

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

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

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

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

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

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

29 (1) Withheld tax. Any amount withheld during any
30 calendar year pursuant to Article 7 from compensation paid to
31 a taxpayer shall be deemed to have been paid on account of
32 any tax imposed by subsections 201(a) and (b) of this Act on

1 such taxpayer for his taxable year beginning in such calendar
2 year. If more than one taxable year begins in a calendar
3 year, such amount shall be deemed to have been paid on
4 account of such tax for the last taxable year so beginning.

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

9 (3) Foreign tax. The aggregate amount of tax which is
10 imposed upon or measured by income and which is paid by a
11 resident for a taxable year to another state or states on
12 income which is also subject to the tax imposed by
13 subsections 201(a) and (b) of this Act shall be credited
14 against the tax imposed by subsections 201(a) and (b)
15 otherwise due under this Act for such taxable year. The
16 aggregate credit provided under this paragraph shall not
17 exceed that amount which bears the same ratio to the tax
18 imposed by subsections 201(a) and (b) otherwise due under
19 this Act as the amount of the taxpayer's base income subject
20 to tax both by such other state or states and by this State
21 bears to his total base income subject to tax by this State
22 for the taxable year. For purposes of this subsection, no
23 compensation received by a resident which qualifies as
24 compensation paid in this State as determined under Section
25 304(a)(2)(B) shall be considered income subject to tax by
26 another state or states. The credit provided by this
27 paragraph shall not be allowed if any creditable tax was
28 deducted in determining base income for the taxable year. Any
29 person claiming such credit shall attach a statement in
30 support thereof and shall notify the Director of any refund
31 or reductions in the amount of tax claimed as a credit
32 hereunder all in such manner and at such time as the
33 Department shall by regulations prescribe.

34 (4) Accumulation and capital gain distributions. If the

1 net income of a taxpayer includes amounts included in his
2 base income by reason of Section 668 or 669 of the Internal
3 Revenue Code (relating to accumulation and capital gain
4 distributions by a trust, respectively), the tax imposed on
5 such taxpayer by this Act shall be credited with his pro rata
6 portion of the taxes imposed by this Act on such trust for
7 preceding taxable years which would not have been payable for
8 such preceding years if the trust had in fact made
9 distributions to its beneficiaries at the times and in the
10 amounts specified in Sections 666 and 669 of the Internal
11 Revenue Code. The credit provided by this paragraph shall not
12 reduce the tax otherwise due from the taxpayer to an amount
13 less than that which would be due if the amounts included by
14 reason of Sections 668 and 669 of the Internal Revenue Code
15 were excluded from his base income.

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

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

19 (35 ILCS 5/911.2)

20 Sec. 911.2. Refunds withheld; tax claims of other
21 states.

22 (a) Definitions. In this Section the following terms
23 have the meanings indicated.

24 "Claimant state" means any state or the District of
25 Columbia that requests the withholding of a refund pursuant
26 to this Section and that extends a like comity for the
27 collection of taxes owed to this State.

28 "Income tax" means any amount of income tax imposed on
29 taxpayers under the laws of the State of Illinois or the
30 claimant state, including additions to tax for penalties and
31 interest.

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

1 "Tax officer" means a unit or official of the claimant
2 state, or the duly authorized agent of that unit or official,
3 charged with the imposition, assessment, or collection of
4 state income taxes.

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

9 (b) In general. Except as provided in subsection (c) of
10 this Section, a tax officer may:

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

13 (2) request the Director to withhold any refund to
14 which the taxpayer is entitled.

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

18 (1) allow the Director to certify an income tax
19 liability;

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

22 (3) provide for the payment of the refund to the
23 State of Illinois.

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

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

28 (2) the social security number or federal tax
29 identification number of the taxpayer;

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

31 (4) a statement that all administrative and
32 judicial remedies and appeals have been exhausted or have
33 lapsed and that the assessment of tax, interest, and
34 penalty has become final.

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

3 (1) notify the taxpayer that a claimant state has
4 provided certification of the existence of an income tax
5 liability;

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

9 (3) inform the taxpayer that failure to file a
10 protest in accordance with subsection (f) of this Section
11 shall constitute a waiver of any demand against this
12 State for the amount certified;

13 (3.5) inform the taxpayer that the refund has been
14 withheld and that the tax liability has been paid to the
15 claimant state as provided in subsection (i) of this
16 Section and will result in payment to the claimant state
17 as provided in subsection (i) of this Section;

18 (4) provide the taxpayer with notice of an
19 opportunity to request a hearing to challenge the
20 certification; and

21 (5) inform the taxpayer that the hearing may be
22 requested (i) pursuant to Section 910 of this Act, or
23 (ii) with the tax officer, in accordance with the laws of
24 the claimant state.

