

2002

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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**Editor’s Notes:** The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are (End of March, June, Sept, Dec) as follows:

- Issue 41 - October 11, 2002: Data through September 30, 2002 (3rd Quarter)
- Issue 3 - January 10, 2003: Data through December 31, 2002 (Annual)
- Issue 15 - April 11, 2003: Data through March 31, 2003 (1<sup>st</sup> Quarter)
- Issue 28 - July 11, 2003: Data through June 30, 2003 (2nd Quarter)
- Issue 41 - October 10, 2003: Data through September 29, 2003 (3rd Quarter)
- Issue 2 - January 9, 2004: Data through December 29, 2003 (Annual)

## INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register will also contain the Cumulative Index and Sections Affected Indices will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are the end of March, June, Sept, Dec.

Rulemaking activity consist of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update the Illinois Administrative code (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies'

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| Issue 25 | June 10, 2002       | June 21, 2002      |          |                     |                    |
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| Issue 27 | June 24, 2002       | July 05, 2002      |          |                     |                    |
| Issue 28 | July 01, 2002       | July 12, 2002      |          |                     |                    |
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| Issue 37 | September 02, 2002  | September 13, 2002 |          |                     |                    |

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## LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: The Illinois Liquor Control Commission
- 2) Code Citation: 11 Ill. Adm. Code 100
- 3) 

|                          |                          |
|--------------------------|--------------------------|
| <u>Section Numbers</u> : | <u>Proposed Action</u> : |
| 100.10                   | Amend                    |
| 100.400                  | Repeal                   |
| 100.410                  | Repeal                   |
- 4) Statutory Authority: 235 ILCS 5/3-12(a)(2)
- 5) A Complete Description of the Subjects and Issues Involved: Strike the definition of Fair Dealing Act in 100.10 and all of 100.400 due to P.A. 92-0761, eff. August 5, 2002 which repealed the Illinois Wine and Spirits Industry Fair Dealing Act of 1999, the subject of the aforementioned definition and section. The repeal of 100.410 is based on an agreement with trade associations and ISBA.
- 6) Will this proposed amendment replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective (if applicable): This amendment will not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments in writing concerning this proposed rulemaking by no later than 45 days after publication of this notice to:  

Anne T. Treonis, Staff Attorney  
Illinois Liquor Control Commission  
100 W. Randolph St., #5-300  
Chicago IL 60601  
(312)814-2604  
anne.treonis@cms.state.il.us
- 12) Initial Regulatory Flexibility Analysis:

## LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The need for the rulemaking was not anticipated at the time the agendas were submitted

The full text of the Proposed Amendments begins on the next page:

## LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

## TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

## SUBTITLE A: ALCOHOL

## CHAPTER I: ILLINOIS LIQUOR CONTROL COMMISSION

## PART 100

## THE ILLINOIS LIQUOR CONTROL COMMISSION

| Section |  |
|---------|--|
| 100.5   | Penalties  |
| 100.10  | Definitions  |
| 100.20  | Employment of Minors   |
| 100.30  | Violation of Federal Law, State Statute or City, Village or County Ordinance or Regulation |
| 100.40  | Registration of Tasting Representatives  |
| 100.50  | Advertising  |
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| 100.70  | Labels   |
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| 100.170 | Taps   |
| 100.180 | Procedure Before Commission on Citations   |
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| 100.200 | Wagering Stamps (Repealed)   |
| 100.210 | Inducements  |
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| 100.280 | Giving Away of Alcoholic Liquors   |
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| 100.310 | Food Service at Park Districts   |

## LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

- 100.320 Airplanes
- 100.330 Advertising
- 100.340 Petitions for the Adoption, Amendment or Repeal of a Rule
- 100.350 Procedures For Filing Appeals From an Order of the Local Liquor Control Commissioner
- 100.360 Review on Record – Certification of Ordinance
- 100.370 Procedures Before the Commission
- 100.380 Ex Parte Consultations
- 100.390 Transcripts – Administrative Review
- 100.400 Procedures Before the Commission on Disputes under Section 35 of the Illinois Wine and Spirits Industry Fair Dealing Act (Repealed)
- 100.410 Representation of Licensees Before the Commission (Repealed)

AUTHORITY: Implementing and authorized by Section 3-12(a)(2) of the Liquor Control Act [235 ILCS 5/3-12(a)(2)].

SOURCE: Rules and Regulations of the Illinois Liquor Commission, amended March 31, 1977; amended July 7, 1977; amended at 3 Ill. Reg. 12, p. 65, effective March 22, 1979; codified at 5 Ill. Reg. 10706; amended at 8 Ill. Reg. 6041, effective April 19, 1984; amended at 12 Ill. Reg. 19387, effective November 7, 1988; amended at 18 Ill. Reg. 4811, effective March 9, 1994; amended at 20 Ill. Reg. 834, effective January 2, 1996; expedited correction at 20 Ill. Reg. 4469, effective January 2, 1996; amended at 21 Ill. Reg. 5542, effective May 1, 1997; amended at 23 Ill. Reg. 3787, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 8687, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13609, effective October 28, 1999; amended at 25 Ill. Reg. 13596, effective October 15, 2001; amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 100.10 Definitions**

The following words or phrases are defined as follows:

"Act" means the Illinois Liquor Control Act [235 ILCS 5].

"Airplane" shall be deemed to include railroads and airplanes.

"Alcoholic Liquor" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and, in the judgment of the Commission, capable of being consumed as a beverage by a human being. The word "solid" means any substance which, by dilution or processing, becomes an alcoholic beverage.

## LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

"Commission" means Illinois Liquor Control Commission.

"Co-partnership" means an association of two or more persons to carry on as co-owners of a business for profit.

"Corporation" means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the Business Corporation Act of 1983 [805 ILCS 5], including a limited liability company as defined in this Section.

"Event" means a single theme.

~~"Fair Dealing Act" means the Illinois Wine and Spirits Industry Fair Dealing Act [815 ILCS 725] (see P.A. 91-2, effective May 21, 1999).~~

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Limited Liability Company" means a legal business entity created and recognized under the Illinois Limited Liability Company Act [805 ILCS 180].

"Manager" or "Agent" means any individual employed by any licensed place of business, provided the individual possesses the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as the Commission shall from time to time prescribe.

"Manufacturer" shall include every person who, in the process of filling or refilling an original package with alcoholic liquors purchased by such person, changes the degree or quality of such alcoholic liquors by any manner or means whatsoever.

"Meal" means food that is prepared and served on the licensed premises and excludes the serving of snacks.

"Minor" means a person under 18 years of age. (See A.G. opinion No. S-672 12/27/73.)

"Partner" is any individual who is a member of a co-partnership.

"Person" includes corporations, co-partnerships, associations, clubs, individuals, trustees, receivers, assignees, and executors, administrators or other personal representatives of decedents.

## LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

"Premises" or "Place of Business" means the place or location where alcoholic beverages are manufactured, stored, displayed, or offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks, streets, parking areas and grounds adjacent to any such place or location.

"Resident" means any person (other than a corporation) who has resided, and maintained a bona fide residence, in the State of Illinois for at least one year and in the city, village or county in which the premises covered by the license are located for at least 90 days prior to making application for such license.

"Service Bar" means a place or location not within view of the general public where beer and wine may be poured and served through a draught system. A service bar may only be located in a kitchen, food preparation area, or wait or server station area of a retail licensee who primarily serves meals, as described in this Section.

"Tasting" means a supervised presentation of alcoholic products to the public at an off-premise licensed retailer for the purpose of disseminating product information and education, with consumption of alcoholic products being an incidental part of the presentation thereof. Only products registered with the Commission may be tasted in the following amounts: Distilled Spirits ¼ oz., Wine 1 oz., and Beer 2 oz.; notice of the tasting may be given. Tasting must be done by a licensee and/or a registered tasting representative in accordance with Section 100.40.

"Test Marketing" means to test new products or products unfamiliar to the sampler through a marketing firm or the like.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, provided that the alcoholic content thereof does not exceed 24 per cent of alcohol by volume.

(Source: Amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.400 Procedures Before the Commission on Disputes under Section 35 of the Illinois Wine and Spirits Industry Fair Dealing Act (Repealed)**

~~Pursuant to the Illinois Wine and Spirits Industry Fair Dealing Act [815 ILCS 725] (see P.A. 91-2, effective May 21, 1999), Section 6-9 of the Liquor Control Act [235 ILCS 5/6-9], Section 100.60 of this Part, and the Illinois Administrative Procedure Act [5 ILCS 100], in all disputes presented to the Commission under Section 35 of the Fair Dealing Act, the following procedures~~

## LIQUOR CONTROL COMMISSION

## NOTICE OF PROPOSED AMENDMENT

shall be followed:

~~a) Initiating a dispute resolution proceeding.~~

~~The aggrieved party shall file an application (petition, request for relief) with the Commission that shall include, at a minimum, the following information (the application may be supported by documentation, which shall be made a part of the application, supplying all or any part of the information):~~

- ~~1) The party's license classification (i.e., distributor, importing distributor) and Illinois liquor license number and date of expiration.~~
- ~~2) All opposing parties' license classification (i.e., non resident dealer) and Illinois liquor license number and date of expiration, if known.~~
- ~~3) A copy of any written agreement between the parties under which the "distributorship relationship" was established; if no written agreement exists or is otherwise unavailable, the essential terms of the agreement shall be pled.~~
- ~~4) A copy of all Registration Statements filed with the Commission granting to the distributor the right to sell at wholesale in Illinois; if no such Registration Statement is available, a statement specifying the trademark, brand or name of alcoholic liquor (product), the geographic area or areas, and the period of time for which the rights are granted.~~
- ~~5) A copy of the Withdrawal of Registration filed with the Commission withdrawing from the distributor the right to sell at wholesale distilled spirits and/or wine in Illinois; if no such Withdrawal is available, a statement specifying the trademark, brand or name of alcoholic liquor (product), the geographic area or areas, and the period of time for which such rights are withdrawn.~~
- ~~6) A detailed statement of the facts and circumstances giving rise to the allegations of violation of the Fair Dealing Act. Evidence shall not be pled.~~
- ~~7) Requests for relief, which may include both temporary (preliminary) and permanent relief, if applicable.~~
- ~~8) The document shall be certified as provided in subsection (g)(15).~~

~~The matter shall be docketed by the Commission and given a file number that should be used on all subsequent documents.~~

~~The parties to a request for resolution of a dispute under the Fair Dealing Act shall be designated as "Petitioner" and "Respondent". There shall be no other parties joined in the matter without the filing of a motion or petition and the entry of an order by the Commission allowing the joinder of additional parties.~~

~~b) Response to application for dispute resolution.~~

~~The responding party shall file a response (answer) to the application (petition, request for relief), admitting, denying, averring no knowledge, or such other response as it may deem appropriate, to each allegation in the application; information or documentation supplying additional information in response to the application may also be made a part of the response. The responsive document shall contain the~~

## LIQUOR CONTROL COMMISSION

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- ~~information required under subsections (a)(1) through (6) and (8) of this Section if any allegations in the application are denied. Evidence shall not be pled. The response shall be filed with the Commission not later than 21 days after service upon the party.~~
- ~~e) Appearance.~~  
Each party appearing before the Commission shall file an appearance, using the Commission form or a reasonable facsimile, that shall contain all information requested in the Commission form. The filing of an appearance with the Commission shall be deemed to authorize the Commission to direct all subsequent communication, verbal, written and electronic, to the listed address or addressee. Service of the communication to that address or addressee shall be deemed service upon the party or attorney.
- ~~d) Motions and petitions.~~
- ~~1) Motions directed to the adequacy or sufficiency of the application may be filed with the Commission in lieu of a response under subsection (b); the motion shall be filed not later than 14 days after service of the application. The Petitioner may file a response to the motion within 7 days after service of the motion.~~
  - ~~2) Motions or petitions seeking to vacate, alter or otherwise modify orders entered by the Commission shall state all relief sought and all bases upon which relief is sought, and shall be supported by all documentation bearing upon the relief and bases. If documentation is unavailable, the content may be pled with specificity and the party's inability to produce documentation shall be detailed in the motion or petition. The opposing parties may file their response to the motion or petition not later than 7 days after service.~~
  - ~~3) The Commission shall take motions or petitions and any responses under advisement and enter its written ruling on the documents filed. Oral argument on motions or petitions and responses shall not be allowed except on order of the Commission.~~
- ~~e) Preliminary relief.~~
- ~~1) If the Petitioner has requested or filed a supplementary (additional) request (motion, petition) for preliminary relief, the Respondent shall be served with notice of the intent of the Petitioner to appear before the Commission to request the entry of an Order granting the relief. The Respondent shall be allowed to file a written response to the notice of intent to request preliminary relief not later than 7 days after service of the notice, and the Commission shall set the request and response for hearing as soon as practicable. The party moving the Commission for the entry of a preliminary order shall have the burden of establishing the entitlement to relief, unless the Fair Dealing Act provides to the contrary.~~
  - ~~2) No preliminary order directing the parties to continue business on a pre-~~

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~~termination basis shall be entered without notice to the opposing party or attorney, as the case may be, unless it clearly appears from the facts shown by verified application or by affidavit if by supplemental request (motion, petition) that immediate and irreparable harm, damage or loss will result to the movant before notice can be served and a hearing on the application can be had. In the event the Commission issues, without prior notice, any preliminary order it deems necessary and appropriate, it shall set the matter for preliminary status report at its next regularly scheduled hearing, or within 30 days after the entry of the order, or upon motion of any party, whichever occurs first.~~

~~3) However, no immediate and irreparable harm, damage, or loss shall be deemed to result, for purposes of obviating the necessity of the required notice to Respondent and denying Respondent the requisite 7 days to respond, if the Petitioner previously received at least 14 days prior written notice of Respondent's intent to terminate Petitioner.~~

~~4) In the event the Commission enters an order granting the preliminary relief, the order shall remain in full force and effect during the pendency of the matter and until the occurrence of any event set forth in Section 35(e) and (f) of the Fair Dealing Act, unless previously vacated, dissolved or modified by subsequent order.~~

~~5) Documents seeking such preliminary relief and opposing same shall be certified as provided herein.~~

~~f) Discovery.~~

~~1) "Document" as used in this subsection (f) shall include but not be limited to: papers; photographs; video; audio; electronic or magnetic recordings; memoranda; books; records; accounts; all written or oral communications; and retrievable information in computer storage.~~

~~2) Any party may obtain by discovery the full disclosure of information concerning the subject matter of the proceeding, which may be secured through any or all of the following discovery methods. Discovery shall not be duplicative or repetitious.~~

~~3) Methods of discovery:~~

~~A) Depositions upon oral questions or written interrogatories.~~

~~B) Written Interrogatories.~~

~~C) Requests for production of documentation.~~

~~D) Requests for the admission of facts or the genuineness of documents.~~

~~4) Parties shall serve discovery documents upon the opposing party or attorney. The notice of filing and proof of service of the discovery shall be filed with the Commission stating the nature of the discovery served (i.e., interrogatories, request for production of documents, etc.) but the documents served upon the opposing party or attorney shall not be filed with the Commission.~~

~~5) Response to discovery documents shall be served upon the opposing party or~~

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- ~~attorney and the original response shall be filed with the Commission.~~
- ~~6) Discovery to which written responses are required shall be responded to within 30 days after service of the discovery upon the party or attorney requested to respond.~~
- ~~7) Motions with respect to discovery shall be filed with the Commission and copies served upon the opposing party or attorney. The opposing party or attorney may file with the Commission a response to the motion. Motions and responses shall contain all grounds upon which the movant and respondent rely. Copies of the discovery to which the motions are directed shall be filed with the motion. Privilege, relevance, materiality, work product or other claims asserted in avoidance of responding to discovery hereunder shall be defined in accordance with Section 10-40 of the IAPA [5 ILCS 100/10-40], and such claims shall be promptly communicated to the opposing party and the Commission by the filing of an objection to the discovery claimed to be exempt from production.~~
- ~~8) The Commission shall take the motions and responses under advisement and enter its written ruling on the motion and response. Oral argument on the motions and responses shall not be allowed except on order of the Commission.~~
- ~~g) Miscellaneous provisions.~~
- ~~1) Hearing. Conduct of the hearing shall be in accordance with Section 10-25 of the IAPA.~~
- ~~2) Record. A record of all proceedings before the Commission in open hearing shall be maintained in accordance with Section 10-35 of the IAPA.~~
- ~~3) Standard of Proof. The standard of proof shall be the preponderance of the evidence in accordance with Section 10-15 of the IAPA.~~
- ~~4) Rules of Evidence. The admission of evidence shall be in accordance with Section 10-40 of the IAPA.~~
- ~~5) Stipulations. The Commission directs the parties and attorneys to prepare written stipulations of facts not in dispute, of the applicable law, and of all other matters to which there is agreement. The stipulation shall be filed with the Commission as soon as practical.~~
- ~~6) Subpoenas. Any party may request the Commission to issue a subpoena requiring the presence of any party or witness or for the production of documentation.~~
- ~~7) Legal Precedent. Any party citing case law or other legal precedent for the Commission's consideration shall file with the Commission copies of the case law or precedent. If the case law or precedent is cited in a motion, brief or other document filed with the Commission, copies of the case law or precedent shall be appended to the document.~~
- ~~8) Notice of filing and proof of service shall be required on all documents filed with the Commission and served upon the opposing party or attorney.~~

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- ~~9) Service of Documents. All applications for relief under the Fair Dealing Act shall be sent to the opposing party by certified or registered mail with return receipt requested; the original return receipts shall be filed with the Commission. All subsequent documents shall be served upon the opposing party or attorney via regular mail, unless the Commission orders that the documents be served by another method. Any documents may be personally served upon the opposing party or attorney. Facsimile service of any document may be had unless any party or attorney files a written objection to that type of service. So called "express company", "overnight", or "next day" delivery provided by the U.S. Postal Service or express carrier may be utilized for service upon the opposing party or attorney. E-mail service may be had of any document or communication unless any party or attorney files a written objection to that type of service. The Commission's e-mail address is: lee\_webmaster@proceeding shall be filed with the Commission office at 100 West Randolph Street, Suite 5-300, Chicago, Illinois 60601.~~
- ~~10) Status Reports. The Commission shall set by order any status reports and status hearings it deems necessary to assure the progress of the matter.~~
- ~~11) Pre-Final Hearing Memoranda. The parties shall file, not later than 14 days prior to the Pre-Final Hearing Conference, a Pre-Final Hearing Memorandum utilizing the Commission form or other reasonably similar format that contains responses to all of the information requested on the Commission form.~~
- ~~12) Pre-Final Hearing Conference. Any party or attorney may file a written request, or the Commission may order, that the parties and attorneys attend a Pre-Final Hearing Conference at which the Commission shall consider:~~
- ~~A) the simplification of issues;~~
  - ~~B) the amendments to any documents previously filed;~~
  - ~~C) the possibility of any or additional stipulations or admissions of fact, document or law;~~
  - ~~D) the anticipated scheduling of the final hearing;~~
  - ~~E) any other matters that the parties or attorneys may request the Commission to consider; and~~
  - ~~F) any other matters that may aid in the simplification of issues or the disposition of the matter.~~
- ~~At the request of any party or attorney, or in the exercise of the sound discretion of the Commission, further or additional conferences may be scheduled in the interests of justice and the resolution of the matter. At the conclusion of the conference process, the Commission may enter an order it deems in the interests of justice and the resolution of the matter. At the conclusion of the conference process, if there has been no resolution of the matter, the Commission shall set the final hearing date.~~
- ~~13) Hearing Exhibits. At the final hearing, the parties shall provide the~~

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~~Commission with an original and 6 copies of all documents, identified as either "Petitioner's Exhibit No. \_\_\_\_\_" or "Respondent's Exhibit No. \_\_\_\_\_", which are sought to be introduced into evidence at the hearing.~~

- ~~14) Filing of Documents. An original and 6 copies of any documents in connection with the matter shall be filed with the Commission.~~
- ~~15) Certification of Documents. Any document required under this Part to be under oath shall be under penalty of perjury, and may be accomplished by the use of a certification substantially stating as follows:~~

