



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 377

2 AMENDMENT NO. _____. Amend Senate Bill 377 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Uncollected State Claims Act is amended by
5 adding Section 2.1 as follows:

6 (30 ILCS 205/2.1 new)

7 Sec. 2.1. Sale of debts certified as uncollectible. After
8 accounts have been certified by the Attorney General as
9 uncollectible pursuant to this Act, the State Comptroller may
10 sell the debts to one or more outside private vendors. Sales
11 shall be conducted under rules adopted by the State Comptroller
12 using a request for proposals procedure similar to that
13 procedure under the Illinois Procurement Code. The outside
14 private vendors shall remit to the State Comptroller the
15 purchase price for debts sold under this Section. The State
16 Comptroller shall deposit the money received under this Section

1 into the General Revenue Fund. This Section does not apply to
2 any tax debt owing to the Department of Revenue.

3 Section 10. The Illinois State Collection Act of 1986 is
4 amended by adding Section 9 as follows:

5 (30 ILCS 210/9 new)

6 Sec. 9. Deferral and compromise of past due debt.

7 (a) In this Section, "past due debt" means any debt owed to
8 the State that has been outstanding for more than 12 months.
9 "Past due debt" does not include any debt if any of the actions
10 required under this Section would violate federal law or
11 regulation.

12 (b) State agencies may enter into a deferred payment plan
13 for the purpose of satisfying a past due debt. The deferred
14 payment plan must meet the following requirements:

15 (1) The term of the deferred payment plan may not
16 exceed 2 years.

17 (2) The first payment of the deferred payment plan must
18 be at least 10% of the total amount due.

19 (3) All subsequent monthly payments for the deferred
20 payment plan must be assessed as equal monthly principal
21 payments, together with interest.

22 (4) The deferred payment plan must include interest at
23 a rate that is the same as the interest required under the
24 State Prompt Payment Act.

1 (5) The deferred payment plan must be approved by the
2 Secretary or Director of the State agency.

3 (c) State agencies may compromise past due debts. Any
4 action taken by a State agency to compromise a past due debt
5 must meet the following requirements:

6 (1) The amount of the compromised debt shall be no less
7 than 80% of the total of the past due debt.

8 (2) Once a past due debt has been compromised, the
9 debtor must remit to the State agency the total amount of
10 the compromised debt. However, the State agency may collect
11 the compromised debt through a payment plan not to exceed 6
12 months. If the State agency accepts the compromised debt
13 through a payment plan, then the compromised debt shall be
14 subject to the same rate of interest as required under the
15 State Prompt Payment Act.

16 (3) Before a State agency accepts a compromised debt,
17 the amount of the compromised debt must be approved by the
18 State Comptroller.

19 (d) State agencies may sell a past due debt to one or more
20 outside private vendors. Sales shall be conducted under rules
21 adopted by the State Comptroller using a request for proposals
22 procedure similar to that procedure under the Illinois
23 Procurement Code. The outside private vendors shall remit to
24 the State Agency the purchase price for debts sold under this
25 subsection.

26 (e) The State agency shall deposit all amounts received

1 under this Section into the General Revenue Fund.

2 (f) This Section does not apply to any tax debt owing to
3 the Department of Revenue.

4 Section 15. The Tax Delinquency Amnesty Act is amended by
5 changing Section 10 as follows:

6 (35 ILCS 745/10)

7 Sec. 10. Amnesty program. The Department shall establish an
8 amnesty program for all taxpayers owing any tax imposed by
9 reason of or pursuant to authorization by any law of the State
10 of Illinois and collected by the Department.

11 The amnesty program shall be for a period from October 1,
12 2003 through November 15, 2003 and for a period beginning on
13 October 1, 2010 and ending November 15, 2010.

14 The amnesty program shall provide that, upon payment by a
15 taxpayer of all taxes due from that taxpayer to the State of
16 Illinois for any taxable period ending (i) after June 30, 1983
17 and prior to July 1, 2002 for the tax amnesty period occurring
18 from October 1, 2003 through November 15, 2003, and (ii) after
19 June 30, 2002 and prior to July 1, 2009 for the tax amnesty
20 period beginning on October 1, 2010 through November 15, 2010,
21 the Department shall abate and not seek to collect any interest
22 or penalties that may be applicable and the Department shall
23 not seek civil or criminal prosecution for any taxpayer for the
24 period of time for which amnesty has been granted to the

1 taxpayer. Failure to pay all taxes due to the State for a
2 taxable period shall invalidate any amnesty granted under this
3 Act. Amnesty shall be granted only if all amnesty conditions
4 are satisfied by the taxpayer.

