



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5781

Introduced 2/9/2010, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 2505/2505-640 new

30 ILCS 105/5.756 new

30 ILCS 210/9 new

30 ILCS 210/10

35 ILCS 120/5

from Ch. 120, par. 444

625 ILCS 5/2-123

from Ch. 95 1/2, par. 2-123

Creates the Reciprocal Tax Collection Act. Authorizes the Department of Revenue to collect taxes for other states that have a reciprocal law. Creates the Reciprocal Tax Collection Fund and provides for a continuing appropriation. Amends the State Finance Act and the Department of Revenue Law to make conforming changes. Amends the Illinois State Collection Act of 1986. Provides that, in the case of any liability referred to a collection agency, any fee charged to the State by the collection agency is considered an additional liability owed to the State. Authorizes the Department to recover costs of collection from State agencies. Amends the Retailers' Occupation Tax Act to allow collection actions and assessments to be filed within 6 years (instead of 2 years). Amends the Illinois Vehicle Code. Authorizes the Secretary of State to disclose or otherwise make available to the Department of Revenue social security numbers for use by the Department in the administration of any tax administered by the Department of Revenue or in the collection of any tax or debt that the Department of Revenue is authorized or required by law to collect. Effective immediately.

LRB096 18161 HLH 33536 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

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

4 ARTICLE 5

5 Section 5-1. Short title. This Act may be cited as the
6 Reciprocal Tax Collection Act.

7 Section 5-5. Collection of tax liabilities of other states
8 and the District of Columbia.

9 (a) Definitions. For purposes of this Section:

10 (1) "Taxpayer" means any person identified by a
11 claimant state under this Section as owing taxes to a
12 claimant state.

13 (2) "Claimant state" means any other state of the
14 United States or the District of Columbia with whom the
15 Director has entered an agreement for reciprocal
16 collection of taxes under Section 2505-640 of the
17 Department of Revenue Law of the Civil Administrative Code
18 of Illinois.

19 (3) "Taxes" means any amount of tax imposed under the
20 laws of the claimant state or any political subdivision of
21 the claimant state, including additions to tax for
22 penalties and interest, that is finally due and payable to

1 the claimant state by a taxpayer, and with respect to which
2 all administrative or judicial remedies, other than a claim
3 for refund of amounts collected in payment of the tax, have
4 been exhausted or have lapsed, and that is legally
5 enforceable under the laws of the claimant state against
6 the taxpayer, whether or not there is an outstanding
7 judgment for that sum.

8 (4) "Tax officer" means a unit or official of a
9 claimant state, or the duly authorized agent of that unit
10 or official, charged with the imposition, assessment, or
11 collection of taxes of that state.

12 (5) "Director" means the Illinois Director of Revenue.

13 (b) Request of claimant state for collection.

14 (1) Upon the request and certification of the tax
15 officer of a claimant state to the Director that a taxpayer
16 owes taxes to that claimant state, the Director may collect
17 those taxes, using all legal authority available to the
18 Department of Revenue to collect debt, and shall deposit
19 the amounts collected into the Reciprocal Tax Collection
20 Fund and order payment to the claimant state under Section
21 5-10 of this Act.

22 (2) The certification shall include:

23 (A) the full name and address of the taxpayer;

24 (B) the taxpayer's Social Security number or
25 federal employer identification number;

26 (C) the amount of the tax for the taxable period

1 sought to be collected, including a detailed statement
2 for each taxable period showing tax, interest, and
3 penalty;

4 (D) a statement whether the taxpayer filed a tax
5 return with the claimant state for the tax, and, if so,
6 whether that tax return was filed under protest; and

7 (E) a statement that all administrative or
8 judicial remedies, other than a claim for refund of
9 amounts collected in payment of the tax, have been
10 exhausted or have lapsed and that the amount of taxes
11 is legally enforceable under the laws of that state
12 against the taxpayer.

13 (3) Upon receipt by the Director of the required
14 certification, the Director shall notify the taxpayer by
15 first-class mail to the taxpayer's last-known address that
16 the Director has received a request from the claimant state
17 to collect taxes from the taxpayer, that the taxpayer has
18 the right to protest the collection of those taxes by the
19 Director for the claimant state, that failure to file a
20 protest in accordance with item (4) of subsection (b) of
21 this Section shall constitute a waiver of any demand
22 against this State on account of the collection of those
23 taxes and that the amount, upon collection, will be paid
24 over to the claimant state. The notice shall include a copy
25 of the certification by the tax officer of the claimant
26 state. Sixty days after the date on which it is mailed, a

1 notice under this subsection shall be final except only for
2 such amounts as to which the taxpayer has filed, as
3 provided in item (4) of subsection (b) of this Section, a
4 written protest with the Director.

5 (4) Any taxpayer notified in accordance with item (3)
6 of subsection (b) of this Section may, on or before the
7 60th day after the mailing of the notice by the Director,
8 protest the collection of all or a portion of such taxes by
9 filing with the Director a written protest in which the
10 taxpayer shall set forth the grounds on which the protest
11 is based. If a timely protest is filed, the Director shall
12 refrain from collecting the taxes and shall send a copy of
13 the protest to the claimant state for determination of the
14 protest on its merits in accordance with the laws of that
15 state. In the case of a taxpayer that did not file a tax
16 return for the tax for the taxable period sought to be
17 collected and where the amount of taxes owed to the
18 claimant state is based on an assessment made against the
19 taxpayer by the tax officer of the claimant state, and
20 where the taxpayer has filed a timely protest under this
21 subsection, the Director shall require the claimant state
22 to certify that the assessment was contested before and
23 adjudicated by an administrative or judicial tribunal of
24 competent jurisdiction in the claimant state. If the
25 Director is satisfied that the taxpayer's written protest
26 is based on a bona fide contention that the claimant state