~~"I, \_\_\_\_\_, (capacity), certify that the statements set forth in the foregoing document are made upon my personal knowledge and such statements are true and correct, except as to matters stated to be on information and belief, and as to such matters I certify that I believe same to be true and correct. (Signed)"~~

~~Certification of any document may also be accomplished via an appropriate attestation statement before a notary public.~~

- ~~16) Telephone Communication. Recognizing that the parties to disputes under the Fair Dealing Act may not be geographically amenable to receipt of written communication, especially when matters that may be deemed to be of an emergency nature are presented to the Commission for action, telephone communication may be employed, and on a case by case basis that communication will be evaluated for a determination of whether it is prohibited communication within the meaning of Section 10-60 of the IAPA and Section 100.380 of this Part. So called "conference calls" shall include all affected parties and/or their attorneys and shall not be deemed to be prohibited communication. All oral communication shall be directed to the Commission office in Chicago, telephone number 312-814-2206, or other number as may be communicated to the parties and attorneys.~~
- ~~17) Hearing Officer. The Commission may appoint one or more of its members to act in the capacity of hearing officer to assist it in the exercise of the powers and the performance of the duties imposed upon it by the Fair Dealing Act, on any matters the Commission may refer for consideration, including but not limited to matters concerning discovery, the conducting of a preliminary hearing, the taking of evidence on motions, or other aspects of the matter it may deem necessary for the proper performance of the duties vested in it.~~
- ~~18) Hearing Schedule. The Commission's regular hearing schedule is set not less than one calendar year in advance and is published in accordance with the Open Meetings Act. The Commission shall set preliminary and final hearings to conform with its published schedule. The Commission shall set such special hearing dates as it deems necessary.~~

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(Source: Repealed at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.410 Representation of Licensees before the Commission (Repealed)**

~~In connection with any matter pending before the Commission:~~

- ~~a) Any licensee may be represented by an attorney who is admitted to practice in the State of Illinois or a representative if a power of attorney is executed.~~
- ~~b) A sole proprietor licensee may appear and represent him or herself and may be represented by a person under authority of a properly executed power of attorney.~~
- ~~c) A partnership licensee may be represented by any general or limited partner, upon representation to the Commission from a majority of the partnership authorizing him or her to act.~~
- ~~d) A corporate licensee may be represented by a sole or majority shareholder or an officer if authorized to act.~~
- ~~e) A limited liability company licensee may be represented by a member, upon representation to the Commission from a majority of members authorizing him or her to act.~~

~~All attorneys and licensees, or their agents as designated in this Section, shall file an appearance using the form the Commission has promulgated, or a reasonable facsimile of that form.~~

(Source: Repealed at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Home Inspector License Act
- 2) Code Citation: 68 Ill. Adm. Code 1410
- 3) 

| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
|-------------------------|-------------------------|
| 1410.10                 | New                     |
| 1410.100                | New                     |
| 1410.110                | New                     |
| 1410.120                | New                     |
| 1410.130                | New                     |
| 1410.140                | New                     |
| 1410.150                | New                     |
| 1410.160                | New                     |
| 1410.170                | New                     |
| 1410.200                | New                     |
| 1410.210                | New                     |
| 1410.220                | New                     |
| 1410.230                | New                     |
| 1410.240                | New                     |
| 1410.250                | New                     |
| 1410.300                | New                     |
| 1410.310                | New                     |
| 1410.320                | New                     |
| 1410.330                | New                     |
| 1410.340                | New                     |
| 1410.350                | New                     |
| 1410.400                | New                     |
| 1410.410                | New                     |
| 1410.420                | New                     |
| 1410.500                | New                     |
| 1410.510                | New                     |
| 1410.520                | New                     |
| 1410.530                | New                     |
| 1410.540                | New                     |
| 1410.550                | New                     |
| 1410.560                | New                     |
| 1410.570                | New                     |
| 1410.580                | New                     |
| 1410.590                | New                     |
| 1410.600                | New                     |

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PROPOSED RULES

- 4) Statutory Authority: Implementing and authorized by the Home Inspector License Act [225 ILCS 441].
- 5) A complete description of the subjects and issues involved: This rulemaking contains licensing, standards of practice, education, discipline, and other provisions to implement the new Home Inspector License Act.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes OBRE is filing an identical emergency rule for the Home Inspector License Act .
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The Home Inspector License Act [225 ILCS 441] provides for exclusive State jurisdiction over the regulation of home inspectors, but exempts code enforcement officials employed by a unit of local government, while acting within the scope of that government employment. This proposed rulemaking has no provisions that are specific to units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Alan Anderson  
Legislative Liaison  
Office of Banks and Real Estate  
500 E. Monroe Street  
Springfield IL 62701  
Telephone: 217/782-6167  
Telefax: 217/558-4297
- 12) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: Small home inspector businesses and not for profit corporations involved in education of home inspectors would be affected by this proposed rulemaking.

OFFICE OF BANKS AND REAL ESTATE

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- B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2002

The full text of the Proposed Rule is identical to the text of the emergency rule that begins on page \_\_\_\_\_ of this *Illinois Register*.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part : Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers:                      Proposed Action:  
TABLE AA                                      Amend  
TABLE AB                                      Amend
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 5) A Complete Description of the Subjects and Issues Involved: In Section 310.Appendix A Table AA NR-916 (Department of Natural Resources, Teamsters), the salary schedule is being upgraded as illustrated in the text for July 1, 2002.

In Section 310.Appendix A Table AB VR-007 (Plant Maintenance Engineers, Operating Engineers), the salaries for the Plant Maintenance Engineer I and II classifications are being upgraded to reflect the recent increase given to the Operating Engineers in Local #399 – Chicago for July 1, 2002.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? Yes

| <u>Section Numbers</u> | <u>Proposed Action</u> | <u>Ill. Reg. Citation</u>    |
|------------------------|------------------------|------------------------------|
| Table H                | Amend                  | 25 Ill. Reg. 12950; 10/19/01 |
| Table I                | Amend                  | 25 Ill. Reg. 12950; 10/19/01 |
| Table J                | Amend                  | 25 Ill. Reg. 12950; 10/19/01 |
| Table N                | Amend                  | 25 Ill. Reg. 12950; 10/19/01 |
| Table O                | Amend                  | 25 Ill. Reg. 12950; 10/19/01 |
| Table R                | Amend                  | 25 Ill. Reg. 12950; 10/19/01 |
| Table W                | Amend                  | 25 Ill. Reg. 12950; 10/19/01 |
| Table Z                | Amend                  | 25 Ill. Reg. 12950; 10/19/01 |
| 310.280                | Amend                  | 26 Ill. Reg. 4505; 3/29/02   |
| 310.230                | Amend                  | 26 Ill. Reg. 6897; 5/10/02   |
| 310.280                | Amend                  | 26 Ill. Reg. 7790; 5/31/02   |

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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|            |        |                             |
|------------|--------|-----------------------------|
| 310.110    | Amend  | 26 Ill. Reg. 10094; 7/12/02 |
| 310.130    | Amend  | 26 Ill. Reg. 10094; 7/12/02 |
| 310.230    | Amend  | 26 Ill. Reg. 10094; 7/12/02 |
| 310.290    | Amend  | 26 Ill. Reg. 10094; 7/12/02 |
| 310.490    | Amend  | 26 Ill. Reg. 10094; 7/12/02 |
| 310.510    | Repeal | 26 Ill. Reg. 10094; 7/12/02 |
| 310.530    | Amend  | 26 Ill. Reg. 10094; 7/12/02 |
| 310.540    | Amend  | 26 Ill. Reg. 10094; 7/12/02 |
| APPENDIX B | Amend  | 26 Ill. Reg. 10094; 7/12/02 |
| APPENDIX C | Amend  | 26 Ill. Reg. 10094; 7/12/02 |
| APPENDIX D | Amend  | 26 Ill. Reg. 10094; 7/12/02 |
| APPENDIX G | Amend  | 26 Ill. Reg. 10094; 7/12/02 |

- 10) Statement of Statewide Policy Objective: These amendments to the Pay plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:
- Mr. Michael Murphy  
Department of Central Management Services  
Division of Technical Services  
504 William G. Stratton Building  
Springfield, Illinois 62706  
Telephone: (217) 782-5601
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2002

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS  
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICESPART 310  
PAY PLAN

## SUBPART A: NARRATIVE

|         |   |
|---------|---|
| Section |   |
| 310.20  | Policy and Responsibilities   |
| 310.30  | Jurisdiction  |
| 310.40  | Pay Schedules   |
| 310.50  | Definitions   |
| 310.60  | Conversion of Base Salary to Pay Period Units   |
| 310.70  | Conversion of Base Salary to Daily or Hourly Equivalent   |
| 310.80  | Increases in Pay  |
| 310.90  | Decreases in Pay  |
| 310.100 | Other Pay Provisions  |
| 310.110 | Implementation of Pay Plan Changes for Fiscal Year 2002   |
| 310.120 | Interpretation and Application of Pay Plan  |
| 310.130 | Effective Date  |
| 310.140 | Reinstitution of Within Grade Salary Increases (Repealed)                                       |
| 310.150 | Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984<br>(Repealed) |

## SUBPART B: SCHEDULE OF RATES

|         |   |
|---------|---|
| Section |   |
| 310.205 | Introduction                                    |
| 310.210 | Prevailing Rate                                 |
| 310.220 | Negotiated Rate                                 |
| 310.230 | Part-Time Daily or Hourly Special Services Rate |
| 310.240 | Hourly Rate                                     |
| 310.250 | Member, Patient and Inmate Rate                 |
| 310.260 | Trainee Rate                                    |
| 310.270 | Legislated and Contracted Rate                  |
| 310.280 | Designated Rate                                 |

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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- 310.290 Out-of-State or Foreign Service Rate
- 310.300 Educator Schedule for RC-063 and HR-010
- 310.310 Physician Specialist Rate
- 310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
- 310.330 Excluded Classes Rate (Repealed)

## SUBPART C: MERIT COMPENSATION SYSTEM

## Section

- 310.410 Jurisdiction
- 310.420 Objectives
- 310.430 Responsibilities
- 310.440 Merit Compensation Salary Schedule
- 310.450 Procedures for Determining Annual Merit Increases
- 310.455 Intermittent Merit Increase
- 310.456 Merit Zone (Repealed)
- 310.460 Other Pay Increases
- 310.470 Adjustment
- 310.480 Decreases in Pay
- 310.490 Other Pay Provisions
- 310.495 Broad-Band Pay Range Classes
- 310.500 Definitions
- 310.510 Conversion of Base Salary to Pay Period Units
- 310.520 Conversion of Base Salary to Daily or Hourly Equivalentents
- 310.530 Implementation
- 310.540 Annual Merit Increase Guidechart for Fiscal Year 2002
- 310.550 Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

## APPENDIX A Negotiated Rates of Pay

- TABLE A HR-190 (Department of Central Management Services – State of Illinois Building – SEIU)
- TABLE AA NR-916 (Department of Natural Resources, Teamsters)
- TABLE AB VR-007 (Plant Maintenance Engineers, Operating Engineers)
- TABLE B HR-200 (Department of Labor – Chicago, Illinois - SEIU) (Repealed)
- TABLE C RC-069 (Firefighters, AFSCME) (Repealed)
- TABLE D HR-001 (Teamsters Local #726)
- TABLE E RC-020 (Teamsters Local #330)
- TABLE F RC-019 (Teamsters Local #25)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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|            |   |
|------------|---|
| TABLE G    | RC-045 (Automotive Mechanics, IFPE)   |
| TABLE H    | RC-006 (Corrections Employees, AFSCME)                                      |
| TABLE I    | RC-009 (Institutional Employees, AFSCME)                                    |
| TABLE J    | RC-014 (Clerical Employees, AFSCME)   |
| TABLE K    | RC-023 (Registered Nurses, INA)   |
| TABLE L    | RC-008 (Boilermakers)   |
| TABLE M    | RC-110 (Conservation Police Lodge)  |
| TABLE N    | RC-010 (Professional Legal Unit, AFSCME)                                    |
| TABLE O    | RC-028 (Paraprofessional Human Services Employees, AFSCME)                  |
| TABLE P    | RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE) |
| TABLE Q    | RC-033 (Meat Inspectors, IFPE)  |
| TABLE R    | RC-042 (Residual Maintenance Workers, AFSCME)                               |
| TABLE S    | HR-012 (Fair Employment Practices Employees, SEIU) (Repealed)               |
| TABLE T    | HR-010 (Teachers of Deaf, IFT)  |
| TABLE U    | HR-010 (Teachers of Deaf, Extracurricular Paid Activities)                  |
| TABLE V    | CU-500 (Corrections, Meet and Confer Employees)                             |
| TABLE W    | RC-062 (Technical Employees, AFSCME)  |
| TABLE X    | RC-063 (Professional Employees, AFSCME)                                     |
| TABLE Y    | RC-063 (Educators, AFSCME)  |
| TABLE Z    | RC-063 (Physicians, AFSCME)   |
| APPENDIX B | Schedule of Salary Grades – Monthly Rates of Pay for Fiscal Year 2002       |
| APPENDIX C | Medical Administrator Rates for Fiscal Year 2002                            |
| APPENDIX D | Merit Compensation System Salary Schedule for Fiscal Year 2002              |
| APPENDIX E | Teaching Salary Schedule (Repealed)   |
| APPENDIX F | Physician and Physician Specialist Salary Schedule (Repealed)               |
| APPENDIX G | Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2002           |

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150

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days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; preemptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; preemptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; preemptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; preemptory amendment at

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12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; preemptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; preemptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; preemptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; preemptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; preemptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; preemptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; preemptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; preemptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective

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October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; preemptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; preemptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; preemptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; preemptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; preemptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; preemptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; preemptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; preemptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; preemptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; preemptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; preemptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; preemptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; preemptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; preemptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; preemptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; preemptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; preemptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; preemptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill.

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Reg. 2580, effective January 14, 1998; preemptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; preemptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; preemptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; preemptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; preemptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; preemptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; preemptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; preemptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; preemptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; preemptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; preemptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; preemptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; preemptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; preemptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223,

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effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; peremptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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**Section 310.APPENDIX A Negotiated Rates of Pay****Section 310.TABLE AA NR-916 (Department of Natural Resources, Teamsters)**

Effective: July 1, 2002  
~~Effective: January 16, 2001~~

|                            | Minimum<br>Salary              | Maximum<br>Salary              |
|----------------------------|--------------------------------|--------------------------------|
| Cartographer III           | <u>3035</u><br><del>2860</del> | <u>5420</u><br><del>5210</del> |
| Civil Engineer I           | <u>2955</u><br><del>2785</del> | <u>4575</u><br><del>4395</del> |
| Civil Engineer II          | <u>3155</u><br><del>2970</del> | <u>5250</u><br><del>5045</del> |
| Civil Engineer III         | <u>3470</u><br><del>3270</del> | <u>5880</u><br><del>5650</del> |
| Civil Engineer Trainee     | <u>2780</u><br><del>2620</del> | <u>3885</u><br><del>3735</del> |
| Engineering Technician I   | <u>1715</u><br><del>1570</del> | <u>3090</u><br><del>2970</del> |
| Engineering Technician II  | <u>2055</u><br><del>1915</del> | <u>3705</u><br><del>3560</del> |
| Engineering Technician III | <u>2495</u><br><del>2350</del> | <u>4415</u><br><del>4245</del> |
| Engineering Technician IV  | <u>3055</u><br><del>2880</del> | <u>5735</u><br><del>5510</del> |
| Technical Manager I        | <u>2340</u><br><del>2205</del> | <u>4170</u><br><del>4005</del> |

(Source: Amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENTS

**Section 310.APPENDIX A Negotiated Rates of Pay****Section 310.TABLE AB VR-007 (Plant Maintenance Engineers, Operating Engineers)**Effective July 1, 2002Effective July 1, 2000

| Title                         |  | Standard Rate  |
|-------------------------------|--|----------------|
| Plant Maintenance Engineer I  |  | <u>5729.82</u> |
|                               |  | <u>5260.02</u> |
| Plant Maintenance Engineer II |  | <u>6003.00</u> |
|                               |  | <u>5510.58</u> |

(Source: Amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Foster Parent Code
- 2) Code Citation: 89 III. Adm. Code 340
- 3) 

|                         |                          |
|-------------------------|--------------------------|
| <u>Section Numbers:</u> | <u>Proposed Actions:</u> |
| 340.40                  | Amend                    |
| 340.110                 | Amend                    |
- 4) Statutory Authority: Implementing and authorized by the Foster Parent Law [20 ILCS 520]
- 5) A Complete Description of the Subjects and Issues Involved: The Department is amending Part 340 as follows:

In Section 340.40, the foster parent right to be considered as a placement option for foster children that had previously been placed in that home has been added. It was inadvertently omitted when the original rule was filed in 2000.

In Section 340.110, the word “monthly” has been deleted from the reports the agency performance teams are to make.
- 6) Will the proposed amendments replace an emergency rule currently in effect? No
- 7) Do the proposed amendments contain an automatic repeal date? No
- 8) Do the proposed amendments contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on the proposed amendments: Comments on these proposed amendments can be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

## ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Jeff Osowski  
Office of Child and Family Policy  
Department of Children and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62703-1498  
217/524-1983  
TDD: 217/524-3715  
Facsimile 217/557-0692  
E-Mail: [CFPolicy@idcfs.state.il.us](mailto:CFPolicy@idcfs.state.il.us)

The Department will consider fully all written comments on these proposed amendments submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking will affect day care centers that had been previously regulated by the Department.
  - B) Reporting, bookkeeping or other procedures required for compliance: There are no additional costs to small businesses.
  - C) Types of professional skills necessary for compliance: Clerical
- 13) Regulatory Agenda on which these amendments were summarized: This rulemaking was not included in either of the last two Regulatory Agendas because it was not anticipated.

The full text of the Proposed Amendments begins on the next page:

ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER b: PROGRAM AND TECHNICAL SUPPORT

PART 340

FOSTER PARENT CODE

SUBPART A: PURPOSE, DEFINITIONS AND INTRODUCTION

Section

- 340.10 Purpose
- 340.20 Definitions
- 340.30 Introduction

SUBPART B: FOSTER PARENT RIGHTS AND RESPONSIBILITIES

- 340.40 Foster Parent Rights
- 340.50 Foster Parent Responsibilities

SUBPART C: REQUIREMENTS FOR FOSTER PARENT ANNUAL PLAN

- 340.60 Content
- 340.70 Resolution of Foster Parent Grievances
- 340.80 Public Review
- 340.90 Annual Plan Submission

SUBPART D: REVIEW, APPROVAL, MONITORING AND REPORTING

- 340.100 Review and Approval Process
- 340.110 Monitoring
- 340.120 Reporting

SUBPART E: SEVERABILITY OF THIS PART

- 340.130 Severability of this Part

- APPENDIX A Outline and Minimum Requirements for Foster Parent Law Annual Plan
- APPENDIX B Rating Components for Foster Parent Law Implementation Plans

AUTHORITY: Implementing and authorized by the Foster Parent Law [20 ILCS 520].