25 (f) Protest of withholding. A taxpayer may protest the
26 withholding of a refund pursuant to Section 910 of this Act
27 (except that the protest shall be filed within 30 days after
28 the date of the Director's notice of certification pursuant
29 to subsection (e) of this Section). ~~If a taxpayer files a~~
30 ~~timely protest, the Director shall:~~

31 ~~(1) suspend the proposed withholding and impound~~
32 ~~the claimed amount of the refund;~~

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

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

4 (4) pay over to the taxpayer the impounded amount
 5 if the claimant state shall fail, within 45 days after
 6 the date of the protest, to re-certify to the Director
 7 (i) that the claimant state has reviewed the issues
 8 raised by taxpayer, (ii) that all administrative and
 9 judicial remedies provided under the laws of that state
 10 have been exhausted, and (iii) the amount of the income
 11 tax liability finally determined to be due.

12 (g) Certification as prima facie evidence. If the
 13 taxpayer requests a hearing pursuant to Section 910 of this
 14 Act, the certification of the tax officer shall be prima
 15 facie evidence of the correctness of the taxpayer's
 16 delinquent income tax liability to the certifying state.

17 (h) Rights of spouses to refunds from joint returns. If
 18 a certification is based upon the tax debt of only one
 19 taxpayer and if the refund is based upon a joint personal
 20 income tax return, the nondebtor spouse shall have the right
 21 to:

22 (1) notification, as provided in subsection (e) of
 23 this Section;

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

27 (3) payment of his or her share of the refund,
 28 provided the amount of the overpayment refunded to the
 29 spouse shall not exceed the amount of the joint
 30 overpayment.

31 (i) Withholding and payment of refund. Subject to the
 32 taxpayer's rights of notice and protest, Upon receipt of a
 33 request for withholding in accordance with subsection (b) of
 34 this Section, the Director shall:

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

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

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

7 (4) if a refund is less than the amount certified,
8 withhold amounts from subsequent refunds due the
9 taxpayer, if the laws of the claimant state provide that
10 the claimant state shall withhold subsequent refunds of
11 taxpayers certified to that state by the Director.

12 (j) Determination that withholding cannot be made.
13 After receiving a certification from a tax officer, the
14 Director shall notify the claimant state if the Director
15 determines that a withholding cannot be made.

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

19 (1) procedures and methods to be employed by a
20 claimant state with respect to the operation of this
21 Section;

22 (2) safeguards against the disclosure or
23 inappropriate use of any information obtained or
24 maintained pursuant to this Section that identifies,
25 directly or indirectly, a particular taxpayer;

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

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

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

1 (35 ILCS 5/911.3 new)

2 Sec. 911.3 Refunds withheld; order of honoring requests.

3 The Department shall honor refund withholding requests in the
4 following order:

5 (1) a refund withholding request to collect an
6 unpaid State tax;

7 (2) a refund withholding request to collect
8 certified past due child support amounts under Section
9 2505-650 of the Department of Revenue Law of the Civil
10 Administrative Code of Illinois;

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

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

17 (5) a refund withholding request pursuant to
18 Section 911.2 of this Act.

19 (35 ILCS 5/1102) (from Ch. 120, par. 11-1102)

20 Sec. 1102. Jeopardy Assessments.

21 (a) Jeopardy assessment and lien.

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

1 payable.

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

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

26 (c) Protest. If the taxpayer believes that he does not
27 owe some or all of the amount for which the jeopardy
28 assessment lien against him has been filed, or that no
29 jeopardy to the revenue in fact exists, he may protest within
30 20 days after being notified by the Department of the filing
31 of such jeopardy assessment lien and request a hearing,
32 whereupon the Department shall hold a hearing in conformity
33 with the provisions of section 908 and, pursuant thereto,
34 shall notify the taxpayer of its decision as to whether or

1 not such jeopardy assessment lien will be released.

2 (Source: P.A. 83-358.)