1 did not have jurisdiction to tax the taxpayer, the Director
2 shall require the claimant state to certify that the
3 assessment was contested before and adjudicated by a
4 judicial tribunal of competent jurisdiction in the
5 claimant state. If the claimant state fails, on or before
6 the 45th day after the sending of the copy of the protest
7 by the Director to the claimant state, to certify to the
8 Director that the claimant state has reviewed the stated
9 grounds on which the protest is based, and to renew the
10 certification described in item (2) of subsection (b) of
11 this Section, the Director shall not collect the taxes. If
12 the certifications are made within that time period, and if
13 the Director is satisfied that the certifications are true,
14 accurate, and complete, the Director shall collect the tax.

15 Section 5-10. Expenditures from the Reciprocal Tax
16 Collection Fund.

17 (a) The Director shall order paid and the State Comptroller
18 shall pay from the Reciprocal Tax Collection Fund to the a
19 claimant state the amount of taxes certified by the Director to
20 the Comptroller as collected under this Act on behalf of the
21 claimant state pursuant to a request under subsection (b) of
22 Section 5-5 of this Act.

23 (b) This Act shall constitute an irrevocable and continuing
24 appropriation from the Reciprocal Tax Collection Fund for the
25 purpose of paying amounts collected to claimant states upon the

1 order of the Director in accordance with the provisions of this
2 Section.

3 Section 5-15. Effect of payment to claimant state. Upon
4 payment to a claimant state of an amount certified in a request
5 for collection under subsection (b) of Section 5-5 of this Act,
6 the Director and this State shall be discharged of any
7 obligation or liability to a taxpayer with respect to the
8 amounts collected from the taxpayer and paid to the claimant
9 state pursuant to this Act. Any action for refund of those
10 amounts shall lie only against the claimant state.

11 Section 5-90. The Department of Revenue Law of the Civil
12 Administrative Code of Illinois is amended by adding Section
13 2505-640 as follows:

14 (20 ILCS 2505/2505-640 new)

15 Sec. 2505-640. Collection of taxes of other states.

16 (a) The Department may enter into agreements with any other
17 state for the reciprocal collection by the Department pursuant
18 to the Reciprocal Tax Collection Act of taxes owed to that
19 state and collection by the other state pursuant to a provision
20 of its law similar to the Reciprocal Tax Collection Act of
21 taxes owed to this State.

22 (b) An agreement under this Section shall contain
23 provisions relating to:

1 fee charged to the State by the collection agency is considered
2 an additional liability owed to the State, is immediately
3 subject to all collection procedures applicable to the
4 liability referred to the collection agency, and must be
5 separately stated in any statement or notice of the liability
6 issued by the collection agency to the taxpayer.

7 (30 ILCS 210/10)

8 Sec. 10. Department of Revenue Debt Collection Bureau to
9 assume collection duties.

10 (a) The Department of Revenue's Debt Collection Bureau
11 shall serve as the primary debt collecting entity for the State
12 and in that role shall collect debts on behalf of agencies of
13 the State. All debts owed the State of Illinois shall be
14 referred to the Bureau, subject to such limitations as the
15 Department of Revenue shall by rule establish. The Bureau shall
16 utilize the Comptroller's offset system and private collection
17 agencies, as well as its own collections personnel. The Bureau
18 shall collect debt using all legal authority available to the
19 Department of Revenue to collect debt and all legal authority
20 available to the referring agency.

21 (b) The Bureau shall have the sole authority to let
22 contracts with persons specializing in debt collection for the
23 collection of debt referred to and accepted by the Bureau. Any
24 contract with the debt collector shall specify that the
25 collector's fee shall be on a contingency basis and that the

1 debt collector shall not be entitled to collect a contingency
2 fee for any debt collected through the efforts of any State
3 offset system.

4 (c) The Department of Revenue shall adopt rules for the
5 certification of debt from referring agencies and shall adopt
6 rules for the certification of collection specialists to be
7 employed by the Bureau.

8 (d) The Department of Revenue shall adopt rules for
9 determining when a debt referred by an agency shall be deemed
10 by the Bureau to be uncollectible.

11 (e) Once an agency's debt is deemed by the Bureau to be
12 uncollectible, the Bureau shall return the debt to the
13 referring agency which shall then write the debt off as
14 uncollectible in accordance with the requirements of the
15 Uncollected State Claims Act or return the debt to the Bureau
16 for additional collection efforts. The Bureau shall refuse to
17 accept debt that has been deemed uncollectible absent factual
18 assertions from the referring agency that due to circumstances
19 not known at the time the debt was deemed uncollectible that
20 the debt is worthy of additional collection efforts.

21 (f) For each debt referred, the State agency shall retain
22 all documents and records relating to or supporting the debt.
23 In the event a debtor shall raise a reasonable doubt as to the
24 validity of the debt, the Bureau may in its discretion refer
25 the debt back to the referring agency for further review and
26 recommendation.