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SOURCE: Adopted at 24 Ill. Reg. 8515, effective July 1, 2000; amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: FOSTER PARENT RIGHTS AND RESPONSIBILITIES

**Section 340.40 Foster Parent Rights**

*A foster parent's rights include, but are not limited to, the following:*

- a) *The right to be treated with dignity, respect, and consideration as a professional member of the child welfare team.*
- b) *The right to be given standardized pre-service training and appropriate ongoing training to meet mutually assessed needs and improve the foster parent's skills.*
- c) *The right to be informed as to how to contact the appropriate child placement agency in order to receive information and assistance to access supportive services for children in the foster parent's care.*
- d) *The right to receive timely financial reimbursement commensurate with the care needs of the child as specified in the service plan.*
- e) *The right to be provided a clear, written understanding of a placement agency's plan concerning the placement of a child in the foster parent's home. Inherent in this right is the foster parent's responsibility to support activities that will promote the child's right to relationships with his or her own family and cultural heritage.*
- f) *The right to be provided a fair, timely, and impartial investigation of complaints concerning the foster parent's licensure, to be provided the opportunity to have a person of the foster parent's choosing present during the investigation, and to be provided due process during the investigation; the right to be provided the opportunity to request and receive mediation or an administrative review of decisions that affect licensing parameters, or both mediation and an administrative review; and the right to have decisions concerning a licensing corrective action plan specifically explained and tied to the licensing standards violated.*
- g) *The right, at any time during which a child is placed with the foster parent, to receive additional or necessary information that is relative to the care of the child.*
- h) *The right to be notified of scheduled meetings and staffings concerning the foster child in order to actively participate in the case planning and decision-making process regarding the child, including individual service planning meetings, administrative case reviews, interdisciplinary staffings, and individual educational planning meetings; the right to be informed of decisions made by the courts or the child welfare agency concerning the child; the right to provide input concerning the plan of services for the child and to have that input given full consideration in the same manner as information presented by any other professional on the team; and*

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- the right to communicate with other professionals who work with the foster child within the context of the team, including therapists, physicians, and teachers.*
- i) *The right to be given, in a timely and consistent manner, any information a case worker has regarding the child and the child's family which is pertinent to the care and needs of the child and to the making of a permanency plan for the child. Disclosure of information concerning the child's family shall be limited to that information that is essential for understanding the needs of and providing care to the child in order to protect the rights of the child's family. When a positive relationship exists between the foster parent and the child's family, the child's family may consent to disclosure of additional information.*
- j) *The right to be given reasonable written notice of any change in a child's case plan, plans to terminate the placement of the child with the foster parent, and the reasons for the change or termination in placement. The notice shall be waived only in cases of a court order or when a child is determined to be at imminent risk of harm.*
- k) *The right to be notified in a timely and complete manner of all court hearings, including notice of the date and time of the court hearing, the name of the judge or hearing officer hearing the case, the location of the hearing, and the court docket number of the case; and the right to intervene in court proceedings or to seek mandamus under the Juvenile Court Act of 1987.*
- l) *The right to be considered as a placement option when a foster child who was formerly placed with the foster parent is to be re-entered into foster care, if that placement is consistent with the best interest of the child and other children in the foster parent's home.*
- m) *The right to have timely access to the child placement agency's existing appeals process and the right to be free from acts of harassment and retaliation by any other party when exercising the right to appeal.*
- n) *The right to be informed of the Foster Parent Hotline established under Section 35.6 of the Children and Family Services Act and all of the rights accorded to foster parents concerning reports of misconduct by Department employees, service providers, or contractors, confidential handling of those reports, and investigation by the Inspector General appointed under Section 35.5 of the Children and Family Services Act. [20 ILCS 520/1-15]*

(Source: Amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: REVIEW, APPROVAL, MONITORING AND REPORTING

**Section 340.110 Monitoring**

- a) Implementation of annual plans shall be monitored by the Advisory Council, as

## ILLINOIS DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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necessary, through information and indicators provided by the Department, such as:

- 1) Written ~~monthly~~ reports from agency performance teams; and
  - 2) Reports containing information that is germane to the agency's plan from other Department units, such as the Division of Quality Assurance and the Advocacy Office for Children and Families.
- b) A copy of all information that is given to the Advisory Council about a particular region or purchase of service agency shall also be given to the region or purchase of service agency.
- c) Complaints received by the Advisory Council will be referred to the appropriate Department unit, such as Licensing, the Advocacy Office for Children and Families, Quality Assurance, or the agency performance team.

(Source: Amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.860      Proposed Action: Amend
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: These proposed amendments relate to an alternate reimbursement methodology, which is described at Section 140.530, for certain county owned and operated nursing facilities when they have an intergovernmental agreement with the Department. By utilizing Medicare payment principles, payments to county nursing facilities will be increased and the State will maximize the Medicaid funding that may be matched by the federal government.

The amendments at Section 140.860 provide that when one of these nursing facilities receives payment for services under Section 140.530(e), which exceeds the payment amounts otherwise authorized by the Department's administrative rules, the county shall remit to the State an amount equal to the difference, less an administrative allowance that may be specified in an intergovernmental agreement with the Department. The intent of these amendment is to maximize federal matching funds coming to the State for the county owned and operated nursing facilities through an intergovernmental transaction and to allow the Department to use county funds (the remittance) as the State share for federal matching purposes.

These proposed changes are expected to result in a savings of approximately \$91 million per fiscal year.

- 6) Will this proposed amendment replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

| <u>Sections</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|-----------------|------------------------|-----------------------------------|
| 140.13          | Amendment              | 26 Ill. Reg. ____; 8/30/02        |
| 140.20          | Amendment              | 26 Ill. Reg. 3852; 3/15/02        |
| 140.21          | Amendment              | 26 Ill. Reg. 12126; 8/09/02       |
| 140.24          | Amendment              | 26 Ill. Reg. ____; 8/30/02        |
| 140.71          | Amendment              | 26 Ill. Reg. 12545; 8/09/02       |
| 140.402         | Amendment              | 26 Ill. Reg. 11210; 7/19/02       |
| 140.405         | New Section            | 26 Ill. Reg. 7647; 5/24/02        |
| 140.442         | Amendment              | 26 Ill. Reg. 5872; 4/26/02        |
| 140.445         | Amendment              | 26 Ill. Reg. 11210; 7/19/02       |
| 140.450         | Amendment              | 26 Ill. Reg. 8243; 6/7/02         |
| 140.481         | Amendment              | 26 Ill. Reg. 11210; 7/19/02       |
| 140.492         | Amendment              | 26 Ill. Reg. 11210; 7/19/02       |
| 140.493         | Amendment              | 26 Ill. Reg. 11210; 7/19/02       |
| 140.523         | Amendment              | 26 Ill. Reg. 10243; 7/19/02       |
| 140.530         | Amendment              | 26 Ill. Reg. 13026; 8/30/02       |

- 10) Statement of Statewide Policy Objective: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni  
Office of the General Counsel, Rules Section  
Illinois Department of Public Aid  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois 62763-0002  
(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance

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with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: County owned or operated nursing facilities will be affected by this rulemaking.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on Which this Rulemaking Was Summarized: These proposed amendments were not included on either of the two most recent agendas because: This rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

The full text of the Proposed Amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMSPART 140  
MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

## Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

## SUBPART B: MEDICAL PROVIDER PARTICIPATION

## Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring

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- 140.20 Submittal of Claims
- 140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Terminated, Suspended or Barred Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for items or Services When Prior Approval Cannot Be Obtained
- 140.55 Recipient Eligibility Verification (REV) System
- 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher  
Advance Payment and Expedited Payments
- 140.72 Drug Manual (Recodified)
- 140.73 Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

- Section
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust  
Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
- 140.95 Hospital Services Trust Fund
- 140.96 General Requirements (Recodified)
- 140.97 Special Requirements (Recodified)
- 140.98 Covered Hospital Services (Recodified)
- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)

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- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
- 140.203 Limits on Length of Stay by Diagnosis (Recodified)
- 140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
- 140.350 Copayments (Recodified)
- 140.360 Payment Methodology (Recodified)
- 140.361 Non-Participating Hospitals (Recodified)
- 140.362 Pre July 1, 1989 Services (Recodified)
- 140.363 Post June 30, 1989 Services (Recodified)
- 140.364 Prepayment Review (Recodified)
- 140.365 Base Year Costs (Recodified)
- 140.366 Restructuring Adjustment (Recodified)
- 140.367 Inflation Adjustment (Recodified)
- 140.368 Volume Adjustment (Repealed)
- 140.369 Groupings (Recodified)
- 140.370 Rate Calculation (Recodified)
- 140.371 Payment (Recodified)
- 140.372 Review Procedure (Recodified)
- 140.373 Utilization (Repealed)
- 140.374 Alternatives (Recodified)
- 140.375 Exemptions (Recodified)
- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

- Section
- 140.400 Payment to Practitioners

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- 140.402 Copayments for Noninstitutional Medical Services
- 140.410 Physicians' Services
- 140.411 Covered Services By Physicians
- 140.412 Services Not Covered By Physicians
- 140.413 Limitation on Physician Services
- 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Physicians
- 140.416 Optometric Services and Materials
- 140.417 Limitations on Optometric Services
- 140.418 Department of Corrections Laboratory
- 140.420 Dental Services
- 140.421 Limitations on Dental Services
- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists
- 140.425 Podiatry Services
- 140.426 Limitations on Podiatry Services
- 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry
- 140.428 Chiropractic Services
- 140.429 Limitations on Chiropractic Services (Repealed)
- 140.430 Independent Clinical Laboratory Services
- 140.431 Services Not Covered by Independent Clinical Laboratories
- 140.432 Limitations on Independent Clinical Laboratory Services
- 140.433 Payment for Clinical Laboratory Services
- 140.434 Record Requirements for Independent Clinical Laboratories
- 140.435 Advanced Practice Nurse Services
- 140.436 Limitations on Advanced Practice Nurse Services
- 140.438 Imaging Centers
- 140.440 Pharmacy Services
- 140.441 Pharmacy Services Not Covered
- 140.442 Prior Approval of Prescriptions
- 140.443 Filling of Prescriptions
- 140.444 Compounded Prescriptions
- 140.445 Legend Prescription Items (Not Compounded)
- 140.446 Over-the-Counter Items
- 140.447 Reimbursement
- 140.448 Returned Pharmacy Items
- 140.449 Payment of Pharmacy Items
- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Clinic Services
- 140.453 Definitions
- 140.454 Types of Mental Health Clinic Services

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- 140.455 Payment for Mental Health Clinic Services
- 140.456 Hearings
- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
- 140.462 Covered Services in Clinics
- 140.463 Clinic Service Payment
- 140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
- 140.469 Hospice
- 140.470 Home Health Services
- 140.471 Home Health Covered Services
- 140.472 Types of Home Health Services
- 140.473 Prior Approval for Home Health Services
- 140.474 Payment for Home Health Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations
- 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
- 140.482 Family Planning Services
- 140.483 Limitations on Family Planning Services
- 140.484 Payment for Family Planning Services
- 140.485 Healthy Kids Program
- 140.486 Limitations on Medichek Services (Repealed)
- 140.487 Healthy Kids Program Timeliness Standards
- 140.488 Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
- 140.490 Medical Transportation
- 140.491 Limitations on Medical Transportation
- 140.492 Payment for Medical Transportation
- 140.493 Payment for Helicopter Transportation
- 140.494 Record Requirements for Medical Transportation Services

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- 140.495 Psychological Services
- 140.496 Payment for Psychological Services
- 140.497 Hearing Aids

## SUBPART E: GROUP CARE

## Section

- 140.500 Long Term Care Services
- 140.502 Cessation of Payment at Federal Direction
- 140.503 Cessation of Payment for Improper Level of Care
- 140.504 Cessation of Payment Because of Termination of Facility
- 140.505 Informal Hearing Process for Denial of Payment for New ICF/MR
- 140.506 Provider Voluntary Withdrawal
- 140.507 Continuation of Provider Agreement
- 140.510 Determination of Need for Group Care
- 140.511 Long Term Care Services Covered by Department Payment
- 140.512 Utilization Control
- 140.513 Notification of Change in Resident Status
- 140.514 Certifications and Recertifications of Care
- 140.515 Management of Recipient Funds – Personal Allowance Funds
- 140.516 Recipient Management of Funds
- 140.517 Correspondent Management of Funds
- 140.518 Facility Management of Funds
- 140.519 Use or Accumulation of Funds
- 140.520 Management of Recipient Funds – Local Office Responsibility
- 140.521 Room and Board Accounts
- 140.522 Reconciliation of Recipient Funds
- 140.523 Bed Reserves
- 140.524 Cessation of Payment Due to Loss of License
- 140.525 Quality Incentive Program (QUIP) Payment Levels
- 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)
- 140.527 Quality Incentive Survey (Repealed)
- 140.528 Payment of Quality Incentive (Repealed)
- 140.529 Reviews (Repealed)
- 140.530 Basis of Payment for Long Term Care Services
- 140.531 General Service Costs
- 140.532 Health Care Costs
- 140.533 General Administration Costs
- 140.534 Ownership Costs

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- 140.535 Costs for Interest, Taxes and Rent
- 140.536 Organization and Pre-Operating Costs
- 140.537 Payments to Related Organizations
- 140.538 Special Costs
- 140.539 Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
- 140.540 Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
- 140.541 Salaries Paid to Owners or Related Parties
- 140.542 Cost Reports-Filing Requirements
- 140.543 Time Standards for Filing Cost Reports
- 140.544 Access to Cost Reports (Repealed)
- 140.545 Penalty for Failure to File Cost Reports
- 140.550 Update of Operating Costs
- 140.551 General Service Costs
- 140.552 Nursing and Program Costs
- 140.553 General Administrative Costs
- 140.554 Component Inflation Index
- 140.555 Minimum Wage
- 140.560 Components of the Base Rate Determination
- 140.561 Support Costs Components
- 140.562 Nursing Costs
- 140.563 Capital Costs
- 140.565 Kosher Kitchen Reimbursement
- 140.566 Out-of-State Placement
- 140.567 Level II Incentive Payments (Repealed)
- 140.568 Duration of Incentive Payments (Repealed)
- 140.569 Clients With Exceptional Care Needs
- 140.570 Capital Rate Component Determination
- 140.571 Capital Rate Calculation
- 140.572 Total Capital Rate
- 140.573 Other Capital Provisions
- 140.574 Capital Rates for Rented Facilities
- 140.575 Newly Constructed Facilities (Repealed)
- 140.576 Renovations (Repealed)
- 140.577 Capital Costs for Rented Facilities (Renumbered)
- 140.578 Property Taxes
- 140.579 Specialized Living Centers
- 140.580 Mandated Capital Improvements (Repealed)

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- 140.581 Qualifying as Mandated Capital Improvement (Repealed)
- 140.582 Cost Adjustments
- 140.583 Campus Facilities
- 140.584 Illinois Municipal Retirement Fund (IMRF)
- 140.590 Audit and Record Requirements
- 140.642 Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
- 140.643 In-Home Care Program
- 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
- 140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
- 140.647 Description of Developmental Training (DT) Services
- 140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
- 140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs
- 140.650 Certification of Developmental Training (DT) Programs
- 140.651 Decertification of Day Programs
- 140.652 Terms of Assurances and Contracts
- 140.680 Effective Date Of Payment Rate
- 140.700 Discharge of Long Term Care Residents
- 140.830 Appeals of Rate Determinations
- 140.835 Determination of Cap on Payments for Long Term Care (Repealed)

## SUBPART F: FEDERAL CLAIMING FOR STATE AND LOCAL GOVERNMENTAL ENTITIES

## Section

- 140.850 Reimbursement of Administrative Expenditures
- 140.855 Administrative Claim Review and Reconsideration Procedure
- 140.860 County Owned or Operated Nursing Facilities Covered Services (Repealed)
- 140.865 Sponsor Qualifications (Repealed)
- 140.870 Sponsor Responsibilities (Repealed)
- 140.875 Department Responsibilities (Repealed)
- 140.880 Provider Qualifications (Repealed)
- 140.885 Provider Responsibilities (Repealed)
- 140.890 Payment Methodology (Repealed)
- 140.895 Contract Monitoring (Repealed)
- 140.896 Reimbursement For Program Costs (Active Treatment) For Clients in Long Term

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|         |   |
|---------|---|
|         | Care Facilities For the Developmentally Disabled (Recodified)                                 |
| 140.900 | Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified) |
| 140.901 | Functional Areas of Needs (Recodified)  |
| 140.902 | Service Needs (Recodified)  |
| 140.903 | Definitions (Recodified)  |
| 140.904 | Times and Staff Levels (Repealed)   |
| 140.905 | Statewide Rates (Repealed)  |
| 140.906 | Reconsiderations (Recodified)   |
| 140.907 | Midnight Census Report (Recodified)   |
| 140.908 | Times and Staff Levels (Recodified)   |
| 140.909 | Statewide Rates (Recodified)  |
| 140.910 | Referrals (Recodified)  |
| 140.911 | Basic Rehabilitation Aide Training Program (Recodified)                                       |
| 140.912 | Interim Nursing Rates (Recodified)  |

## SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

|         |   |
|---------|---|
| Section |   |
| 140.920 | General Description   |
| 140.922 | Covered Services  |
| 140.924 | Maternal and Child Health Provider Participation Requirements |
| 140.926 | Client Eligibility (Repealed)                                 |
| 140.928 | Client Enrollment and Program Components (Repealed)           |
| 140.930 | Reimbursement   |
| 140.932 | Payment Authorization for Referrals (Repealed)                |

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT  
EQUITY (ICARE) PROGRAM

|         |   |
|---------|---|
| Section |   |
| 140.940 | Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified) |
| 140.942 | Definition of Terms (Recodified)  |
| 140.944 | Notification of Negotiations (Recodified)   |
| 140.946 | Hospital Participation in ICARE Program Negotiations (Recodified)                 |
| 140.948 | Negotiation Procedures (Recodified)   |
| 140.950 | Factors Considered in Awarding ICARE Contracts (Recodified)                       |
| 140.952 | Closing an ICARE Area (Recodified)  |
| 140.954 | Administrative Review (Recodified)  |

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- 140.956 Payments to Contracting Hospitals (Recodified)  
140.958 Admitting and Clinical Privileges (Recodified)  
140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)  
140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)  
140.964 Contract Monitoring (Recodified)  
140.966 Transfer of Recipients (Recodified)  
140.968 Validity of Contracts (Recodified)  
140.970 Termination of ICARE Contracts (Recodified)  
140.972 Hospital Services Procurement Advisory Board (Recodified)  
140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)  
140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

- TABLE A Medichex Recommended Screening Procedures (Repealed)  
TABLE B Geographic Areas  
TABLE C Capital Cost Areas  
TABLE D Schedule of Dental Procedures  
TABLE E Time Limits for Processing of Prior Approval Requests  
TABLE F Podiatry Service Schedule  
TABLE G Travel Distance Standards  
TABLE H Areas of Major Life Activity  
TABLE I Staff Time and Allocation for Training Programs (Recodified)  
TABLE J HSA Grouping (Repealed)  
TABLE K Services Qualifying for 10% Add-On (Repealed)  
TABLE L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)  
TABLE M Enhanced Rates for Maternal and Child Health Provider Services

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983;

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amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986;

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amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989;

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amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 26, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended

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at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995;

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amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2000, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July

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1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART F: FEDERAL CLAIMING FOR STATE AND LOCAL GOVERNMENTAL ENTITIES

**Section 140.860** County Owned or Operated Nursing Facilities Covered Services (Repealed)

When a county owned or operated nursing facility receives payment for services under Section 140.530(e) that exceeds the payment amounts otherwise authorized for nursing facilities under this Part 140 and 89 Ill. Adm. Code 153, the county shall remit to the State an amount equal to the difference, less an administrative allowance that may be specified in an intergovernmental agreement between the county and the Department.

(Source: Section repealed at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Emergency Medical Services and Trauma Center Code
- 2) Code Citation: 77 Ill. Adm. Code 515
- 3) 

|                         |                         |
|-------------------------|-------------------------|
| <u>Section Numbers:</u> | <u>Proposed Action:</u> |
| 515.100                 | Amendment               |
| 515.710                 | Amendment               |
- 4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]
- 5) A complete description of the subjects and issues: These amendments implement Public Act 902-506, which amended the Emergency Medical Services (EMS) Systems Act [210 ILCS 50] to require the Department to approve an emergency medical dispatch priority reference system protocol; require certification and recertification of emergency medical dispatchers; require certification and recertification of emergency medical dispatch agencies; and prescribe minimum education and continuing education requirements for emergency medical dispatchers. Public Act 92-506 also requires emergency medical dispatchers to give prearrival instructions, in accordance with approved protocols.