5 Amnesty shall not be granted to taxpayers who are a party
6 to any criminal investigation or to any civil or criminal
7 litigation that is pending in any circuit court or appellate
8 court or the Supreme Court of this State for nonpayment,
9 delinquency, or fraud in relation to any State tax imposed by
10 any law of the State of Illinois.

11 Participation in an amnesty program shall not preclude a
12 taxpayer from claiming a refund for an overpayment of tax on an
13 issue unrelated to the issues for which the taxpayer claimed
14 amnesty or for an overpayment of tax by taxpayers estimating a
15 non-final liability for the amnesty program pursuant to Section
16 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)).

17 Voluntary payments made under this Act shall be made by
18 cash, check, guaranteed remittance, or ACH debit.

19 The Department shall adopt rules as necessary to implement
20 the provisions of this Act.

21 Except as otherwise provided in this Section, all money
22 collected under this Act that would otherwise be deposited into
23 the General Revenue Fund shall be deposited as follows: (i)
24 one-half into the Common School Fund; (ii) one-half into the
25 General Revenue Fund. Two percent of all money collected under
26 this Act shall be deposited by the State Treasurer into the Tax

1 Compliance and Administration Fund and, subject to
2 appropriation, shall be used by the Department to cover costs
3 associated with the administration of this Act.

4 (Source: P.A. 93-26, eff. 6-20-03.)

5 Section 20. The Uniform Penalty and Interest Act is amended
6 by changing Sections 3-2, 3-3, 3-4, 3-5, 3-6, and 3-7.5 as
7 follows:

8 (35 ILCS 735/3-2) (from Ch. 120, par. 2603-2)

9 Sec. 3-2. Interest.

10 (a) Interest paid by the Department to taxpayers and
11 interest charged to taxpayers by the Department shall be paid
12 at the annual rate determined by the Department. For periods
13 prior to January 1, 2004, that rate shall be the underpayment
14 rate established under Section 6621 of the Internal Revenue
15 Code. For periods after December 31, 2003, that rate shall be:

16 (1) for the one-year period beginning with the date of
17 underpayment or overpayment, the short-term federal rate
18 established under Section 6621 of the Internal Revenue
19 Code.

20 (2) for any period beginning the day after the one-year
21 period described in paragraph (1) of this subsection (a),
22 the underpayment rate established under Section 6621 of the
23 Internal Revenue Code.

24 (b) The interest rate shall be adjusted on a semiannual

1 basis, on January 1 and July 1, based upon the underpayment
2 rate or short-term federal rate going into effect on that
3 January 1 or July 1 under Section 6621 of the Internal Revenue
4 Code.

5 (c) This subsection (c) is applicable to returns due on and
6 before December 31, 2000. Interest shall be simple interest
7 calculated on a daily basis. Interest shall accrue upon tax and
8 penalty due. If notice and demand is made for the payment of
9 any amount of tax due and if the amount due is paid within 30
10 days after the date of such notice and demand, interest under
11 this Section on the amount so paid shall not be imposed for the
12 period after the date of the notice and demand.

13 (c-5) This subsection (c-5) is applicable to returns due on
14 and after January 1, 2001. Interest shall be simple interest
15 calculated on a daily basis. Interest shall accrue upon tax
16 due. If notice and demand is made for the payment of any amount
17 of tax due and if the amount due is paid within 30 days after
18 the date of the notice and demand, interest under this Section
19 on the amount so paid shall not be imposed for the period after
20 the date of the notice and demand.