1 (g) The Department of Healthcare and Family Services shall
2 be exempt from the requirements of this Section with regard to
3 child support debts, the collection of which is governed by the
4 requirements of Title IV, Part D of the federal Social Security
5 Act. The Department of Healthcare and Family Services may refer
6 child support debts to the Bureau, provided that the debt
7 satisfies the requirements for referral of delinquent debt as
8 established by rule by the Department of Revenue. The Bureau
9 shall use all legal means available to collect child support
10 debt, including those authorizing the Department of Revenue to
11 collect debt and those authorizing the Department of Healthcare
12 and Family Services to collect debt. All such referred debt
13 shall remain an obligation under the Department of Healthcare
14 and Family Services' Child Support Enforcement Program subject
15 to the requirements of Title IV, Part D of the federal Social
16 Security Act, including the continued use of federally mandated
17 enforcement remedies and techniques by the Department of
18 Healthcare and Family Services.

19 (g-1) The Department of Employment Security is exempt from
20 subsection (a) with regard to debts to any federal account,
21 including but not limited to the Unemployment Trust Fund, and
22 penalties and interest assessed under the Unemployment
23 Insurance Act. The Department of Employment Security may refer
24 those debts to the Bureau, provided the debt satisfies the
25 requirements for referral of delinquent debt as established by
26 rule by the Department of Revenue. The Bureau shall use all

1 legal means available to collect the debts, including those
2 authorizing the Department of Revenue to collect debt and those
3 authorizing the Department of Employment Security to collect
4 debt. All referred debt shall remain an obligation to the
5 account to which it is owed.

6 (h) The Bureau may collect its costs of collecting debts on
7 behalf of other State agencies from those agencies in a manner
8 to be determined by the Director of Revenue, except that the
9 Bureau shall not recover any such cost on any accounts referred
10 by the General Assembly, the Supreme Court and other courts of
11 this State, and the State executive branch constitutional
12 officers. ~~The Debt Collection Fund is created as a special fund~~
13 ~~in the State treasury. Debt collection contractors under this~~
14 ~~Act shall receive a contingency fee as provided by the terms of~~
15 ~~their contracts with the Department of Revenue. Thereafter, 20%~~
16 ~~of all amounts collected by the Bureau, excluding amounts~~
17 ~~collected on behalf of the Departments of Healthcare and Family~~
18 ~~Services (formerly Public Aid) and Revenue, shall be deposited~~
19 ~~into the Debt Collection Fund, except that the Bureau shall not~~
20 ~~impose the 20% collection fee on any accounts referred by the~~
21 ~~General Assembly, the Supreme Court and several courts of this~~
22 ~~State, and the State executive branch constitutional officers.~~
23 ~~All remaining amounts collected shall be deposited into the~~
24 ~~General Revenue Fund unless the funds are owed to any State~~
25 ~~fund or funds other than the General Revenue Fund. Moneys in~~
26 ~~the Debt Collection Fund shall be appropriated only for the~~

1 ~~administrative costs of the Bureau. On the last day of each~~
2 ~~fiscal year, unappropriated moneys and moneys otherwise deemed~~
3 ~~unneded for the next fiscal year remaining in the Debt~~
4 ~~Collection Fund may be transferred into the General Revenue~~
5 ~~Fund at the Governor's reasonable discretion.~~ The provisions of
6 this subsection do not apply to debt that is exempt from
7 subsection (a) pursuant to subsection (g-1) or child support
8 debt referred to the Bureau by the Department of Healthcare and
9 Family Services (formerly Department of Public Aid) pursuant to
10 this amendatory Act of the 93rd General Assembly. Collections
11 arising from referrals from the Department of Healthcare and
12 Family Services (formerly Department of Public Aid) shall be
13 deposited into such fund or funds as the Department of
14 Healthcare and Family Services shall direct, in accordance with
15 the requirements of Title IV, Part D of the federal Social
16 Security Act, applicable provisions of State law, and the rules
17 of the Department of Healthcare and Family Services.
18 Collections arising from referrals from the Department of
19 Employment Security shall be deposited into the fund or funds
20 that the Department of Employment Security shall direct, in
21 accordance with the requirements of Section 3304(a)(3) of the
22 federal Unemployment Tax Act, Section 303(a)(4) of the federal
23 Social Security Act, and the Unemployment Insurance Act.

24 (i) The Attorney General and the State Comptroller may
25 assist in the debt collection efforts of the Bureau, as
26 requested by the Department of Revenue.

1 (j) The Director of Revenue shall report annually to the
2 General Assembly and State Comptroller upon the debt collection
3 efforts of the Bureau. Each report shall include an analysis of
4 the overdue debts owed to the State.

5 (k) The Department of Revenue shall adopt rules and
6 procedures for the administration of this amendatory Act of the
7 93rd General Assembly. The rules shall be adopted under the
8 Department of Revenue's emergency rulemaking authority within
9 90 days following the effective date of this amendatory Act of
10 the 93rd General Assembly due to the budget crisis threatening
11 the public interest.

12 (l) The Department of Revenue's Debt Collection Bureau's
13 obligations under this Section 10 shall be subject to
14 appropriation by the General Assembly.

15 (Source: P.A. 95-331, eff. 8-21-07; 96-493, eff. 1-1-10.)

16 Section 10-10. The Retailers' Occupation Tax Act is amended
17 by changing Section 5 as follows:

18 (35 ILCS 120/5) (from Ch. 120, par. 444)

19 Sec. 5. In case any person engaged in the business of
20 selling tangible personal property at retail fails to file a
21 return when and as herein required, but thereafter, prior to
22 the Department's issuance of a notice of tax liability under
23 this Section, files a return and pays the tax, he shall also
24 pay a penalty in an amount determined in accordance with

1 Section 3-3 of the Uniform Penalty and Interest Act.

2 In case any person engaged in the business of selling
3 tangible personal property at retail files the return at the
4 time required by this Act but fails to pay the tax, or any part
5 thereof, when due, a penalty in an amount determined in
6 accordance with Section 3-3 of the Uniform Penalty and Interest
7 Act shall be added thereto.

