



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0447

Introduced 2/4/2009, by Rep. Paul D. Froehlich

SYNOPSIS AS INTRODUCED:

625 ILCS 5/4-205 from Ch. 95 1/2, par. 4-205
770 ILCS 45/6.5 new
770 ILCS 50/2.5 new
770 ILCS 90/4 new

Amends the Illinois Vehicle Code, Labor and Storage Lien Act, Labor and Storage Lien (Small Amount) Act, and Sale of Unclaimed Property Act to provide a process of providing notice to motor vehicle owners and lienholders prior to auction sale or impoundment. Provides that a towing service or person seeking to foreclose on a lien must contact the Secretary of State and request that the Secretary search the vehicle registration records of the State of Illinois for information relating to the owner of the vehicle and lienholders of record. Provides that in event the Secretary of State does not find any record of the motor vehicle, the towing service or person seeking to foreclose on a lien must search a national vehicle record information service and search the vehicle for any evidence relating to an owner or lienholder. Provides that any owner or lienholder identified by the procedures in this Act must be given notice of the motor vehicle impoundment or auction sale. Provides that the failure to perform the procedures in this Act will render any subsequent sale voidable by a court of competent jurisdiction. Reorganizes a provision of the Illinois Vehicle Code relating to record searches by deleting and adding the same language in different locations. Effective immediately.

LRB096 04025 AJT 14063 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 4-205 as follows:

6 (625 ILCS 5/4-205) (from Ch. 95 1/2, par. 4-205)

7 Sec. 4-205. Record searches.

8 (a) When a law enforcement agency authorizing the
9 impounding of a vehicle does not know the identity of the
10 registered owner, lienholder or other legally entitled person,
11 that law enforcement agency will cause the vehicle registration
12 records of the State of Illinois to be searched by the
13 Secretary of State for the purpose of obtaining the required
14 ownership information.

15 (b) The law enforcement agency authorizing the impounding
16 of a vehicle will cause the stolen motor vehicle files of the
17 State Police to be searched by a directed communication to the
18 State Police for stolen or wanted information on the vehicle.
19 When the State Police files are searched with negative results,
20 the information contained in the National Crime Information
21 Center (NCIC) files will be searched by the State Police. The
22 information determined from these record searches will be
23 returned to the requesting law enforcement agency for that

1 agency's use in sending a notification by certified mail to the
2 registered owner, lienholder and other legally entitled
3 persons advising where the vehicle is held, requesting a
4 disposition be made and setting forth public sale information.
5 Notification shall be sent no later than 10 business days after
6 the date the law enforcement agency impounds or authorizes the
7 impounding of a vehicle, provided that if the law enforcement
8 agency is unable to determine the identity of the registered
9 owner, lienholder or other person legally entitled to ownership
10 of the impounded vehicle within a 10 business day period after
11 impoundment, then notification shall be sent no later than 2
12 days after the date the identity of the registered owner,
13 lienholder or other person legally entitled to ownership of the
14 impounded vehicle is determined. Exceptions to a notification
15 by certified mail to the registered owner, lienholder and other
16 legally entitled persons are set forth in Section 4-209 of this
17 Code.

18 (c) When ownership information is needed for a towing
19 service to give notification as required under this Code, the
20 towing service may cause the vehicle registration records of
21 the State of Illinois to be searched by the Secretary of State,
22 and in such case, the towing service also shall give notice to
23 all lienholders of record within the time period required for
24 such other notices.

25 ~~The written request of a towing service, in the form and~~
26 ~~containing the information prescribed by the Secretary of State~~

1 ~~by rule, may be transmitted to the Secretary of State in~~
2 ~~person, by U.S. mail or other delivery service, by facsimile~~
3 ~~transmission, or by other means the Secretary of State deems~~
4 ~~acceptable.~~

5 ~~The Secretary of State shall provide the required~~
6 ~~information, or a statement that the information was not found~~
7 ~~in the vehicle registration records of the State, by U.S. mail~~
8 ~~or other delivery service, facsimile transmission, as~~
9 ~~requested by the towing service, or by other means acceptable~~
10 ~~to the Secretary of State.~~

11 (1) The written request of a towing service, in the
12 form and containing the information prescribed by the
13 Secretary of State by rule, may be transmitted to the
14 Secretary of State in person, by U.S. mail or other
15 delivery service, by facsimile transmission, or by other
16 means the Secretary of State deems acceptable.