21 (d) No interest shall be paid upon any overpayment of tax
22 if the overpayment is refunded or a credit approved within 90
23 days after the last date prescribed for filing the original
24 return, or within 90 days of the receipt of the processable
25 return, or within 90 days after the date of overpayment,
26 whichever date is latest, as determined without regard to

1 processing time by the Comptroller or without regard to the
2 date on which the credit is applied to the taxpayer's account.
3 In order for an original return to be processable for purposes
4 of this Section, it must be in the form prescribed or approved
5 by the Department, signed by the person authorized by law, and
6 contain all information, schedules, and support documents
7 necessary to determine the tax due and to make allocations of
8 tax as prescribed by law. For the purposes of computing
9 interest, a return shall be deemed to be processable unless the
10 Department notifies the taxpayer that the return is not
11 processable within 90 days after the receipt of the return;
12 however, interest shall not accumulate for the period following
13 this date of notice. Interest on amounts refunded or credited
14 pursuant to the filing of an amended return or claim for refund
15 shall be determined from the due date of the original return or
16 the date of overpayment, whichever is later, to the date of
17 payment by the Department without regard to processing time by
18 the Comptroller or the date of credit by the Department or
19 without regard to the date on which the credit is applied to
20 the taxpayer's account. If a claim for refund relates to an
21 overpayment attributable to a net loss carryback as provided by
22 Section 207 of the Illinois Income Tax Act, the date of
23 overpayment shall be the last day of the taxable year in which
24 the loss was incurred.

25 (e) Interest on erroneous refunds. Any portion of the tax
26 imposed by an Act to which this Act is applicable or any

1 interest or penalty which has been erroneously refunded and
2 which is recoverable by the Department shall bear interest from
3 the date of payment of the refund. However, no interest will be
4 charged if the erroneous refund is for an amount less than \$500
5 and is due to a mistake of the Department.

6 (f) If a taxpayer has a tax liability for the taxable
7 period ending after June 30, 1983 and prior to July 1, 2002
8 that is eligible for amnesty under the Tax Delinquency Amnesty
9 Act and the taxpayer fails to satisfy the tax liability during
10 the amnesty period provided for in that Act for that taxable
11 period, then the interest charged by the Department under this
12 Section shall be imposed at a rate that is 200% of the rate
13 that would otherwise be imposed under this Section.

14 (g) If a taxpayer has a tax liability for the taxable
15 period ending after June 30, 2002 and prior to July 1, 2009
16 that is eligible for amnesty under the Tax Delinquency Amnesty
17 Act, except for any tax liability reported pursuant to Section
18 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
19 is not final, and the taxpayer fails to satisfy the tax
20 liability during the amnesty period provided for in that Act
21 for that taxable period, then the interest charged by the
22 Department under this Section shall be imposed in an amount
23 that is 200% of the amount that would otherwise be imposed
24 under this Section.

25 (h) No interest shall be paid to a taxpayer on any refund
26 allowed under Section 15 of the Tax Delinquency Amnesty Act.

1 (Source: P.A. 95-331, eff. 8-21-07.)

2 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

3 Sec. 3-3. Penalty for failure to file or pay.

4 (a) This subsection (a) is applicable before January 1,
5 1996. A penalty of 5% of the tax required to be shown due on a
6 return shall be imposed for failure to file the tax return on
7 or before the due date prescribed for filing determined with
8 regard for any extension of time for filing (penalty for late
9 filing or nonfiling). If any unprocessable return is corrected
10 and filed within 21 days after notice by the Department, the
11 late filing or nonfiling penalty shall not apply. If a penalty
12 for late filing or nonfiling is imposed in addition to a
13 penalty for late payment, the total penalty due shall be the
14 sum of the late filing penalty and the applicable late payment
15 penalty. Beginning on the effective date of this amendatory Act
16 of 1995, in the case of any type of tax return required to be
17 filed more frequently than annually, when the failure to file
18 the tax return on or before the date prescribed for filing
19 (including any extensions) is shown to be nonfraudulent and has
20 not occurred in the 2 years immediately preceding the failure
21 to file on the prescribed due date, the penalty imposed by
22 Section 3-3(a) shall be abated.

23 (a-5) This subsection (a-5) is applicable to returns due on
24 and after January 1, 1996 and on or before December 31, 2000. A
25 penalty equal to 2% of the tax required to be shown due on a

