



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB3096

Introduced 2/15/2018, by Sen. Jil Tracy

#### SYNOPSIS AS INTRODUCED:

820 ILCS 405/2401	from Ch. 48, par. 721
820 ILCS 405/2401.1 new	
820 ILCS 405/2402	from Ch. 48, par. 722

Amends the Unemployment Insurance Act. Provides that the Department of Revenue shall maintain a public database, as provided under the State Tax Lien Registration Act, as a lien registry for the filing of liens upon employer assets authorized under the Unemployment Insurance Act. Provides that liens created before January 1, 2020 must be filed with the office of the recorder in the county where the subject property is located. Provides that on and after January 1, 2020 notice of the lien shall be filed in the lien registry. Sets forth the information required for the lien registry.

LRB100 20167 JLS 35452 b

1 AN ACT concerning employment.

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

4 Section 5. The Unemployment Insurance Act is amended by  
5 changing Sections 2401 and 2402 and by adding Section 2401.1 as  
6 follows:

7 (820 ILCS 405/2401) (from Ch. 48, par. 721)

8 Sec. 2401. Recording and release of lien.

9 A. The lien created by Section 2400 shall be invalid only  
10 as to any innocent purchaser for value of stock in trade of any  
11 employer in the usual course of such employer's business, and  
12 shall be invalid as to any innocent purchaser for value of any  
13 of the other assets to which such lien has attached, unless,  
14 with respect to liens created prior to January 1, 2020, notice  
15 thereof has been filed by the Director in the office of the  
16 recorder of the county within which the property subject to the  
17 lien is situated or, with respect to liens created on or after  
18 January 1, 2020, notice has been filed in the Lien Registry as  
19 provided by Section 2401.1. The Director may, in his  
20 discretion, for good cause shown, issue a certificate of  
21 withdrawal of notice of lien filed against any employer, which  
22 certificate shall be recorded in the same manner as herein  
23 provided for the recording of notice of liens. Such withdrawal

1 of notice of lien shall invalidate such lien as against any  
2 person acquiring any of such employer's property or any  
3 interest therein, subsequent to the recordation of the  
4 withdrawal of notice of lien, but shall not otherwise affect  
5 the validity of such lien, nor shall it prevent the Director  
6 from re-recording notice of such lien. In the event notice of  
7 such lien is re-recorded, such notice shall be effective as  
8 against third persons only as of the date of such  
9 re-recordation. Recording in the Lien Registry a lien that had  
10 previously been recorded by the Director with a county recorder  
11 of deeds does not constitute a re-recordation of that lien and  
12 does not change the original filing date of such lien.

13 B. The recorder of each county shall procure at the expense  
14 of the county a file labeled "Unemployment Compensation  
15 Contribution Lien Notice" and an index book labeled  
16 "Unemployment Compensation Contribution Lien Index." When a  
17 notice of any such lien is presented to him for filing, he  
18 shall file it in numerical order in the file and shall enter it  
19 alphabetically in the index. The entry shall show the name and  
20 last known business address of the employer named in the  
21 notice, the serial number of the notice, the date and hour of  
22 filing, and the amount of contribution, interest and penalty  
23 thereon due and unpaid. When a certificate of complete or  
24 partial release of such lien issued by the Director is  
25 presented for filing in the office of the recorder where a  
26 notice of lien was filed, the recorder shall permanently attach

1 the certificate of release to the notice of lien and shall  
2 enter the certificate of release and the date in the  
3 Unemployment Compensation Contribution Lien Index on the line  
4 where the notice of lien is entered. ~~In case title to land to  
5 be affected by the Notice of Lien is registered under the  
6 provisions of "An Act Concerning Land Titles", approved May 1,  
7 1897, as amended, such notice shall be filed in the office of  
8 the Registrar of Titles of the county within which the property  
9 subject to the lien is situated and shall be entered upon the  
10 register of titles as a memorial or charge upon each folium of  
11 the register of title affected by such notice, and the Director  
12 shall not have a preference over the rights of any bona fide  
13 purchaser, mortgagee, judgment creditor or other lien holder  
14 arising prior to the registration of such notice.~~

15 C. The Director shall have the power to issue a certificate  
16 of partial release of any part of the property subject to the  
17 lien if he shall find that the fair market value of that part  
18 of such property remaining subject to the lien is at least  
19 equal to the amount of all prior liens upon such property plus  
20 double the amount of the liability for contributions, interest  
21 and penalties thereon remaining unsatisfied.

