



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1155

Introduced 02/08/11, by Rep. Thomas Holbrook

SYNOPSIS AS INTRODUCED:

625 ILCS 5/3-104	from Ch. 95 1/2, par. 3-104
625 ILCS 5/3-114	from Ch. 95 1/2, par. 3-114
625 ILCS 5/3-117.1	from Ch. 95 1/2, par. 3-117.1
625 ILCS 5/4-202	from Ch. 95 1/2, par. 4-202
770 ILCS 50/4.5 new	

Amends the Illinois Vehicle Code. Adds provision for a vehicle title application for an abandoned vehicle acquired under the Labor and Storage Lien (Small Amount) Act by filing with the Secretary of State a copy of the notice and affidavit of abandonment sent to the owner. Adds, in the provisions for the transfer of title by operation of law, a provision that allows for the transfer of title for an abandoned vehicle. Amends the Labor and Storage Lien (Small Amount) Act. Provides that if an automotive collision and body repair facility or an automotive repair facility has a lien for storage or repairs against a vehicle that has been in its possession for 30 days or more and the vehicle is an abandoned junk vehicle or a hazardous dilapidated motor vehicle the facility may sell the vehicle after mailing, with return receipt requested, a Notice and Affidavit of Abandonment to the reported owner, any assignee, other lienor, or other person with a duly recorded security interest in the vehicle. Provides that the notice shall state the amount of the storage lien and state that if the vehicle is not redeemed by payment of the lien amount within 14 days after the notice is sent the vehicle will be sold to a licensed scrap processor to satisfy this and any other liens. Upon the sale of the vehicle to a scrap processor and after satisfying the lien under the Act, any excess proceeds shall be paid to any others with an interest in the vehicle with the balance to be held by the lienor for 6 months. If the owner fails to claim the proceeds within 6 months, the lienor shall deposit the excess proceeds with the county treasurer for the county in which the vehicle was stored for deposit in the county's general revenue fund, subject to the right of the owner to claim the excess proceeds within 3 years after the date of the deposit with the treasurer.

LRB097 05096 AJO 45139 b

1 AN ACT concerning abandoned vehicles.

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

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Sections 3-104, 3-114, 3-117.1, and 4-202 as follows:

6 (625 ILCS 5/3-104) (from Ch. 95 1/2, par. 3-104)

7 Sec. 3-104. Application for certificate of title.

8 (a) The application for a certificate of title for a
9 vehicle in this State must be made by the owner to the
10 Secretary of State on the form prescribed and must contain:

11 1. The name, Illinois residence and mail address of the
12 owner;

13 2. A description of the vehicle including, so far as
14 the following data exists: Its make, year-model,
15 identifying number, type of body, whether new or used, as
16 to house trailers as defined in Section 1-128 of this Code,
17 the square footage of the house trailer based upon the
18 outside dimensions of the house trailer excluding the
19 length of the tongue and hitch, and, as to vehicles of the
20 second division, whether for-hire, not-for-hire, or both
21 for-hire and not-for-hire;

22 3. The date of purchase by applicant and, if
23 applicable, the name and address of the person from whom

1 the vehicle was acquired and the names and addresses of any
2 lienholders in the order of their priority and signatures
3 of owners;

4 4. The current odometer reading at the time of transfer
5 and that the stated odometer reading is one of the
6 following: actual mileage, not the actual mileage or
7 mileage is in excess of its mechanical limits; and

8 5. Any further information the Secretary of State
9 reasonably requires to identify the vehicle and to enable
10 him to determine whether the owner is entitled to a
11 certificate of title and the existence or nonexistence of
12 security interests in the vehicle.

13 (a-5) The Secretary of State shall designate on the
14 prescribed application form a space where the owner of a
15 vehicle may designate a beneficiary, to whom ownership of the
16 vehicle shall pass in the event of the owner's death.

17 (b) If the application refers to a vehicle purchased from a
18 dealer, it must also be signed by the dealer as well as the
19 owner, and the dealer must promptly mail or deliver the
20 application and required documents to the Secretary of State.

21 (c) If the application refers to a vehicle last previously
22 registered in another State or country, the application must
23 contain or be accompanied by:

24 1. Any certified document of ownership so recognized
25 and issued by the other State or country and acceptable to
26 the Secretary of State, and

1 2. Any other information and documents the Secretary of
2 State reasonably requires to establish the ownership of the
3 vehicle and the existence or nonexistence of security
4 interests in it.

5 (d) If the application refers to a new vehicle it must be
6 accompanied by the Manufacturer's Statement of Origin, or other
7 documents as required and acceptable by the Secretary of State,
8 with such assignments as may be necessary to show title in the
9 applicant.

10 (e) If an application refers to a vehicle rebuilt from a
11 vehicle previously salvaged, that application shall comply
12 with the provisions set forth in Sections 3-302 through 3-304
13 of this Code.

14 (f) An application for a certificate of title for any
15 vehicle, whether purchased in Illinois or outside Illinois, and
16 even if previously registered in another State, must be
17 accompanied by either an exemption determination from the
18 Department of Revenue showing that no tax imposed pursuant to
19 the Use Tax Act or the vehicle use tax imposed by Section
20 3-1001 of the Illinois Vehicle Code is owed by anyone with
21 respect to that vehicle, or a receipt from the Department of
22 Revenue showing that any tax so imposed has been paid. An
23 application for a certificate of title for any vehicle
24 purchased outside Illinois, even if previously registered in
25 another state, must be accompanied by either an exemption
26 determination from the Department of Revenue showing that no

1 tax imposed pursuant to the Municipal Use Tax Act or the County
2 Use Tax Act is owed by anyone with respect to that vehicle, or
3 a receipt from the Department of Revenue showing that any tax
4 so imposed has been paid. In the absence of such a receipt for
5 payment or determination of exemption from the Department, no
6 certificate of title shall be issued to the applicant.