Section 515.100 (Definitions) is being amended to include new statutory language in the definition of "emergency medical dispatcher" and to add a definition of "emergency medical dispatcher priority reference system." Statutory references are updated.

Section 515.710 (Emergency Medical Dispatcher) is being amended to include the new statutory requirements for certification and to delete outdated requirements. Recertification requirements are being added. Qualifications for training program instructors are also being added. New requirements for certification and recertification of emergency medical dispatch agencies are being added. Exemptions from certification requirements are included, as well as a provision governing waivers.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

- 6) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 8) Does this rulemaking contain any incorporations by reference? Yes
- 9) Are there any other proposed amendments pending on this Part? Yes

| <u>Section Numbers</u> | <u>Proposed Action</u> | <u>Ill. Reg. Citation</u>   |
|------------------------|------------------------|-----------------------------|
| 515.220                | Amendment              | 26 Ill. Reg. 11363; 7/26/02 |
| 515.380                | Amendment              | 26 Ill. Reg. 11363; 7/26/02 |
| 515.450                | New Section            | 26 Ill. Reg. 11363; 7/26/02 |
| 515.500                | Amendment              | 26 Ill. Reg. 11363; 7/26/02 |
| 515.510                | Amendment              | 26 Ill. Reg. 11363; 7/26/02 |
| 515.520                | Amendment              | 26 Ill. Reg. 11363; 7/26/02 |
| 515.540                | Amendment              | 26 Ill. Reg. 11363; 7/26/02 |
| 515.590                | Amendment              | 26 Ill. Reg. 11363; 7/26/02 |
| 515.700                | Amendment              | 26 Ill. Reg. 11363; 7/26/02 |
| 515.830                | Amendment              | 26 Ill. Reg. 11363; 7/26/02 |
| 515.4000               | New Section            | 26 Ill. Reg. 7978; 5/31/02  |
| 515.4010               | New Section            | 26 Ill. Reg. 7978; 5/31/02  |
| APPENDIX K             | New Section            | 26 Ill. Reg. 7978; 5/31/02  |
| APPENDIX L             | New Section            | 26 Ill. Reg. 7978; 5/31/02  |
| APPENDIX M             | New Section            | 26 Ill. Reg. 7978; 5/31/02  |

- 10) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State Mandate under the State Mandates Act [30 ILCS 805].
- 11) Time, place, and manner in which interested persons may comment on this rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Peggy Snyder  
 Division of Legal Services  
 Illinois Department of Public Health  
 535 West Jefferson St., 5th Floor  
 Springfield Illinois 62761  
 217/782-2043  
 e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

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Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

- 12) Initial Regulatory Flexibility Analysis:
  - A) Type of small businesses, small municipalities and not-for-profit corporations affected: Emergency medical dispatch agencies
  - B) Reporting, bookkeeping or other procedures required for compliance: Reporting requirements are fully explained in the proposed amendments.
  - C) Types of professional skills necessary for compliance: Emergency medical dispatcher.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2002

The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 77: PUBLIC HEALTH

## CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

## SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

## PART 515

## EMERGENCY MEDICAL SERVICES AND TRAUMA CENTER CODE

## SUBPART A: GENERAL

## Section

- 515.100 Definitions
- 515.125 Incorporated and Referenced Materials
- 515.150 Waiver Provisions
- 515.160 Violations, Hearings and Fines
- 515.170 Employer Responsibility

## SUBPART B: EMS REGIONS

## Section

- 515.200 Emergency Medical Services Regions
- 515.210 EMS Regional Plan Development
- 515.220 EMS Regional Plan Content
- 515.230 Resolution of Disputes Concerning the EMS Regional Plan

## SUBPART C: EMS SYSTEMS

## Section

- 515.300 Approval of New EMS Systems
- 515.310 Approval and Renewal of EMS Systems
- 515.315 Bypass Status Review
- 515.320 Scope of EMS Service
- 515.330 EMS System Program Plan
- 515.340 EMS Medical Director's Course
- 515.350 Data Collection and Submission
- 515.360 Approval of Additional Drugs and Equipment
- 515.370 Automated Defibrillation
- 515.380 Do Not Resuscitate (DNR) Policy
- 515.390 Minimum Standards for Continuing Operation
- 515.400 General Communications
- 515.410 EMS System Communications
- 515.420 System Participation Suspensions

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- 515.430 Suspension, Revocation and Denial of Licensure of EMTs
- 515.440 State Emergency Medical Services Disciplinary Review Board
- 515.445 Pediatric Care

## SUBPART D: EMERGENCY MEDICAL TECHNICIANS

## Section

- 515.500 Emergency Medical Technician-Basic Training
- 515.510 Emergency Medical Technician-Intermediate Training
- 515.520 Emergency Medical Technician-Paramedic Training
- 515.530 EMT Testing and Fees
- 515.540 EMT Licensure
- 515.550 Scope of Practice – Licensed EMT
- 515.560 EMT-B Continuing Education
- 515.570 EMT-I Continuing Education
- 515.580 EMT-P Continuing Education
- 515.590 EMT License Renewals
- 515.600 EMT Inactive Status
- 515.610 EMT Reciprocity

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER,  
FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE,  
EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND  
TRAUMA NURSE SPECIALIST

## Section

- 515.700 EMS Lead Instructor
- 515.710 Emergency Medical Dispatcher
- 515.720 First Responder
- 515.725 First Responder – AED
- 515.730 Pre-Hospital Registered Nurse
- 515.740 Emergency Communications Registered Nurse
- 515.750 Trauma Nurse Specialist
- 515.760 Trauma Nurse Specialist Program Plan

## SUBPART F: VEHICLE SERVICE PROVIDERS

## Section

- 515.800 Vehicle Service Provider Licensure
- 515.810 EMS Vehicle System Participation

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- 515.820 Denial, Nonrenewal, Suspension and Revocation of a Vehicle Service Provider License
- 515.825 Alternate Response Vehicle
- 515.830 Ambulance Licensing Requirements

## SUBPART G: LICENSURE OF SPECIALIZED EMERGENCY MEDICAL SERVICES VEHICLE (SEMSV) PROGRAMS

## Section

- 515.900 Licensure of SEMSV Programs – General
- 515.910 Denial, Nonrenewal, Suspension or Revocation of SEMSV Licensure
- 515.920 SEMSV Program Licensure Requirements for All Vehicles
- 515.930 Helicopter and Fixed-Wing Aircraft Requirements
- 515.935 EMS Pilot Specifications
- 515.940 Aeromedical Crew Member Training Requirements
- 515.945 Aircraft Vehicle Specifications and Operation
- 515.950 Aircraft Medical Equipment and Drugs
- 515.955 Vehicle Maintenance for Helicopter and Fixed-wing Aircraft Programs
- 515.960 Aircraft Communications and Dispatch Center
- 515.965 Watercraft Requirements
- 515.970 Watercraft Vehicle Specifications and Operation
- 515.975 Watercraft Medical Equipment and Drugs
- 515.980 Watercraft Communications and Dispatch Center
- 515.985 Off-Road SEMSV Requirements
- 515.990 Off-Road Vehicle Specifications and Operation
- 515.995 Off-Road Medical Equipment and Drugs
- 515.1000 Off-Road Communications and Dispatch Center

## SUBPART H: TRAUMA CENTERS

## Section

- 515.2000 Trauma Center Designation
- 515.2010 Denial of Application for Designation or Request for Renewal
- 515.2020 Inspection and Revocation of Designation
- 515.2030 Level I Trauma Center Designation Criteria
- 515.2035 Level I Pediatric Trauma Center
- 515.2040 Level II Trauma Center Designation Criteria
- 515.2045 Level II Pediatric Trauma Center
- 515.2050 Trauma Center Uniform Reporting Requirements
- 515.2060 Trauma Patient Evaluation and Transfer

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- 515.2070 Trauma Center Designation Delegation to Local Health Departments  
515.2080 Trauma Center Confidentiality and Immunity  
515.2090 Trauma Center Fund  
515.2100 Pediatric Care (Renumbered)  
515.2200 Suspension Policy for Trauma Nurse Specialist Certification

## SUBPART I: EMS ASSISTANCE FUND

## Section

515.3000 EMS Assistance Fund Administration

- APPENDIX A A Request for Designation (RFD) Trauma Center  
APPENDIX B A Request for Renewal of Trauma Center Designation  
APPENDIX C Minimum Trauma Field Triage Criteria  
APPENDIX D Standing Medical Orders  
APPENDIX E Minimum Prescribed Data Elements  
APPENDIX F Template for In-House Triage for Trauma Centers  
APPENDIX G Credentials of General/Trauma Surgeons Level I and Level II  
APPENDIX H Credentials of Emergency Department Physicians Level I and Level II  
APPENDIX I Credentials of General/Trauma Surgeons Level I and Level II Pediatric Trauma Centers  
APPENDIX J Credentials of Emergency Department Physicians Level I and Level II Pediatric Trauma Centers

**AUTHORITY:** Implementing and authorized by the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

**SOURCE:** Emergency Rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995 for a maximum of 150 days; emergency expired January 28, 1996; adopted at 20 Ill. Reg. 3203, effective February 9, 1996; emergency amendment at 21 Ill. Reg. 2437, effective January 31, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5170, effective April 15, 1997; amended at 22 Ill. Reg. 11835, effective June 25, 1998; amended at 22 Ill. Reg. 16543, effective September 8, 1998; amended at 24 Ill. Reg. 8585, effective June 10, 2000; amended at 24 Ill. Reg. 9006, effective June 15, 2000; amended at 24 Ill. Reg. 19218, effective December 15, 2000; amended at 25 Ill. Reg. 16386, effective December 20, 2001; amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL

**Section 515.100 Definitions**

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For the purposes of this Part:

Act – the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

*Advanced Life Support (ALS) Services – an advanced level of pre-hospital and inter-hospital emergency care and non-emergency medical care that includes basic life support care, cardiac monitoring, cardiac defibrillation, electrocardiography, intravenous therapy, administration of medications, drugs and solutions, use of adjunctive medical devices, trauma care, and other authorized techniques and procedures as outlined in the Advanced Life Support National Curriculum of the United States Department of Transportation and any modifications to that curriculum specified in this Part. (Section 3.10 of the Act)*

Aeromedical Crew Member or Watercraft Crew Member or Off-road SEMSV Crew Member – an individual, other than an EMS pilot, who has been approved by an SEMSV Medical Director for specific medical duties in a helicopter or fixed-wing aircraft, on a watercraft, or on an off-road SEMSV used in a Department-certified SEMSV Program.

Alternate EMS Medical Director or Alternate EMSMD – the physician who is designated by the Resource Hospital to direct the ALS/ILS/BLS operations in the absence of the EMS Medical Director.

*Ambulance – any publicly or privately owned vehicle that is specifically designed, constructed or modified and equipped for, and is intended to be used for, and is maintained or operated for, the emergency transportation of persons who are sick, injured, wounded or otherwise incapacitated or helpless, or the non-emergency medical transportation of persons who require the presence of medical personnel to monitor the individual's condition or medical apparatus being used on such an individual. (Section 3.85 of the Act)*

Ambulance Service Provider or Ambulance Provider – any individual, group of individuals, corporation, partnership, association, trust, joint venture, unit of local government or other public or private ownership entity that owns and operates a business or service using one or more ambulances or EMS vehicles for the transportation of emergency patients.

Associate Hospital – a hospital participating in an approved EMS System in accordance with the EMS System Program Plan, fulfilling the same clinical and

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communications requirements as the Resource Hospital. This hospital has neither the primary responsibility for conducting training programs nor the responsibility for the overall operation of the EMS System program. The Associate Hospital must have a basic or comprehensive Emergency Department ~~emergency department~~ with 24-hour physician coverage. It must have a functioning Intensive Care Unit and/or a Cardiac Care Unit.

Associate Hospital EMS Coordinator – the EMT-P or Registered Nurse at the Associate Hospital who shall be responsible for duties in relation to the ALS, ILS or BLS System, in accordance with the Department-approved EMS System Program Plan.

Associate Hospital EMS Medical Director – the physician at the Associate Hospital who shall be responsible for the day-to-day operations of the Associate Hospital in relation to the ALS, ILS, or BLS System, in accordance with the Department-approved EMS System Program Plan.

Basic Emergency Department – a classification of a hospital Emergency Department ~~emergency department~~ where at least one physician is available in the Emergency Department ~~emergency department~~ at all times; physician specialists are available in minutes; and ancillary services, including laboratory, x-ray and pharmacy, are staffed or are "on-call" at all times in accordance with Section 250.710 of the Hospital Licensing Requirements Code (77 Ill. Adm. Code 250).

*Basic Life Support (BLS) Services – a basic level of pre-hospital and inter-hospital emergency care and non-emergency medical care that includes airway management, cardiopulmonary resuscitation (CPR), control of shock and bleeding and splinting of fractures, as outlined in a Basic Life Support National Curriculum of the United States Department of Transportation and any modifications to that curriculum specified in this Part. (Section 3.10 of the Act)*

Board Eligible in Emergency Medicine – completion of a residency in Emergency Medicine in a program approved by the Residency Review Committee for Emergency Medicine or the Council on Postdoctoral Training (COPT) for the American Osteopathic Association (AOA).

Certified Registered Nurse Anesthetist or CRNA – a licensed registered professional nurse who has had additional education beyond the registered professional nurse requirements at a school/program accredited by the National Council on Accreditation, and passed the certifying exam given by the National Council on

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Certification, and who by participating in 40 hours of continuing education every two years, has been recertified by the National Council on Recertification.

Channel, Half-Duplex – a radio channel that transmits and receives signals, but in only one direction at a time.

CME – continuing medical education.

Comprehensive Emergency Department – a classification of a hospital Emergency Department ~~emergency department~~ where at least one licensed physician is available in the Emergency Department ~~emergency department~~ at all times; physician specialists shall be available in minutes; and ancillary services, including laboratory and x-ray, are staffed at all times; and pharmacy is staffed or "on-call" at all times in accordance with Section 250.710 of the Hospital Licensing Requirements Code (77 Ill. Adm. Code 250).

*Department – the Illinois Department of Public Health.* (Section 3.5 of the Act)

*Director – the Director of the Illinois Department of Public Health or his/her designee.* (Section 3.5 of the Act)

Dysrhythmia – a variation from the normal electrical rate and sequences of cardiac activity, also including abnormalities of impulse formation and conduction.

Effective Radiated Power (ERP) – the power gain of a transmitting antenna multiplied by the net power accepted by the antenna from the connected transmitter.

Electrocardiogram (EKG) – a single lead graphic recording of the electrical activity of the heart by a series of deflections that represent certain components of the cardiac cycle.

*Emergency – a medical condition of recent onset and severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that urgent or unscheduled medical care is required.* (Section 3.5 of the Act)

*Emergency Communications Registered Nurse or ECRN – a registered professional nurse, licensed under the Illinois Nursing and Advanced Practice Nursing Act [225 ILCS 651 ~~of 1987~~, who has successfully completed supplemental education in accordance with this Part and who is approved by an EMS Medical Director to monitor telecommunications from and give voice orders to EMS System personnel,*

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*under the authority of the EMS Medical Director and in accordance with System protocols. (Section 3.80 of the Act) These individuals were formerly called MICNS.*

*Emergency Medical Dispatcher – a person who has successfully completed a training course in emergency medical dispatching ~~course~~-meeting or exceeding the National Curriculum of the United States Department of Transportation in accordance with this Part, who accepts calls from the public for emergency medical services and dispatches designated emergency medical services personnel and vehicles. (Section 3.70 of the Act)*

*Emergency medical dispatcher priority reference system (EMDPRS) – an EMS System’s organized approach to the receipt, management and disposition of a request for emergency medical services.*

*Emergency Medical Services (EMS) System or System – an organization of hospitals, vehicle service providers and personnel approved by the Department in a specific geographic area, which coordinates and provides pre-hospital and inter-hospital emergency care and non-emergency medical transports at a BLS, ILS and/or ALS level pursuant to a System Program Plan submitted to and approved by the Department and pursuant to the EMS Regional Plan adopted for the EMS Region in which the System is located. (Section 3.20 of the Act)*

*Emergency Medical Services System Survey – a questionnaire that provides data to the Department for the purpose of compiling annual reports.*

*Emergency Medical Technician-Basic or EMT-B – a person who has successfully completed a course of instruction in basic life support as prescribed by the Department, is currently licensed by the Department in accordance with standards prescribed by the Act and this Part and practices within an EMS System. (Section 3.50 of the Act)*

*Emergency Medical Technician-Coal Miner – for purposes of the Coal Mine Medical Emergencies Act, an EMT-B, EMT-I or EMT-P who has received training emphasizing extrication from a coal mine.*

*Emergency Medical Technician-Intermediate or EMT-I – a person who has successfully completed a course of instruction in intermediate life support as prescribed by the Act and this Part and practices within an Intermediate or Advanced Life Support EMS System. (Section 3.50 of the Act)*

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*Emergency Medical Technician-Paramedic or EMT-P – a person who has successfully completed a course of instruction in advanced life support care as prescribed by the Department, is licensed by the Department in accordance with standards prescribed by the Act and this Part and practices within an Advanced Life Support EMS System. (Section 3.50 of the Act)*

EMS Administrative Director – the administrator, appointed by the Resource Hospital with the approval of the EMS Medical Director, responsible for the administration of the EMS System.

EMS Medical Director or EMSMD – the physician, appointed by the Resource Hospital, who has the responsibility and authority for total management of the EMS System.

*EMS Lead Instructor – a person who has successfully completed a course of education as prescribed by the Department in this Part, and who is currently approved by the Department to coordinate or teach education, training and continuing education courses, in accordance with this Part. (Section 3.65 of the Act)*

EMS Regional Plan – a plan established by the EMS Medical Director's Committee in accordance with Section 3.30 of the Act.

EMS System Coordinator – the designated individual responsible to the EMS Medical Director and EMS Administrative Director for coordination of the educational and functional aspects of the System program.

EMS System Program Plan – the document prepared by the Resource Hospital and approved by the Department that describes the EMS System program and directs the program's operation.

*First Responder – a person who has successfully completed a course of instruction in emergency first response as prescribed by the Department, who provides first response services prior to the arrival of an ambulance or specialized emergency medical services vehicle, in accordance with the level of care established in the emergency first response course. (Section 3.60 of the Act)*

*First Response Services – a preliminary level of pre-hospital emergency care that includes cardiopulmonary resuscitation (CPR), monitoring vital signs and ~~control~~ ~~controlling~~ of bleeding, as outlined in the First Responder ~~curriculum~~ ~~Curriculum~~ of the United States Department of Transportation and any modifications to that*

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*curriculum specified in this Part. (Section 3.10 of the Act)*

Fixed-Wing Aircraft – an engine-driven aircraft that is heavier than air, and is supported in-flight by the dynamic reaction of the air against its wings. **Intermediate life**

Full-Time – on duty a minimum of 36 hours, four days a week.

*Health Care Facility – a hospital, nursing home, physician's office or other fixed location at which medical and health care services are performed. It does not include "pre-hospital emergency care settings" which utilize EMTs to render pre-hospital emergency care prior to the arrival of a transport vehicle, as defined in the Act and this Part. (Section 3.5 of the Act)*

Helicopter or Rotorcraft – an aircraft that is capable of vertical take offs and landings, including maintaining a hover.

Hospital – *has the meaning ascribed to that term in Section 3 of the Hospital Licensing Act [210 ILCS 85]. (Section 3.5 of the Act)*

Instrument Flight Rules or IFR – the operation of an aircraft in weather minimums below the minimums for flight under visual flight rules (VFR). (See General Operating and Flight Rules, 14 CFR 91.115 through 91.129.)

Instrument Meteorological Conditions (IMC) – meteorological conditions expressed in terms of visibility, distance from clouds, and ceiling, which require Instrument Flight Rules.