8 In case any person engaged in the business of selling
9 tangible personal property at retail fails to file a return
10 when and as herein required, but thereafter, prior to the
11 Department's issuance of a notice of tax liability under this
12 Section, files a return but fails to pay the entire tax, a
13 penalty in an amount determined in accordance with Section 3-3
14 of the Uniform Penalty and Interest Act shall be added thereto.

15 In case any person engaged in the business of selling
16 tangible personal property at retail fails to file a return,
17 the Department shall determine the amount of tax due from him
18 according to its best judgment and information, which amount so
19 fixed by the Department shall be prima facie correct and shall
20 be prima facie evidence of the correctness of the amount of tax
21 due, as shown in such determination. In making any such
22 determination of tax due, it shall be permissible for the
23 Department to show a figure that represents the tax due for any
24 given period of 6 months instead of showing the amount of tax
25 due for each month separately. Proof of such determination by
26 the Department may be made at any hearing before the Department

1 or in any legal proceeding by a reproduced copy or computer
2 print-out of the Department's record relating thereto in the
3 name of the Department under the certificate of the Director of
4 Revenue. If reproduced copies of the Department's records are
5 offered as proof of such determination, the Director must
6 certify that those copies are true and exact copies of records
7 on file with the Department. If computer print-outs of the
8 Department's records are offered as proof of such
9 determination, the Director must certify that those computer
10 print-outs are true and exact representations of records
11 properly entered into standard electronic computing equipment,
12 in the regular course of the Department's business, at or
13 reasonably near the time of the occurrence of the facts
14 recorded, from trustworthy and reliable information. Such
15 certified reproduced copy or certified computer print-out
16 shall, without further proof, be admitted into evidence before
17 the Department or in any legal proceeding and shall be prima
18 facie proof of the correctness of the amount of tax due, as
19 shown therein. The Department shall issue the taxpayer a notice
20 of tax liability for the amount of tax claimed by the
21 Department to be due, together with a penalty of 30% thereof.

22 However, where the failure to file any tax return required
23 under this Act on the date prescribed therefor (including any
24 extensions thereof), is shown to be unintentional and
25 nonfraudulent and has not occurred in the 6 2 years immediately
26 preceding the failure to file on the prescribed date or is due

1 to other reasonable cause the penalties imposed by this Act
2 shall not apply.

3 If such person or the legal representative of such person
4 files, within 60 days after such notice, a protest to such
5 notice of tax liability and requests a hearing thereon, the
6 Department shall give notice to such person or the legal
7 representative of such person of the time and place fixed for
8 such hearing, and shall hold a hearing in conformity with the
9 provisions of this Act, and pursuant thereto shall issue a
10 final assessment to such person or to the legal representative
11 of such person for the amount found to be due as a result of
12 such hearing.

13 If a protest to the notice of tax liability and a request
14 for a hearing thereon is not filed within 60 days after such
15 notice, such notice of tax liability shall become final without
16 the necessity of a final assessment being issued and shall be
17 deemed to be a final assessment.

18 After the issuance of a final assessment, or a notice of
19 tax liability which becomes final without the necessity of
20 actually issuing a final assessment as hereinbefore provided,
21 the Department, at any time before such assessment is reduced
22 to judgment, may (subject to rules of the Department) grant a
23 rehearing (or grant departmental review and hold an original
24 hearing if no previous hearing in the matter has been held)
25 upon the application of the person aggrieved. Pursuant to such
26 hearing or rehearing, the Department shall issue a revised

1 final assessment to such person or his legal representative for
2 the amount found to be due as a result of such hearing or
3 rehearing.

4 Except in case of failure to file a return, or with the
5 consent of the person to whom the notice of tax liability is to
6 be issued, no notice of tax liability shall be issued on and
7 after each July 1 and January 1 covering gross receipts
8 received during any month or period of time more than 3 years
9 prior to such July 1 and January 1, respectively, except that
10 if a return is not filed at the required time, a notice of tax
11 liability may be issued not later than 3 years after the time
12 the return is filed. The foregoing limitations upon the
13 issuance of a notice of tax liability shall not apply to the
14 issuance of any such notice with respect to any period of time
15 prior thereto in cases where the Department has, within the
16 period of limitation then provided, notified a person of the
17 amount of tax computed even though the Department had not
18 determined the amount of tax due from such person in the manner
19 required herein prior to the issuance of such notice, but in no
20 case shall the amount of any such notice of tax liability for
21 any period otherwise barred by this Act exceed for such period
22 the amount shown in the notice theretofore issued.

23 If, when a tax or penalty under this Act becomes due and
24 payable, the person alleged to be liable therefor is out of the
25 State, the notice of tax liability may be issued within the
26 times herein limited after his or her coming into or return to

1 the State; and if, after the tax or penalty under this Act
2 becomes due and payable, the person alleged to be liable
3 therefor departs from and remains out of the State, the time of
4 his or her absence is no part of the time limited for the
5 issuance of the notice of tax liability; but the foregoing
6 provisions concerning absence from the State shall not apply to
7 any case in which, at the time when a tax or penalty becomes
8 due under this Act, the person allegedly liable therefor is not
9 a resident of this State.

10 The time limitation period on the Department's right to
11 issue a notice of tax liability shall not run during any period
12 of time in which the order of any court has the effect of
13 enjoining or restraining the Department from issuing the notice
14 of tax liability.