1 return, up to a maximum amount of \$250, determined without
2 regard to any part of the tax that is paid on time or by any
3 credit that was properly allowable on the date the return was
4 required to be filed, shall be imposed for failure to file the
5 tax return on or before the due date prescribed for filing
6 determined with regard for any extension of time for filing.
7 However, if any return is not filed within 30 days after notice
8 of nonfiling mailed by the Department to the last known address
9 of the taxpayer contained in Department records, an additional
10 penalty amount shall be imposed equal to the greater of \$250 or
11 2% of the tax shown on the return. However, the additional
12 penalty amount may not exceed \$5,000 and is determined without
13 regard to any part of the tax that is paid on time or by any
14 credit that was properly allowable on the date the return was
15 required to be filed (penalty for late filing or nonfiling). If
16 any unprocessable return is corrected and filed within 30 days
17 after notice by the Department, the late filing or nonfiling
18 penalty shall not apply. If a penalty for late filing or
19 nonfiling is imposed in addition to a penalty for late payment,
20 the total penalty due shall be the sum of the late filing
21 penalty and the applicable late payment penalty. In the case of
22 any type of tax return required to be filed more frequently
23 than annually, when the failure to file the tax return on or
24 before the date prescribed for filing (including any
25 extensions) is shown to be nonfraudulent and has not occurred
26 in the 2 years immediately preceding the failure to file on the

1 prescribed due date, the penalty imposed by Section 3-3(a-5)
2 shall be abated.

3 (a-10) This subsection (a-10) is applicable to returns due
4 on and after January 1, 2001. A penalty equal to 2% of the tax
5 required to be shown due on a return, up to a maximum amount of
6 \$250, reduced by any tax that is paid on time or by any credit
7 that was properly allowable on the date the return was required
8 to be filed, shall be imposed for failure to file the tax
9 return on or before the due date prescribed for filing
10 determined with regard for any extension of time for filing.
11 However, if any return is not filed within 30 days after notice
12 of nonfiling mailed by the Department to the last known address
13 of the taxpayer contained in Department records, an additional
14 penalty amount shall be imposed equal to the greater of \$250 or
15 2% of the tax shown on the return. However, the additional
16 penalty amount may not exceed \$5,000 and is determined without
17 regard to any part of the tax that is paid on time or by any
18 credit that was properly allowable on the date the return was
19 required to be filed (penalty for late filing or nonfiling). If
20 any unprocessable return is corrected and filed within 30 days
21 after notice by the Department, the late filing or nonfiling
22 penalty shall not apply. If a penalty for late filing or
23 nonfiling is imposed in addition to a penalty for late payment,
24 the total penalty due shall be the sum of the late filing
25 penalty and the applicable late payment penalty. In the case of
26 any type of tax return required to be filed more frequently

1 than annually, when the failure to file the tax return on or
2 before the date prescribed for filing (including any
3 extensions) is shown to be nonfraudulent and has not occurred
4 in the 2 years immediately preceding the failure to file on the
5 prescribed due date, the penalty imposed by Section 3-3(a-10)
6 shall be abated.

7 (b) This subsection is applicable before January 1, 1998. A
8 penalty of 15% of the tax shown on the return or the tax
9 required to be shown due on the return shall be imposed for
10 failure to pay:

11 (1) the tax shown due on the return on or before the
12 due date prescribed for payment of that tax, an amount of
13 underpayment of estimated tax, or an amount that is
14 reported in an amended return other than an amended return
15 timely filed as required by subsection (b) of Section 506
16 of the Illinois Income Tax Act (penalty for late payment or
17 nonpayment of admitted liability); or

18 (2) the full amount of any tax required to be shown due
19 on a return and which is not shown (penalty for late
20 payment or nonpayment of additional liability), within 30
21 days after a notice of arithmetic error, notice and demand,
22 or a final assessment is issued by the Department. In the
23 case of a final assessment arising following a protest and
24 hearing, the 30-day period shall not begin until all
25 proceedings in court for review of the final assessment
26 have terminated or the period for obtaining a review has

1 expired without proceedings for a review having been
2 instituted. In the case of a notice of tax liability that
3 becomes a final assessment without a protest and hearing,
4 the penalty provided in this paragraph (2) shall be imposed
5 at the expiration of the period provided for the filing of
6 a protest.

7 (b-5) This subsection is applicable to returns due on and
8 after January 1, 1998 and on or before December 31, 2000. A
9 penalty of 20% of the tax shown on the return or the tax
10 required to be shown due on the return shall be imposed for
11 failure to pay:

12 (1) the tax shown due on the return on or before the
13 due date prescribed for payment of that tax, an amount of
14 underpayment of estimated tax, or an amount that is
15 reported in an amended return other than an amended return
16 timely filed as required by subsection (b) of Section 506
17 of the Illinois Income Tax Act (penalty for late payment or
18 nonpayment of admitted liability); or

19 (2) the full amount of any tax required to be shown due
20 on a return and which is not shown (penalty for late
21 payment or nonpayment of additional liability), within 30
22 days after a notice of arithmetic error, notice and demand,
23 or a final assessment is issued by the Department. In the
24 case of a final assessment arising following a protest and
25 hearing, the 30-day period shall not begin until all
26 proceedings in court for review of the final assessment

1 have terminated or the period for obtaining a review has
2 expired without proceedings for a review having been
3 instituted. In the case of a notice of tax liability that
4 becomes a final assessment without a protest and hearing,
5 the penalty provided in this paragraph (2) shall be imposed
6 at the expiration of the period provided for the filing of
7 a protest.