*Intermediate Life Support (ILS) Services – an intermediate level of pre-hospital and inter-hospital emergency care and non-emergency medical care that includes basic life support care, plus intravenous cannulation and fluid therapy, invasive airway management, trauma care, and other authorized techniques and procedures as outlined in the Intermediate Life Support National Curriculum of the United States Department of Transportation and any modifications to that curriculum specified in this Part. (Section 3.10 of the Act)*

Level I Trauma Center – a hospital participating in an approved EMS System and designated by the Department pursuant to Section 515.2030 of this Part to provide optimal care to trauma patients and to provide all essential services in-house, 24 hours per day.

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Level II Trauma Center – a hospital participating in an approved EMS System and designated by the Department pursuant to Section 515.2040 of this Part to provide optimal care to trauma patients, to provide some essential services available in-house 24 hours per day, and to provide other essential services readily available 24 hours a day.

*Limited Operation Vehicle – a vehicle which is licensed by the Department to provide basic, intermediate or advanced life support emergency or non-emergency medical services that are exclusively limited to specific events or locales. (Section 3.85 of the Act)*

Local System Review Board – a group established by the Resource Hospital to hear appeals from EMTs or other providers who have been suspended or have received notification of suspension from the EMS Medical Director.

Mobile Radio – a two-way radio installed in an EMS vehicle, which may not be readily removed.

Morbidity – a negative outcome that is the result of the original trauma and/or treatment rendered or omitted.

911 – an emergency answer and response system in which the caller need only dial 9-1-1 on a telephone to obtain emergency services, including police, fire, medical ambulance and rescue.

*Non-emergency Medical Care – medical services rendered to patients whose condition does not meet the Act's definition of emergency, during transportation of such patients to health care facilities for the purpose of obtaining medical or health care services which are not emergency in nature, using a vehicle regulated by the Act and this Part. (Section 3.10 of the Act)*

Off-Road Specialized Emergency Medical Services Vehicle or Off-Road SEMSV or Off-Road SEMS Vehicle – a motorized cart, golf cart, ~~all-terrain vehicle~~ ~~all-terrain-vehicle~~ (ATV), or amphibious vehicle that is not intended for use on public roads.

Participating Hospital – a hospital participating in an approved EMS System in accordance with the EMS System Program Plan, which is not a Resource Hospital or an Associate Hospital.

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Pediatric Trauma Patient – trauma patient from birth to 15 years of age.

Physician – any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 90].

Pilot or EMS Pilot – a pilot certified by the Federal Aviation Administration who has been approved by an SEMSV Medical Director to fly a helicopter or fixed-wing aircraft used in a Department-certified SEMSV Program.

Portable Radio – a hand-held radio that accompanies the user during the conduct of emergency medical services.

*Pre-Hospital Care – those emergency medical services rendered to emergency patients for analytic, resuscitative, stabilizing, or preventive purposes, precedent to and during transportation of such patients to hospitals. (Section 3.10 of the Act)*

Pre-Hospital Care Provider – a System Participant or any EMT-B, I, P, Ambulance, Ambulance Provider, EMS Vehicle, Associate Hospital, Participating Hospital, EMS System Coordinator, Associate Hospital EMS Coordinator, Associate Hospital EMS Medical Director, ECRN or Physician serving on an ambulance or giving voice orders over an EMS System and subject to suspension by the EMS Medical Director of that System in accordance with the policies of the EMS System Program Plan approved by the Department.

*Pre-Hospital Registered Nurse or Pre-Hospital RN – a registered professional nurse, licensed under the ~~Illinois~~ Nursing and Advanced Practice Nursing Act of 1987, who has successfully completed supplemental education in accordance with this Part and who is approved by an EMS Medical Director to practice within an EMS System as emergency medical services personnel for pre-hospital and inter-hospital emergency care and non-emergency medical transports. (Section 3.80 of the Act) This individual was formerly called a Field RN.*

*Regional EMS Advisory Committee – a committee formed within an Emergency Medical Services (EMS) Region to advise the Region's EMS Medical Directors Committee and to select the Region's representative to the State Emergency Medical Services Advisory Council, consisting of at least the members of the Region's EMS Medical Directors Committee, the Chair of the Regional Trauma Committee, the EMS System Coordinators from each Resource Hospital ~~resource hospital~~ within the Region, one administrative representative from an Associate Hospital ~~associate hospital~~ within the Region, one administrative representative from a Participating*

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~~*Hospital participating hospital*~~ within the Region, one administrative representative from the vehicle service provider which responds to the highest number of calls for emergency service within the Region, one administrative representative of a vehicle service provider from each System within the Region, one Emergency Medical Technician (EMT)/Pre-Hospital RN from each level of EMT/Pre-Hospital RN practicing within the Region, and one registered professional nurse currently practicing in an Emergency Department ~~emergency department~~ within the Region. Of the two administrative representatives of vehicle service providers, at least one shall be an administrative representative of a private vehicle service provider. The Department's Regional EMS Coordinator for each Region shall serve as a non-voting member of that Region's EMS Advisory Committee. (Section 3.25 of the Act)

Regional EMS Coordinator – the designee of the Chief, Division of Emergency Medical Services and Highway Safety, Illinois Department of Public Health.

Regional EMS Medical Directors Committee – a group comprised of the Region's EMS Medical Directors, along with the medical advisor to a fire department vehicle service provider. For Regions that include a municipal fire department serving a population of over 2,000,000 people, that fire department's medical advisor shall serve on the Committee. For other Regions, the fire department vehicle service providers shall select which medical advisor to serve on the Committee on an annual basis. (Section 3.25 of the Act)

Regional Trauma Advisory Committee – a committee formed within an Emergency Medical Services (EMS) Region, to advise the Region's Trauma Center Medical Directors Committee, consisting of at least the Trauma Center Medical Directors and Trauma Coordinators from each Trauma Center within ~~trauma center with~~ the Region, one EMS Medical Director from a Resource Hospital ~~resource hospital~~ within the Region, one EMS System Coordinator from another Resource Hospital ~~resource hospital~~ within the Region, one representative each from a public and private vehicle service provider which transports trauma patients within the Region, an administrative representative from each Trauma Center ~~trauma center~~ within the Region, one EMT representing the highest level of EMT practicing within the Region, one emergency physician and one Trauma Nurse Specialist (TNS) currently practicing in a Trauma Center ~~trauma center~~. The Department's Regional EMS Coordinator for each Region shall serve as a non-voting member of that Region's Trauma Advisory Committee. (Section 3.25 of the Act)

Registered Nurse or Registered Professional Nurse or RN – a person who is licensed as a professional nurse under the Nursing and Advanced Practice Nursing Act [225

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ILCS 65].

Resource Hospital – the hospital with the authority and the responsibility for an EMS System as outlined in the Department-approved EMS System Program Plan. The Resource Hospital, through the EMS Medical Director, assumes responsibility for the entire program, including the clinical aspects, operations and educational programs. This hospital agrees to replace medical supplies and provide for equipment exchange for participating EMS vehicles.

SEMSV Medical Control Point or Medical Control Point – the communication center from which the SEMSV Medical Director or his or her designee issues medical instructions or advice to the aeromedical, watercraft, or off-road SEMSV crew members.

SEMSV Medical Director or Medical Director – the physician appointed by the SEMSV Program who has the responsibility and authority for total management of the SEMSV Program, subject to the requirements of the EMS System of which the SEMSV Program is a part.

SEMSV Program or Specialized Emergency Medical Services Vehicle Program – a program operating within an EMS System, pursuant to a program plan submitted to and certified by the Department, utilizing specialized emergency medical services vehicles to provide emergency transportation to sick or injured persons.

*Specialized Emergency Medical Services Vehicle or SEMSV – a vehicle or conveyance, other than those owned or operated by the federal government, that is primarily intended for use in transporting the sick or injured by means of air, water, or ground transportation, that is not an ambulance as defined in the Act. The term includes watercraft, aircraft and special purpose ground transport vehicles not intended for use on public roads. (Section 3.85 of the Act) "Primarily intended", for the purposes of this definition, means one or more of the following:*

Over 50 percent of the vehicle's operational (e.g., in-flight) hours are devoted to the emergency transportation of the sick or injured;

The vehicle is owned or leased by a hospital or ambulance provider and is used for the emergency transportation of the sick or injured;

The vehicle is advertised as a vehicle for the emergency transportation of the sick or injured;

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The vehicle is owned, registered or licensed in another state and is used on a regular basis to pick up and transport the sick or injured within or from within this State; or

The vehicle's structure or permanent fixtures have been specifically designed to accommodate the emergency transportation of the sick or injured.

Standby Emergency Department – a classification of a hospital Emergency Department ~~emergency department~~ where at least one of the registered nurses on duty in the hospital is available for emergency services at all times; and a licensed physician is "on-call" to the Emergency Department ~~emergency department~~ at all times in accordance with Section 250.710 of the Hospital Licensing Requirements Code (77 Ill. Adm. Code 250).

*Special-Use Vehicle – any public or privately owned vehicle that is specifically designed, constructed or modified and equipped, and is intended to be used for, and is maintained or operated solely for, the emergency or non-emergency transportation of a specific medical class or category of persons who are sick, injured, wounded or otherwise incapacitated or helpless (e.g., high-risk obstetrical patients, neonatal patients).* (Section 3.85 of the Act)

State EMS Advisory Council – a group that advises the Department on the administration of the Act and this Part whose members are appointed in accordance with Section 3.200 of the Act.

System Participation Suspension – the suspension from participation within an EMS System of an individual or individual provider, as specifically ordered by that System's EMS Medical Director.

Substantial Compliance – meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved.

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved.

Sustained Hypotension – two systolic blood pressures of 90 mmHg five minutes apart or, in the case of a pediatric patient, two systolic blood pressures of 80 mmHg five

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minutes apart.

Telecommunications Equipment – a radio capable of transmitting and/or receiving voice and electrocardiogram (EKG) signals.

Telemetry – the transmission of data by wire, radio, or other means from remote sources to a receiving station for recording and analysis.

*Trauma – any significant injury which involves single or multiple organ systems. (Section 3.5 of the Act)*

Trauma Category I – a classification of trauma patients in accordance with Section 515.Appendix C and 515.Appendix F of this Part.

Trauma Category II – a classification of trauma patients in accordance with Section 515.Appendix C and 515.Appendix F of this Part.

*Trauma Center – a hospital which: within designated capabilities provides care to trauma patients; participates in an approved EMS System; and is duly designated pursuant to the provisions of the Act. (Section 3.90 of the Act)*

Trauma Center Medical Director – the trauma surgeon appointed by a Department-designated Trauma Center who has the responsibility and authority for the coordination and management of patient care and trauma services at the Trauma Center. He or she must have 24-hour independent operating privileges and shall be board certified in surgery with at least one year of experience in trauma care.

Trauma Center Medical Directors Committee – a group composed of the Region's Trauma Center Medical Directors. (Section 3.25 of the Act)

Trauma Coordinator – a registered nurse working in conjunction with the Trauma Medical Director ~~trauma medical director~~. The Trauma Coordinator is responsible for the organization of service and systems necessary for a multidisciplinary approach throughout the continuum of trauma care.

*Trauma Nurse Specialist or TNS – a registered professional nurse who has successfully completed education and testing requirements as prescribed by the Department, and is certified in accordance with this Part. (Section 3.75 of the Act)*

Trauma Nurse Specialist Course Coordinator (TNSCC) – a registered nurse appointed

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by the Chief Executive Officer of a hospital designated as a TNS Training Site, who meets the requirements of Section 515.750 of this Part.

Trauma Service – an identified hospital surgical service in a Level I or Level II Trauma Center functioning under a designated trauma director in accordance with Sections 515.2030(c) and 515.2040(c) of this Part.

Unit Identifier – a number assigned by the Department for each EMS vehicle in the State to be used in radio communications.

*Vehicle Service Provider – an entity licensed by the Department to provide emergency or non-emergency medical services in compliance with the Act and this Part and an operational plan approved by its EMS System(s), utilizing at least ambulances or specialized emergency medical service vehicles (SEMSV). (Section 3.85 of the Act)*

Watercraft – a nautical vessel, boat, airboat, hovercraft or other vehicle that operates in, on or across water.

(Source: Amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER, FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE, EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND TRAUMA NURSE SPECIALIST

**Section 515.710 Emergency Medical Dispatcher**

- a) Emergency Medical Dispatcher (EMD) Certification
- a) ~~An individual who acts as an Emergency Medical Dispatcher must register with the Department by August 1, 2000, except for:~~
  - 1) ~~Public safety dispatchers who transfer calls to another answering point that is responsible for dispatching of fire and/or EMS personnel; or~~
  - 2) ~~Dispatchers for volunteer or rural ambulance companies providing only one level of care, whose dispatchers are employed by the ambulance service and are not performing call triage, answering 911 calls or providing pre-arrival instructions.~~
- 1)b) To apply for certification registration as an Emergency Medical Dispatcher (EMD), the individual shall ~~must~~ submit the following to the Department:
  - A) ~~1)~~ A completed Emergency Medical Dispatcher certification registration form that includes name, address, System affiliation, and employer of the

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Emergency Medical Dispatcher; and

- ~~B)2)~~ Documentation of successful completion of a training course in emergency medical dispatching course meeting or exceeding the National Standard Curriculum for EMS Dispatchers or its equivalent. (Section 3.70(a) of the Act)
- ~~e) Persons who have already completed a course of instruction in emergency medical dispatch based on, equivalent to or exceeding the national curriculum of the United States Department of Transportation, or as otherwise approved by the Department, shall be considered Emergency Medical Dispatchers on July 19, 1995. (Section 3.70(a) of the Act)~~
- ~~d) An individual acting as an Emergency Medical Dispatcher who does not meet the requirements of subsection (c) of this Section must comply with the following until he or she is registered with the Department:~~
- ~~2) The certification shall be valid for a period of four years.~~
  - ~~3) A certified EMD shall notify the Department within 10 days after any changes in name, address, employer or System affiliation.~~
  - ~~4) A person may not represent himself or herself, nor may an agency or business represent an agent or employee of that agency or business, as an Emergency Medical Dispatcher unless certified by the Department as an Emergency Medical Dispatcher. (Section 3.70(b)(11) of the Act)~~
  - ~~1) He or she shall act in accordance with an approved EMS System Program Plan; and~~
  - ~~2) His or her work performance shall be evaluated at one month after employment and at six month intervals thereafter by the EMSMD or his/her designee.~~
- b) EMD Protocols
- 1) The Emergency Medical Dispatcher shall use the Department-approved Emergency Medical Dispatcher priority reference system (EMDPRS) protocol selected for use by his/her agency and approved by the EMS Medical Director. Prearrival support instructions shall be provided in a non-discriminatory manner and shall be provided in accordance with the EMDPRS established by the EMS Medical Director of the EMS System in which the EMS operates. (Section 3.70(a) of the Act)
  - 2) EMD Protocols shall include:
    - A) Complaint-related question sets that query the caller in a standardized manner;
    - B) Pre-arrival instructions associated with all question sets;
    - C) Dispatch determinants consistent with the design and configuration of the EMS System and the severity of the event as determined by the question sets; and

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- D) Post-dispatch instructions with all question sets.
- ~~3)e) If the Emergency Medical Dispatcher provides both adult and pediatric pre-arrival medical instructions to the caller, such instructions shall be provided in accordance with protocols established by the EMS Medical Director of the EMS System in which the dispatcher operates. If the dispatcher operates under the authority of an Emergency Telephone System Board established under the Emergency Telephone System Act, the protocols shall be established by the Board in consultation with the EMS Medical Director. (Section 3.70(a) of the Act)~~
- 4) The EMD shall provide prearrival instructions in compliance with protocols selected and approved by the System's Medical Director and approved by the Department. (Section 3.70(b) of the Act)
- 5) The Department and the EMS Medical Director shall approve EMDPRS protocols that meet or exceed the requirements of subsection (b)(2) and the National Highway Traffic Safety Administration (NHTSA) Emergency Medical Dispatch: National Standard Curriculum (1996); available from the U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954; no later editions or amendments are included.
- ~~f) A registered Emergency Medical Dispatcher shall notify the Department within 10 days after any changes in name, address, employer or system affiliation.~~
- c) EMD Recertification
- 1) To apply for recertification, the EMD shall submit the following to the Department at least 30 days prior to the certification expiration date:
- A) A transaction card (Form No. IL 482-0837) signed by the EMS Medical Director and recommending recertification;
- B) Proof of completion of at least 12 hours annually of medical dispatch continuing education. (Section 3.70(b)(7) of the Act)
- 2) An EMD who has not been recommended for recertification by the EMS Medical Director shall independently submit to the Department an application for recertification. The EMS Medical Director shall provide the EMD with a copy of the appropriate form to be completed.
- ~~d)g) Emergency Medical Dispatcher Training Program~~
- 1) Department-approved Emergency Medical Dispatch training programs shall be conducted in accordance with the standards of the National Highway Traffic Safety Administration Emergency Medical Dispatch: National Standard Curriculum or equivalent. (Section 3.70(b)(9) of the Act)
- 2) Applications for approval of Emergency Medical Dispatcher (EMD) training programs shall be filed with the Department on forms prescribed by the Department. The application shall contain, at a minimum, the name of the applicant, agency and address, type of training program, lead instructor's name

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and address, and dates of the training program.

- ~~3)2)~~ Applications for approval, including a copy of the class schedule and course syllabus, shall be submitted at least 60 days in advance of the first scheduled class. A description of the textbook being used and passing score for the class shall be included with the application.
  - ~~4)3)~~ The Emergency Medical Dispatcher training program shall designate an EMS Lead Instructor, who shall be responsible for the overall management of the training program and shall be approved by the Department based on the requirements of Section 515.700.
  - 5) Emergency Medical Dispatcher training programs shall be conducted by instructors licensed by the Department as an EMT-B, EMT-I, or EMT-P who:
    - A) are, at a minimum, certified as emergency medical dispatchers;
    - B) have completed a Department-approved course on methods of instruction;
    - C) have previous experience in a medical dispatch agency; and
    - D) have demonstrated experience as an EMS instructor. (Section 3.70(b)(14) of the Act)
  - ~~6)4)~~ Any change in the EMD training program's EMS Lead Instructor shall require that an amendment to the application be filed with the Department.
  - ~~7)5)~~ Questions for all quizzes and tests to be given during the EMD training program shall be prepared by the EMS Lead Instructor and available for review by the Department upon the Department's request.
  - ~~8)6)~~ All approved programs shall maintain class and student records for seven years, which shall be made available to the Department for review upon request.
- e) Emergency Medical Dispatch Agency Certification
- 1) To apply for certification as an Emergency Medical Dispatch Agency, the person, organization or government agency that operates an Emergency Medical Dispatch Agency shall submit the following to the Department:
    - A) A completed Emergency Medical Dispatch Agency certification form that includes name, address, and System affiliation;
    - B) Documentation of the use on every request for medical assistance of an emergency medical dispatch priority reference system (EMDPRS) that complies with this Section and is approved by the EMS Medical Director (Section 3.70(b)(10) of the Act); and
    - C) Documentation of the establishment of a continuous quality improvement program under the approval and supervision of the EMS Medical Director. (Section 3.70(b)(10) of the Act)
  - 2) A person, organization, or government agency may not represent itself as an Emergency Medical Dispatch Agency unless the person, organization, or government agency is certified by the Department as an Emergency Medical

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Dispatch Agency. (Section 3.70(b)(12) of the Act)f) Emergency Medical Dispatch Agency Recertification

To apply for recertification, the Emergency Medical Dispatch Agency shall submit an application to the Department, on a form prescribed by the Department, at least 30 days prior to the certification expiration date. The application shall document continued compliance with subsection (e) of this Section.

g) Revocation or Suspension of EMD or EMD Agency Certification

1) The EMS Medical Director shall report to the Department whenever an action has taken place that may require the revocation or suspension of a certificate issued by the Department. (Section 3.70(b)(4) of the Act)

2) Revocation or suspension of EMD or EMD Agency certification shall be in accordance with Section 515.420 of this Part.

h) Waiver of Emergency Medical Dispatch Requirements

1) The Department may modify or waive EMD requirements based on:

A) The scope and frequency of dispatch activities and the dispatcher's access to training; or

B) Whether the previously attended dispatcher training program merits automatic recertification for the dispatcher. (Section 3.70(b)(15) of the Act)

2) The following individuals are exempt from the requirements of this Section:

A) Public safety dispatchers who transfer calls to another answering point that is responsible for dispatching of fire and/or EMS personnel;

B) Dispatchers for volunteer or rural ambulance companies providing only one level of care, whose dispatchers are employed by the ambulance service and are not performing call triage, answering 911 calls or providing pre-arrival instructions.

