

1 AN ACT regarding taxes.

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 changing  
6 Section 2505-275 as follows:

7 (20 ILCS 2505/2505-275) (was 20 ILCS 2505/39e)

8 Sec. 2505-275. Tax overpayments. In the case of  
9 overpayment of any tax liability arising from an Act  
10 administered by the Department, the Department may credit the  
11 amount of the overpayment and any interest thereon against  
12 any final tax liability arising under that or any other Act  
13 administered by the Department. The Department may enter into  
14 agreements with the Secretary of the Treasury of the United  
15 States (or his or her delegate) to offset all or part of an  
16 overpayment of such a tax liability against any liability  
17 arising from a tax imposed under Title 26 of the United  
18 States Code. The Department may collect a fee from the  
19 Secretary of the Treasury of the United States (or his or her  
20 delegate) to cover the full cost of offsets taken, to the  
21 extent allowed by federal law, or, if not allowed by federal  
22 law, from the taxpayer by offset of the overpayment.

23 (Source: P.A. 91-239, eff. 1-1-00; 92-492, eff. 1-1-02.)

24 Section 10. The Illinois Income Tax Act is amended by  
25 changing Sections 601, 911.2, 1102, 1103, and 1105 and by  
26 adding Section 911.3 as follows:

27 (35 ILCS 5/601) (from Ch. 120, par. 6-601)

28 Sec. 601. Payment on Due Date of Return.

29 (a) In general. Every taxpayer required to file a return

1 under this Act shall, without assessment, notice or demand,  
2 pay any tax due thereon to the Department, at the place fixed  
3 for filing, on or before the date fixed for filing such  
4 return (determined without regard to any extension of time  
5 for filing the return) pursuant to regulations prescribed by  
6 the Department. If, however, the due date for payment of a  
7 taxpayer's federal income tax liability for a tax year (as  
8 provided in the Internal Revenue Code or by Treasury  
9 regulation, or as extended by the Internal Revenue Service)  
10 is later than the date fixed for filing the taxpayer's  
11 Illinois income tax return for that tax year, the Department  
12 may, by rule, prescribe a due date for payment that is not  
13 later than the due date for payment of the taxpayer's federal  
14 income tax liability. For purposes of the Illinois  
15 Administrative Procedure Act, the adoption of rules to  
16 prescribe a later due date for payment shall be deemed an  
17 emergency and necessary for the public interest, safety, and  
18 welfare.

19 (b) Amount payable. In making payment as provided in  
20 this section there shall remain payable only the balance of  
21 such tax remaining due after giving effect to the following:

22 (1) Withheld tax. Any amount withheld during any  
23 calendar year pursuant to Article 7 from compensation paid to  
24 a taxpayer shall be deemed to have been paid on account of  
25 any tax imposed by subsections 201(a) and (b) of this Act on  
26 such taxpayer for his taxable year beginning in such calendar  
27 year. If more than one taxable year begins in a calendar  
28 year, such amount shall be deemed to have been paid on  
29 account of such tax for the last taxable year so beginning.

30 (2) Estimated and tentative tax payments. Any amount of  
31 estimated tax paid by a taxpayer pursuant to Article 8 for a  
32 taxable year shall be deemed to have been paid on account of  
33 the tax imposed by this Act for such taxable year.

34 (3) Foreign tax. The aggregate amount of tax which is

1 imposed upon or measured by income and which is paid by a  
2 resident for a taxable year to another state or states on  
3 income which is also subject to the tax imposed by  
4 subsections 201(a) and (b) of this Act shall be credited  
5 against the tax imposed by subsections 201(a) and (b)  
6 otherwise due under this Act for such taxable year. The  
7 aggregate credit provided under this paragraph shall not  
8 exceed that amount which bears the same ratio to the tax  
9 imposed by subsections 201(a) and (b) otherwise due under  
10 this Act as the amount of the taxpayer's base income subject  
11 to tax both by such other state or states and by this State  
12 bears to his total base income subject to tax by this State  
13 for the taxable year. For purposes of this subsection, no  
14 compensation received by a resident which qualifies as  
15 compensation paid in this State as determined under Section  
16 304(a)(2)(B) shall be considered income subject to tax by  
17 another state or states. The credit provided by this  
18 paragraph shall not be allowed if any creditable tax was  
19 deducted in determining base income for the taxable year. Any  
20 person claiming such credit shall attach a statement in  
21 support thereof and shall notify the Director of any refund  
22 or reductions in the amount of tax claimed as a credit  
23 hereunder all in such manner and at such time as the  
24 Department shall by regulations prescribe.