22 D. Where the amount of or the liability for the payment of  
23 any contribution, interest or penalty is contested by any  
24 employing unit against whose property a lien has attached, and  
25 the determination of the Director with reference to such  
26 contribution has not become final, the Director may issue a

1 certificate of release of lien upon the furnishing of bond by  
2 such employing unit in 125% the amount of the sum of such  
3 contribution, interest and penalty, for which lien is claimed,  
4 with good and sufficient surety to be approved by the Director  
5 conditioned upon the prompt payment of such contribution,  
6 together with interest and penalty thereon, by such employing  
7 unit to the Director immediately upon the decision of the  
8 Director in respect to the liability for such contribution,  
9 interest and penalty becoming final.

10 E. When a lien filed by the Director before January 1, 2020  
11 ~~obtained pursuant to this Act~~ has been satisfied, the  
12 Department shall issue a release to the person, or his or her  
13 agent, against whom the lien was obtained and such release  
14 shall 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-1. When a lien filed by the Director in the Lien Registry  
19 has been satisfied, the Department shall permanently attach a  
20 certificate of complete or partial release, as the case may be,  
21 in the Lien Registry, and provide notice of the release to the  
22 person, or his or her agent, against whom the lien was  
23 obtained.

24 F. The Director may, by rule, require, as a condition of  
25 withdrawing, releasing, or partially releasing a lien recorded  
26 pursuant to this Section, that the employer reimburse the

1 Department for any recording fees paid with respect to the  
2 lien.

3 (Source: P.A. 98-107, eff. 7-1-14; 98-1133, eff. 12-23-14.)

4 (820 ILCS 405/2401.1 new)

5 Sec. 2401.1. Lien Registry.

6 A. As used in this Section:

7 "Debtor" means an employer or individual against whom  
8 there is an unpaid determination and assessment  
9 collectible by the Director.

10 "Lien Registry" means the public database maintained  
11 by the Department of Revenue as provided by the State Tax  
12 Lien Registration Act.

13 B. A lien filed by the Director in the Lien Registry shall  
14 include:

- 15 1. the name and last-known address of the debtor;  
16 2. the name and address of the Department;  
17 3. the lien number assigned to the lien by the  
18 Department; and  
19 4. the basis for the lien including, but not limited  
20 to, the amount of contribution, interest, and penalty due  
21 and unpaid as of the date of filing in the Lien Registry.

22 C. When a notice of lien is filed by the Director in the  
23 Lien Registry, the lien is perfected and shall be attached to  
24 all existing and after-acquired property of the debtor, both  
25 real and personal, tangible and intangible, that is located in

1 any and all counties within the State of Illinois.

2 D. The amount of the lien shall be a debt due the Director  
3 and shall remain a lien upon all property and rights to  
4 property belonging to the debtor, both real and personal,  
5 tangible and intangible, that is located in any and all  
6 counties within the State of Illinois. Interest and penalty  
7 shall accrue on the lien as provided by this Act.

8 E. A notice of release, partial release, or withdrawal of  
9 lien filed in the Lien Registry shall constitute a release,  
10 partial release, or withdrawal, as the case may be, of the lien  
11 within the Department, the Lien Registry, and any county in  
12 which the lien was previously filed. The information contained  
13 on the Lien Registry shall be controlling, and the Lien  
14 Registry shall supersede the records of any county.

15 F. Information contained in the Lien Registry shall be  
16 maintained and made accessible as provided by Section 1-30 of  
17 the State Tax Lien Registration Act.

18 G. Nothing in this Section shall be construed to invalidate  
19 any lien filed by the Director with a county recorder of deeds  
20 prior to the effective date of this amendatory Act of the 100th  
21 General Assembly.

22 H. In the event of conflict between this Section and any  
23 other law, this Section shall control.

24 (820 ILCS 405/2402) (from Ch. 48, par. 722)

25 Sec. 2402. Priority of lien. The lien created by Section

1 2400 shall be prior to all other liens, whether general or  
2 specific, and shall be inferior only to any claim for wages  
3 filed pursuant to "An Act to protect employees and laborers in  
4 their claims for wages" approved June 15, 1887, as amended, in  
5 an amount not exceeding \$250.00 for work performed within six  
6 months from the date of filing such claim, and to such liens as  
7 shall attach prior to the filing of Notice of Lien by the  
8 Director ~~with the recorder~~ as provided in this Act; provided,  
9 however, that in all cases where statutory provision is made  
10 for the recordation or other public notice of a lien, the lien  
11 of the Director shall be inferior only to such liens as shall  
12 have been duly recorded, or of which public notice shall have  
13 been duly given, in the manner provided by such statute, prior  
14 to the filing of notice of lien by the Director ~~with the~~  
15 ~~recorder~~ as in this Act provided.

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