17 (2) The Secretary of State shall provide the required
18 information, or a statement that the information was not
19 found in the vehicle registration records of the State, by
20 U.S. mail or other delivery service, facsimile
21 transmission, as requested by the towing service, or by
22 other means acceptable to the Secretary of State.

23 (3) In the event the Secretary of State does not find
24 information in the vehicle registration records of the
25 State, the towing service shall attempt to identify the
26 owner of the vehicle by the following means:

1 (i) using the vehicle identification number to
2 conduct a search through a commercial, nation-wide
3 motor vehicle information service; and

4 (ii) inspecting the vehicle for any evidence of the
5 name or address of the owner or the state of
6 registration. If evidence of the address of the owner
7 is found, notice shall be sent to that address. If
8 evidence of the state of registration is found, the
9 motor vehicle department of that state shall be
10 contacted and requested to perform a record search for
11 the name and address of any owner or lienholder.

12 (c-5) The failure to perform the searches required by
13 subsection (c) shall render any subsequent sale voidable by a
14 court of competent jurisdiction.

15 (d) The Secretary of State may prescribe standards and
16 procedures for submission of requests for record searches and
17 replies via computer link.

18 (e) Fees for services provided under this Section shall be
19 in amounts prescribed by the Secretary of State under Section
20 3-821.1 of this Code. Payment may be made by the towing service
21 using cash, any commonly accepted credit card, or any other
22 means of payment deemed acceptable by the Secretary of State.

23 (Source: P.A. 95-838, eff. 8-15-08.)

24 Section 10. The Labor and Storage Lien Act is amended by
25 adding Section 6.5 as follows:

1 (770 ILCS 45/6.5 new)

2 Sec. 6.5. Motor vehicle record searches.

3 (a) Prior to selling a motor vehicle pursuant to this Act,
4 the person seeking to foreclose the lien shall contact the
5 Secretary of State and request that the Secretary search the
6 vehicle registration records of the State of Illinois for
7 information relating to the owner of the vehicle and
8 lienholders of record.

9 (1) The request shall be in writing in the form and
10 containing the information prescribed by the Secretary of
11 State by rule, and may be transmitted to the Secretary of
12 State in person, by U.S. mail or other delivery service, by
13 facsimile transmission, or by other means the Secretary of
14 State deems acceptable.

15 (2) The Secretary of State shall provide the required
16 information, or a statement that the information was not
17 found in the vehicle registration records of the State, by
18 U.S. mail or other delivery service, facsimile
19 transmission, as requested by the person seeking to
20 foreclose the lien, or by other means acceptable to the
21 Secretary of State.

22 (3) In the event the Secretary of State did not find
23 information in the vehicle registration records of the
24 State, the person seeking to foreclose the lien shall
25 attempt to identify the owner or lienholder of the vehicle

1 by the following means:

2 (i) using the vehicle identification number to
3 conduct a search through a commercial, nation-wide
4 motor vehicle information service; and

5 (ii) inspecting the vehicle for any evidence of the
6 name or address of the owner or the state of
7 registration. If evidence of the address of the owner
8 is found, notice shall be sent to that address. If
9 evidence of the state of registration is found, the
10 motor vehicle department of that state shall be
11 contacted and requested to perform a record search for
12 the name and address of any owner or lienholder.

13 (b) Any owner or lienholder identified by the procedures
14 set forth in this Section shall be given notice as required by
15 this Act.

16 (c) The failure to perform the searches required by this
17 Section shall render any subsequent sale voidable by a court of
18 competent jurisdiction.