25 (4) Accumulation and capital gain distributions. If the  
26 net income of a taxpayer includes amounts included in his  
27 base income by reason of Section 668 or 669 of the Internal  
28 Revenue Code (relating to accumulation and capital gain  
29 distributions by a trust, respectively), the tax imposed on  
30 such taxpayer by this Act shall be credited with his pro rata  
31 portion of the taxes imposed by this Act on such trust for  
32 preceding taxable years which would not have been payable for  
33 such preceding years if the trust had in fact made  
34 distributions to its beneficiaries at the times and in the

1 amounts specified in Sections 666 and 669 of the Internal  
2 Revenue Code. The credit provided by this paragraph shall not  
3 reduce the tax otherwise due from the taxpayer to an amount  
4 less than that which would be due if the amounts included by  
5 reason of Sections 668 and 669 of the Internal Revenue Code  
6 were excluded from his base income.

7 (c) Cross reference. For application against tax due of  
8 overpayments of tax for a prior year, see Section 909.

9 (Source: P.A. 85-731.)

10 (35 ILCS 5/911.2)

11 Sec. 911.2. Refunds withheld; tax claims of other  
12 states.

13 (a) Definitions. In this Section the following terms  
14 have the meanings indicated.

15 "Claimant state" means any state or the District of  
16 Columbia that requests the withholding of a refund pursuant  
17 to this Section and that extends a like comity for the  
18 collection of taxes owed to this State.

19 "Income tax" means any amount of income tax imposed on  
20 taxpayers under the laws of the State of Illinois or the  
21 claimant state, including additions to tax for penalties and  
22 interest.

23 "Refund" means a refund of overpaid income taxes imposed  
24 by the State of Illinois or the claimant state.

25 "Tax officer" means a unit or official of the claimant  
26 state, or the duly authorized agent of that unit or official,  
27 charged with the imposition, assessment, or collection of  
28 state income taxes.

29 "Taxpayer" means any individual person identified by a  
30 claimant state under this Section as owing taxes to that  
31 claimant state, and in the case of a refund arising from the  
32 filing of a joint return, the taxpayer's spouse.

33 (b) In general. Except as provided in subsection (c) of

1 this Section, a tax officer may:

2 (1) certify to the Director the existence of a  
3 taxpayer's delinquent income tax liability; and

4 (2) request the Director to withhold any refund to  
5 which the taxpayer is entitled.

6 (c) Comity. A tax officer may not certify or request  
7 the Director to withhold a refund unless the laws of the  
8 claimant state:

9 (1) allow the Director to certify an income tax  
10 liability;

11 (2) allow the Director to request the tax officer  
12 to withhold the taxpayer's tax refund; and

13 (3) provide for the payment of the refund to the  
14 State of Illinois.

15 (d) Certification. A certification by a tax officer to  
16 the Director shall include:

17 (1) the full name and address of the taxpayer and  
18 any other names known to be used by the taxpayer;

19 (2) the social security number or federal tax  
20 identification number of the taxpayer;

21 (3) the amount of the income tax liability; and

22 (4) a statement that all administrative and  
23 judicial remedies and appeals have been exhausted or have  
24 lapsed and that the assessment of tax, interest, and  
25 penalty has become final.