8 (b-10) This subsection (b-10) is applicable to returns due
9 on and after January 1, 2001 and on or before December 31,
10 2003. A penalty shall be imposed for failure to pay:

11 (1) the tax shown due on a return on or before the due
12 date prescribed for payment of that tax, an amount of
13 underpayment of estimated tax, or an amount that is
14 reported in an amended return other than an amended return
15 timely filed as required by subsection (b) of Section 506
16 of the Illinois Income Tax Act (penalty for late payment or
17 nonpayment of admitted liability). The amount of penalty
18 imposed under this subsection (b-10) (1) shall be 2% of any
19 amount that is paid no later than 30 days after the due
20 date, 5% of any amount that is paid later than 30 days
21 after the due date and not later than 90 days after the due
22 date, 10% of any amount that is paid later than 90 days
23 after the due date and not later than 180 days after the
24 due date, and 15% of any amount that is paid later than 180
25 days after the due date. If notice and demand is made for
26 the payment of any amount of tax due and if the amount due

1 is paid within 30 days after the date of the notice and
2 demand, then the penalty for late payment or nonpayment of
3 admitted liability under this subsection (b-10)(1) on the
4 amount so paid shall not accrue for the period after the
5 date of the notice and demand.

6 (2) the full amount of any tax required to be shown due
7 on a return and that is not shown (penalty for late payment
8 or nonpayment of additional liability), within 30 days
9 after a notice of arithmetic error, notice and demand, or a
10 final assessment is issued by the Department. In the case
11 of a final assessment arising following a protest and
12 hearing, the 30-day period shall not begin until all
13 proceedings in court for review of the final assessment
14 have terminated or the period for obtaining a review has
15 expired without proceedings for a review having been
16 instituted. The amount of penalty imposed under this
17 subsection (b-10)(2) shall be 20% of any amount that is not
18 paid within the 30-day period. In the case of a notice of
19 tax liability that becomes a final assessment without a
20 protest and hearing, the penalty provided in this
21 subsection (b-10)(2) shall be imposed at the expiration of
22 the period provided for the filing of a protest.

23 (b-15) This subsection (b-15) is applicable to returns due
24 on and after January 1, 2004 and on or before December 31,
25 2004. A penalty shall be imposed for failure to pay the tax
26 shown due or required to be shown due on a return on or before

1 the due date prescribed for payment of that tax, an amount of
2 underpayment of estimated tax, or an amount that is reported in
3 an amended return other than an amended return timely filed as
4 required by subsection (b) of Section 506 of the Illinois
5 Income Tax Act (penalty for late payment or nonpayment of
6 admitted liability). The amount of penalty imposed under this
7 subsection (b-15)(1) shall be 2% of any amount that is paid no
8 later than 30 days after the due date, 10% of any amount that
9 is paid later than 30 days after the due date and not later
10 than 90 days after the due date, 15% of any amount that is paid
11 later than 90 days after the due date and not later than 180
12 days after the due date, and 20% of any amount that is paid
13 later than 180 days after the due date. If notice and demand is
14 made for the payment of any amount of tax due and if the amount
15 due is paid within 30 days after the date of this notice and
16 demand, then the penalty for late payment or nonpayment of
17 admitted liability under this subsection (b-15)(1) on the
18 amount so paid shall not accrue for the period after the date
19 of the notice and demand.

20 (b-20) This subsection (b-20) is applicable to returns due
21 on and after January 1, 2005.

22 (1) A penalty shall be imposed for failure to pay,
23 prior to the due date for payment, any amount of tax the
24 payment of which is required to be made prior to the filing
25 of a return or without a return (penalty for late payment
26 or nonpayment of estimated or accelerated tax). The amount

1 of penalty imposed under this paragraph (1) shall be 2% of
2 any amount that is paid no later than 30 days after the due
3 date and 10% of any amount that is paid later than 30 days
4 after the due date.