15 In case of failure to pay the tax, or any portion thereof,
16 or any penalty provided for in this Act, or interest, when due,
17 the Department may bring suit to recover the amount of such
18 tax, or portion thereof, or penalty or interest; or, if the
19 taxpayer has died or become a person under legal disability,
20 may file a claim therefor against his estate; provided that no
21 such suit with respect to any tax, or portion thereof, or
22 penalty, or interest shall be instituted more than 6 ~~2~~ years
23 after the date any proceedings in court for review thereof have
24 terminated or the time for the taking thereof has expired
25 without such proceedings being instituted, except with the
26 consent of the person from whom such tax or penalty or interest

1 is due; nor, except with such consent, shall such suit be
2 instituted more than 6 ~~2~~ years after the date any return is
3 filed with the Department in cases where the return constitutes
4 the basis for the suit for unpaid tax, or portion thereof, or
5 penalty provided for in this Act, or interest: Provided that
6 the time limitation period on the Department's right to bring
7 any such suit shall not run during any period of time in which
8 the order of any court has the effect of enjoining or
9 restraining the Department from bringing such suit.

10 After the expiration of the period within which the person
11 assessed may file an action for judicial review under the
12 Administrative Review Law without such an action being filed, a
13 certified copy of the final assessment or revised final
14 assessment of the Department may be filed with the Circuit
15 Court of the county in which the taxpayer has his principal
16 place of business, or of Sangamon County in those cases in
17 which the taxpayer does not have his principal place of
18 business in this State. The certified copy of the final
19 assessment or revised final assessment shall be accompanied by
20 a certification which recites facts that are sufficient to show
21 that the Department complied with the jurisdictional
22 requirements of the Act in arriving at its final assessment or
23 its revised final assessment and that the taxpayer had his
24 opportunity for an administrative hearing and for judicial
25 review, whether he availed himself or herself of either or both
26 of these opportunities or not. If the court is satisfied that

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

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

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

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

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

24 In addition to any penalty provided for in this Act, any
25 amount of tax which is not paid when due shall bear interest at
26 the rate and in the manner specified in Sections 3-2 and 3-9 of

1 the Uniform Penalty and Interest Act from the date when such
2 tax becomes past due until such tax is paid or a judgment
3 therefor is obtained by the Department. If the time for making
4 or completing an audit of a taxpayer's books and records is
5 extended with the taxpayer's consent, at the request of and for
6 the convenience of the Department, beyond the date on which the
7 statute of limitations upon the issuance of a notice of tax
8 liability by the Department otherwise would run, no interest
9 shall accrue during the period of such extension or until a
10 Notice of Tax Liability is issued, whichever occurs first.

11 In addition to any other remedy provided by this Act, and
12 regardless of whether the Department is making or intends to
13 make use of such other remedy, where a corporation or limited
14 liability company registered under this Act violates the
15 provisions of this Act or of any rule or regulation promulgated
16 thereunder, the Department may give notice to the Attorney
17 General of the identity of such a corporation or limited
18 liability company and of the violations committed by such a
19 corporation or limited liability company, for such action as is
20 not already provided for by this Act and as the Attorney
21 General may deem appropriate.

22 If the Department determines that an amount of tax or
23 penalty or interest was incorrectly assessed, whether as the
24 result of a mistake of fact or an error of law, the Department
25 shall waive the amount of tax or penalty or interest that
26 accrued due to the incorrect assessment.

1 (Source: P.A. 87-193; 87-205; 87-895; 88-480.)

2 Section 10-15. The Illinois Vehicle Code is amended by
3 changing Section 2-123 as follows:

4 (625 ILCS 5/2-123) (from Ch. 95 1/2, par. 2-123)

5 Sec. 2-123. Sale and Distribution of Information.

6 (a) Except as otherwise provided in this Section, the
7 Secretary may make the driver's license, vehicle and title
8 registration lists, in part or in whole, and any statistical
9 information derived from these lists available to local
10 governments, elected state officials, state educational
11 institutions, and all other governmental units of the State and
12 Federal Government requesting them for governmental purposes.
13 The Secretary shall require any such applicant for services to
14 pay for the costs of furnishing such services and the use of
15 the equipment involved, and in addition is empowered to
16 establish prices and charges for the services so furnished and
17 for the use of the electronic equipment utilized.

18 (b) The Secretary is further empowered to and he may, in
19 his discretion, furnish to any applicant, other than listed in
20 subsection (a) of this Section, vehicle or driver data on a
21 computer tape, disk, other electronic format or computer
22 processable medium, or printout at a fixed fee of \$250 for
23 orders received before October 1, 2003 and \$500 for orders
24 received on or after October 1, 2003, in advance, and require

1 in addition a further sufficient deposit based upon the
2 Secretary of State's estimate of the total cost of the
3 information requested and a charge of \$25 for orders received
4 before October 1, 2003 and \$50 for orders received on or after
5 October 1, 2003, per 1,000 units or part thereof identified or
6 the actual cost, whichever is greater. The Secretary is
7 authorized to refund any difference between the additional
8 deposit and the actual cost of the request. This service shall
9 not be in lieu of an abstract of a driver's record nor of a
10 title or registration search. This service may be limited to
11 entities purchasing a minimum number of records as required by
12 administrative rule. The information sold pursuant to this
13 subsection shall be the entire vehicle or driver data list, or
14 part thereof. The information sold pursuant to this subsection
15 shall not contain personally identifying information unless
16 the information is to be used for one of the purposes
17 identified in subsection (f-5) of this Section. Commercial
18 purchasers of driver and vehicle record databases shall enter
19 into a written agreement with the Secretary of State that
20 includes disclosure of the commercial use of the information to
21 be purchased.