19 Section 15. The Labor and Storage Lien (Small Amount) Act
20 is amended by adding Section 2.5 as follows:

21 (770 ILCS 50/2.5 new)

22 Sec. 2.5. Motor vehicle record searches.

23 (a) Prior to selling a motor vehicle pursuant to this Act,
24 the person seeking to foreclose the lien shall contact the

1 Secretary of State and request that the Secretary search the
2 vehicle registration records of the State of Illinois for
3 information relating to the owner of the vehicle and
4 lienholders of record.

5 (1) The request shall be in writing in the form and
6 containing the information prescribed by the Secretary of
7 State by rule, and may be transmitted to the Secretary of
8 State in person, by U.S. mail or other delivery service, by
9 facsimile transmission, or by other means the Secretary of
10 State deems acceptable.

11 (2) The Secretary of State shall provide the required
12 information, or a statement that the information was not
13 found in the vehicle registration records of the State, by
14 U.S. mail or other delivery service, facsimile
15 transmission, as requested by the person seeking to
16 foreclose the lien, or by other means acceptable to the
17 Secretary of State.

18 (3) In the event the Secretary of State did not find
19 information in the vehicle registration records of the
20 State, the person seeking to foreclose the lien shall
21 attempt to identify the owner or lienholder of the vehicle
22 by the following means:

23 (i) using the vehicle identification number to
24 conduct a search through a commercial, nation-wide
25 motor vehicle information service; and

26 (ii) inspecting the vehicle for any evidence of the

1 name or address of the owner or the state of
2 registration. If evidence of the address of the owner
3 is found, notice shall be sent to that address. If
4 evidence of the state of registration is found, the
5 motor vehicle department of that state shall be
6 contacted and requested to perform a record search for
7 the name and address of any owner or lienholder.

8 (b) Any owner or lienholder identified by the procedures
9 set forth in this Section shall be given notice as required by
10 this Act.

11 (c) The failure to perform the searches required by this
12 Section shall render any subsequent sale voidable by a court of
13 competent jurisdiction.

14 Section 20. The Sale of Unclaimed Property Act is amended
15 by adding Section 4 as follows:

16 (770 ILCS 90/4 new)

17 Sec. 4. Motor vehicle record searches.

18 (a) Prior to selling a motor vehicle pursuant to this Act,
19 the person seeking to foreclose the lien shall contact the
20 Secretary of State and request that the Secretary search the
21 vehicle registration records of the State of Illinois for
22 information relating to the owner of the vehicle and
23 lienholders of record.

24 (1) The request shall be in writing in the form and

1 containing the information prescribed by the Secretary of
2 State by rule, and may be transmitted to the Secretary of
3 State in person, by U.S. mail or other delivery service, by
4 facsimile transmission, or by other means the Secretary of
5 State deems acceptable.

6 (2) The Secretary of State shall provide the required
7 information, or a statement that the information was not
8 found in the vehicle registration records of the State, by
9 U.S. mail or other delivery service, facsimile
10 transmission, as requested by the person seeking to
11 foreclose the lien, or by other means acceptable to the
12 Secretary of State.

13 (3) In the event the Secretary of State did not find
14 information in the vehicle registration records of the
15 State, the person seeking to foreclose the lien shall
16 attempt to identify the owner or lienholder of the vehicle
17 by the following means:

18 (i) using the vehicle identification number to
19 conduct a search through a commercial, nation-wide
20 motor vehicle information service; and

21 (ii) inspecting the vehicle for any evidence of the
22 name or address of the owner or the state of
23 registration. If evidence of the address of the owner
24 is found, notice shall be sent to that address. If
25 evidence of the state of registration is found, the
26 motor vehicle department of that state shall be

1 contacted and requested to perform a record search for
2 the name and address of any owner or lienholder.

3 (b) Any owner or lienholder identified by the procedures
4 set forth in this Section shall be given notice as required by
5 this Act.

6 (c) The failure to perform the searches required by this
7 Section shall render any subsequent sale voidable by a court of
8 competent jurisdiction.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.