(Source: Amended at 26 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 1
- 3) Section Number: 1.4545      Adopted Action: Amend
- 4) Statutory Authority: 30 ILCS 500
- 5) Effective Date of Amendment: August 23, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this Amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: May 17, 2002  
26 Ill. Reg. 7400
- 10) Has JCAR issued a Statement of Objection to this Amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were necessary.
- 13) Will this amendment replace any emergency amendment currently in effect?  
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This amendment reflects the change made by Public Act 92-60 raising from \$3,000,000 to \$10,000,000 the annual sales a construction business may have and still be considered small.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

Stephen W. Seiple  
Illinois Department of Central Management Services  
720 Stratton Office Building  
Springfield, IL 62706  
(217)782-9669

The full text of the adopted amendment begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY  
MANAGEMENT

SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 1

STANDARD PROCUREMENT

SUBPART A: GENERAL

Section

- 1.01 Title
- 1.05 Policy
- 1.08 Purpose and Implementation of This Part
- 1.10 Application
- 1.15 Definition of Terms Used in This Part
- 1.25 Property Rights
- 1.30 Constitutional Officers, and Legislative and Judicial Branches

SUBPART B: PROCUREMENT RULES

Section

- 1.525 Rules

SUBPART C: PROCUREMENT AUTHORITY

Section

- 1.1005 Exercise of Procurement Authority
- 1.1010 Appointment of State Purchasing Officer
- 1.1030 Associate Procurement Officers
- 1.1040 Central Procurement Authority of the CPO
- 1.1050 Procurement Authority of the SPO; Limitations
- 1.1060 Delegation
- 1.1070 Toll Highway Authority
- 1.1075 Department of Natural Resources
- 1.1080 Illinois Mathematics and Science Academy

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 1.1510 Illinois Procurement Bulletin
- 1.1525 Bulletin Content
- 1.1550 Official State Newspaper
- 1.1560 Supplemental Notice
- 1.1570 Error in Notice
- 1.1580 Direct Solicitation
- 1.1590 Retention of Bulletin Information

## SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

## Section

- 1.2005 General Provisions
- 1.2010 Competitive Sealed Bidding
- 1.2012 Multi-Step Sealed Bidding
- 1.2015 Competitive Sealed Proposals
- 1.2020 Small Purchases
- 1.2025 Sole Economically Feasible Source Procurement
- 1.2030 Emergency Procurements
- 1.2035 Competitive Selection Procedures for Professional and Artistic Services
- 1.2036 Other Methods of Source Selection
- 1.2037 Tie Bids and Proposals
- 1.2038 Mistakes
- 1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

## SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

## Section

- 1.2043 Suppliers
- 1.2044 Vendor List/Required Use
- 1.2045 Prequalification
- 1.2046 Responsibility

## SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

## Section

- 1.2047 Security Requirements

## SUBPART H: SPECIFICATIONS AND SAMPLES

## Section

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

1.2050 Specifications and Samples

SUBPART I: CONTRACT TYPE

Section  
1.2055 Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section  
1.2060 Duration of Contracts - General

SUBPART K: CONTRACT MATTERS

Section  
1.2560 Prevailing Wage  
1.2570 Equal Employment Opportunity; Affirmative Action

SUBPART L: CONTRACT PRICING

Section  
1.2800 All Costs Included

SUBPART M: CONSTRUCTION AND CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section  
1.3005 Construction and Construction Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section  
1.4005 Real Property Leases and Capital Improvement Leases

SUBPART O: PREFERENCES

Section  
1.4505 Procurement Preferences  
1.4510 Resident Bidder Preference  
1.4530 Correctional Industries

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 1.4535 Sheltered Workshops for the Disabled
- 1.4540 Gas Mileage
- 1.4545 Small Business
- 1.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

## SUBPART P: ETHICS

- Section
- 1.5013 Conflicts of Interest
- 1.5015 Negotiations for Future Employment
- 1.5020 Exemptions
- 1.5030 Revolving Door
- 1.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

## SUBPART Q: CONCESSIONS

- Section
- 1.5310 Concessions

## SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

- Section
- 1.5510 Complaints Against Vendors
- 1.5520 Suspension
- 1.5530 Resolution of Contract Controversies
- 1.5540 Violation of Law or Rule
- 1.5550 Protests

## SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

- Section
- 1.6010 Supply Management and Dispositions

## SUBPART T: GOVERNMENTAL JOINT PURCHASING

- Section
- 1.6500 General
- 1.6510 No Agency Relationship
- 1.6520 Obligations of Participating Governmental Units

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 1.6530 Centralized Contracts - Estimated Quantities
- 1.6535 Centralized Contracts - Definite Quantities

## SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

## Section

- 1.7000 Severability
- 1.7010 Government Furnished Property
- 1.7015 Inspections
- 1.7020 Records and Audits
- 1.7025 Written Determinations
- 1.7030 No Waiver of Sovereign Immunity

AUTHORITY: The Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 7 Ill. Reg. 100, effective December 17, 1982; amended at 7 Ill. Reg. 13481, effective October 4, 1983; amended at 7 Ill. Reg. 13844, effective October 12, 1983; codified at 8 Ill. Reg. 14941; Sections 1.2210, 1.2220, 1.2230, 1.2240 recodified to Section 1.2210 at 9 Ill. Reg. 6118; amended at 10 Ill. Reg. 923, effective January 2, 1986; amended at 10 Ill. Reg. 18707, effective October 22, 1986; amended at 11 Ill. Reg. 7225, effective April 6, 1987; amended at 11 Ill. Reg. 7595, effective April 14, 1987; amended at 13 Ill. Reg. 17804, effective November 7, 1989; emergency amendment at 16 Ill. Reg. 13118, effective August 7, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 600, effective January 5, 1993; amended at 17 Ill. Reg. 14576, effective August 27, 1993; amended at 20 Ill. Reg. 9015, effective July 1, 1996; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12632, effective July 1, 1998, for a maximum of 150 days, and new Part adopted by emergency rulemaking at 22 Ill. Reg. 12726, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20875, effective November 25, 1998; emergency amendment at 23 Ill. Reg. 2812, effective February 16, 1999, for a maximum of 150 days; emergency expired on July 15, 1999; emergency amendment at 23 Ill. Reg. 5869, effective April 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7075, effective June 7, 1999; amended at 24 Ill. Reg. 1900, effective January 21, 2000; amended at 26 Ill. Reg. 13189, effective Aug 23, 2002.

## SUBPART O: PREFERENCES

**Section 1.4545 Small Business**

- a) Set-Aside  
The CPO may determine categories of supplies or service procurements that will be

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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set aside for small business located in Illinois. The set-aside designation may be made for current and future procurements of a specific supply, service or construction, or for a class of like supplies, services or construction. A set-aside designation may last indefinitely or for a stated period of time.

b) Small Business List

The CPO will maintain a list of responsible vendors that meet the criteria of small business. The CPO will periodically inform each purchasing agency of those vendors on the list and the supplies and services that each provides. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.

c) Required Use

If a Procurement Officer wishes to make a procurement covered by a set-aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.

d) Withdrawal of Set-Aside

If the Procurement Officer determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the Procurement Officer shall reject all bids or proposals and withdraw the designation of small business set-aside for the procurement in question. When a small business set-aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set-aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.

e) Criteria for Small Business

Unless the CPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:

- 1) Independently owned and operated.
- 2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.
- 3) With annual sales for most recently ended fiscal year no greater than:
  - A) \$7,500,000 for wholesale business;
  - B) ~~\$10,000,000~~ \$3,000,000 for construction business; or
  - C) \$1,500,000 for retail business.
- 4) With no more than 250 employees if a manufacturing business.
  - A) A manufacturing business shall calculate how many people it employs by

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis, for its most recently ended fiscal year.

- B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.
- 5) If the business is any combination of retailer, wholesaler or construction business, then the annual sales for each component may not exceed the amounts shown in subsection ~~(e)~~(g)(3). For example, a business that is both a retailer and wholesaler may not have total sales exceeding \$9,000,000 and the retail component may not exceed \$1,500,000 and the wholesale component may not exceed \$7,500,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection ~~(e)~~(g)(4).
- 6) When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.
- f) Vendors desiring to submit bids or proposals or to otherwise contract for items set aside for small businesses shall submit information verifying that the vendor qualifies as a small business under the Code. The CPO may establish procedures for verifying such information.

(Source: Amended at 26 Ill. Reg. 13189, effective Aug 23, 2002)

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Administration of the Coal Grant Provisions of the Illinois Resource Development and Energy Security Act
- 2) Code Citation: 32 Ill. Adm. Code 120
- 3) 

| <u>Section Numbers:</u> | <u>Adoption Action:</u> |
|-------------------------|-------------------------|
| 120.10                  | New Section             |
| 120.20                  | New Section             |
| 120.30                  | New Section             |
| 120.40                  | New Section             |
| 120.50                  | New Section             |
| 120.60                  | New Section             |
| 120.70                  | New Section             |
| 120.80                  | New Section             |
| 120.90                  | New Section             |
| 120.100                 | New Section             |
| 120.110                 | New Section             |
| 120.120                 | New Section             |
| 120.130                 | New Section             |
| 120.140                 | New Section             |
| 120.150                 | New Section             |
- 4) Statutory Authority: Implementing and authorized by the Illinois Resource Development and Energy Security Act [20 ILCS 688].
- 5) Effective Date of Rules: August 23, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does these Rules contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: Published at 26 Ill. Reg. 7509 on May 24, 2002.
- 10) Has JCAR issued a Statement of Objection to these Rules? No

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF ADOPTED RULES

- 11) Differences between proposal and final version: In addition to grammatical and style changes, the Department changed all references of the Retailers' Occupation Tax to sales tax.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace any emergency rules currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: The Illinois Resource Development and Energy Security Act [20 ILCS 688] authorizes the Department to issue \$500 million in Coal and Energy Development Bond Funds to help finance the construction of electric generation stations in Illinois. Thus, the Department is setting forth the IRDESA program procedures and requirements necessary for implementation.
- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Raya Bogard  
Administrative Code Rules Manager  
Illinois Department of Commerce and Community Affairs  
James R. Thompson Center  
100 West Randolph  
Suite 3-400  
Chicago IL 60601  
(312) 814-9593

The full text of the adopted rules begins on the next page:

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF ADOPTED RULES

## TITLE 32: ENERGY

## CHAPTER I: DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## PART 120

ADMINISTRATION OF THE COAL GRANT PROVISIONS OF THE ILLINOIS  
RESOURCE DEVELOPMENT AND ENERGY SECURITY ACT

## Section

|         |  |
|---------|--|
| 120.10  | Purpose                                |
| 120.20  | Definitions                            |
| 120.30  | Eligible Applicants                    |
| 120.40  | Eligible Uses of Grant Funds           |
| 120.50  | Allocation of Appropriations           |
| 120.60  | Funding Limitation                     |
| 120.70  | Pre-Qualification Request              |
| 120.80  | Form of Pre-Qualification Request      |
| 120.90  | Pre-Qualification Evaluation Procedure |
| 120.100 | Application Request                    |
| 120.110 | Form of Application                    |
| 120.120 | Application Evaluation Procedure       |
| 120.130 | Grant Agreement                        |
| 120.140 | Severability                           |
| 120.150 | Administrative Requirements for Grants |

**AUTHORITY:** Implementing and authorized by the Illinois Resource Development and Energy Security Act [20 ILCS 688].

**SOURCE:** Adopted by emergency rulemaking at 26 Ill. Reg. 7735, effective May 9, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13198, effective Aug 23, 2002.

**Section 120.10 Purpose**

- a) The Illinois Resource Development and Energy Security Act [20 ILCS 688] authorizes the State of Illinois, through the Department of Commerce and Community Affairs, to promote the development of new, coal-fired electric generation capacity in Illinois. The purpose and scope of the IRDESA Program is the enhancement of the State's energy security by insuring that:
  - 1) the State's vast and underutilized coal resources are tapped as a fuel source for new electric generating plants;
  - 2) the electric transmission system within the State is upgraded to more efficiently

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

## NOTICE OF ADOPTED RULES

- distribute additional amounts of electricity;
- 3) well-paying jobs are created as new electric plants are built in regions of the State with relatively high unemployment; and
  - 4) substantial grant funds and the full faith and credit of the State of Illinois are made available to facilitate investments in the State's energy infrastructure to achieve economic development within the Illinois coal industry and insure energy security for Illinois citizens.
- b) Financial assistance through the Illinois Resource Development and Energy Security Act Grant Program will be provided to eligible applicants in the form of a grant.

**Section 120.20 Definitions**

The following definitions are applicable to this Part:

"Act" means the Illinois Resource Development and Energy Security Act [20 ILCS 688].

"Agreement" means a written document executed between the grantee and the Department defining the rights and obligations with respect to the project.

"Applicant" means an entity, as defined in Section 120.30 of this Part, submitting a written request for program funds appropriated under the Act.

"Baseload" means the minimum amount of power delivered or required over a given period of time at a steady state.

"Department" means the Department of Commerce and Community Affairs.

"Director" means the Director of the Department of Commerce and Community Affairs.

*"Eligible business" means an entity that proposes to construct a new electric generating facility and that has applied to the Department to receive financial assistance pursuant to this Part. [20 ILCS 605/605-332(a)]*

"Grant amount" means an amount that the Department shall pay to a grantee for its use on an eligible project.

"Grantee" means an entity, as defined in Section 120.30 of this Part, eligible to receive program funds appropriated under the Act.

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"Illinois coal mining job" means:

a new job in an Illinois coal mine, not including a call back from a layoff, created after July 1, 2001, at which an individual is employed at year-end in an underground or surface coal mining operation as reported to the Illinois Department of Natural Resources for inclusion in the Office of Mines and Minerals Annual Statistical Report; or

a new job in an Illinois coal mine, not including a call back from a layoff, created after July 1, 2001, in which a person works a minimum of 35 hours per week for a minimum of 13 consecutive weeks a year; or

after July 1, 2001, an additional purchase of 9,691 tons of Illinois-mined coal per year (an amount equal to the average annual coal produced per Illinois coal miner, calculated by dividing the total Illinois coal production by the total number of Illinois miners, as reported to the Department of Natural Resources for inclusion in the Office of Mines and Minerals Annual Statistical Report for calendar year 2000).

*"New electric generating facility" means a newly-constructed electric generation plant or a newly constructed generation capacity expansion at an existing facility, including the transmission lines and associated equipment that transfers electricity from points of supply to points of delivery, and for which foundation construction commenced not sooner than July 1, 2001, which is designed to provide baseload electric generation operating on a continuous basis throughout the year, and which has an aggregate rated generating capacity of at least 400 megawatts for all new units at one site, uses coal or gases derived from coal as its primary fuel source, and supports the creation of at least 150 new Illinois coal mining jobs. [20 ILCS 605/605-332(a)]*

"IRDESA Program" means the Illinois Resource Development and Energy Security Act Grant Program described in this Part.

"Project" means the activities described by the applicant in the grant application and approved by the Department.

**Section 120.30 Eligible Applicants**

Businesses eligible for funding consideration under the IRDESA Program must meet all of the

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following criteria:

- a) construct a new electric generating facility or a new expansion at an electric generating facility, including transmission lines and associated equipment that transfers electricity from the points of supply to points of delivery;
- b) provide baseload electric power operating on a continuous basis throughout the year;
- c) construct a new facility or facility expansion that will have an aggregate nameplate generating capacity of 400 megawatts (MW) or more for all units at one site;
- d) commence foundation construction on or after July 1, 2001;
- e) use Illinois coal or gases derived from coal as its primary fuel source at the proposed facility; and
- f) propose a facility or facility expansion that supports the creation of at least 150 new Illinois coal mining jobs.

As an alternative means of determining minimum eligibility under the program, job creation may be indirectly determined from quantities of coal purchased annually, based on the average amount of coal produced per Illinois miner in calendar year 2000, as published in the Annual Statistical Report of the Division of Mines and Minerals, Illinois Department of Natural Resources. The average Illinois miner produced 9,691 tons of coal in calendar year 2000.

**Section 120.40 Eligible Uses of Grant Funds**

- a) The grant amount may be used for capital facilities consisting of buildings, structures, durable equipment and land at the new electric generating facility.
- b) Funding for the Illinois Resource Development and Energy Security Act Grant Program is derived from the sale of general obligation bonds issued by the State of Illinois. This funding source imposes limits on the use of program funds. When authorized, general obligation bonds will be sold in increments and grants awarded to successful applicants upon certification by the Bureau of the Budget that the State portion of the projected tax receipts will equal or exceed 110% of the maximum annual debt service over the 25-year life of the bonds. State sales taxes from coal used by new plants will be set aside and transferred to the general obligation bond retirement and interest fund to retire these bonds.

**Section 120.50 Allocation of Appropriations**

Annual appropriations made by the General Assembly to the Department for the purpose of providing grants under Section 605-332 of the Civil Administrative Code of Illinois [20 ILCS 605/605-332] for new electric generating facilities are allocated by the Department.

**Section 120.60 Funding Limitation**

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In accordance with Section 605-332 of the Civil Administrative Code of Illinois [20 ILCS 605/605-332], the Department may provide financial assistance not to exceed the amount of State general obligation debt as certified by the Bureau of the Budget, the amount of capital investment in the energy generation facility, or \$100,000,000, whichever is less.

**Section 120.70 Pre-Qualification Request**

- a) Any business may request pre-qualification for the IRDESA Program prior to facility construction. Upon the applicant's request, the Department shall provide a written statement regarding the eligibility of the proposed facility to qualify the applicant to receive grant funds, under the conditions provided by the applicant. Pre-qualification confers no rights upon the applicant, but does provide the applicant reasonable assurance that, by following its plan as submitted, it can expect to be funded upon application for grant funds.
- b) Pre-qualification requests should be submitted in accordance with the following guidelines:
  - 1) Applicants may submit brochures and other presentations only as necessary to present a complete and effective application.
  - 2) The Department may require applications to be clarified or supplemented through additional written submissions or oral presentations.
  - 3) One original and 5 copies of each pre-qualification request shall be submitted to the IRDESA Grant Program Coordinator, Office of Coal Development, Illinois Department of Commerce and Community Affairs, 620 East Adams Street, CIPS-4, Springfield IL 62701-1615.
  - 4) Applicants are discouraged from submitting confidential information since materials submitted in conjunction with an IRDESA Program pre-qualification request are subject to disclosure, in response to requests received under provisions of the Freedom of Information Act [5 ILCS 140]. Information that could reasonably be considered to be proprietary, privileged or confidential commercial or financial information should be identified as such in the application. The Department will maintain the confidentiality of that information only to the extent permitted by law.