5 (2) A penalty shall be imposed for failure to pay the
6 tax shown due or required to be shown due on a return on or
7 before the due date prescribed for payment of that tax or
8 an amount that is reported in an amended return other than
9 an amended return timely filed as required by subsection
10 (b) of Section 506 of the Illinois Income Tax Act (penalty
11 for late payment or nonpayment of tax). The amount of
12 penalty imposed under this paragraph (2) shall be 2% of any
13 amount that is paid no later than 30 days after the due
14 date, 10% of any amount that is paid later than 30 days
15 after the due date and prior to the date the Department has
16 initiated an audit or investigation of the taxpayer, and
17 20% of any amount that is paid after the date the
18 Department has initiated an audit or investigation of the
19 taxpayer; provided that the penalty shall be reduced to 15%
20 if the entire amount due is paid not later than 30 days
21 after the Department has provided the taxpayer with an
22 amended return (following completion of an occupation,
23 use, or excise tax audit) or a form for waiver of
24 restrictions on assessment (following completion of an
25 income tax audit); provided further that the reduction to
26 15% shall be rescinded if the taxpayer makes any claim for

1 refund or credit of the tax, penalties, or interest
2 determined to be due upon audit, except in the case of a
3 claim filed pursuant to subsection (b) of Section 506 of
4 the Illinois Income Tax Act or to claim a carryover of a
5 loss or credit, the availability of which was not
6 determined in the audit. For purposes of this paragraph
7 (2), any overpayment reported on an original return that
8 has been allowed as a refund or credit to the taxpayer
9 shall be deemed to have not been paid on or before the due
10 date for payment and any amount paid under protest pursuant
11 to the provisions of the State Officers and Employees Money
12 Disposition Act shall be deemed to have been paid after the
13 Department has initiated an audit and more than 30 days
14 after the Department has provided the taxpayer with an
15 amended return (following completion of an occupation,
16 use, or excise tax audit) or a form for waiver of
17 restrictions on assessment (following completion of an
18 income tax audit).

19 (3) The penalty imposed under this subsection (b-20)
20 shall be deemed assessed at the time the tax upon which the
21 penalty is computed is assessed, except that, if the
22 reduction of the penalty imposed under paragraph (2) of
23 this subsection (b-20) to 15% is rescinded because a claim
24 for refund or credit has been filed, the increase in
25 penalty shall be deemed assessed at the time the claim for
26 refund or credit is filed.

1 (c) For purposes of the late payment penalties, the basis
2 of the penalty shall be the tax shown or required to be shown
3 on a return, whichever is applicable, reduced by any part of
4 the tax which is paid on time and by any credit which was
5 properly allowable on the date the return was required to be
6 filed.

7 (d) A penalty shall be applied to the tax required to be
8 shown even if that amount is less than the tax shown on the
9 return.

10 (e) This subsection (e) is applicable to returns due before
11 January 1, 2001. If both a subsection (b)(1) or (b-5)(1)
12 penalty and a subsection (b)(2) or (b-5)(2) penalty are
13 assessed against the same return, the subsection (b)(2) or
14 (b-5)(2) penalty shall be assessed against only the additional
15 tax found to be due.

16 (e-5) This subsection (e-5) is applicable to returns due on
17 and after January 1, 2001. If both a subsection (b-10)(1)
18 penalty and a subsection (b-10)(2) penalty are assessed against
19 the same return, the subsection (b-10)(2) penalty shall be
20 assessed against only the additional tax found to be due.

21 (f) If the taxpayer has failed to file the return, the
22 Department shall determine the correct tax according to its
23 best judgment and information, which amount shall be prima
24 facie evidence of the correctness of the tax due.

25 (g) The time within which to file a return or pay an amount
26 of tax due without imposition of a penalty does not extend the

1 time within which to file a protest to a notice of tax
2 liability or a notice of deficiency.

3 (h) No return shall be determined to be unprocessable
4 because of the omission of any information requested on the
5 return pursuant to Section 2505-575 of the Department of
6 Revenue Law (20 ILCS 2505/2505-575).