3 (35 ILCS 5/1103) (from Ch. 120, par. 11-1103)

4 Sec. 1103. Filing and Priority of Liens. (a) Filing with
5 Recorder. Nothing in this Article shall be construed to give
6 the Department a preference over the rights of any bona fide
7 purchaser, holder of a security interest, mechanics lienor,
8 mortgagee, or judgment lien creditor arising prior to the
9 filing of a regular notice of lien or a notice of jeopardy
10 assessment lien in the office of the recorder in the county
11 in which the property subject to the lien is located. For
12 purposes of this section, the term "bona fide," shall not
13 include any mortgage of real or personal property or any
14 other credit transaction that results in the mortgagee or the
15 holder of the security acting as trustee for unsecured
16 creditors of the taxpayer mentioned in the notice of lien who
17 executed such chattel or real property mortgage or the
18 document evidencing such credit transaction. Such lien shall
19 be inferior to the lien of general taxes, special assessments
20 and special taxes heretofore or hereafter levied by any
21 political subdivision of this State.

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

1 (c) Index. The recorder of each county shall procure a
2 file labeled "State Tax Lien Notices" and an index book
3 labeled "State Tax Lien Index." When notice of any lien or
4 jeopardy assessment lien is presented to him for filing, he
5 shall file it in numerical order in the file and shall enter
6 it alphabetically in the index. The entry shall show the name
7 and 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,
10 and the amount of tax and penalty due and unpaid, plus the
11 amount of interest due at the time when the notice of lien or
12 jeopardy assessment is filed.

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

24 (e) The taxpayer is liable for the filing fee incurred
25 by the Department for filing the lien and the filing fee
26 incurred by the Department to file the release of that lien.
27 The filing fees shall be paid to the Department in addition
28 to payment of the tax, penalty, and interest included in the
29 amount of the lien.

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

31 (35 ILCS 5/1105) (from Ch. 120, par. 11-1105)
32 Sec. 1105. Release of Liens.

33 (a) In general. Upon payment by the taxpayer to the

1 Department in cash or by guaranteed remittance of an amount
2 representing the filing fees and charges for the lien and the
3 filing fees and charges for the release of that lien, the
4 Department shall release all or any portion of the property
5 subject to any lien provided for in this Act and file that
6 complete or partial release of lien with the recorder of the
7 county where that lien was filed if it determines that the
8 release will not endanger or jeopardize the collection of the
9 amount secured thereby.

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

20 (c) Payment. The Department shall also release its
21 jeopardy assessment lien against the taxpayer whenever the
22 tax and penalty covered by such lien, plus any interest which
23 may be due and an amount representing the filing fee to file
24 the lien and the filing fee required to file a release of
25 that lien, are paid by the taxpayer to the Department in cash
26 or by guaranteed remittance.

27 (d) Certificate of release. The Department shall issue a
28 certificate of complete or partial release of the lien upon
29 payment by the taxpayer to the Department in cash or by
30 guaranteed remittance of an amount representing the filing
31 fee paid by the Department to file the lien and the filing
32 fee required to file the release of that lien:

33 (1) To the extent that the fair market value of any
34 property subject to the lien exceeds the amount of the lien

1 plus the amount of all prior liens upon such property;

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

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

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

16 (5) To the extent and under the circumstances specified
17 in this section. A certificate of complete or partial release
18 of any lien shall be held conclusive that the lien upon the
19 property covered by the certificate is extinguished to the
20 extent indicated by such certificate.

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

24 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL
25 BE FILED WITH THE RECORDER OR THE REGISTRAR
26 OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.

27 (e) Filing. When a certificate of complete or partial
28 release of lien issued by the Department is presented for
29 filing in the office of the recorder or Registrar of Titles
30 where a notice of lien or notice of jeopardy assessment lien
31 was filed:

32 (1) The recorder, in the case of nonregistered property,
33 shall permanently attach the certificate of release to the
34 notice of lien or notice of jeopardy assessment lien and

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

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

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

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

13 (35 ILCS 120/5a) (from Ch. 120, par. 444a)

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

30 However, where the lien arises because of the issuance of
31 a final assessment or revised final assessment by the
32 Department, such lien shall not attach and the notice

1 hereinafter referred to in this Section shall not be filed
2 until all proceedings in court for review of such final
3 assessment or revised final assessment have terminated or the
4 time for the taking thereof has expired without such
5 proceedings being instituted.

6 Upon the granting of a rehearing or departmental review
7 pursuant to Section 4 or Section 5 of this Act after a lien
8 has attached, such lien shall remain in full force except to
9 the extent to which the final assessment may be reduced by a
10 revised final assessment following such rehearing or review.

