16 accrued due to the incorrect assessment.

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

18 (35 ILCS 520/17) (from Ch. 120, par. 2167)

19 Sec. 17. Filing and Priority of Liens. (a) Filing in the
20 Uniform Tax Lien Registry ~~with Recorder~~. Nothing in this Act
21 shall be construed to give the Department a preference over the
22 rights of any bona fide purchaser, holder of a security
23 interest, mechanics lienholder, mortgagee, or judgment lien
24 creditor arising prior to the filing of a regular notice of
25 lien or a notice of jeopardy assessment lien in the Uniform Tax

1 ~~Lien Registry office of the recorder in the county in which the~~
2 ~~property subject to the lien is located.~~ For purposes of this
3 section, the term "bona fide," shall not include any mortgage
4 of real or personal property or any other credit transaction
5 that results in the mortgagee or the holder of the security
6 acting as trustee for unsecured creditors of the taxpayer
7 mentioned in the notice of lien who executed such chattel or
8 real property mortgage or the document evidencing such credit
9 transaction. Such lien shall be inferior to the lien of general
10 taxes, special assessments and special taxes heretofore or
11 hereafter levied by any political subdivision of this State.

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

24 (c) (Blank). ~~No recorder or registrar of titles of any~~
25 ~~county shall require that the Department pay any costs or fees~~
26 ~~in connection with recordation of any notice or other document~~

1 ~~filed by the Department under this Act at the time such notice~~
2 ~~or other document is presented for recordation.~~

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

4 (35 ILCS 520/19) (from Ch. 120, par. 2169)

5 Sec. 19. Release of Liens.

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

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

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

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

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

6 (2) To the extent that such lien shall become
7 unenforceable;

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

13 (4) To the extent and under the circumstances specified
14 in this Section. A certificate of complete or partial
15 release of any lien shall be held conclusive that the lien
16 upon the property covered by the certificate is
17 extinguished to the extent indicated by such certificate.

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

21 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL
22 BE FILED IN THE UNIFORM STATE TAX LIEN REGISTRY ~~WITH THE~~
23 ~~RECORDER OR THE REGISTRAR~~
24 ~~OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.~~

25 (e) Filing. When a certificate of complete or partial
26 release of lien issued by the Department is filed in the

1 ~~Uniform State Tax Lien Registry, the Department presented for~~
2 ~~filing in the office of the recorder or Registrar of Titles~~
3 ~~where a notice of lien or notice of jeopardy assessment lien~~
4 ~~was filed:~~

5 ~~(1) The recorder, in the case of nonregistered~~
6 ~~property,~~ shall permanently attach the certificate of
7 release to the notice of lien or notice of jeopardy
8 assessment lien and shall enter the certificate of release
9 and the date in the "State Tax Lien Index" on the line
10 where the notice of lien or notice of jeopardy assessment
11 lien is entered. ~~and~~

12 ~~(2) In the case of registered property, the Registrar~~
13 ~~of Titles shall file and enter upon each folium of the~~
14 ~~register of titles affected thereby a memorial of the~~
15 ~~certificate of release which memorial when so entered shall~~
16 ~~act as a release pro tanto of any memorial of such notice~~
17 ~~of lien or notice of jeopardy assessment lien previously~~
18 ~~filed and registered.~~

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

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

22 (65 ILCS 5/8-3-15) (from Ch. 24, par. 8-3-15)

23 Sec. 8-3-15. The corporate authorities of each
24 municipality shall have all powers necessary to enforce the

1 collection of any tax imposed and collected by such
2 municipality, whether such tax was imposed pursuant to its home
3 rule powers or statutory authorization, including but not
4 limited to subpoena power and the power to create and enforce
5 liens. No such lien shall affect the rights of bona fide
6 purchasers, mortgagees, judgment creditors or other
7 lienholders who acquire their interests in such property prior
8 to the time a notice of such lien is placed on record in the
9 office of the recorder or the registrar of titles of the county
10 in which the property is located. However, nothing in this
11 Section shall permit a municipality to place a lien upon
12 property not located or found within its corporate boundaries.
13 A municipality creating a lien may provide that the procedures
14 for its notice and enforcement shall be the same as that
15 provided in the Retailers' Occupation Tax Act, as that Act
16 existed prior to the adoption of the Uniform State Tax Lien
17 Registration Act ~~now or hereafter amended~~, for State tax liens,
18 and any recorder or registrar of titles with whom a notice of
19 such lien is filed shall treat such lien as a State tax lien
20 for recording purposes.

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

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

24 (215 ILCS 155/22) (from Ch. 73, par. 1422)

1 Sec. 22. Tax indemnity; notice. A corporation authorized to
2 do business under this Act shall notify the Director of Revenue
3 of the State of Illinois, by notice directed to his office in
4 the City of Chicago, of each trust account or similar account
5 established which relates to title exceptions due to a judgment
6 lien or any other lien arising under any tax Act administered
7 by the Illinois Department of Revenue, when notice of such lien
8 has been filed with the registrar of titles or recorder or in
9 the Uniform State Tax Lien Registry, as the case may be, in the
10 manner prescribed by law. Such notice shall contain the name,
11 address, and tax identification number of the debtor, the
12 permanent real estate index numbers, if any, and the address
13 and legal description of the property, the type of lien claimed
14 by the Department and identification of any trust fund or
15 similar account held by such corporation or any agent thereof
16 relating to such lien. Any trust fund or similar account
17 established by such corporation or agent relating to any such
18 lien shall include provisions requiring such corporation or
19 agent to apply such fund in satisfaction or release of such
20 lien upon written demand therefor by the Department of Revenue.
21 (Source: P.A. 94-893, eff. 6-20-06.)

22 ARTICLE 99. EFFECTIVE DATE

23 Section 99-999. Effective date. This Act takes effect
24 January 1, 2017.