7 (i) If a taxpayer has a tax liability for the taxable
8 period ending after June 30, 1983 and prior to July 1, 2002
9 that is eligible for amnesty under the Tax Delinquency Amnesty
10 Act and the taxpayer fails to satisfy the tax liability during
11 the amnesty period provided for in that Act for that taxable
12 period, then the penalty imposed by the Department under this
13 Section shall be imposed in an amount that is 200% of the
14 amount that would otherwise be imposed under this Section.

15 (j) If a taxpayer has a tax liability for the taxable
16 period ending after June 30, 2002 and prior to July 1, 2009
17 that is eligible for amnesty under the Tax Delinquency Amnesty
18 Act, except for any tax liability reported pursuant to Section
19 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
20 is not final, and the taxpayer fails to satisfy the tax
21 liability during the amnesty period provided for in that Act
22 for that taxable period, then the penalty imposed by the
23 Department under this Section shall be imposed in an amount
24 that is 200% of the amount that would otherwise be imposed
25 under this Section.

26 (Source: P.A. 92-742, eff. 7-25-02; 93-26, eff. 6-20-03; 93-32,

1 eff. 6-20-03; 93-1068, eff. 1-15-05.)

2 (35 ILCS 735/3-4) (from Ch. 120, par. 2603-4)

3 Sec. 3-4. Penalty for failure to file correct information
4 returns.

5 (a) Failure to file correct information returns -
6 imposition of penalty.

7 (1) In general. Unless otherwise provided in a tax Act,
8 in the case of a failure described in paragraph (2) of this
9 subsection (a) by any person with respect to an information
10 return, that person shall pay a penalty of \$5 for each
11 return or statement with respect to which the failure
12 occurs, but the total amount imposed on that person for all
13 such failures during any calendar year shall not exceed
14 \$25,000.

15 (2) Failures subject to penalty. The following
16 failures are subject to the penalty imposed in paragraph
17 (1) of this subsection (a):

18 (A) any failure to file an information return with
19 the Department on or before the required filing date,
20 or

21 (B) any failure to include all of the information
22 required to be shown on the return or the inclusion of
23 incorrect information.

24 (b) Reduction where correction in specified period.

25 (1) Correction within 60 days. If any failure described

1 in subsection (a) (2) is corrected within 60 days after the
2 required filing date:

3 (A) the penalty imposed by subsection (a) shall be
4 reduced by 50%; and

5 (B) the total amount imposed on the person for all
6 such failures during any calendar year which are so
7 corrected shall not exceed 50% of the maximum
8 prescribed in subsection (a) (1).

9 (c) Information return defined. An information return is
10 any tax return required by a tax Act to be filed with the
11 Department that does not, by law, require the payment of a tax
12 liability.

13 (d) If a taxpayer has a tax liability for the taxable
14 period ending after June 30, 1983 and prior to July 1, 2002
15 that is eligible for amnesty under the Tax Delinquency Amnesty
16 Act and the taxpayer fails to satisfy the tax liability during
17 the amnesty period provided for in that Act for that taxable
18 period, then the penalty imposed by the Department under this
19 Section shall be imposed in an amount that is 200% of the
20 amount that would otherwise be imposed under this Section.

21 (e) If a taxpayer has a tax liability for the taxable
22 period ending after June 30, 2002 and prior to July 1, 2009
23 that is eligible for amnesty under the Tax Delinquency Amnesty
24 Act, except for any tax liability reported pursuant to Section
25 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
26 is not final, and the taxpayer fails to satisfy the tax

1 liability during the amnesty period provided for in that Act
2 for that taxable period, then the penalty imposed by the
3 Department under this Section shall be imposed in an amount
4 that is 200% of the amount that would otherwise be imposed
5 under this Section.

6 (Source: P.A. 93-26, eff. 6-20-03.)

7 (35 ILCS 735/3-5) (from Ch. 120, par. 2603-5)

8 Sec. 3-5. Penalty for negligence.

9 (a) If any return or amended return is prepared
10 negligently, but without intent to defraud, and filed, in
11 addition to any penalty imposed under Section 3-3 of this Act,
12 a penalty shall be imposed in an amount equal to 20% of any
13 resulting deficiency.

14 (b) Negligence includes any failure to make a reasonable
15 attempt to comply with the provisions of any tax Act and
16 includes careless, reckless, or intentional disregard of the
17 law or regulations.

18 (c) No penalty shall be imposed under this Section if it is
19 shown that failure to comply with the tax Act is due to
20 reasonable cause. A taxpayer is not negligent if the taxpayer
21 shows substantial authority to support the return as filed.