7 If the proof of payment of the tax or of nonliability
8 therefor is, after the issuance of the certificate of title and
9 display certificate of title, found to be invalid, the
10 Secretary of State shall revoke the certificate and require
11 that the certificate of title and, when applicable, the display
12 certificate of title be returned to him.

13 (g) If the application refers to a vehicle not manufactured
14 in accordance with federal safety and emission standards, the
15 application must be accompanied by all documents required by
16 federal governmental agencies to meet their standards before a
17 vehicle is allowed to be issued title and registration.

18 (h) If the application refers to a vehicle sold at public
19 sale by a sheriff, it must be accompanied by the required fee
20 and a bill of sale issued and signed by a sheriff. The bill of
21 sale must identify the new owner's name and address, the year
22 model, make and vehicle identification number of the vehicle,
23 court order document number authorizing such sale, if
24 applicable, and the name and address of any lienholders in
25 order of priority, if applicable.

26 (i) If the application refers to a vehicle for which a

1 court of law determined the ownership, it must be accompanied
2 with a certified copy of such court order and the required fee.
3 The court order must indicate the new owner's name and address,
4 the complete description of the vehicle, if known, the name and
5 address of the lienholder, if any, and must be signed and dated
6 by the judge issuing such order.

7 (j) If the application refers to a vehicle sold at public
8 auction pursuant to the Labor and Storage Lien (Small Amount)
9 Act, it must be accompanied by an affidavit or affirmation
10 furnished by the Secretary of State along with the documents
11 described in the affidavit or affirmation and the required fee.

12 (k) The Secretary may provide an expedited process for the
13 issuance of vehicle titles. Expedited title applications must
14 be delivered to the Secretary of State's Vehicle Services
15 Department in Springfield by express mail service or hand
16 delivery. Applications must be complete, including necessary
17 forms, fees, and taxes. Applications received before noon on a
18 business day will be processed and shipped that same day.
19 Applications received after noon on a business day will be
20 processed and shipped the next business day. The Secretary
21 shall charge an additional fee of \$30 for this service, and
22 that fee shall cover the cost of return shipping via an express
23 mail service. All fees collected by the Secretary of State for
24 expedited services shall be deposited into the Motor Vehicle
25 License Plate Fund. In the event the Vehicle Services
26 Department determines that the volume of expedited title

1 requests received on a given day exceeds the ability of the
2 Vehicle Services Department to process those requests in an
3 expedited manner, the Vehicle Services Department may decline
4 to provide expedited services, and the additional fee for the
5 expedited service shall be refunded to the applicant.

6 (l) If the application refers to a homemade trailer, (i) it
7 must be accompanied by the appropriate documentation regarding
8 the source of materials used in the construction of the
9 trailer, as required by the Secretary of State, (ii) the
10 trailer must be inspected by a Secretary of State investigator,
11 as described in Section 2-115 of this Code, prior to the
12 issuance of the title, and (iii) upon approval of the Secretary
13 of State, the trailer must have a vehicle identification
14 number, as provided by the Secretary of State, stamped or
15 riveted to the frame.

16 (m) If the application refers to an abandoned vehicle
17 acquired pursuant to Section 4.5 of the Labor and Storage Lien
18 (Small Amount) Act, it must be accompanied by a copy of the
19 Notice and Affidavit of Abandonment that certifies that the
20 applicant has complied with the requirements of the Labor and
21 Storage Lien (Small Amount) Act and other documents required by
22 and acceptable to the Secretary of State.

23 (Source: P.A. 95-784, eff. 1-1-09; 96-519, eff. 1-1-10; 96-554,
24 eff. 1-1-10; 96-1000, eff. 7-2-10.)

25 (625 ILCS 5/3-114) (from Ch. 95 1/2, par. 3-114)

1 Sec. 3-114. Transfer by operation of law.

2 (a) If the interest of an owner in a vehicle passes to
3 another other than by voluntary transfer, the transferee shall,
4 except as provided in paragraph (b), promptly mail or deliver
5 within 20 days to the Secretary of State the last certificate
6 of title, if available, proof of the transfer, and his
7 application for a new certificate in the form the Secretary of
8 State prescribes. It shall be unlawful for any person having
9 possession of a certificate of title for a motor vehicle,
10 semi-trailer, or house car by reason of his having a lien or
11 encumbrance on such vehicle, to fail or refuse to deliver such
12 certificate to the owner, upon the satisfaction or discharge of
13 the lien or encumbrance, indicated upon such certificate of
14 title.

15 (b) If the interest of an owner in a vehicle passes to
16 another under the provisions of the Small Estates provisions of
17 the Probate Act of 1975 the transferee shall promptly mail or
18 deliver to the Secretary of State, within 120 days, the last
19 certificate of title, if available, the documentation required
20 under the provisions of the Probate Act of 1975, and an
21 application for certificate of title. The Small Estate
22 Affidavit form shall be furnished by the Secretary of State.
23 The transfer may be to the transferee or to the nominee of the
24 transferee.

25 (c) If the interest of an owner in a vehicle passes to
26 another under other provisions of the Probate Act of 1975, as

1 amended, and the transfer is made by a representative or
2 guardian, such transferee shall promptly mail or deliver to the
3 Secretary of State, the last certificate of title, if
4 available, and a certified copy of the letters of office or
5 guardianship, and an application for certificate of title. Such
6 application shall be made before the estate is closed. The
7 transfer may be to the transferee or to the nominee of the
8 transferee.

9 (d) If the interest of an owner in joint tenancy passes to
10 the other joint tenant with survivorship rights as provided by
11 law, the transferee shall promptly mail or deliver to the
12 Secretary of State, the last certificate of title, if
13 available, proof of death of the one joint tenant and
14 survivorship of the surviving joint tenant, and an application
15 for certificate of title. Such application shall be made within
16 120 days after the death of the joint tenant. The transfer may
17 be to the transferee or to the nominee of the transferee.

