

MEMO

DATE: Effective as of January 1, 2018
TO: Chicago Title, Chicago NCS Customers
FROM: Chicago Title, Chicago NCS Operation
RE: State Lien Registration Act

Effective January 1, 2018 Public Act 100-22 (SB9) (“Act”) authorized the Illinois Department of Revenue (“IDOR”) to provide a uniform statewide system for the filing of notices for state tax liens. IDOR will now maintain an online database for the filing of state tax liens for real and personal property, tangible and intangible, against parties with unpaid final state tax liabilities.

The Act also does not invalidate any prior lien recorded with a county recorder in Illinois prior to the effective date of the Act, however, the IDOR will no longer be recording its liens or releases with local county recorders. Instead, the IDOR will now maintain its own searchable lien registry to file state tax liens in their online database.

Whenever Chicago Title is searching property for the purpose of issuing commitments or policies, a search will be conducted on the Illinois State Tax Lien Registry (STLR) which will be found at <http://tax.illinois.gov>. The link to the STLR will appear in the left column on this page under “Lien Registry”. Questions regarding the internal workings of the STLR can be sent to rev.lien@illinois.gov.

Chicago Title Attorney Agents should be aware that all search packages provided to them for examination will contain an additional search page(s) to cover items filed in the IDOR online database.

The State Tax Lien Registry (“STLR”) was effective and online as of January 1, 2018.

A notice of tax lien registered in the STLR on or after December 1, 2017 will be a lien upon all property owned by the taxpayer in the State of Illinois, without any further requirement of recording in any specific county.

Section 20 states:

§ 1–20. Tax lien perfected.

- a) When a notice of tax lien is filed by the Department in the registry, the tax lien is perfected and shall be attached to all of the existing and after-acquired property of the debtor, both real and personal, tangible and intangible, which is located in any and all counties within the State of Illinois.
- b) The amount of the tax lien shall be a debt due the State of Illinois and shall remain a lien upon all property and rights to property belonging to the debtor, both real and personal, tangible and intangible, which is located in any and all counties within the State of Illinois. Interest and penalty shall accrue on the tax lien at the same rate and with the same restrictions, if any, as specified by statute for the accrual of interest and penalty for the type of tax or taxes for which the tax lien was issued.

With the implementation of STLR, the lien will continue to have an internal IDOR association with the county where the IDOR has reason to believe the taxpayer has, or had, a presence; and will be searchable with the county as a parameter. Despite the specific language in the statute, the IDOR

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materials suggest the position that all liens, even those in the registry, are merely county liens. However, any association on the STLR to any specific county, does not limit the attachment of the lien to all property owned in the entire state. **Searches of the STLR must not be limited by county, and all unreleased liens against the relevant taxpayer must be raised as exceptions regardless of what county the lien may be associated with.**

In many instances, the search of the STLR will disclose a large number of possible liens against the party being searched. We anticipate that it will become common to require a personal information affidavit (in the requirements section of the commitment) and to use the information provided to narrow your search when it is produced.

All recorded IDOR liens prior to December 1, 2017 should continue to be construed and applied as county-specific for enforcement. All IDOR liens from the STLR going forward from December 1, 2017 should be construed as statewide liens. **As noted below the IDOR discontinued county recording of liens as of December 1, 2017 creating a “gap” between that date and the effective date of the STLR. Any file closing on or after January 1 should be searched in the STLR prior to closing.**

The 20-year statute of limitation for Illinois Income Tax liens remains the same.

The STLR utilizes an existing database maintained by the IDOR. This database includes all liens which the state deemed “Active” when it was implemented approximately 15 years ago. Liens which have already been recorded in any specific county will show up on the STLR search. However, they will not have a reference to any county recording information. This can serve as a cross check or your search. If you have a recorded lien, and it does not appear in your STLR search, then your search is too narrow.

The STLR will be updated and posted in “real time”. When you search the STLR your “effective date” for that search will be the actual time you search it. Since most county searches have a “gap” this should not present any issues but we recommend that the STLR search be conducted after your county search.

Only IDOR liens are available on the STLR. Other state agencies do not have statutory power to create or join into this STLR at this time.

The formatting of the IDOR liens will not substantially change. The liens will no longer have a recording number and will have to be noted in our commitments to correspond to the Lien Identification Number.

The search results will show a “date filed” for liens on the registry. For liens prior to 12/1/2017 this will be the date that appears on the recorder’s time stamp. For liens after 12/1/2017 this will be the time the entry was made in the STLR.

IDOR represents that they now can release liens faster in real time. However, there is no updated process for obtaining payoff letters.

This memo was written by Rich Wagner, Illinois State Counsel, Chicago Title Insurance Company. Contributions provided by Barry Brotine and Walt Adams.

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