22 (d) If a taxpayer has a tax liability for the taxable
23 period ending after June 30, 1983 and prior to July 1, 2002
24 that is eligible for amnesty under the Tax Delinquency Amnesty
25 Act and the taxpayer fails to satisfy the tax liability during

1 the amnesty period provided for in that Act for that taxable
2 period, then the penalty imposed by the Department shall be
3 imposed in an amount that is 200% of the amount that would
4 otherwise be imposed in accordance with this Section.

5 (e) If a taxpayer has a tax liability for the taxable
6 period ending after June 30, 2002 and prior to July 1, 2009
7 that is eligible for amnesty under the Tax Delinquency Amnesty
8 Act, except for any tax liability reported pursuant to Section
9 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
10 is not final, and the taxpayer fails to satisfy the tax
11 liability during the amnesty period provided for in that Act
12 for that taxable period, then the penalty imposed by the
13 Department under this Section shall be imposed in an amount
14 that is 200% of the amount that would otherwise be imposed
15 under this Section.

16 (Source: P.A. 93-26, eff. 6-20-03.)

17 (35 ILCS 735/3-6) (from Ch. 120, par. 2603-6)

18 Sec. 3-6. Penalty for fraud.

19 (a) If any return or amended return is filed with intent to
20 defraud, in addition to any penalty imposed under Section 3-3
21 of this Act, a penalty shall be imposed in an amount equal to
22 50% of any resulting deficiency.

23 (b) If any claim is filed with intent to defraud, a penalty
24 shall be imposed in an amount equal to 50% of the amount
25 fraudulently claimed for credit or refund.

1 (c) If a taxpayer has a tax liability for the taxable
2 period ending after June 30, 1983 and prior to July 1, 2002
3 that is eligible for amnesty under the Tax Delinquency Amnesty
4 Act and the taxpayer fails to satisfy the tax liability during
5 the amnesty period provided for in that Act for that taxable
6 period, then the penalty imposed by the Department under this
7 Section shall be imposed in an amount that is 200% of the
8 amount that would otherwise be imposed under this Section.

9 (d) If a taxpayer has a tax liability for the taxable
10 period ending after June 30, 2002 and prior to July 1, 2009
11 that is eligible for amnesty under the Tax Delinquency Amnesty
12 Act, except for any tax liability reported pursuant to Section
13 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
14 is not final, and the taxpayer fails to satisfy the tax
15 liability during the amnesty period provided for in that Act
16 for that taxable period, then the penalty imposed by the
17 Department under this Section shall be imposed in an amount
18 that is 200% of the amount that would otherwise be imposed
19 under this Section.

20 (Source: P.A. 93-26, eff. 6-20-03.)

21 (35 ILCS 735/3-7.5)

22 Sec. 3-7.5. Bad check penalty.

23 (a) In addition to any other penalty provided in this Act,
24 a penalty of \$25 shall be imposed on any person who issues a
25 check or other draft to the Department that is not honored upon

1 presentment. The penalty imposed under this Section shall be
2 deemed assessed at the time of presentment of the check or
3 other draft and shall be treated for all purposes, including
4 collection and allocation, as part of the tax or other
5 liability for which the check or other draft represented
6 payment.

7 (b) If a taxpayer has a tax liability for the taxable
8 period ending after June 30, 1983 and prior to July 1, 2002
9 that is eligible for amnesty under the Tax Delinquency Amnesty
10 Act and the taxpayer fails to satisfy the tax liability during
11 the amnesty period provided for in that Act for that taxable
12 period, then the penalty imposed by the Department under this
13 Section shall be imposed in an amount that is 200% of the
14 amount that would otherwise be imposed under this Section.

15 (c) If a taxpayer has a tax liability for the taxable
16 period ending after June 30, 2002 and prior to July 1, 2009
17 that is eligible for amnesty under the Tax Delinquency Amnesty
18 Act, except for any tax liability reported pursuant to Section
19 506(b) of the Illinois Income Tax Act (35 ILCS 5/506(b)) that
20 is not final, and the taxpayer fails to satisfy the tax
21 liability during the amnesty period provided for in that Act
22 for that taxable period, then the penalty imposed by the
23 Department under this Section shall be imposed in an amount
24 that is 200% of the amount that would otherwise be imposed
25 under this Section.

26 (Source: P.A. 93-26, eff. 6-20-03.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.".