22 (b-1) The Secretary is further empowered to and may, in his
23 or her discretion, furnish vehicle or driver data on a computer
24 tape, disk, or other electronic format or computer processible
25 medium, at no fee, to any State or local governmental agency
26 that uses the information provided by the Secretary to transmit

1 data back to the Secretary that enables the Secretary to
2 maintain accurate driving records, including dispositions of
3 traffic cases. This information may be provided without fee not
4 more often than once every 6 months.

5 (c) Secretary of State may issue registration lists. The
6 Secretary of State may compile a list of all registered
7 vehicles. Each list of registered vehicles shall be arranged
8 serially according to the registration numbers assigned to
9 registered vehicles and may contain in addition the names and
10 addresses of registered owners and a brief description of each
11 vehicle including the serial or other identifying number
12 thereof. Such compilation may be in such form as in the
13 discretion of the Secretary of State may seem best for the
14 purposes intended.

15 (d) The Secretary of State shall furnish no more than 2
16 current available lists of such registrations to the sheriffs
17 of all counties and to the chiefs of police of all cities and
18 villages and towns of 2,000 population and over in this State
19 at no cost. Additional copies may be purchased by the sheriffs
20 or chiefs of police at the fee of \$500 each or at the cost of
21 producing the list as determined by the Secretary of State.
22 Such lists are to be used for governmental purposes only.

23 (e) (Blank).

24 (e-1) (Blank).

25 (f) The Secretary of State shall make a title or
26 registration search of the records of his office and a written

1 report on the same for any person, upon written application of
2 such person, accompanied by a fee of \$5 for each registration
3 or title search. The written application shall set forth the
4 intended use of the requested information. No fee shall be
5 charged for a title or registration search, or for the
6 certification thereof requested by a government agency. The
7 report of the title or registration search shall not contain
8 personally identifying information unless the request for a
9 search was made for one of the purposes identified in
10 subsection (f-5) of this Section. The report of the title or
11 registration search shall not contain highly restricted
12 personal information unless specifically authorized by this
13 Code.

14 The Secretary of State shall certify a title or
15 registration record upon written request. The fee for
16 certification shall be \$5 in addition to the fee required for a
17 title or registration search. Certification shall be made under
18 the signature of the Secretary of State and shall be
19 authenticated by Seal of the Secretary of State.

20 The Secretary of State may notify the vehicle owner or
21 registrant of the request for purchase of his title or
22 registration information as the Secretary deems appropriate.

23 No information shall be released to the requestor until
24 expiration of a 10 day period. This 10 day period shall not
25 apply to requests for information made by law enforcement
26 officials, government agencies, financial institutions,

1 attorneys, insurers, employers, automobile associated
2 businesses, persons licensed as a private detective or firms
3 licensed as a private detective agency under the Private
4 Detective, Private Alarm, Private Security, Fingerprint
5 Vendor, and Locksmith Act of 2004, who are employed by or are
6 acting on behalf of law enforcement officials, government
7 agencies, financial institutions, attorneys, insurers,
8 employers, automobile associated businesses, and other
9 business entities for purposes consistent with the Illinois
10 Vehicle Code, the vehicle owner or registrant or other entities
11 as the Secretary may exempt by rule and regulation.

12 Any misrepresentation made by a requestor of title or
13 vehicle information shall be punishable as a petty offense,
14 except in the case of persons licensed as a private detective
15 or firms licensed as a private detective agency which shall be
16 subject to disciplinary sanctions under Section 40-10 of the
17 Private Detective, Private Alarm, Private Security,
18 Fingerprint Vendor, and Locksmith Act of 2004.

19 (f-5) The Secretary of State shall not disclose or
20 otherwise make available to any person or entity any personally
21 identifying information obtained by the Secretary of State in
22 connection with a driver's license, vehicle, or title
23 registration record unless the information is disclosed for one
24 of the following purposes:

25 (1) For use by any government agency, including any
26 court or law enforcement agency, in carrying out its

1 functions, or any private person or entity acting on behalf
2 of a federal, State, or local agency in carrying out its
3 functions.

4 (2) For use in connection with matters of motor vehicle
5 or driver safety and theft; motor vehicle emissions; motor
6 vehicle product alterations, recalls, or advisories;
7 performance monitoring of motor vehicles, motor vehicle
8 parts, and dealers; and removal of non-owner records from
9 the original owner records of motor vehicle manufacturers.

10 (3) For use in the normal course of business by a
11 legitimate business or its agents, employees, or
12 contractors, but only:

13 (A) to verify the accuracy of personal information
14 submitted by an individual to the business or its
15 agents, employees, or contractors; and

16 (B) if such information as so submitted is not
17 correct or is no longer correct, to obtain the correct
18 information, but only for the purposes of preventing
19 fraud by, pursuing legal remedies against, or
20 recovering on a debt or security interest against, the
21 individual.

22 (4) For use in research activities and for use in
23 producing statistical reports, if the personally
24 identifying information is not published, redisclosed, or
25 used to contact individuals.

26 (5) For use in connection with any civil, criminal,

1 administrative, or arbitral proceeding in any federal,
2 State, or local court or agency or before any
3 self-regulatory body, including the service of process,
4 investigation in anticipation of litigation, and the
5 execution or enforcement of judgments and orders, or
6 pursuant to an order of a federal, State, or local court.

7 (6) For use by any insurer or insurance support
8 organization or by a self-insured entity or its agents,
9 employees, or contractors in connection with claims
10 investigation activities, antifraud activities, rating, or
11 underwriting.

12 (7) For use in providing notice to the owners of towed
13 or impounded vehicles.