26 (e) Notification. As to any taxpayer due a refund, the  
27 Director shall:

28 (1) notify the taxpayer that a claimant state has  
29 provided certification of the existence of an income tax  
30 liability;

31 (2) inform the taxpayer of the tax liability  
32 certified, including a detailed statement for each  
33 taxable year showing tax, interest, and penalty;

34 (3) inform the taxpayer that failure to file a

1 protest in accordance with subsection (f) of this Section  
2 shall constitute a waiver of any demand against this  
3 State for the amount certified;

4 (3.5) inform the taxpayer that the refund has been  
5 withheld and that the tax liability has been paid to the  
6 claimant state as provided in subsection (i) of this  
7 Section and will result in payment to the claimant state  
8 as provided in subsection (i) of this Section;

9 (4) provide the taxpayer with notice of an  
10 opportunity to request a hearing to challenge the  
11 certification; and

12 (5) inform the taxpayer that the hearing may be  
13 requested (i) pursuant to Section 910 of this Act, or  
14 (ii) with the tax officer, in accordance with the laws of  
15 the claimant state.

16 (f) Protest of withholding. A taxpayer may protest the  
17 withholding of a refund pursuant to Section 910 of this Act  
18 (except that the protest shall be filed within 30 days after  
19 the date of the Director's notice of certification pursuant  
20 to subsection (e) of this Section). ~~If a taxpayer files a~~  
21 ~~timely protest, the Director shall:~~

22 ~~(1) suspend the proposed withholding and impound~~  
23 ~~the claimed amount of the refund;~~

24 ~~(2) pay to the taxpayer the unclaimed amount of the~~  
25 ~~refund, if any;~~

26 ~~(3) send a copy of the protest to the claimant~~  
27 ~~state for determination of the protest on its merits in~~  
28 ~~accordance with the laws of that state; and~~

29 ~~(4) pay over to the taxpayer the impounded amount~~  
30 ~~if the claimant state shall fail, within 45 days after~~  
31 ~~the date of the protest, to re-certify to the Director~~  
32 ~~(i) that the claimant state has reviewed the issues~~  
33 ~~raised by taxpayer, (ii) that all administrative and~~  
34 ~~judicial remedies provided under the laws of that state~~

1           ~~have--been--exhausted,--and--(iii)--the--amount--of--the--income~~  
2           ~~tax--liability--finally--determined--to--be--due.~~

3           (g) Certification as prima facie evidence. If the  
4 taxpayer requests a hearing pursuant to Section 910 of this  
5 Act, the certification of the tax officer shall be prima  
6 facie evidence of the correctness of the taxpayer's  
7 delinquent income tax liability to the certifying state.

8           (h) Rights of spouses to refunds from joint returns. If  
9 a certification is based upon the tax debt of only one  
10 taxpayer and if the refund is based upon a joint personal  
11 income tax return, the nondebtor spouse shall have the right  
12 to:

13                   (1) notification, as provided in subsection (e) of  
14 this Section;

15                   (2) protest, as to the withholding of such spouse's  
16 share of the refund, as provided in subsection (f) of  
17 this Section; and

18                   (3) payment of his or her share of the refund,  
19 provided the amount of the overpayment refunded to the  
20 spouse shall not exceed the amount of the joint  
21 overpayment.

22           (i) Withholding and payment of refund. ~~Subject--to--the~~  
23 ~~taxpayer's--rights--of--notice--and--protest,~~ Upon receipt of a  
24 request for withholding in accordance with subsection (b) of  
25 this Section, the Director shall:

26                   (1) withhold any refund that is certified by the  
27 tax officer;

28                   (2) pay to the claimant state the entire refund or  
29 the amount certified, whichever is less;

30                   (3) pay any refund in excess of the amount  
31 certified to the taxpayer; and

32                   (4) if a refund is less than the amount certified,  
33 withhold amounts from subsequent refunds due the  
34 taxpayer, if the laws of the claimant state provide that

1 the claimant state shall withhold subsequent refunds of  
2 taxpayers certified to that state by the Director.

3 (j) Determination that withholding cannot be made.  
4 After receiving a certification from a tax officer, the  
5 Director shall notify the claimant state if the Director  
6 determines that a withholding cannot be made.