18 (e) The Secretary of State shall transfer a decedent's
19 vehicle title to any legatee, representative or heir of the
20 decedent who submits to the Secretary a death certificate and
21 an affidavit by an attorney at law on the letterhead stationery
22 of the attorney at law stating the facts of the transfer.

23 (f) Repossession with assignment of title. In all cases
24 wherein a lienholder has repossessed a vehicle by other than
25 judicial process and holds it for resale under a security
26 agreement, and the owner of record has executed an assignment

1 of the existing certificate of title after default, the
2 lienholder may proceed to sell or otherwise dispose of the
3 vehicle as authorized under the Uniform Commercial Code. Upon
4 selling the vehicle to another person, the lienholder need not
5 send the certificate of title to the Secretary of State, but
6 shall promptly and within 20 days mail or deliver to the
7 purchaser as transferee the existing certificate of title for
8 the repossessed vehicle, reflecting the release of the
9 lienholder's security interest in the vehicle. The application
10 for a certificate of title made by the purchaser shall comply
11 with subsection (a) of Section 3-104 and be accompanied by the
12 existing certificate of title for the repossessed vehicle. The
13 lienholder shall execute the assignment and warranty of title
14 showing the name and address of the purchaser in the spaces
15 provided therefor on the certificate of title or as the
16 Secretary of State prescribes. The lienholder shall complete
17 the assignment of title in the certificate of title to reflect
18 the transfer of the vehicle to the lienholder and also a
19 reassignment to reflect the transfer from the lienholder to the
20 purchaser. For this purpose, the lienholder is specifically
21 authorized to complete and execute the space reserved in the
22 certificate of title for a dealer reassignment,
23 notwithstanding that the lienholder is not a licensed dealer.
24 Nothing herein shall be construed to mean that the lienholder
25 is taking title to the repossessed vehicle for purposes of
26 liability for retailer occupation, vehicle use, or other tax

1 with respect to the proceeds from the repossession sale.
2 Delivery of the existing certificate of title to the purchaser
3 shall be deemed disclosure to the purchaser of the owner of the
4 vehicle.

5 (f-5) Repossession without assignment of title. Subject to
6 subsection (f-30), in all cases wherein a lienholder has
7 repossessed a vehicle by other than judicial process and holds
8 it for resale under a security agreement, and the owner of
9 record has not executed an assignment of the existing
10 certificate of title, the lienholder shall comply with the
11 following provisions:

12 (1) Prior to sale, the lienholder shall deliver or mail
13 to the owner at the owner's last known address and to any
14 other lienholder of record, a notice of redemption setting
15 forth the following information: (i) the name of the owner
16 of record and in bold type at or near the top of the notice
17 a statement that the owner's vehicle was repossessed on a
18 specified date for failure to make payments on the loan (or
19 other reason), (ii) a description of the vehicle subject to
20 the lien sufficient to identify it, (iii) the right of the
21 owner to redeem the vehicle, (iv) the lienholder's intent
22 to sell or otherwise dispose of the vehicle after the
23 expiration of 21 days from the date of mailing or delivery
24 of the notice, and (v) the name, address, and telephone
25 number of the lienholder from whom information may be
26 obtained concerning the amount due to redeem the vehicle

1 and from whom the vehicle may be redeemed under Section
2 9-623 of the Uniform Commercial Code. At the lienholder's
3 option, the information required to be set forth in this
4 notice of redemption may be made a part of or accompany the
5 notification of sale or other disposition required under
6 Section 9-611 of the Uniform Commercial Code, but none of
7 the information required by this notice shall be construed
8 to impose any requirement under Article 9 of the Uniform
9 Commercial Code.

10 (2) With respect to the repossession of a vehicle used
11 primarily for personal, family, or household purposes, the
12 lienholder shall also deliver or mail to the owner at the
13 owner's last known address an affidavit of defense. The
14 affidavit of defense shall accompany the notice of
15 redemption required in subdivision (f-5)(1) of this
16 Section. The affidavit of defense shall (i) identify the
17 lienholder, owner, and the vehicle; (ii) provide space for
18 the owner to state the defense claimed by the owner; and
19 (iii) include an acknowledgment by the owner that the owner
20 may be liable to the lienholder for fees, charges, and
21 costs incurred by the lienholder in establishing the
22 insufficiency or invalidity of the owner's defense. To stop
23 the transfer of title, the affidavit of defense must be
24 received by the lienholder no later than 21 days after the
25 date of mailing or delivery of the notice required in
26 subdivision (f-5)(1) of this Section. If the lienholder

1 receives the affidavit from the owner in a timely manner,
2 the lienholder must apply to a court of competent
3 jurisdiction to determine if the lienholder is entitled to
4 possession of the vehicle.

5 (3) Upon selling the vehicle to another person, the
6 lienholder need not send the certificate of title to the
7 Secretary of State, but shall promptly and within 20 days
8 mail or deliver to the purchaser as transferee (i) the
9 existing certificate of title for the repossessed vehicle,
10 reflecting the release of the lienholder's security
11 interest in the vehicle; and (ii) an affidavit of
12 repossession made by or on behalf of the lienholder which
13 provides the following information: that the vehicle was
14 repossessed, a description of the vehicle sufficient to
15 identify it, whether the vehicle has been damaged in excess
16 of 33 1/3% of its fair market value as required under
17 subdivision (b) (3) of Section 3-117.1, that the owner and
18 any other lienholder of record were given the notice
19 required in subdivision (f-5) (1) of this Section, that the
20 owner of record was given the affidavit of defense required
21 in subdivision (f-5) (2) of this Section, that the interest
22 of the owner was lawfully terminated or sold pursuant to
23 the terms of the security agreement, and the purchaser's
24 name and address. If the vehicle is damaged in excess of 33
25 1/3% of its fair market value, the lienholder shall make
26 application for a salvage certificate under Section

1 3-117.1 and transfer the vehicle to a person eligible to
2 receive assignments of salvage certificates identified in
3 Section 3-118.