14 (8) For use by any person licensed as a private
15 detective or firm licensed as a private detective agency
16 under the Private Detective, Private Alarm, Private
17 Security, Fingerprint Vendor, and Locksmith Act of 2004,
18 private investigative agency or security service licensed
19 in Illinois for any purpose permitted under this
20 subsection.

21 (9) For use by an employer or its agent or insurer to
22 obtain or verify information relating to a holder of a
23 commercial driver's license that is required under chapter
24 313 of title 49 of the United States Code.

25 (10) For use in connection with the operation of
26 private toll transportation facilities.

1 (11) For use by any requester, if the requester
2 demonstrates it has obtained the written consent of the
3 individual to whom the information pertains.

4 (12) For use by members of the news media, as defined
5 in Section 1-148.5, for the purpose of newsgathering when
6 the request relates to the operation of a motor vehicle or
7 public safety.

8 (13) For any other use specifically authorized by law,
9 if that use is related to the operation of a motor vehicle
10 or public safety.

11 (14) For use by the Department of Revenue in the
12 administration of any tax administered by the Department of
13 Revenue or in the collection of any tax or debt that the
14 Department of Revenue is authorized or required by law to
15 collect. The Secretary of State may disclose or otherwise
16 make available to the Department social security numbers
17 for these purposes.

18 (f-6) The Secretary of State shall not disclose or
19 otherwise make available to any person or entity any highly
20 restricted personal information obtained by the Secretary of
21 State in connection with a driver's license, vehicle, or title
22 registration record unless specifically authorized by this
23 Code.

24 (g) 1. The Secretary of State may, upon receipt of a
25 written request and a fee of \$6 before October 1, 2003 and
26 a fee of \$12 on and after October 1, 2003, furnish to the

1 person or agency so requesting a driver's record. Such
2 document may include a record of: current driver's license
3 issuance information, except that the information on
4 judicial driving permits shall be available only as
5 otherwise provided by this Code; convictions; orders
6 entered revoking, suspending or cancelling a driver's
7 license or privilege; and notations of accident
8 involvement. All other information, unless otherwise
9 permitted by this Code, shall remain confidential.
10 Information released pursuant to a request for a driver's
11 record shall not contain personally identifying
12 information, unless the request for the driver's record was
13 made for one of the purposes set forth in subsection (f-5)
14 of this Section. The Secretary of State may, without fee,
15 allow a parent or guardian of a person under the age of 18
16 years, who holds an instruction permit or graduated
17 driver's license, to view that person's driving record
18 online, through a computer connection. The parent or
19 guardian's online access to the driving record will
20 terminate when the instruction permit or graduated
21 driver's license holder reaches the age of 18.

22 2. The Secretary of State shall not disclose or
23 otherwise make available to any person or entity any highly
24 restricted personal information obtained by the Secretary
25 of State in connection with a driver's license, vehicle, or
26 title registration record unless specifically authorized

1 by this Code. The Secretary of State may certify an
2 abstract of a driver's record upon written request
3 therefor. Such certification shall be made under the
4 signature of the Secretary of State and shall be
5 authenticated by the Seal of his office.

6 3. All requests for driving record information shall be
7 made in a manner prescribed by the Secretary and shall set
8 forth the intended use of the requested information.

9 The Secretary of State may notify the affected driver
10 of the request for purchase of his driver's record as the
11 Secretary deems appropriate.

12 No information shall be released to the requester until
13 expiration of a 10 day period. This 10 day period shall not
14 apply to requests for information made by law enforcement
15 officials, government agencies, financial institutions,
16 attorneys, insurers, employers, automobile associated
17 businesses, persons licensed as a private detective or
18 firms licensed as a private detective agency under the
19 Private Detective, Private Alarm, Private Security,
20 Fingerprint Vendor, and Locksmith Act of 2004, who are
21 employed by or are acting on behalf of law enforcement
22 officials, government agencies, financial institutions,
23 attorneys, insurers, employers, automobile associated
24 businesses, and other business entities for purposes
25 consistent with the Illinois Vehicle Code, the affected
26 driver or other entities as the Secretary may exempt by

1 rule and regulation.

2 Any misrepresentation made by a requestor of driver
3 information shall be punishable as a petty offense, except
4 in the case of persons licensed as a private detective or
5 firms licensed as a private detective agency which shall be
6 subject to disciplinary sanctions under Section 40-10 of
7 the Private Detective, Private Alarm, Private Security,
8 Fingerprint Vendor, and Locksmith Act of 2004.

9 4. The Secretary of State may furnish without fee, upon
10 the written request of a law enforcement agency, any
11 information from a driver's record on file with the
12 Secretary of State when such information is required in the
13 enforcement of this Code or any other law relating to the
14 operation of motor vehicles, including records of
15 dispositions; documented information involving the use of
16 a motor vehicle; whether such individual has, or previously
17 had, a driver's license; and the address and personal
18 description as reflected on said driver's record.

19 5. Except as otherwise provided in this Section, the
20 Secretary of State may furnish, without fee, information
21 from an individual driver's record on file, if a written
22 request therefor is submitted by any public transit system
23 or authority, public defender, law enforcement agency, a
24 state or federal agency, or an Illinois local
25 intergovernmental association, if the request is for the
26 purpose of a background check of applicants for employment

1 with the requesting agency, or for the purpose of an
2 official investigation conducted by the agency, or to
3 determine a current address for the driver so public funds
4 can be recovered or paid to the driver, or for any other
5 purpose set forth in subsection (f-5) of this Section.