7 (k) Director's authority. The Director shall have the  
8 authority to enter into agreements with the tax officers of  
9 claimant state relating to:

10 (1) procedures and methods to be employed by a  
11 claimant state with respect to the operation of this  
12 Section;

13 (2) safeguards against the disclosure or  
14 inappropriate use of any information obtained or  
15 maintained pursuant to this Section that identifies,  
16 directly or indirectly, a particular taxpayer;

17 (3) a minimum tax debt, amounts below which, in  
18 light of administrative expenses and efficiency, shall,  
19 in the Director's discretion, not be subject to the  
20 withholding procedures set forth in this Section.

21 (l) Remedy not exclusive. The collection procedures  
22 prescribed by this Section are in addition to, and not in  
23 substitution for, any other remedy available by law.

24 (Source: P.A. 92-492, eff. 1-1-02.)

25 (35 ILCS 5/911.3 new)

26 Sec. 911.3. Refunds withheld; order of honoring requests.  
27 The Department shall honor refund withholding requests in the  
28 following order:

29 (1) a refund withholding request to collect an  
30 unpaid State tax;

31 (2) a refund withholding request to collect  
32 certified past due child support amounts under Section  
33 2505-650 of the Department of Revenue Law of the Civil



1 Administrative Code of Illinois;

2 (3) a refund withholding request to collect any  
3 debt owed to the State;

4 (4) a refund withholding request made by the  
5 Secretary of the Treasury of the United States, or his or  
6 her delegate, to collect any tax liability arising from  
7 Title 26 of the United States Code; and

8 (5) a refund withholding request pursuant to  
9 Section 911.2 of this Act.

10 (35 ILCS 5/1102) (from Ch. 120, par. 11-1102)

11 Sec. 1102. Jeopardy Assessments.

12 (a) Jeopardy assessment and lien.

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

26 (2) Filing of lien. If the taxpayer, within 5 days  
27 after such notice (or within such extension of time as  
28 the Department may grant), does not comply with such  
29 notice or show to the Department that the findings in  
30 such notice are erroneous, the Department may file a  
31 notice of jeopardy assessment lien in the office of the  
32 recorder of the county in which any property of the  
33 taxpayer may be located and shall notify the taxpayer of

1           such filing. Such jeopardy assessment lien shall have the  
2           same scope and effect as a statutory lien under this Act.  
3           The taxpayer is liable for the filing fee incurred by the  
4           Department for filing the lien and the filing fee  
5           incurred by the Department to file the release of that  
6           lien. The filing fees shall be paid to the Department in  
7           addition to payment of the tax, penalty, and interest  
8           included in the amount of the lien.

9           (b) Termination of taxable year. In the case of a tax  
10          for a current taxable year, the Director shall declare the  
11          taxable period of the taxpayer immediately terminated and his  
12          notice and demand for a return and immediate payment of the  
13          tax shall relate to the period declared terminated, including  
14          therein income accrued and deductions incurred up to the date  
15          of termination if not otherwise properly includible or  
16          deductible in respect of such taxable year.

17          (c) Protest. If the taxpayer believes that he does not  
18          owe some or all of the amount for which the jeopardy  
19          assessment lien against him has been filed, or that no  
20          jeopardy to the revenue in fact exists, he may protest within  
21          20 days after being notified by the Department of the filing  
22          of such jeopardy assessment lien and request a hearing,  
23          whereupon the Department shall hold a hearing in conformity  
24          with the provisions of section 908 and, pursuant thereto,  
25          shall notify the taxpayer of its decision as to whether or  
26          not such jeopardy assessment lien will be released.

27          (Source: P.A. 83-358.)