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

32 If the Department finds that a taxpayer is about to
33 depart from the State, or to conceal himself or his property,
34 or to do any other act tending to prejudice or to render

1 wholly or partly ineffectual proceedings to collect such tax
2 unless such proceedings are brought without delay, or if the
3 Department finds that the collection of the amount due from
4 any taxpayer will be jeopardized by delay, the Department
5 shall give the taxpayer notice of such findings and shall
6 make demand for immediate return and payment of such tax,
7 whereupon such tax shall become immediately due and payable.
8 If the taxpayer, within 5 days after such notice (or within
9 such extension of time as the Department may grant), does not
10 comply with such notice or show to the Department that the
11 findings in such notice are erroneous, the Department may
12 file a notice of jeopardy assessment lien in the office of
13 the recorder of the county in which any property of the
14 taxpayer may be located and shall notify the taxpayer of such
15 filing. Such jeopardy assessment lien shall have the same
16 scope and effect as the statutory lien hereinbefore provided
17 for in this Section.

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

31 If, pursuant to such hearing (or after an independent
32 determination of the facts by the Department without a
33 hearing), the Department determines that some or all of the
34 tax covered by the jeopardy assessment lien is not owed by

1 the taxpayer, or that no jeopardy to the revenue exists, or
2 if on judicial review the final judgment of the court is that
3 the taxpayer does not owe some or all of the tax covered by
4 the jeopardy assessment lien against him, or that no jeopardy
5 to the revenue exists, the Department shall release its
6 jeopardy assessment lien to the extent of such finding of
7 nonliability for the tax, or to the extent of such finding of
8 no jeopardy to the revenue.

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

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

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

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

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

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

26 Sec. 5b. 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 business address of the person named in the
33 notice, the serial number of the notice, the date and hour of

1 filing, whether it is a regular lien or a jeopardy assessment
 2 lien, and the amount of tax and penalty due and unpaid, plus
 3 the amount of interest due under Section 5 of this Act at the
 4 time when the notice of lien or jeopardy assessment lien is
 5 filed.

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

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

19 When the lien obtained pursuant to this Act has been
 20 satisfied and the taxpayer has paid the Department in cash or
 21 by guaranteed remittance an amount representing the filing
 22 fee for the lien and the filing fee for the release of that
 23 lien, the Department shall issue a release of lien and file
 24 that release of lien with the recorder of the county where
 25 that lien was filed. The to-the-person,-or-his-agent,-against
 26 whom--the--lien--was--obtained-and-such release of lien shall
 27 contain in legible letters a statement as follows:

28 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL
 29 BE FILED WITH THE RECORDER OR THE REGISTRAR
 30 OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.

31 When a certificate of complete or partial release of lien
 32 issued by the Department is presented for filing in the
 33 office of the recorder or Registrar of Titles where a notice
 34 of 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
 3 of lien or notice of jeopardy assessment lien and shall enter
 4 the certificate of release and the date in the "State Tax
 5 Lien 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
 8 Titles shall file and enter upon each folium of the register
 9 of titles affected thereby a memorial of the certificate of
 10 release which memorial when so entered shall act as a release
 11 pro tanto of any memorial of such notice of lien or notice of
 12 jeopardy assessment lien previously filed and registered.

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

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

15 Sec. 5c. Upon payment by the taxpayer to the Department
 16 in cash or by guaranteed remittance of an amount representing
 17 the filing fee for the lien and the filing fee for the
 18 release of that lien, the Department shall issue a
 19 certificate of complete or partial release of the lien and
 20 file that complete or partial release of lien with the
 21 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
 26 unenforceable;

27 (c) To the extent that the amount of such lien is paid
 28 by the retailer whose property is subject to such lien,
 29 together with any interest which may become due under Section
 30 5 of this Act between the date when the notice of lien is
 31 filed and the date when the amount of such lien is paid;

32 (d) To the extent that there is furnished to the
 33 Department on a form to be approved and with a surety or

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

6 (e) To the extent and under the circumstances specified
7 in Section 5a of this Act in the case of jeopardy assessment
8 liens;

9 (f) To the extent to which an assessment is reduced
10 pursuant to a rehearing or departmental review under Section
11 4 or Section 5 of this Act.

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

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

17 Section 99. Effective date. This Act takes effect upon
18 becoming law, except that the changes to Sections 1102, 1103,
19 and 1105 of the Illinois Income Tax Act and Sections 5a, 5b,
20 and 5c of the Retailer's Occupation Tax Act take effect on
21 January 1, 2003."