**Section 120.80 Form of Pre-Qualification Request**

- a) Applications to the IRDESA Program for pre-qualification may be submitted to the Department at any time.
- b) The pre-qualification request shall include, but not be limited to, the following information:
  - 1) Pre-qualification Request Cover Page. Form to be obtained from the

## DEPARTMENT OF COMMERCE AND COMMUNITY AFFAIRS

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- Department's Office of Coal Development and completed by the Applicant;
- 2) Ownership Disclosure. Identification by name of those businesses or entities with 10% or more ownership of the new electric generating facility, with the percent ownership for each set forth;
  - 3) Performance Disclosure. As asserted against the applicant, or any parent organization or holding company of the applicant, identification of all pending or unresolved violations of State or federal laws or regulations that could result in legal or regulatory impact on the operation of the electric generating facility. If the applicant does not have relevant or necessary operating permits, identification of the status of any permit applications and anticipated date of permit issuance;
  - 4) Executive Summary. A brief and concise overview of the proposed electric generating facility;
  - 5) Facility Description. A description of the proposed electric generating facility, including a description of the scope and nature of the facility; a description of equipment, technologies and processes used; a description of the generation capacity, availability and ability to transmit power at all times, including times of significant area load fluctuations and high demand; a location map showing project site and connections to existing transportation routes, transmission lines, and water supplies; a description of the facility inputs and outputs; and a description of all permits, rights and agreements necessary for plant construction and operation;
  - 6) Facility Benefits. Economic justification for the facility that includes a summary of the social or economic benefits of the facility to Illinois; identification of those communities, businesses and other entities likely to benefit from the facility; identification of employment impacts such as permanent jobs created or retained by the facility itself, projected payrolls, and the existing and/or new coal markets that would be affected by the project; and identification of potential impacts on local and State electric rates and reliability;
  - 7) Facility Costs and Schedule. A gross project budget and time schedule for the completion of the facility, and for major facility components, including cost estimates and anticipated completion dates; and
  - 8) State Sales Taxes. A reasonable estimation of the annual consumption of Illinois coal at the new electric generating facility and the State sales taxes the business expects to pay annually for new Illinois coal purchases. With respect to use and occupation taxes, references to such taxes mean only those taxes paid on Illinois-mined coal used in a new electric generating facility.

**Section 120.90 Pre-Qualification Evaluation Procedure**

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- a) All pre-qualification requests will undergo a substantive evaluation in terms of the technical, economic, environmental and management components of the new electric generating facility by Department staff. The criteria used in determining whether a pre-qualification request will be approved include, but are not limited to, the following:
- 1) creation of at least 150 new Illinois coal mining jobs;
  - 2) creation of a new electric generating facility that has an aggregate rated generating capacity of at least 400 megawatts for all new units at one site and uses coal or gases derived from coal as its primary fuel source;
  - 3) commitment to provide baseload electric generation operating on a continuous basis throughout the year, including times of significant area load fluctuations and high demand;
  - 4) the total State occupation and use taxes paid on Illinois-mined coal used at the new electric generating facility for a minimum of 4 preceding calendar quarters;
  - 5) the beginning and completion construction dates of the new electric generating facility; and
  - 6) the amount of capital investment by the eligible business in the new electric generating facility.
- b) The Department may obtain the assistance of other persons either within or outside of State government in reviewing part or all of any application. If the Department elects to obtain such assistance, the Department shall select persons that possess a higher degree of environmental, technical or engineering experience and understanding than readily found within the Department and shall use such persons to evaluate only when, in the opinion of the Department, to do so would promote a more thorough and fair understanding of the applicant's statements, plans and processes to be employed.
- c) The Department reserves the right to make on-site survey inspections during the review period when, in the opinion of the Department, to do so would promote a more thorough and fair understanding of the applicant's statements, plans and processes to be employed.
- d) Upon completion of the review, the Department staff shall forward all pre-qualification applications and evaluations, together with its recommendations, to the Director. The Director will then make a final determination of the eligibility of the entity and the new electric generating facility to receive grant funds under the Act. Applicants will be notified in writing within 30 days as to whether the entity is pre-qualified for the IRDESA program. If pre-qualification is denied, the notification shall state the reasons for that determination. A finding that an applicant is not pre-qualified shall not preclude the applicant from proceeding with its project and making formal application for assistance upon completion of the project. Final commitment to

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issue grant funds can only be made upon a successful grant application by the applicant after four consecutive quarters of facility operation.

**Section 120.100 Application Request**

- a) While pre-qualification is encouraged to expedite steps involved with eligibility determination, project evaluation, and appropriation of funds, any business, whether pre-qualified or not, may apply for grant funds under the Act.
- b) Grant applications should be submitted in accordance with the following guidelines:
  - 1) Applicants may submit brochures and other presentations only as necessary to present a complete and effective application.
  - 2) The Department may require applications to be clarified or supplemented through additional written submissions or oral presentations.
  - 3) One original and 5 copies of each grant application shall be submitted to the IRDESA Grant Program Coordinator, Office of Coal Development, Illinois Department of Commerce and Community Affairs, 620 East Adams Street, CIPS-4, Springfield IL 62701-1615.
  - 4) Applicants are discouraged from submitting confidential information since materials submitted in conjunction with an IRDESA Program funding request are subject to disclosure, in response to requests received under provisions of the Freedom of Information Act [5 ILCS 140]. Information that could reasonably be considered to be proprietary, privileged or confidential commercial or financial information should be identified as such in the application. The Department will maintain the confidentiality of that information only to the extent permitted by law.

**Section 120.110 Form of Application**

- a) Applications to the IRDESA Program for grant funds may be submitted to the Department at any time.
- b) The grant application should include, but not be limited to, the following information:
  - 1) Grant Application Cover Page. Form to be obtained from the Department's Office of Coal Development and completed by the applicant;
  - 2) Ownership Disclosure. Identification by name of those businesses or entities with 10% or more ownership of the new electric generating facility, with the percent ownership for each set forth;
  - 3) Performance Disclosure. As asserted against the applicant, or any parent organization or holding company of the applicant, identification of all pending or unresolved violations of State or federal laws or regulations that could result in legal or regulatory impact on the operation of the electric generating facility.

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If the applicant does not have relevant or necessary operating permits, identification of the status of any permit applications and anticipated date of permit issuance;

- 4) Executive Summary. A brief and concise overview of the proposed electric generating facility;
- 5) Facility Description. A description of the proposed electric generating facility, including a description of the scope and nature of the proposed facility; a description of equipment, technologies and processes used; a description of the generation capacity, availability and dispatch; a location map showing project site and connections to existing transportation routes, transmission lines, and water supplies; a description of the facility inputs and outputs; and a description of all permits, rights and agreements necessary for plant construction and operation;
- 6) Facility Benefits. Economic justification for the facility that includes a summary of the social or economic benefits of the facility to Illinois; identification of those communities, businesses and other entities likely to benefit from the facility; identification of employment impacts such as permanent jobs created or retained by the facility itself, projected payrolls, and the existing and/or new coal markets that would be affected by the project; and identification of potential impacts on local and State electric rates and reliability;
- 7) Facility Capital and O&M Costs. Financial aspects of the facility, including capital cost, operation and maintenance costs, financing, debt service and retirement, and expected return on investment. For purposes of this subsection (b)(7), operation and maintenance costs are defined as those variable costs attendant to the day to day operation and scheduled maintenance of the new electric generating facility; and
- 8) State Sales Taxes. For the preceding four consecutive quarters, a certification of the amount of Illinois coal used at the new electric generating facility and the State sales taxes paid on the purchase of the coal, including documentation of coal supply contracts, detailing the terms and duration of each agreement.

**Section 120.120 Application Evaluation Procedure**

- a) All grant applications submitted will undergo a substantive evaluation in terms of the technical, economic, environmental and management components of the new electric generating facility by Department staff. The criteria used in determining whether a grant will be awarded include, but are not limited to, the following:
  - 1) creation of at least 150 new Illinois coal mining jobs;
  - 2) creation of a new electric generating facility that has an aggregate rated

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- generating capacity of at least 400 megawatts for all new units at one site and uses coal or gases derived from coal as its primary fuel source;
- 3) commitment to provide baseload electric generation operating on a continuous basis throughout the year, including times of significant area load fluctuations and high demand;
  - 4) the total State occupation and use taxes paid on Illinois-mined coal used at the new electric generating facility for a minimum of 4 preceding calendar quarters;
  - 5) the beginning and completion construction dates of the electric generating facility; and
  - 6) the amount of capital investment by the eligible business in the new electric generating facility.
- b) The Department may obtain the assistance of other persons either within or outside of State government in reviewing part or all of any application. If the Department elects to obtain such assistance, the Department shall select persons that possess a higher degree of environmental, technical or engineering experience and understanding than readily found within the Department and shall use such persons to evaluate only when, in the opinion of the Department, to do so would promote a more thorough and fair understanding of the applicant's statements, plans and processes to be employed.
- c) The Department reserves the right to make on-site survey inspections during the review period when, in the opinion of the Department, to do so would promote a more thorough and fair understanding of the applicant's statements, plans and processes to be employed.
- d) Upon completion of the review, the Department staff shall recommend applications meeting all criteria set forth in subsection (a). Department staff will then forward all applications, together with its recommendations, to the Director for final determination. During the final review process, the Director will determine whether an applicant is awarded a grant.

**Section 120.130 Grant Agreement**

- a) When a grant has been awarded, the grantee and the Department shall execute an Agreement. The Agreement shall be executed between the grantee and the Director or the Director's designee on behalf of the Department.
- b) The Agreement shall contain substantive provisions, including, but not limited to, the following:
  - 1) A recitation of legal authority pursuant to which the Agreement is made;
  - 2) An identification of the project scope and schedule, and the work or services to be performed or conducted by the grantee;
  - 3) An identification of the grant amount;

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- 4) The conditions and manner in which the Department shall pay the grant amount subject at all times to annual appropriation by the General Assembly;
- 5) A promise by the grantee not to assign or transfer any of the rights, duties or obligations of the grantee without the written consent of the Department;
- 6) A promise by the grantee not to amend the Agreement without the written consent of the Department. Failure to do so will result in a cost disallowance. The project must be completed by the completion date in the Agreement unless a written request for an extension is submitted no later than 30 days prior to the award completion date;
- 7) A covenant that the grantee shall expend the grant amount and any accrued interest only for the purposes of the project as stated in the Agreement and approved by the Department; and
- 8) A covenant that the grantee shall refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the Act.

**Section 120.140 Severability**

If any Section, subsection, subdivision, paragraph, sentence, clause or phrase in this Part or any portion thereof is for any reason held to be unconstitutional or invalid or ineffective by any forum of competent jurisdiction, that decision shall not affect the validity or effectiveness of the remaining portions of this Part.

**Section 120.150 Administrative Requirements for Grants**

- a) Termination of Grant - Grants shall be terminated for the following reasons:
  - 1) Termination Due to Loss of Funding - In the absence of State funding for a fiscal year, all grants for that year will be terminated in full. In the event of a partial loss of State funding, the Department will make proportionate cuts to all grantees. In the event the Department suffers such a loss of funding in full or part, the Department will give the grantee written notice setting forth the effective date of full or partial termination or, if a change in funding is required, setting forth the change in funding and changes in the approved budget.
  - 2) Termination for Cause
    - A) If the Department determines that the grantee has failed to comply with the terms and conditions of the grant, the Department shall terminate the grant in whole, or in part, at any time before the date of completion. Circumstances that will result in the termination of a grant include, but are not necessarily limited to, the following: consistent failure to submit

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- required reports; failure to maintain required records; evidence of fraud and abuse; and consistent failure to meet performance standards. These circumstances are explained in the Agreement.
- B) The Department shall notify the grantee in writing, within 10 working days after the determination to terminate, of the reasons for the termination and the effective date of the termination. Payments made to the grantee or recoveries by the Department shall be made in accordance with legal rights and liabilities in the Agreement.
- 3) Termination by Agreement - The Department and the grantee shall terminate the grant in whole or in part when the Department and the grantee agree that the continuation of the program objectives would not produce beneficial results commensurate with the future expenditure of funds. The Department and the grantee shall agree upon termination conditions, including the effective date, and, in the case of partial termination, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the grantee for the Department's share of the noncancelable obligations, properly incurred by the grantee prior to termination.
- b) Interest on Grant Funds - In accordance with Section 10 of the Illinois Grant Funds Recovery Act [30 ILCS 705/10], all interest earned on funds held by the grantee under the grant shall become part of the grant when earned, as long as this amount does not exceed the maximum allowable grant award. Any interest earned under the grant, and not expended as grant principal during the term of the grant, shall be returned to the Department.
- c) Grant Close-out - In accordance with Section 4 of the Illinois Grant Funds Recovery Act [30 ILCS 705/4], all funds, including any interest, remaining at the end of the grant period or at the expiration of the period of time grant funds are available for expenditure or obligation by the Grantee, shall be returned to the Department within 45 days after the end of the relevant period. The grantee agrees to repay the Department for any funds that are determined by the Department to have been spent in violation of the Agreement.
- d) Audits - A grantee shall be responsible for securing a compliance audit for any grant award exceeding \$300,000. Additionally, an audit may be required when certain risk conditions exist, including, but not limited to, a negative compliance history and disclosure of previous material audit findings. The audit shall be performed by an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit shall be conducted in accordance with generally accepted auditing standards contained in the publication entitled AICPA Professional Standards, American Institute of Certified

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- Public Accountants, Harborside Financial Center, 201 Plaza 3, Jersey City, New Jersey 07311 (June 2001, no later editions are incorporated).
- e) Special Audits - The Department reserves the right to conduct special audits, including but not limited to an agency-wide audit, at any time during normal working hours, of the funds expended under Department grants.
  - f) Monitoring and Evaluation - Grantee shall permit any agent authorized by the Department, upon presentation of credentials, in accordance with the constitutional limitation on administrative searches, to have full access to, and the right to examine, any documents, papers, and records of the grantee involving transactions related to a grant from the Department. Once the Department has concluded its monitoring activities, the grantee will be notified of the Department's findings. If a determination of noncompliance has been made by the Department, the grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved, the Department will issue a notice requesting that the grantee repay any funds that are determined by the Department to have been spent in violation of the Agreement. If the grantee fails to comply with the Department's notice, the Department shall issue a final notice providing the grantee the opportunity to request an administrative hearing pursuant to the Department's Administrative Hearing Rules found at 56 Ill. Adm. Code 2605.
  - g) Complaint Process - An administrative hearing is initiated by a party serving a Petition for Hearing on the Department, or by the Department serving a Notice of Charges on the grantee. In either case, the Department and the grantee shall follow the Administrative Hearing Rules as set forth in 56 Ill. Adm. Code 2605.
  - h) Certifications - The grantee shall certify that it has not been barred from contracting with a unit of State or local government as a result of a violation of 720 ILCS 5/33E-3 and 33E-4.
  - i) Reports - Grantee shall submit, as required by the Department, reports on the financial status of the project and reports on outcomes and results of the project.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Medicaid Community Mental Health Services Program
- 2) Code Citation: 59 Ill. Adm. Code 132
- 3) Section Number: 132.55                      Adopted Action: Amended
- 4) Statutory Authority: Implementing and authorized by the Community Services Act [405 ILCS 30] and Section 15.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.3]
- 5) Effective Date of Amendment: August 20, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 29, 2002, 26 Ill. Reg. 4542
- 10) Has JCAR Issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This amendment allows providers of community mental health services, contracting with DCFS, to request appeals of suspensions, terminations and funds recovery activities directly through the Department of Children and Family Services instead of requesting such appeals through the Department of Human Services.
- 16) Information and questions regarding this adopted amendment shall be delivered to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Ms. Susan Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3<sup>rd</sup> Floor, Harris Bldg.  
Springfield, Illinois 62762  
(217) 785-9772

The full text of adopted amendment begins on the next page:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENT

TITLE 59: MENTAL HEALTH  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICESPART 132  
MEDICAID COMMUNITY MENTAL  
HEALTH SERVICES PROGRAM

## SUBPART A: GENERAL PROVISIONS

|         |  |
|---------|--|
| Section |  |
| 132.10  | Purpose  |
| 132.15  | Incorporation by Reference   |
| 132.20  | Clients' Rights and Confidentiality  |
| 132.25  | Definitions  |
| 132.30  | Application and Certification Process  |
| 132.35  | Recertification and Reviews  |
| 132.40  | Certification for Additional Medicaid Community Mental Health Services and/or<br>New Site(s) |
| 132.42  | Post-Payment Review  |
| 132.45  | Suspension of Certification  |
| 132.50  | Termination of Certification   |
| 132.55  | Appeal Criteria and Process  |
| 132.60  | Rate Setting   |

## SUBPART B: PROVIDER ADMINISTRATIVE REQUIREMENTS

|         |  |
|---------|--|
| Section |  |
| 132.65  | Organizational Structure                   |
| 132.70  | Personnel and Administrative Recordkeeping |
| 132.75  | Program Evaluation                         |
| 132.80  | Fiscal and Statistical Requirements        |
| 132.85  | Recordkeeping                              |
| 132.90  | Provider Site(s)                           |
| 132.91  | Accreditation                              |

## SUBPART C: UTILIZATION REVIEW AND CONTINUITY OF SERVICES

|         |   |
|---------|---|
| Section |   |
| 132.95  | Utilization Review                      |
| 132.100 | Clinical Records                        |
| 132.105 | Continuity and Coordination of Services |

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENT

132.110 Availability of Services (Repealed)

## SUBPART D: CLINIC SERVICES

## Section

132.115 Provisions  
132.120 Service Needs Evaluation  
132.125 Treatment Plan Development and Modification  
132.130 Psychiatric Treatment  
132.135 Crisis Intervention  
132.140 Day Treatment

## SUBPART E: REHABILITATIVE SERVICES

## Section

132.145 Provisions  
132.150 Rehabilitative Mental Health Services  
132.155 Family Intervention, Stabilization and Reunification Services

## SUBPART F: CASE MANAGEMENT SERVICES

## Section

132.160 Provisions  
132.165 Mental Health Case Management Services  
132.170 Rehabilitative Case Management

APPENDIX A Medicaid Community Mental Health Services Application Components

APPENDIX B Utilization Parameters

TABLE A Mental Health Clinic Program Client Services

TABLE B Rehabilitative Mental Health Services

TABLE C Family Intervention, Stabilization and Reunification Services

**AUTHORITY:** Implementing and authorized by the Community Services Act [405 ILCS 30] and Section 15.3 of the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/15.3].

**SOURCE:** Emergency rules adopted at 16 Ill. Reg. 211, effective December 31, 1991, for a maximum of 150 days; new rules adopted at 16 Ill. Reg. 9006, effective May 29, 1992; amended at 18 Ill. Reg. 15593, effective October 5, 1994; emergency amendment at 19 Ill. Reg. 9200, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16178, effective November 28, 1995; amended at 21 Ill. Reg. 8292, effective June 25, 1997; recodified from the

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENT

Department of Mental Health and Developmental Disabilities to the Department of Human Services at 21 Ill. Reg. 9321; amended at 22 Ill. Reg. 21870, effective December 1, 1998; emergency amendment at 23 Ill. Reg. 4497, effective April 1, 1999, for maximum of 150 days; amended at 23 Ill. Reg. 10205, effective August 23, 1999; amended at 24 Ill. Reg. 17737, effective November 27, 2000; amended at 26 Ill. Reg. 13213, effective Aug 20, 2002.

## SUBPART A: GENERAL PROVISIONS

**Section 132.55 Appeal Criteria and Process**

- a) Grounds for appeal by the provider:
  - 1) Determination of non-compliance with this Part;
  - 2) Refusal to issue certification;
  - 3) Refusal to issue recertification;
  - 4) Suspension or termination of any or all Medicaid community mental health services; or
  - 5) Notice of intent to recover funds following a post-payment review.
- b) Certification appeal criteria and process
  - 1) If either the Department or DCFS determines that certification or the recertification should not be issued or that certification should be suspended or terminated during a certification period because of non-compliance with the provisions of this Part, either the Department or DCFS shall send, by registered mail, written notice to the applicant or the certified provider within 30 working days after the determination. The notice shall contain the specific requirements the provider has not complied with, either the Department's or DCFS' proposed action, and provider rights as follows:
    - A) If the applicant or certified provider chooses to appeal either the Department's or DCFS' decision, the applicant or provider shall submit a written request for a hearing to the Department or DCFS within 20 working days after the date of receipt of the notice. Receipt is presumed ten days after mailing.
    - B) If an appeal is initiated by a certified provider, services shall be continued pending a final administrative decision.
  - 2) If the applicant or certified provider does not submit a request for a hearing, as provided in this Part, or if after conducting the hearing either the Department or DCFS determines that the certification or recertification should not be issued or that the certification should be suspended or terminated, either the Department or DCFS shall issue an order to that effect. If the order is to suspend or terminate the certification, it shall specify that the order takes effect upon receipt by the certified provider, and that the provider shall not provide Medicaid community mental health program services during the pendency of

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENT

any proceeding for judicial review of the Department's or DCFS' decision, except by court order.