28          (35 ILCS 5/1103) (from Ch. 120, par. 11-1103)

29          Sec. 1103. Filing and Priority of Liens. (a) Filing with  
30          Recorder. Nothing in this Article shall be construed to give  
31          the Department a preference over the rights of any bona fide  
32          purchaser, holder of a security interest, mechanics lienor,  
33          mortgagee, or judgment lien creditor arising prior to the

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

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

26 (c) Index. The recorder of each county shall procure a  
27 file labeled "State Tax Lien Notices" and an index book  
28 labeled "State Tax Lien Index." When notice of any lien or  
29 jeopardy assessment lien is presented to him for filing, he  
30 shall file it in numerical order in the file and shall enter  
31 it alphabetically in the index. The entry shall show the name  
32 and last known address of the person named in the notice, the  
33 serial number of the notice, the date and hour of filing,  
34 whether it is a regular lien or a jeopardy assessment lien,

1 and the amount of tax and penalty due and unpaid, plus the  
2 amount of interest due at the time when the notice of lien or  
3 jeopardy assessment is filed.

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

15 (e) The taxpayer is liable for the filing fee incurred  
16 by the Department for filing the lien and the filing fee  
17 incurred by the Department to file the release of that lien.  
18 The filing fees shall be paid to the Department in addition  
19 to payment of the tax, penalty, and interest included in the  
20 amount of the lien.

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

22 (35 ILCS 5/1105) (from Ch. 120, par. 11-1105)  
23 Sec. 1105. Release of Liens.

24 (a) In general. Upon payment by the taxpayer to the  
25 Department in cash or by guaranteed remittance of an amount  
26 representing the filing fees and charges for the lien and the  
27 filing fees and charges for the release of that lien, the  
28 Department shall release all or any portion of the property  
29 subject to any lien provided for in this Act and file that  
30 complete or partial release of lien with the recorder of the  
31 county where that lien was filed if it determines that the  
32 release will not endanger or jeopardize the collection of the  
33 amount secured thereby.

1           (b) Judicial determination. If on judicial review the  
2 final judgment of the court is that the taxpayer does not owe  
3 some or all of the amount secured by the lien against him, or  
4 that no jeopardy to the revenue exists, the Department shall  
5 release its lien to the extent of such finding of  
6 nonliability, or to the extent of such finding of no jeopardy  
7 to the revenue. The taxpayer shall, however, be liable for  
8 the filing fee paid by the Department to file the lien and  
9 the filing fee required to file a release of the lien. The  
10 filing fees shall be paid to the Department.

11           (c) Payment. The Department shall also release its  
12 jeopardy assessment lien against the taxpayer whenever the  
13 tax and penalty covered by such lien, plus any interest which  
14 may be due and an amount representing the filing fee to file  
15 the lien and the filing fee required to file a release of  
16 that lien, are paid by the taxpayer to the Department in cash  
17 or by guaranteed remittance.

18           (d) Certificate of release. The Department shall issue a  
19 certificate of complete or partial release of the lien upon  
20 payment by the taxpayer to the Department in cash or by  
21 guaranteed remittance of an amount representing the filing  
22 fee paid by the Department to file the lien and the filing  
23 fee required to file the release of that lien:

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

27           (2) To the extent that such lien shall become  
28 unenforceable;

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

34           (4) To the extent that there is furnished to the

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

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

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

15 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL  
16 BE FILED WITH THE 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 presented for  
20 filing in the office of the recorder or Registrar of Titles  
21 where a notice of lien or notice of jeopardy assessment lien  
22 was filed:

23 (1) The recorder, in the case of nonregistered property,  
24 shall permanently attach the certificate of release to the  
25 notice of lien or notice of jeopardy assessment lien and  
26 shall enter the certificate of release and the date in the  
27 "State Tax Lien Index" on the line where the notice of lien  
28 or notice of jeopardy assessment lien is entered; and

29 (2) In the case of registered property, the Registrar of  
30 Titles shall file and enter upon each folium of the register  
31 of titles affected thereby a memorial of the certificate of  
32 release which memorial when so entered shall act as a release  
33 pro tanto of any memorial of such notice of lien or notice of  
34 jeopardy assessment lien previously filed and registered.

1 (Source: P.A. 85-731.)