4 (4) The application for a certificate of title made by
5 the purchaser shall comply with subsection (a) of Section
6 3-104 and be accompanied by the affidavit of repossession
7 furnished by the lienholder and the existing certificate of
8 title for the repossessed vehicle. The lienholder shall
9 execute the assignment and warranty of title showing the
10 name and address of the purchaser in the spaces provided
11 therefor on the certificate of title or as the Secretary of
12 State prescribes. The lienholder shall complete the
13 assignment of title in the certificate of title to reflect
14 the transfer of the vehicle to the lienholder and also a
15 reassignment to reflect the transfer from the lienholder to
16 the purchaser. For this purpose, the lienholder is
17 specifically authorized to execute the assignment on
18 behalf of the owner as seller if the owner has not done so
19 and to complete and execute the space reserved in the
20 certificate of title for a dealer reassignment,
21 notwithstanding that the lienholder is not a licensed
22 dealer. Nothing herein shall be construed to mean that the
23 lienholder is taking title to the repossessed vehicle for
24 purposes of liability for retailer occupation, vehicle
25 use, or other tax with respect to the proceeds from the
26 repossession sale. Delivery of the existing certificate of

1 title to the purchaser shall be deemed disclosure to the
2 purchaser of the owner of the vehicle. In the event the
3 lienholder does not hold the certificate of title for the
4 repossessed vehicle, the lienholder shall make application
5 for and may obtain a new certificate of title in the name
6 of the lienholder upon furnishing information satisfactory
7 to the Secretary of State. Upon receiving the new
8 certificate of title, the lienholder may proceed with the
9 sale described in subdivision (f-5)(3), except that upon
10 selling the vehicle the lienholder shall promptly and
11 within 20 days mail or deliver to the purchaser the new
12 certificate of title reflecting the assignment and
13 transfer of title to the purchaser.

14 (5) Neither the lienholder nor the owner shall file
15 with the Office of the Secretary of State the notice of
16 redemption or affidavit of defense described in
17 subdivisions (f-5)(1) and (f-5)(2) of this Section. The
18 Office of the Secretary of State shall not determine the
19 merits of an owner's affidavit of defense, nor consider any
20 allegations or assertions regarding the validity or
21 invalidity of a lienholder's claim to the vehicle or an
22 owner's asserted defenses to the repossession action.

23 (f-7) Notice of reinstatement in certain cases.

24 (1) Subject to subsection (f-30), if, at the time of
25 repossession by a lienholder that is seeking to transfer
26 title pursuant to subsection (f-5), the owner has paid an

1 amount equal to 30% or more of the deferred payment price
2 or total of payments due, the owner may, within 21 days of
3 the date of repossession, reinstate the contract or loan
4 agreement and recover the vehicle from the lienholder by
5 tendering in a lump sum (i) the total of all unpaid
6 amounts, including any unpaid delinquency or deferral
7 charges due at the date of reinstatement, without
8 acceleration; and (ii) performance necessary to cure any
9 default other than nonpayment of the amounts due; and (iii)
10 all reasonable costs and fees incurred by the lienholder in
11 retaking, holding, and preparing the vehicle for
12 disposition and in arranging for the sale of the vehicle.
13 Reasonable costs and fees incurred by the lienholder
14 include without limitation repossession and storage
15 expenses and, if authorized by the contract or loan
16 agreement, reasonable attorneys' fees and collection
17 agency charges.

18 (2) Tender of payment and performance pursuant to this
19 limited right of reinstatement restores to the owner his
20 rights under the contract or loan agreement as though no
21 default had occurred. The owner has the right to reinstate
22 the contract or loan agreement and recover the vehicle from
23 the lienholder only once under this subsection. The
24 lienholder may, in the lienholder's sole discretion,
25 extend the period during which the owner may reinstate the
26 contract or loan agreement and recover the vehicle beyond

1 the 21 days allowed under this subsection, and the
2 extension shall not subject the lienholder to liability to
3 the owner under the laws of this State.

4 (3) The lienholder shall deliver or mail written notice
5 to the owner at the owner's last known address, within 3
6 business days of the date of repossession, of the owner's
7 right to reinstate the contract or loan agreement and
8 recover the vehicle pursuant to the limited right of
9 reinstatement described in this subsection. At the
10 lienholder's option, the information required to be set
11 forth in this notice of reinstatement may be made part of
12 or accompany the notice of redemption required in
13 subdivision (f-5)(1) of this Section and the notification
14 of sale or other disposition required under Section 9-611
15 of the Uniform Commercial Code, but none of the information
16 required by this notice of reinstatement shall be construed
17 to impose any requirement under Article 9 of the Uniform
18 Commercial Code.

19 (4) The reinstatement period, if applicable, and the
20 redemption period described in subdivision (f-5)(1) of
21 this Section, shall run concurrently if the information
22 required to be set forth in the notice of reinstatement is
23 part of or accompanies the notice of redemption. In any
24 event, the 21 day redemption period described in
25 subdivision (f-5)(1) of this Section shall commence on the
26 date of mailing or delivery to the owner of the information

1 required to be set forth in the notice of redemption, and
2 the 21 day reinstatement period described in this
3 subdivision, if applicable, shall commence on the date of
4 mailing or delivery to the owner of the information
5 required to be set forth in the notice of reinstatement.

6 (5) The Office of the Secretary of State shall not
7 determine the merits of an owner's claim of right to
8 reinstatement, nor consider any allegations or assertions
9 regarding the validity or invalidity of a lienholder's
10 claim to the vehicle or an owner's asserted right to
11 reinstatement. Where a lienholder is subject to licensing
12 and regulatory supervision by the State of Illinois, the
13 lienholder shall be subject to all of the powers and
14 authority of the lienholder's primary State regulator to
15 enforce compliance with the procedures set forth in this
16 subsection (f-7).

