

1 AN ACT concerning State government.

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

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, or the  
9 State agency for accounts of less than \$1,000, as uncollectible  
10 pursuant to this Act, the Department of Revenue may sell the  
11 debts to one or more outside private vendors. Sales shall be  
12 conducted under rules adopted by the Department of Revenue  
13 using a request for proposals procedure similar to that  
14 procedure under the Illinois Procurement Code. The outside  
15 private vendors shall remit to the Department of Revenue the  
16 purchase price for debts sold under this Section. The  
17 Department of Revenue shall deposit the money received under  
18 this Section into the General Revenue Fund. The State  
19 Comptroller shall provide the Department of Revenue with any  
20 information that the Department requests for the purpose of  
21 administering this Section. This Section does not apply to any  
22 tax debt owing to the Department of Revenue.

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

3 (30 ILCS 210/9 new)

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

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

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

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

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

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

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

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

25 (c) State agencies may compromise past due debts. Any

1 action taken by a State agency to compromise a past due debt  
2 must meet the following requirements:

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

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

13 (3) Before a State agency accepts a compromised debt,  
14 the amount of the compromised debt must be approved by the  
15 Department of Revenue.

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

23 (e) The State agency shall deposit all amounts received  
24 under this Section into the General Revenue Fund.

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

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

3 (35 ILCS 745/10)

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

8 The amnesty program shall be for a period from October 1,  
9 2003 through November 15, 2003 and for a period beginning on  
10 October 1, 2010 and ending November 8, 2010.

11 The amnesty program shall provide that, upon payment by a  
12 taxpayer of all taxes due from that taxpayer to the State of  
13 Illinois for any taxable period ending (i) after June 30, 1983  
14 and prior to July 1, 2002 for the tax amnesty period occurring  
15 from October 1, 2003 through November 15, 2003, and (ii) after  
16 June 30, 2002 and prior to July 1, 2009 for the tax amnesty  
17 period beginning on October 1, 2010 through November 8, 2010,  
18 the Department shall abate and not seek to collect any interest  
19 or penalties that may be applicable and the Department shall  
20 not seek civil or criminal prosecution for any taxpayer for the  
21 period of time for which amnesty has been granted to the  
22 taxpayer. Failure to pay all taxes due to the State for a  
23 taxable period shall invalidate any amnesty granted under this  
24 Act. Amnesty shall be granted only if all amnesty conditions

1 are satisfied by the taxpayer.

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

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

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

16 The Department shall adopt rules as necessary to implement  
17 the provisions of this Act.

18 Except as otherwise provided in this Section, all money  
19 collected under this Act that would otherwise be deposited into  
20 the General Revenue Fund shall be deposited as follows: (i)  
21 one-half into the Common School Fund; (ii) one-half into the  
22 General Revenue Fund. Two percent of all money collected under  
23 this Act shall be deposited by the State Treasurer into the Tax  
24 Compliance and Administration Fund and, subject to  
25 appropriation, shall be used by the Department to cover costs  
26 associated with the administration of this Act.

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

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

5 (35 ILCS 735/3-2) (from Ch. 120, par. 2603-2)

6 Sec. 3-2. Interest.

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

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

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

21 (b) The interest rate shall be adjusted on a semiannual  
22 basis, on January 1 and July 1, based upon the underpayment  
23 rate or short-term federal rate going into effect on that  
24 January 1 or July 1 under Section 6621 of the Internal Revenue

1 Code.

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

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

18 (d) No interest shall be paid upon any overpayment of tax  
19 if the overpayment is refunded or a credit approved within 90  
20 days after the last date prescribed for filing the original  
21 return, or within 90 days of the receipt of the processable  
22 return, or within 90 days after the date of overpayment,  
23 whichever date is latest, as determined without regard to  
24 processing time by the Comptroller or without regard to the  
25 date on which the credit is applied to the taxpayer's account.  
26 In order for an original return to be processable for purposes

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

22 (e) Interest on erroneous refunds. Any portion of the tax  
23 imposed by an Act to which this Act is applicable or any  
24 interest or penalty which has been erroneously refunded and  
25 which is recoverable by the Department shall bear interest from  
26 the date of payment of the refund. However, no interest will be

1 charged if the erroneous refund is for an amount less than \$500  
2 and is due to a mistake of the Department.

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

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

22 (h) No interest shall be paid to a taxpayer on any refund  
23 allowed under the Tax Delinquency Amnesty Act.

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

25 (35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

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

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

21           (a-5) This subsection (a-5) is applicable to returns due on  
22 and after January 1, 1996 and on or before December 31, 2000. A  
23 penalty equal to 2% of the tax required to be shown due on a  
24 return, up to a maximum amount of \$250, determined without  
25 regard to any part of the tax that is paid on time or by any  
26 credit that was properly allowable on the date the return was

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

26 (a-10) This subsection (a-10) is applicable to returns due

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

1 in the 2 years immediately preceding the failure to file on the  
2 prescribed due date, the penalty imposed by Section 3-3(a-10)  
3 shall be abated.