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

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

5 Sec. 5a. The Department shall have a lien for the tax  
6 herein imposed or any portion thereof, or for any penalty  
7 provided for in this Act, or for any amount of interest which  
8 may be due as provided for in Section 5 of this Act, upon all  
9 the real and personal property of any person to whom a final  
10 assessment or revised final assessment has been issued as  
11 provided in this Act, or whenever a return is filed without  
12 payment of the tax or penalty shown therein to be due,  
13 including all such property of such persons acquired after  
14 receipt of such assessment or filing of such return. The  
15 taxpayer is liable for the filing fee incurred by the  
16 Department for filing the lien and the filing fee incurred by  
17 the Department to file the release of that lien. The filing  
18 fees shall be paid to the Department in addition to payment  
19 of the tax, penalty, and interest included in the amount of  
20 the lien.

21 However, where the lien arises because of the issuance of  
22 a final assessment or revised final assessment by the  
23 Department, such lien shall not attach and the notice  
24 hereinafter referred to in this Section shall not be filed  
25 until all proceedings in court for review of such final  
26 assessment or revised final assessment have terminated or the  
27 time for the taking thereof has expired without such  
28 proceedings being instituted.

29 Upon the granting of a rehearing or departmental review  
30 pursuant to Section 4 or Section 5 of this Act after a lien  
31 has attached, such lien shall remain in full force except to  
32 the extent to which the final assessment may be reduced by a

1 revised final assessment following such rehearing or review.

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

23 If the Department finds that a taxpayer is about to  
24 depart from the State, or to conceal himself or his property,  
25 or to do any other act tending to prejudice or to render  
26 wholly or partly ineffectual proceedings to collect such tax  
27 unless such proceedings are brought without delay, or if the  
28 Department finds that the collection of the amount due from  
29 any taxpayer will be jeopardized by delay, the Department  
30 shall give the taxpayer notice of such findings and shall  
31 make demand for immediate return and payment of such tax,  
32 whereupon such tax shall become immediately due and payable.  
33 If the taxpayer, within 5 days after such notice (or within  
34 such extension of time as the Department may grant), does not



1     comply with such notice or show to the Department that the  
2     findings in such notice are erroneous, the Department may  
3     file a notice of jeopardy assessment lien in the office of  
4     the recorder of the county in which any property of the  
5     taxpayer may be located and shall notify the taxpayer of such  
6     filing. Such jeopardy assessment lien shall have the same  
7     scope and effect as the statutory lien hereinbefore provided  
8     for in this Section.

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

22             If, pursuant to such hearing (or after an independent  
23     determination of the facts by the Department without a  
24     hearing), the Department determines that some or all of the  
25     tax covered by the jeopardy assessment lien is not owed by  
26     the taxpayer, or that no jeopardy to the revenue exists, or  
27     if on judicial review the final judgment of the court is that  
28     the taxpayer does not owe some or all of the tax covered by  
29     the jeopardy assessment lien against him, or that no jeopardy  
30     to the revenue exists, the Department shall release its  
31     jeopardy assessment lien to the extent of such finding of  
32     nonliability for the tax, or to the extent of such finding of  
33     no jeopardy to the revenue.

34             The Department shall also release its jeopardy assessment

1    lien against the taxpayer whenever the tax and penalty  
2    covered by such lien, plus any interest which may be due, are  
3    paid and the taxpayer has paid the Department in cash or by  
4    guaranteed remittance an amount representing the filing fee  
5    for the lien and the filing fee for the release of that lien.  
6    The Department shall file that release of lien with the  
7    recorder of the county where that lien was filed.

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

26           In case title to land to be affected by the notice of  
27   lien or notice of jeopardy assessment lien is registered  
28   under the provisions of "An Act concerning land titles",  
29   approved May 1, 1897, as amended, such notice shall be filed  
30   in the office of the Registrar of Titles of the county within  
31   which the property subject to the lien is situated and shall  
32   be entered upon the register of titles as a memorial or  
33   charge upon each folium of the register of titles affected by  
34   such notice, and the Department shall not have a preference

1 over the rights of any bona fide purchaser, mortgagee,  
2 judgment creditor or other lien holder arising prior to the  
3 registration of such notice: Provided, however, that the word  
4 "bona fide" shall not include any mortgage of real or  
5 personal property or any other credit transaction that  
6 results in the mortgagee or the holder of the security acting  
7 as trustee for unsecured creditors of the taxpayer mentioned  
8 in the notice of lien who executed such chattel or real  
9 property mortgage or the document evidencing such credit  
10 transaction.