17 (f-10) Repossession by judicial process. In all cases
18 wherein a lienholder has repossessed a vehicle by judicial
19 process and holds it for resale under a security agreement,
20 order for replevin, or other court order establishing the
21 lienholder's right to possession of the vehicle, the lienholder
22 may proceed to sell or otherwise dispose of the vehicle as
23 authorized under the Uniform Commercial Code or the court
24 order. Upon selling the vehicle to another person, the
25 lienholder need not send the certificate of title to the
26 Secretary of State, but shall promptly and within 20 days mail

1 or deliver to the purchaser as transferee (i) the existing
2 certificate of title for the repossessed vehicle reflecting the
3 release of the lienholder's security interest in the vehicle;
4 (ii) a certified copy of the court order; and (iii) a bill of
5 sale identifying the new owner's name and address and the year,
6 make, model, and vehicle identification number of the vehicle.
7 The application for a certificate of title made by the
8 purchaser shall comply with subsection (a) of Section 3-104 and
9 be accompanied by the certified copy of the court order
10 furnished by the lienholder and the existing certificate of
11 title for the repossessed vehicle. The lienholder shall execute
12 the assignment and warranty of title showing the name and
13 address of the purchaser in the spaces provided therefor on the
14 certificate of title or as the Secretary of State prescribes.
15 The lienholder shall complete the assignment of title in the
16 certificate of title to reflect the transfer of the vehicle to
17 the lienholder and also a reassignment to reflect the transfer
18 from the lienholder to the purchaser. For this purpose, the
19 lienholder is specifically authorized to execute the
20 assignment on behalf of the owner as seller if the owner has
21 not done so and to complete and execute the space reserved in
22 the certificate of title for a dealer reassignment,
23 notwithstanding that the lienholder is not a licensed dealer.
24 Nothing herein shall be construed to mean that the lienholder
25 is taking title to the repossessed vehicle for purposes of
26 liability for retailer occupation, vehicle use, or other tax

1 with respect to the proceeds from the repossession sale.
2 Delivery of the existing certificate of title to the purchaser
3 shall be deemed disclosure to the purchaser of the owner of the
4 vehicle. In the event the lienholder does not hold the
5 certificate of title for the repossessed vehicle, the
6 lienholder shall make application for and may obtain a new
7 certificate of title in the name of the lienholder upon
8 furnishing information satisfactory to the Secretary of State.
9 Upon receiving the new certificate of title, the lienholder may
10 proceed with the sale described in this subsection, except that
11 upon selling the vehicle the lienholder shall promptly and
12 within 20 days mail or deliver to the purchaser the new
13 certificate of title reflecting the assignment and transfer of
14 title to the purchaser.

15 (f-15) The Secretary of State shall not issue a certificate
16 of title to a purchaser under subsection (f), (f-5), or (f-10)
17 of this Section, unless the person from whom the vehicle has
18 been repossessed by the lienholder is shown to be the last
19 registered owner of the motor vehicle. The Secretary of State
20 may provide by rule for the standards to be followed by a
21 lienholder in assigning and transferring certificates of title
22 with respect to repossessed vehicles.

23 (f-20) If applying for a salvage certificate or a junking
24 certificate, the lienholder shall within 20 days make an
25 application to the Secretary of State for a salvage certificate
26 or a junking certificate, as set forth in this Code. The

1 Secretary of State shall not issue a salvage certificate or a
2 junking certificate to such lienholder unless the person from
3 whom such vehicle has been repossessed is shown to be the last
4 registered owner of such motor vehicle and such lienholder
5 establishes to the satisfaction of the Secretary of State that
6 he is entitled to such salvage certificate or junking
7 certificate. The Secretary of State may provide by rule for the
8 standards to be followed by a lienholder in order to obtain a
9 salvage certificate or junking certificate for a repossessed
10 vehicle.

11 (f-25) If the interest of an owner in a mobile home, as
12 defined in the Mobile Home Local Services Tax Act, passes to
13 another under the provisions of the Mobile Home Local Services
14 Tax Enforcement Act, the transferee shall promptly mail or
15 deliver to the Secretary of State (i) the last certificate of
16 title, if available, (ii) a certified copy of the court order
17 ordering the transfer of title, and (iii) an application for
18 certificate of title.

19 (f-30) Bankruptcy. If the repossessed vehicle is the
20 subject of a bankruptcy proceeding or discharge:

21 (1) the lienholder may proceed to sell or otherwise
22 dispose of the vehicle as authorized by the Bankruptcy Code
23 and the Uniform Commercial Code;

24 (2) the notice of redemption, affidavit of defense, and
25 notice of reinstatement otherwise required to be sent by
26 the lienholder to the owner of record or other lienholder

1 of record under this Section are not required to be
2 delivered or mailed;

3 (3) the requirement to delay disposition of the vehicle
4 for 21 days, (i) from the mailing or delivery of the notice
5 of redemption under subdivision (f-5)(1) of this Section,
6 (ii) from the mailing or delivery of the affidavit of
7 defense under subdivision (f-5)(2) of this Section, or
8 (iii) from the date of repossession when the owner is
9 entitled to a notice of reinstatement under subsection
10 (f-7) of this Section, does not apply;

11 (4) the affidavit of repossession that is required
12 under subdivision (f-5)(3) shall contain a notation of
13 "bankruptcy" where the affidavit requires the date of the
14 mailing or delivery of the notice of redemption. The
15 notation of "bankruptcy" means the lienholder makes no
16 sworn representations regarding the mailing or delivery of
17 the notice of redemption or affidavit of defense or
18 lienholder's compliance with the requirements that
19 otherwise apply to the notices listed in this subsection
20 (f-30), and makes no sworn representation that the
21 lienholder assumes liability or costs for any litigation
22 that may arise from the issuance of a certificate of title
23 based on the excluded representations;

24 (5) the right of redemption, the right to assert a
25 defense to the transfer of title, and reinstatement rights
26 under this Section do not apply; and

1 (6) references to judicial process and court orders in
2 subsection (f-10) of this Section do not include bankruptcy
3 proceedings or orders.

