



Karlen's Korner Special Edition

LOOKING FOR STATE TAX LIENS

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Q: How do you find a state tax lien?

A: You could look it up—on the State Tax Lien Registry.

Q: What the heck is the State Tax Lien Registry?

A: Well, . . . see Public Act 100-22.

Public Act 100-22 (SB 9, the budget and revenue bill), among many other things, creates the State Tax Lien Registration Act, codified at 35 ILCS 750/1-1 et seq. The Act is intended to establish a statewide filing system for notices of lien in favor of and enforced by the Illinois Department of Revenue (IDOR). See 35 ILCS 750/1-5. This statewide filing system is an internet-based state tax lien registry to be operated and maintained by IDOR. IDOR will file all notices of state tax liens in the registry, and it will no longer file notices of state tax liens with county recorders. This portion of P.A. 100-22 is effective January 1, 2018.

IDOR must file notice of a state tax lien in the state tax lien registry within 3 years of the date on which final tax liability is determined. 35 ILCS 750/1-10. By filing the notice in the registry, IDOR perfects a lien that immediately attaches to all property (including real property) owned by the debtor (that is, the delinquent taxpayer) as of the date of filing or acquired thereafter. 35 ILCS 750/1-20. The lien takes priority from the filing date and remains enforceable for 20 years from the filing date. 35 ILCS 750/1-25. Thus, a state tax lien filed in the state tax lien registry will affect real property in exactly the same manner as state tax liens currently filed in the offices of county recorders. There is, however, one difference; liens appearing in the registry will encumber all of the debtor's property located anywhere within the State of Illinois—not, as under current law, just in the county in which the lien is recorded.

When IDOR files a notice of state tax lien in the state tax lien registry, IDOR must include in the notice:

1. The name and last known address of the debtor;
2. The name and address of IDOR;
3. The tax lien number assigned by IDOR;
4. The amount owed by the debtor at date of filing, including taxes, penalties, interest, and fees, as of the filing date; and
5. The date and time IDOR filed the notice.



See 35 ILCS 750/1-15 and 1-30.

Interest will, no doubt, accrue after the filing date. Thus, the debtor will generally owe more to IDOR than the amount shown on the notice of lien.

One suspects that the lien number assigned by IDOR will become an important identifier when attorneys and title staff deal with the registry. For example, the lien number may become crucial when attempting to match liens and releases in the registry or when attempting to pay a state tax lien. Fortunately, the public will be able to search the registry by debtor name and also by lien number. 35 ILCS 750/1-30(b).

Finally, the Act declares that all valid state tax liens currently on file with county recorders continue to encumber real property and remain enforceable by IDOR. Effective January 1, 2018, however, information in the registry will control over any conflicting information in a previously recorded lien. For example, if a debtor pays off a recorded state tax lien, IDOR will only file a release in the registry. It will not record a release elsewhere. Yet, the release in the registry controls so that the lien will be deemed satisfied, even if there is no recorded release. 35 ILCS 750/1-25(b).

COMMENT: Title examiners will have to perform a “name” search on the registry. PINs and property addresses will probably be irrelevant on the registry. Thus, a registry search must be made as to all relevant owners and buyers of the property under examination. This type of internet search will have to be made in addition to all of the usual, traditional, title searches of the public records. Title exceptions must be raised and underwritten for actual or possible state tax liens under the same rules and guidelines applicable to actual or possible judgments.

The State Tax Lien Registration Act does not address some practical issues. For example, the Act contemplates IDOR releasing liens upon satisfaction, but it is silent as to IDOR providing pay-off letters. It is hoped that IDOR, with input from the Illinois Land Title Association, will make the registry as efficient and practical as possible.