6 The Secretary may also furnish the courts a copy of an
7 abstract of a driver's record, without fee, subsequent to
8 an arrest for a violation of Section 11-501 or a similar
9 provision of a local ordinance. Such abstract may include
10 records of dispositions; documented information involving
11 the use of a motor vehicle as contained in the current
12 file; whether such individual has, or previously had, a
13 driver's license; and the address and personal description
14 as reflected on said driver's record.

15 6. Any certified abstract issued by the Secretary of
16 State or transmitted electronically by the Secretary of
17 State pursuant to this Section, to a court or on request of
18 a law enforcement agency, for the record of a named person
19 as to the status of the person's driver's license shall be
20 prima facie evidence of the facts therein stated and if the
21 name appearing in such abstract is the same as that of a
22 person named in an information or warrant, such abstract
23 shall be prima facie evidence that the person named in such
24 information or warrant is the same person as the person
25 named in such abstract and shall be admissible for any
26 prosecution under this Code and be admitted as proof of any

1 prior conviction or proof of records, notices, or orders
2 recorded on individual driving records maintained by the
3 Secretary of State.

4 7. Subject to any restrictions contained in the
5 Juvenile Court Act of 1987, and upon receipt of a proper
6 request and a fee of \$6 before October 1, 2003 and a fee of
7 \$12 on or after October 1, 2003, the Secretary of State
8 shall provide a driver's record to the affected driver, or
9 the affected driver's attorney, upon verification. Such
10 record shall contain all the information referred to in
11 paragraph 1 of this subsection (g) plus: any recorded
12 accident involvement as a driver; information recorded
13 pursuant to subsection (e) of Section 6-117 and paragraph
14 (4) of subsection (a) of Section 6-204 of this Code. All
15 other information, unless otherwise permitted by this
16 Code, shall remain confidential.

17 (h) The Secretary shall not disclose social security
18 numbers or any associated information obtained from the Social
19 Security Administration except pursuant to a written request
20 by, or with the prior written consent of, the individual
21 except: (1) to officers and employees of the Secretary who have
22 a need to know the social security numbers in performance of
23 their official duties, (2) to law enforcement officials for a
24 lawful, civil or criminal law enforcement investigation, and if
25 the head of the law enforcement agency has made a written
26 request to the Secretary specifying the law enforcement

1 investigation for which the social security numbers are being
2 sought, (3) to the United States Department of Transportation,
3 or any other State, pursuant to the administration and
4 enforcement of the Commercial Motor Vehicle Safety Act of 1986,
5 (4) pursuant to the order of a court of competent jurisdiction,
6 or (5) to the Department of Healthcare and Family Services
7 (formerly Department of Public Aid) for utilization in the
8 child support enforcement duties assigned to that Department
9 under provisions of the Illinois Public Aid Code after the
10 individual has received advanced meaningful notification of
11 what redisclosure is sought by the Secretary in accordance with
12 the federal Privacy Act.

13 (i) (Blank).

14 (j) Medical statements or medical reports received in the
15 Secretary of State's Office shall be confidential. No
16 confidential information may be open to public inspection or
17 the contents disclosed to anyone, except officers and employees
18 of the Secretary who have a need to know the information
19 contained in the medical reports and the Driver License Medical
20 Advisory Board, unless so directed by an order of a court of
21 competent jurisdiction.

22 (k) All fees collected under this Section shall be paid
23 into the Road Fund of the State Treasury, except that (i) for
24 fees collected before October 1, 2003, \$3 of the \$6 fee for a
25 driver's record shall be paid into the Secretary of State
26 Special Services Fund, (ii) for fees collected on and after

1 October 1, 2003, of the \$12 fee for a driver's record, \$3 shall
2 be paid into the Secretary of State Special Services Fund and
3 \$6 shall be paid into the General Revenue Fund, and (iii) for
4 fees collected on and after October 1, 2003, 50% of the amounts
5 collected pursuant to subsection (b) shall be paid into the
6 General Revenue Fund.

7 (l) (Blank).

8 (m) Notations of accident involvement that may be disclosed
9 under this Section shall not include notations relating to
10 damage to a vehicle or other property being transported by a
11 tow truck. This information shall remain confidential,
12 provided that nothing in this subsection (m) shall limit
13 disclosure of any notification of accident involvement to any
14 law enforcement agency or official.

15 (n) Requests made by the news media for driver's license,
16 vehicle, or title registration information may be furnished
17 without charge or at a reduced charge, as determined by the
18 Secretary, when the specific purpose for requesting the
19 documents is deemed to be in the public interest. Waiver or
20 reduction of the fee is in the public interest if the principal
21 purpose of the request is to access and disseminate information
22 regarding the health, safety, and welfare or the legal rights
23 of the general public and is not for the principal purpose of
24 gaining a personal or commercial benefit. The information
25 provided pursuant to this subsection shall not contain
26 personally identifying information unless the information is

1 to be used for one of the purposes identified in subsection
2 (f-5) of this Section.

3 (o) The redisclosure of personally identifying information
4 obtained pursuant to this Section is prohibited, except to the
5 extent necessary to effectuate the purpose for which the
6 original disclosure of the information was permitted.

7 (p) The Secretary of State is empowered to adopt rules to
8 effectuate this Section.

9 (Source: P.A. 94-56, eff. 6-17-05; 95-201, eff. 1-1-08; 95-287,
10 eff. 1-1-08; 95-331, eff. 8-21-07; 95-613, eff. 9-11-07;
11 95-876, eff. 8-21-08.)

12

ARTICLE 99

13 Section 99-99. Effective date. This Act takes effect upon
14 becoming law.