4 (f-35) When an abandoned junk or hazardous dilapidated
5 motor vehicle is in the possession of an automotive collision
6 and body repair facility or automotive repair facility and the
7 facility, as lienholder, has complied with the requirements of
8 Section 4.5 of the Labor and Storage Lien (Small Amount) Act
9 the lienholder shall follow the provisions of subsection
10 (f-20).

11 (g) A person holding a certificate of title whose interest
12 in the vehicle has been extinguished or transferred other than
13 by voluntary transfer shall mail or deliver the certificate,
14 within 20 days upon request of the Secretary of State. The
15 delivery of the certificate pursuant to the request of the
16 Secretary of State does not affect the rights of the person
17 surrendering the certificate, and the action of the Secretary
18 of State in issuing a new certificate of title as provided
19 herein is not conclusive upon the rights of an owner or
20 lienholder named in the old certificate.

21 (h) The Secretary of State may decline to process any
22 application for a transfer of an interest in a vehicle
23 hereunder if any fees or taxes due under this Act from the
24 transferor or the transferee have not been paid upon reasonable
25 notice and demand.

26 (i) The Secretary of State shall not be held civilly or

1 criminally liable to any person because any purported
2 transferor may not have had the power or authority to make a
3 transfer of any interest in any vehicle or because a
4 certificate of title issued in error is subsequently used to
5 commit a fraudulent act.

6 (Source: P.A. 94-411, eff. 1-1-06.)

7 (625 ILCS 5/3-117.1) (from Ch. 95 1/2, par. 3-117.1)

8 Sec. 3-117.1. When junking certificates or salvage
9 certificates must be obtained.

10 (a) Except as provided in Chapter 4 of this Code, a person
11 who possesses a junk vehicle shall within 15 days cause the
12 certificate of title, salvage certificate, certificate of
13 purchase, or a similarly acceptable out of state document of
14 ownership to be surrendered to the Secretary of State along
15 with an application for a junking certificate, except as
16 provided in Section 3-117.2, whereupon the Secretary of State
17 shall issue to such a person a junking certificate, which shall
18 authorize the holder thereof to possess, transport, or, by an
19 endorsement, transfer ownership in such junked vehicle, and a
20 certificate of title shall not again be issued for such
21 vehicle.

22 A licensee who possesses a junk vehicle and a Certificate
23 of Title, Salvage Certificate, Certificate of Purchase, or a
24 similarly acceptable out-of-state document of ownership for
25 such junk vehicle, may transport the junk vehicle to another

1 licensee prior to applying for or obtaining a junking
2 certificate, by executing a uniform invoice. The licensee
3 transferor shall furnish a copy of the uniform invoice to the
4 licensee transferee at the time of transfer. In any case, the
5 licensee transferor shall apply for a junking certificate in
6 conformance with Section 3-117.1 of this Chapter. The following
7 information shall be contained on a uniform invoice:

8 (1) The business name, address and dealer license
9 number of the person disposing of the vehicle, junk vehicle
10 or vehicle cowl;

11 (2) The name and address of the person acquiring the
12 vehicle, junk vehicle or vehicle cowl, and if that person
13 is a dealer, the Illinois or out-of-state dealer license
14 number of that dealer;

15 (3) The date of the disposition of the vehicle, junk
16 vehicle or vehicle cowl;

17 (4) The year, make, model, color and description of
18 each vehicle, junk vehicle or vehicle cowl disposed of by
19 such person;

20 (5) The manufacturer's vehicle identification number,
21 Secretary of State identification number or Illinois
22 Department of State Police number, for each vehicle, junk
23 vehicle or vehicle cowl part disposed of by such person;

24 (6) The printed name and legible signature of the
25 person or agent disposing of the vehicle, junk vehicle or
26 vehicle cowl; and

1 (7) The printed name and legible signature of the
2 person accepting delivery of the vehicle, junk vehicle or
3 vehicle cowl.

4 The Secretary of State may certify a junking manifest in a
5 form prescribed by the Secretary of State that reflects those
6 vehicles for which junking certificates have been applied or
7 issued. A junking manifest may be issued to any person and it
8 shall constitute evidence of ownership for the vehicle listed
9 upon it. A junking manifest may be transferred only to a person
10 licensed under Section 5-301 of this Code as a scrap processor.
11 A junking manifest will allow the transportation of those
12 vehicles to a scrap processor prior to receiving the junk
13 certificate from the Secretary of State.

14 (b) An application for a salvage certificate shall be
15 submitted to the Secretary of State in any of the following
16 situations:

17 (1) When an insurance company makes a payment of
18 damages on a total loss claim for a vehicle, the insurance
19 company shall be deemed to be the owner of such vehicle and
20 the vehicle shall be considered to be salvage except that
21 ownership of (i) a vehicle that has incurred only hail
22 damage that does not affect the operational safety of the
23 vehicle or (ii) any vehicle 9 model years of age or older
24 may, by agreement between the registered owner and the
25 insurance company, be retained by the registered owner of
26 such vehicle. The insurance company shall promptly deliver

1 or mail within 20 days the certificate of title along with
2 proper application and fee to the Secretary of State, and a
3 salvage certificate shall be issued in the name of the
4 insurance company. Notwithstanding the foregoing, an
5 insurer making payment of damages on a total loss claim for
6 the theft of a vehicle shall not be required to apply for a
7 salvage certificate unless the vehicle is recovered and has
8 incurred damage that initially would have caused the
9 vehicle to be declared a total loss by the insurer.