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

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

16 (35 ILCS 120/5b) (from Ch. 120, par. 444b)

17 Sec. 5b. The recorder of each county shall procure a  
18 file labeled "State Tax Lien Notices" and an index book  
19 labeled "State Tax Lien Index". When notice of any lien or  
20 jeopardy assessment lien is presented to him for filing, he  
21 shall file it in numerical order in the file and shall enter  
22 it alphabetically in the index. The entry shall show the name  
23 and last known business address of the person named in the  
24 notice, the serial number of the notice, the date and hour of  
25 filing, whether it is a regular lien or a jeopardy assessment  
26 lien, and the amount of tax and penalty due and unpaid, plus  
27 the amount of interest due under Section 5 of this Act at the  
28 time when the notice of lien or jeopardy assessment lien is  
29 filed.

30 No recorder or registrar of titles of any county shall  
31 require that the Department pay any costs or fees in  
32 connection with recordation of any notice or other document  
33 filed by the Department under this Act at the time such

1 notice or other document is presented for recordation. The  
2 recorder or registrar of each county, in order to receive  
3 payment for fees or costs incurred by the Department, shall  
4 present the Department with monthly statements indicating the  
5 amount of fees and costs incurred by the Department and for  
6 which no payment has been received.

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

10 When the lien obtained pursuant to this Act has been  
11 satisfied and the taxpayer has paid the Department in cash or  
12 by guaranteed remittance an amount representing the filing  
13 fee for the lien and the filing fee for the release of that  
14 lien, the Department shall issue a release of lien and file  
15 that release of lien with the recorder of the county where  
16 that lien was filed. The to-the-person,-or-his-agent,-against  
17 whom-the-lien-was-obtained-and-such release of lien shall  
18 contain in legible letters a statement as follows:

19 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL  
20 BE FILED WITH THE 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 presented for filing in the  
24 office of the recorder or Registrar of Titles where a notice  
25 of lien or notice of jeopardy assessment lien was filed, the  
26 recorder, in the case of nonregistered property, shall  
27 permanently attach the certificate of release to the notice  
28 of lien or notice of jeopardy assessment lien and shall enter  
29 the certificate of release and the date in the "State Tax  
30 Lien Index" on the line where the notice of lien or notice of  
31 jeopardy assessment lien is entered.

32 In the case of registered property, the Registrar of  
33 Titles shall file and enter upon each folium of the register  
34 of titles affected thereby a memorial of the certificate of

1 release which memorial when so entered shall act as a release  
2 pro tanto of any memorial of such notice of lien or notice of  
3 jeopardy assessment lien previously filed and registered.

4 (Source: P.A. 84-221.)

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

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

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

16 (b) To the extent that such lien shall become  
17 unenforceable;

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

23 (d) To the extent that there is furnished to the  
24 Department on a form to be approved and with a surety or  
25 sureties satisfactory to the Department a bond that is  
26 conditioned upon the payment of the amount of such lien,  
27 together with any interest which may become due under Section  
28 5 of this Act after the notice of lien is filed, but before  
29 the amount thereof is fully paid;

30 (e) To the extent and under the circumstances specified  
31 in Section 5a of this Act in the case of jeopardy assessment  
32 liens;

33 (f) To the extent to which an assessment is reduced

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

3 A certificate of complete or partial release of any lien  
4 shall be held conclusive that the lien upon the property  
5 covered by the certificate is extinguished to the extent  
6 indicated by such certificate.

7 (Source: Laws 1965, p. 531.)

8 Section 99. Effective date. This Act takes effect upon  
9 becoming law, except that the changes to Sections 1102, 1103,  
10 and 1105 of the Illinois Income Tax Act and Sections 5a, 5b,  
11 and 5c of the Retailer's Occupation Tax Act take effect on  
12 January 1, 2003.