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

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

15 (2) the full amount of any tax required to be shown due  
16 on a return and which is not shown (penalty for late  
17 payment or nonpayment of additional liability), within 30  
18 days after a notice of arithmetic error, notice and demand,  
19 or a final assessment is issued by the Department. In the  
20 case of a final assessment arising following a protest and  
21 hearing, the 30-day period shall not begin until all  
22 proceedings in court for review of the final assessment  
23 have terminated or the period for obtaining a review has  
24 expired without proceedings for a review having been  
25 instituted. In the case of a notice of tax liability that  
26 becomes a final assessment without a protest and hearing,

1 the penalty provided in this paragraph (2) shall be imposed  
2 at the expiration of the period provided for the filing of  
3 a protest.

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

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

16 (2) the full amount of any tax required to be shown due  
17 on a return and which is not shown (penalty for late  
18 payment or nonpayment of additional liability), within 30  
19 days after a notice of arithmetic error, notice and demand,  
20 or a final assessment is issued by the Department. In the  
21 case of a final assessment arising following a protest and  
22 hearing, the 30-day period shall not begin until all  
23 proceedings in court for review of the final assessment  
24 have terminated or the period for obtaining a review has  
25 expired without proceedings for a review having been  
26 instituted. In the case of a notice of tax liability that

1 becomes a final assessment without a protest and hearing,  
2 the penalty provided in this paragraph (2) shall be imposed  
3 at the expiration of the period provided for the filing of  
4 a protest.

5 (b-10) This subsection (b-10) is applicable to returns due  
6 on and after January 1, 2001 and on or before December 31,  
7 2003. A penalty shall be imposed for failure to pay:

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

1 amount so paid shall not accrue for the period after the  
2 date of the notice and demand.

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

20 (b-15) This subsection (b-15) is applicable to returns due  
21 on and after January 1, 2004 and on or before December 31,  
22 2004. A penalty shall be imposed for failure to pay the tax  
23 shown due or required to be shown due on a return on or before  
24 the due date prescribed for payment of that tax, an amount of  
25 underpayment of estimated tax, or an amount that is reported in  
26 an amended return other than an amended return timely filed as

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

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

19 (1) A penalty shall be imposed for failure to pay,  
20 prior to the due date for payment, any amount of tax the  
21 payment of which is required to be made prior to the filing  
22 of a return or without a return (penalty for late payment  
23 or nonpayment of estimated or accelerated tax). The amount  
24 of penalty imposed under this paragraph (1) shall be 2% of  
25 any amount that is paid no later than 30 days after the due  
26 date and 10% of any amount that is paid later than 30 days

1 after the due date.

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

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

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

24 (c) For purposes of the late payment penalties, the basis  
25 of the penalty shall be the tax shown or required to be shown  
26 on a return, whichever is applicable, reduced by any part of

1 the tax which is paid on time and by any credit which was  
2 properly allowable on the date the return was required to be  
3 filed.

4 (d) A penalty shall be applied to the tax required to be  
5 shown even if that amount is less than the tax shown on the  
6 return.

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

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

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

22 (g) The time within which to file a return or pay an amount  
23 of tax due without imposition of a penalty does not extend the  
24 time within which to file a protest to a notice of tax  
25 liability or a notice of deficiency.

26 (h) No return shall be determined to be unprocessable

1 because of the omission of any information requested on the  
2 return pursuant to Section 2505-575 of the Department of  
3 Revenue Law (20 ILCS 2505/2505-575).

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

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

23 (Source: P.A. 92-742, eff. 7-25-02; 93-26, eff. 6-20-03; 93-32,  
24 eff. 6-20-03; 93-1068, eff. 1-15-05.)

25 (35 ILCS 735/3-4) (from Ch. 120, par. 2603-4)

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

3           (a) Failure to file correct information returns -  
4 imposition of penalty.

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

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

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

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

22           (b) Reduction where correction in specified period.

23           (1) Correction within 60 days. If any failure described  
24 in subsection (a) (2) is corrected within 60 days after the  
25 required filing date:

26           (A) the penalty imposed by subsection (a) shall be

1 reduced by 50%; and

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

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

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

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

1 that is 200% of the amount that would otherwise be imposed  
2 under this Section.

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

4 (35 ILCS 735/3-5) (from Ch. 120, par. 2603-5)

5 Sec. 3-5. Penalty for negligence.

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

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

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

19 (d) If a taxpayer has a tax liability for the taxable  
20 period ending after June 30, 1983 and prior to July 1, 2002  
21 that is eligible for amnesty under the Tax Delinquency Amnesty  
22 Act and the taxpayer fails to satisfy the tax liability during  
23 the amnesty period provided for in that Act for that taxable  
24 period, then the penalty imposed by the Department shall be  
25 imposed in an amount that is 200% of the amount that would

1 otherwise be imposed in accordance with this Section.

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

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

14 (35 ILCS 735/3-6) (from Ch. 120, par. 2603-6)

15 Sec. 3-6. Penalty for fraud.

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

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

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

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

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

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

18 (35 ILCS 735/3-7.5)

19 Sec. 3-7.5. Bad check penalty.

20 (a) In addition to any other penalty provided in this Act,  
21 a penalty of \$25 shall be imposed on any person who issues a  
22 check or other draft to the Department that is not honored upon  
23 presentment. The penalty imposed under this Section shall be  
24 deemed assessed at the time of presentment of the check or  
25 other draft and shall be treated for all purposes, including

1 collection and allocation, as part of the tax or other  
2 liability for which the check or other draft represented  
3 payment.

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

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

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

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.