10 (1.1) When a vehicle of a self-insured company is to be
11 sold in the State of Illinois and has sustained damaged by
12 collision, fire, theft, rust corrosion, or other means so
13 that the self-insured company determines the vehicle to be
14 a total loss, or if the cost of repairing the damage,
15 including labor, would be greater than 50% of its fair
16 market value without that damage, the vehicle shall be
17 considered salvage. The self-insured company shall
18 promptly deliver the certificate of title along with proper
19 application and fee to the Secretary of State, and a
20 salvage certificate shall be issued in the name of the
21 self-insured company. A self-insured company making
22 payment of damages on a total loss claim for the theft of a
23 vehicle may exchange the salvage certificate for a
24 certificate of title if the vehicle is recovered without
25 damage. In such a situation, the self-insured shall fill
26 out and sign a form prescribed by the Secretary of State

1 which contains an affirmation under penalty of perjury that
2 the vehicle was recovered without damage and the Secretary
3 of State may, by rule, require photographs to be submitted.

4 (2) When a vehicle the ownership of which has been
5 transferred to any person through a certificate of purchase
6 from acquisition of the vehicle at an auction, other
7 dispositions as set forth in Sections 4-208 and 4-209 of
8 this Code, a lien arising under Section 18a-501 of this
9 Code, or a public sale under the Abandoned Mobile Home Act
10 shall be deemed salvage or junk at the option of the
11 purchaser. The person acquiring such vehicle in such manner
12 shall promptly deliver or mail, within 20 days after the
13 acquisition of the vehicle, the certificate of purchase,
14 the proper application and fee, and, if the vehicle is an
15 abandoned mobile home under the Abandoned Mobile Home Act,
16 a certification from a local law enforcement agency that
17 the vehicle was purchased or acquired at a public sale
18 under the Abandoned Mobile Home Act to the Secretary of
19 State and a salvage certificate or junking certificate
20 shall be issued in the name of that person. The salvage
21 certificate or junking certificate issued by the Secretary
22 of State under this Section shall be free of any lien that
23 existed against the vehicle prior to the time the vehicle
24 was acquired by the applicant under this Code.

25 (3) A vehicle which has been repossessed by a
26 lienholder shall be considered to be salvage only when the

1 repossessed vehicle, on the date of repossession by the
2 lienholder, has sustained damage by collision, fire,
3 theft, rust corrosion, or other means so that the cost of
4 repairing such damage, including labor, would be greater
5 than 33 1/3% of its fair market value without such damage.
6 If the lienholder determines that such vehicle is damaged
7 in excess of 33 1/3% of such fair market value, the
8 lienholder shall, before sale, transfer or assignment of
9 the vehicle, make application for a salvage certificate,
10 and shall submit with such application the proper fee and
11 evidence of possession. If the facts required to be shown
12 in subsection (f) of Section 3-114 are satisfied, the
13 Secretary of State shall issue a salvage certificate in the
14 name of the lienholder making the application. In any case
15 wherein the vehicle repossessed is not damaged in excess of
16 33 1/3% of its fair market value, the lienholder shall
17 comply with the requirements of subsections (f), (f-5), and
18 (f-10) of Section 3-114, except that the affidavit of
19 repossession made by or on behalf of the lienholder shall
20 also contain an affirmation under penalty of perjury that
21 the vehicle on the date of sale is not damaged in excess of
22 33 1/3% of its fair market value. If the facts required to
23 be shown in subsection (f) of Section 3-114 are satisfied,
24 the Secretary of State shall issue a certificate of title
25 as set forth in Section 3-116 of this Code. The Secretary
26 of State may by rule or regulation require photographs to

1 be submitted.

2 (4) A vehicle which is a part of a fleet of more than 5
3 commercial vehicles registered in this State or any other
4 state or registered proportionately among several states
5 shall be considered to be salvage when such vehicle has
6 sustained damage by collision, fire, theft, rust,
7 corrosion or similar means so that the cost of repairing
8 such damage, including labor, would be greater than 33 1/3%
9 of the fair market value of the vehicle without such
10 damage. If the owner of a fleet vehicle desires to sell,
11 transfer, or assign his interest in such vehicle to a
12 person within this State other than an insurance company
13 licensed to do business within this State, and the owner
14 determines that such vehicle, at the time of the proposed
15 sale, transfer or assignment is damaged in excess of 33
16 1/3% of its fair market value, the owner shall, before such
17 sale, transfer or assignment, make application for a
18 salvage certificate. The application shall contain with it
19 evidence of possession of the vehicle. If the fleet vehicle
20 at the time of its sale, transfer, or assignment is not
21 damaged in excess of 33 1/3% of its fair market value, the
22 owner shall so state in a written affirmation on a form
23 prescribed by the Secretary of State by rule or regulation.
24 The Secretary of State may by rule or regulation require
25 photographs to be submitted. Upon sale, transfer or
26 assignment of the fleet vehicle the owner shall mail the

1 affirmation to the Secretary of State.

2 (5) A vehicle that has been submerged in water to the
3 point that rising water has reached over the door sill and
4 has entered the passenger or trunk compartment is a "flood
5 vehicle". A flood vehicle shall be considered to be salvage
6 only if the vehicle has sustained damage so that the cost
7 of repairing the damage, including labor, would be greater
8 than 33 1/3% of the fair market value of the vehicle
9 without that damage. The salvage certificate issued under
10 this Section shall indicate the word "flood", and the word
11 "flood" shall be conspicuously entered on subsequent
12 titles for the vehicle. A person who possesses or acquires
13 a flood vehicle that is not damaged in excess of 33 1/3% of
14 its fair market value shall make application for title in
15 accordance with Section 3-116 of this Code, designating the
16 vehicle as "flood" in a manner prescribed by the Secretary
17 of State. The certificate of title issued shall indicate
18 the word "flood", and the word "flood" shall be
19 conspicuously entered on subsequent titles for the
20 vehicle.

21 (6) When an abandoned junk or hazardous dilapidated
22 motor vehicle is in the possession of an automotive
23 collision and body repair facility or automotive repair
24 facility and the lienholder has complied with the
25 requirements of Section 4.5 of the Labor and Storage Lien
26 (Small Amount) Act.

1 (c) Any person who without authority acquires, sells,
2 exchanges, gives away, transfers or destroys or offers to
3 acquire, sell, exchange, give away, transfer or destroy the
4 certificate of title to any vehicle which is a junk or salvage
5 vehicle shall be guilty of a Class 3 felony.

6 (d) Any person who knowingly fails to surrender to the
7 Secretary of State a certificate of title, salvage certificate,
8 certificate of purchase or a similarly acceptable out-of-state
9 document of ownership as required under the provisions of this
10 Section is guilty of a Class A misdemeanor for a first offense
11 and a Class 4 felony for a subsequent offense; except that a
12 person licensed under this Code who violates paragraph (5) of
13 subsection (b) of this Section is guilty of a business offense
14 and shall be fined not less than \$1,000 nor more than \$5,000
15 for a first offense and is guilty of a Class 4 felony for a
16 second or subsequent violation.

17 (e) Any vehicle which is salvage or junk may not be driven
18 or operated on roads and highways within this State. A
19 violation of this subsection is a Class A misdemeanor. A
20 salvage vehicle displaying valid special plates issued under
21 Section 3-601(b) of this Code, which is being driven to or from
22 an inspection conducted under Section 3-308 of this Code, is
23 exempt from the provisions of this subsection. A salvage
24 vehicle for which a short term permit has been issued under
25 Section 3-307 of this Code is exempt from the provisions of
26 this subsection for the duration of the permit.

1 (Source: P.A. 95-495, eff. 1-1-08; 95-783, eff. 1-1-09.)

2 (625 ILCS 5/4-202) (from Ch. 95 1/2, par. 4-202)

3 Sec. 4-202. Abandoned, lost, stolen or unclaimed vehicle
4 notification to law enforcement agencies.

5 When an abandoned, lost, stolen or unclaimed vehicle comes
6 into the temporary possession or custody of a person in this
7 State, not the owner of the vehicle, such person shall
8 immediately notify the municipal police when the vehicle is
9 within the corporate limits of any city, village or town having
10 a duly authorized police department, or the State Police or the
11 county sheriff when the vehicle is outside the corporate limits
12 of a city, village or town. Upon receipt of such notification,
13 the municipal police, State Police or county sheriff will
14 authorize a towing service to remove and take possession of the
15 abandoned, lost, stolen or unclaimed vehicle. The towing
16 service will safely keep the towed vehicle and its contents,
17 maintain a record of the tow as set forth in Section 4-204 for
18 law enforcement agencies, until the vehicle is claimed by the
19 owner or any other person legally entitled to possession
20 thereof or until it is disposed of as provided in this Chapter.
21 When an abandoned junk or hazardous dilapidated motor vehicle
22 is in the possession of an automotive collision and body repair
23 facility or automotive repair facility, the facility may
24 utilize the procedures set forth in Section 4.5 of the Labor
25 and Storage Lien (Small Amount) Act.

1 (Source: P.A. 78-858.)

2 Section 10. The Labor and Storage Lien (Small Amount) Act
3 is amended by adding Section 4.5 as follows:

4 (770 ILCS 50/4.5 new)

5 Sec. 4.5. Notice and Affidavit of Abandonment. If an
6 automotive collision and body repair facility or an automotive
7 repair facility has a lien under this Act upon an abandoned
8 junk vehicle as defined under Section 1-134.1 of the Vehicle
9 Code or a hazardous dilapidated motor vehicle as defined in
10 Section 11-40-3.1 of the Illinois Municipal Code and has had
11 possession of the vehicle for at least 30 days, the lienor may
12 sell the vehicle pursuant to this Section after mailing a
13 Notice and Affidavit of Abandonment, with postage prepaid and
14 return receipt requested, to the last known address of the
15 reported owner, any assignee, other lienor, and any other
16 person who has a duly recorded security interest in the
17 vehicle. The Notice and Affidavit of Abandonment shall be
18 substantially in the following form:

19 NOTICE AND AFFIDAVIT OF ABANDONMENT

20 Notice is hereby given that Lienor,, has a statutory
21 lien upon a vehicle (describe) for the storage of the vehicle
22 that the Lienor has furnished; That the name and address of the
23 owner or reputed owner, is located at ; That
24 the lienor furnished storage of the vehicle at the lienor's

1 automotive collision and body repair facility or the lienor's
 2 automotive repair facility between the date of,
 3 and the date of,; That the vehicle
 4 has remained unclaimed for a period of no less than 30 days;
 5 That the vehicle is a junk vehicle as defined in Section
 6 1-134.1 of the Vehicle Code or a hazardous dilapidated motor
 7 vehicle as defined in Section 11-40-3.1 of the Illinois
 8 Municipal Code; That the claimant intends to transfer
 9 possession of the vehicle to a licensed scrap processor in this
 10 State; That the claimant demands compensation for the storage
 11 of the vehicle in the amount of \$...., and that the remaining
 12 unpaid balance is \$.....

13 I,....., being first duly sworn, on oath say that I am the
 14 lienor or the authorized agent of the lienor named in the
 15 foregoing notice, that I have read the notice, know the
 16 contents thereof, and believe the same to be true.

17 (Signed)..... (Lienor)

18 Address of Lienor

19 State of Illinois,

20 County of

21 Subscribed and sworn to me before this day of,
 22

23 If after 14 days following the mailing of the notice as
 24 provided in this Section, the vehicle has not been redeemed,

1 the lienor may sell the vehicle to a licensed scrap processor
2 in the State of Illinois. Any proceeds in excess of the amount
3 due for storage shall be paid to any other lienor, as the
4 lienor's interest may appear, with any remaining amount to be
5 held by the lienor for 6 months. If the owner fails to claim
6 the proceeds within 6 months after the sale, the funds shall be
7 deposited by the lienor with the county treasurer for the
8 county in which the vehicle was stored. The treasurer shall
9 credit the proceeds to the county's general revenue fund,
10 subject to the right of the owner to claim the excess proceeds
11 within 3 years after the date of the deposit with the
12 treasurer.