- c) Intent to recover funds appeal criteria and process
- 1) If either the Department or DCFS determines that the provider is not in compliance with the billing documentation requirements of this Part pursuant to a post-payment review conducted in accordance with Section 132.42 of this Part, it shall submit written notification of the Department's or DCFS' intent to recover funds in a Final Notice of Unsubstantiated Billings or Notice of Suspension of Billing. The notice shall set forth:
    - A) the reason for the Department's or DCFS' action;
    - B) a statement of the right to request a hearing within 20 working days after the provider's receipt of the Final Notice of Unsubstantiated Billings or Notice of Suspension of Billing;
    - C) a statement of the legal authority and jurisdiction under which the hearing is to be held;
    - D) the date after which the Department or DCFS will start to recover money by deducting from Department or DCFS obligations to the provider, unless the provider submits a written request for a hearing in accordance with subsection (c)(1)(B); and
    - E) that the provider must submit necessary corrections to the billing information previously submitted and that the Department or DCFS will adjust payments to the provider upon receipt of those adjustments.
  - 2) If the provider chooses to appeal the Department's or DCFS' intent to recover money, the provider shall submit a written request for a hearing to the Department or DCFS within 20 working days after the date of receipt of the Final Notice of Unsubstantiated Billings or Notice of Suspension of Billing. Receipt is presumed ten days after mailing.
  - 3) The sole issue at the hearing requested by a provider appealing a Final Notice of Unsubstantiated Billings or Notice of Suspension of Billing following a post-payment review shall be whether the provider is in compliance with billing documentation requirements set forth in this Part and identified in the Final Notice of Unsubstantiated Billings or Notice of Suspension of Billing.
- d) Hearing process
- 1) The hearing shall be conducted by an impartial administrative law judge appointed by the Department of Public Aid (DPA).
  - 2) DPA's hearing rules for medical vendor hearings at 89 Ill. Adm. Code 104.200 shall apply, except that the following Sections do not apply to these hearings: 104.204, 104.206, 104.208, 104.210, 104.216, 104.217, 104.221, 104.260, 104.272, 104.273, and 104.274.
  - 3) The appeal shall be filed with, and received within 20 working days after the date of the receipt of the notice by: ,the

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## NOTICE OF ADOPTED AMENDMENT

Department of Human Services ~~Department's~~  
Bureau of Administrative Hearings,  
100 South Grand Avenue East, 3rd Floor,  
Springfield, IL 62762,

~~within 20 working days after the date of receipt of the notice.~~

or

Department of Children and Family Services  
Office of Mental Health  
406 East Monroe  
Springfield, IL 62701

- 4) The Department or DCFS shall send a copy of the appeal to the DPA Vendor Hearings Section, 401 South Clinton Avenue, 6<sup>th</sup> Floor, Chicago IL 60607 within five days after receiving the appeal.
  - 5) The appellant shall direct all non-written communications relevant to the hearing to the Bureau Chief of the Department's Bureau of Administrative Hearings or to DCFS, who shall send them to the DPA Vendor Hearings Section.
  - 6) A recommended decision shall be submitted to the DPA Director and copies mailed to the parties, in accordance with DPA's rule at 89 Ill. Adm. Code 104.290. A copy shall also be mailed to the Bureau Chief of the Department's Bureau of Administrative Hearings or to DCFS.
- e) Final administrative decision  
The Director of the Department of Public Aid shall issue a final administrative decision in accordance with DPA's rule at 89 Ill. Adm. Code 104.295.
- f) Judicial review  
The final administrative decision shall be subject to judicial review exclusively as provided in the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 26 Ill. Reg. 13213, effective Aug 20, 2002)

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Affordable Housing Tax Credit Program
- 2) Code Citation: 47 Ill. Adm. Code 355
- 3) 

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 355.103                 | Amendment              |
| 355.203                 | Amendment              |
| 355.204                 | Amendment              |
| 355.205                 | Amendment              |
| 355.206                 | Amendment              |
| 355.207                 | Amendment              |
| 355.306                 | Amendment              |
| 355.307                 | Amendment              |
| 355.310                 | Amendment              |
| 355.403                 | Amendment              |
| 355.406                 | Amendment              |
- 4) Statutory Authority: Section 7.28 of the Illinois Housing Development Act [20 ILCS 3805/7.28]
- 5) Effective Date of Amendments: August 20, 2002
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 10, 2002; 26 Ill. Reg 6962
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In addition to nonsubstantive technical and grammatical changes, references to "other dates as required by IHDA" that are in addition to initial closing date and anticipated completion date of a project are removed. Also, changes clarify that sponsors of affordable housing projects participate in the provision of personal services to tenants and prospective tenants of multifamily projects only.

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF ADOPTED AMENDMENTS

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These amendments involve the administration of the affordable housing tax credit program.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Richard Muller, Esq.  
Illinois Housing Development Authority  
401 N. Michigan Ave., Suite 900  
Chicago, Illinois 60611  
312/836-5327

The full text of the adopted amendments begins on the next page:

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF ADOPTED AMENDMENTS

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT  
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITYPART 355  
ILLINOIS AFFORDABLE HOUSING TAX CREDIT PROGRAM

## SUBPART A: GENERAL RULES

|         |                                      |
|---------|--------------------------------------|
| Section |                                      |
| 355.101 | Authority                            |
| 355.102 | Purpose and Objectives               |
| 355.103 | Definitions                          |
| 355.104 | Compliance with Federal Law          |
| 355.105 | Forms and Procedures for the Program |
| 355.106 | Fees and Charges                     |
| 355.107 | Amendment                            |
| 355.108 | Severability                         |
| 355.109 | Gender and Number                    |
| 355.110 | Titles and Captions                  |

## SUBPART B: AFFORDABLE HOUSING TAX CREDIT ALLOCATIONS

|         |  |
|---------|--|
| 355.201 | Authority to Allocate Affordable Housing Tax Credits       |
| 355.202 | Transfer of Agency Affordable Housing Tax Credit Ceiling   |
| 355.203 | Application Process  |
| 355.204 | Agency Review  |
| 355.205 | Approval or Rejection by Agency                            |
| 355.206 | Sponsor Participation                                      |
| 355.207 | Regulatory Agreement for Rental Projects                   |
| 355.208 | Affordable Housing Project Documentation and Certification |
| 355.209 | Affordable Housing Tax Credit Allocation                   |
| 355.210 | Recapture of Affordable Housing Tax Credits                |

## SUBPART C: DONATIONS

|         |                               |
|---------|-------------------------------|
| 355.301 | Acceptable Types of Donations |
| 355.302 | Aggregation of Donations      |
| 355.303 | Minimum Donation Amount       |
| 355.304 | Cash                          |
| 355.305 | Securities                    |

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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- 355.306 Real Property
- 355.307 Personal Property
- 355.308 Limitation on Donations
- 355.309 Transfer of Affordable Housing Tax Credits
- 355.310 Material Participation of Sponsor

## SUBPART D: AFFORDABLE HOUSING PROJECTS

- 355.401 Single Family Project Requirements
- 355.402 Down Payment and Closing Cost Assistance
- 355.403 Employer-Assisted Housing Projects
- 355.404 Recapture Agreement
- 355.405 Multifamily Housing Projects
- 355.406 Set-Aside for Technical Assistance and General Operating Support
- 355.407 Limitations on Amount of Technical Assistance and General Operating Support
- 355.408 Technical Assistance--Home Ownership Counseling

## SUBPART E: COMPLIANCE MONITORING

- 355.501 Compliance Monitoring
- 355.502 Monitoring Fees
- 355.503 Books and Records
- 355.504 Furnishing Information

## SUBPART F: REPORTS

- 355.601 Agency Reports

AUTHORITY: Section 7.28 of the Illinois Housing Development Act [20 ILCS 3805/7.28].

SOURCE: Adopted by emergency rulemaking at 25 Ill. Reg. 15636, effective November 26, 2001, for a maximum of 150 days; adopted at 26 Ill. Reg. 5902, effective April 15, 2002; emergency amendment at 26 Ill. Reg. 7325, effective April 26, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13220, effective Aug 20, 2002.

## SUBPART A: GENERAL RULES

**Section 355.103 Definitions**

As used in this Part, the following words or terms mean:

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF ADOPTED AMENDMENTS

"Act": The Illinois Housing Development Act [20 ILCS 3805].

"Affordable Housing Project": A housing project that is either:

a rental project in which at least 25% of the units that have rents (including tenant-paid heat) that do not exceed, on a monthly basis, 30% of the gross monthly income of a Household earning the maximum income for a Low-Income Household in the geographical area in which the Affordable Housing Project is located and that are occupied by persons and families who qualify as Low-Income Households; or

a unit for sale to Low-Income Households and who will pay no more than 30% of their gross household income for mortgage principal, interest, property taxes, and property insurance upon the purchase of the unit.

"Affordable Housing Restrictions": The income and occupancy restrictions for an Affordable Housing Project required by Section 7.28 and this Part, or those set forth in the Application for the Affordable Housing Project, whichever are more stringent.

"Affordable Housing Tax Credits": Affordable Housing Tax Credits, as authorized by Section 7.28 of the Act and Section 214 of the Illinois Income Tax Act.

"Affordable Housing Tax Credit Ceiling": The aggregate amount of Affordable Housing Tax Credits available for Allocation in a State fiscal year.

"Agency": The Authority, the City of Chicago or any other municipality that may subsequently be designated by law as an agency for the Allocation of Affordable Housing Tax Credits.

"Agency Affordable Housing Tax Credit Ceiling": That portion of the total amount of Affordable Housing Tax Credits available for Allocation in a State fiscal year that is available for Allocation by an Agency. That amount is 24.5% of the Affordable Housing Tax Credit Ceiling for the City of Chicago, and 75.5% of the Affordable Housing Tax Credit Ceiling for the Authority.

"Agency Head": The Executive Director of the Authority or the Housing Commissioner of the City of Chicago.

"Allocation": An award by an Agency of Affordable Housing Tax Credits in

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF ADOPTED AMENDMENTS

connection with an Affordable Housing Project, an Employer-Assisted Housing Project or Technical Assistance.

"Applicant": The Sponsor (and any other affiliated entities) applying for an Allocation.

"Application": An application to an Agency for Affordable Housing Tax Credits submitted by an Applicant in connection with an Affordable Housing Project, including the required supporting documentation.

"Authority": The Illinois Housing Development Authority.

"Certificate": The ~~certificate~~ Certificate issued by an Agency evidencing the Allocation of Affordable Housing Tax Credits in connection with an Affordable Housing Project. The Certificate shall state the effective date of the Allocation.

"Compliance Period": The period during which an Affordable Housing Project is obligated to comply with the Affordable Housing Restrictions, as set forth in the Application for such Affordable Housing Project. The Compliance Period for each Affordable Housing Project shall be a minimum of 10 years, except for:

Single Family Projects in which a Sponsor provides down payment and closing cost assistance to Low-Income Households purchasing a Single Family Residence, in which case the Compliance Period shall be 5 years, and

Hardship cases, as provided in Section 355.404 of this Part.

"Donation": Money, securities, or real or personal property that is provided without consideration to a Sponsor for an Affordable Housing Project and that is used for:

costs associated with purchasing, rehabilitating constructing, or providing or obtaining financing for that Affordable Housing Project, including fees for attorneys, architects, accountants, surveyors and appraisers;

Technical Assistance for that Affordable Housing Project; or

General Operating Support of the Sponsor in connection with that Affordable Housing Project.

"Donor": An individual or entity making a Donation.

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"Employer-Assisted Housing Project": ~~A project An Affordable Housing Project~~ that involves down payment and closing cost assistance, reduced-interest mortgages, mortgage guarantee programs, rental subsidies, or individual development account savings plans that are:

provided by employers to employees to assist them in securing housing near the employer's work place;

restricted to housing near such work place; and

restricted to employees who qualify as Moderate-Income Households.

"General Operating Support": Any cost incurred by a Sponsor, directly or indirectly, in connection with an Affordable Housing Project. Such costs ~~that is a part of the Sponsor's general operating costs; operating costs are not limited to costs directly incurred in connection with the Affordable Housing Project, but may include a proportionate amount of the~~ general overhead expenses of the Sponsor.

"Gross Household Income": The total annualized income of the Household from whatever source derived and before taxes or withholdings.

"Household": A single person, family or unrelated persons living together.

"Initial Closing Date": The date on which all legal requirements for the funding of an Affordable Housing Project have been met, as determined by the funding sources for the Affordable Housing Project, and the funds are made available to the Affordable Housing Project for distribution.

"Low-Income Household": A Household whose adjusted income is less than or equal to 60% of the median income of the geographical area of the Household's Affordable Housing Project, adjusted for family size, as such adjusted income and median income for the geographical area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437).

"Material Participation": An individual or entity provides personal services to tenants or prospective tenants of a Multifamily Housing Project, or professional services to a Multifamily Housing Project, on a regular, continuous, and substantial basis for more than 500 hours during each year; ~~in connection with an Affordable Housing Project;~~

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and, in the case of personal services, such provision of services constitutes substantially all of the provision of such services for the Multifamily Affordable Housing Project by all individuals or entities (including individuals and entities who do not hold ownership interests in the Affordable Housing Project) for that year.

"Members": The Members of the Authority.

"Moderate-Income Household": A Household whose adjusted income is less than 120% of the median income of the geographical area of the Household's Affordable Housing Project, adjusted for family size, as such adjusted income and median income for the geographical area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437).

"Multifamily Housing Project": An Affordable Housing Project comprised of one or more buildings (other than Single Family Residences) containing an aggregate of five or more rental units.

"Program": The Illinois Affordable Housing Tax Credit Program.

"Reservation": An Agency's conditional reservation of Affordable Housing Tax Credits in connection with an Affordable Housing Project. A Reservation shall be valid for a period no longer than 24 months from the date of the Reservation Letter. If the Initial Closing Date of the Affordable Housing Project has not occurred within that period, the Reservation shall expire and shall not be renewed.

"Reservation Letter": The letter from an Agency to a Sponsor conditionally reserving Affordable Housing Tax Credits in connection with the Sponsor's proposed Affordable Housing Project.

"Section 7.28": Section 7.28 of the Act.

"Single Family Project": An Affordable Housing Project consisting of:

the construction of Single Family Residences; or

the rehabilitation of 2, 3, or 4 unit buildings; upon completion of rehabilitation, the units are sold or rented; or

the rehabilitation of Single Family Residences, which are then sold or rented;

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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or

the rehabilitation of buildings containing more than 4 units; upon completion of rehabilitation, the units are sold as condominiums; or

the financing of Single Family Residences using junior mortgages with a below market interest rate; or

construction subsidies to lower the purchase price of Single Family Residences; ~~or~~

~~Employer Assisted Housing Projects.~~

"Single Family Residence": A house, condominium, townhouse or other residence used for occupancy by a single Household as its primary residence.

"Sponsor": A not-for-profit organization that is:

organized under the General Not For Profit Corporation Act of 1986 [805 ILCS 105] for the purpose of constructing or rehabilitating affordable housing units in this State; or

organized for the purpose of constructing or rehabilitating affordable housing units and has been issued a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under provisions of the Internal Revenue Code; or

an organization designated as a community development corporation by the United States Government under Title VII of the Economic Opportunity Act of 1964.

"State": The State of Illinois.

"Technical Assistance": Any cost incurred by a Sponsor for:

planning for an Affordable Housing Project,

assistance with an Application, or

counseling services provided to prospective purchasers of a Single Family

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF ADOPTED AMENDMENTS

Residence in connection with a Single Family Project, except as provided in Section 355.408 of this Part.

"Very Low-Income Household": A Household whose adjusted income is less than or equal to 50% of the median income of the geographical area of the Household's Affordable Housing Project, adjusted for family size, as such adjusted income and median income for the geographical area are determined from time to time by the United States Department of Housing and Urban Development for purposes of Section 8 of the United States Housing Act of 1937 (42 USC 1437).

(Source: Amended at 26 Ill. Reg. 13220, effective Aug 20, 2002)

## SUBPART B: AFFORDABLE HOUSING TAX CREDIT ALLOCATIONS

**Section 355.203 Application Process**

A Sponsor may apply for an Allocation by submitting an Application on forms prescribed by an Agency that may require the following information:

- a) The name and location of the proposed Affordable Housing Project;
- b) The name, address and telephone number of the Sponsor and the proposed owner of the Affordable Housing Project, and, if known, the attorney, accountant, architect, general contractor and consultant for the Affordable Housing Project;
- c) A copy of the Sponsor's current Articles of Incorporation, certified by the Secretary of State or equivalent official of the state of incorporation;
- d) A history of the Sponsor's experience in developing housing, and low-income housing in particular;
- e) A complete description of the proposed Affordable Housing Project, including but not limited to the site, the number and type of units and a rent schedule for the Affordable Housing Project (if applicable), and identifying any proposed tenant populations with special housing needs;
- f) The amount of the proposed financing for the Affordable Housing Project, including letters of interest or commitments from prospective lenders;
- g) The nature and amount of the proposed or anticipated Donation;
- h) For a Multifamily Housing Project, the percentage of units to be reserved for Low-Income Households and Very Low-Income Households;
- i) The estimated total cost of the proposed Affordable Housing Project, including the cost of land acquisition, the cost of construction, the amount of projected reserves, architects' fees, attorneys' fees, accountant's fees, surveyor's fees, title insurance and all other costs associated with the Affordable Housing Project;
- j) A schedule for the proposed Affordable Housing Project showing the anticipated

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- Initial Closing Date, ~~and~~ the anticipated date of completion;
- k) The amount of General Operating Support requested, if any, and the purposes for which it will be used;
  - l) The amount of Technical Assistance requested, if any, and the purposes for which it will be used;
  - m) The amount of Affordable Housing Tax Credits requested;
  - n) A certification from the Sponsor certifying to the Agency that all information contained in the Application and all accompanying information is true, ~~and~~ accurate, and complete, to the best of the Sponsor's knowledge; and
  - o) Any additional documentation of the information provided in the Application that the Agency may require in order to confirm the information in the Application, such as a legal description of the Affordable Housing Project site, etc.

(Source: Amended at 26 Ill. Reg. 13220, effective Aug 20, 2002)

**Section 355.204 Agency Review**

The Agency shall review each complete Application and approve or reject it. The Agency's review of an Application shall include, but not be limited to, the following criteria (where applicable):

- a) Section 7.28 Requirements. The ability of the Affordable Housing Project to meet the requirements of Section 7.28 and this Part throughout the Compliance Period;
- b) Financial Feasibility. The financial feasibility of the Affordable Housing Project, taking into the consideration the existing housing for Low-Income Households in the geographical area in which the Affordable Housing Project will be located, the cost of the Affordable Housing Project, the projected income and operating expense of the Affordable Housing Project, and all sources of financing for the Affordable Housing Project, including owner's equity;
- c) Sponsor's Ability. The ability of the Sponsor to successfully construct the Affordable Housing Project and place it in service, taking into consideration the construction or other schedule submitted with the Application, the Sponsor's experience in the development, construction and/or rehabilitation of housing, and the size and scope of the Affordable Housing Project;
- d) Site Control. Evidence of site control, satisfactory to the Agency, for the Affordable Housing Project, which shall include, but not be limited to, a purchase contract, an option to purchase, or a letter of intent from a prospective Donor of real property or from a governmental agency;
- e) Donations. The amount of the proposed or anticipated Donation and the Sponsor's plan for obtaining the Donation;
- f) Location. The need for housing for Low-Income Households in the geographical area

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- in which the Affordable Housing Project will be located, based on census data, social surveys, published data, or on-site inspections; and the location of other Affordable Housing Projects for which the Agency has allocated or reserved Affordable Housing Tax Credits;
- g) Housing Stock. The likelihood that the Affordable Housing Project will increase the quality and quantity of housing stock and redevelop blighted areas or prevent the occurrence of slum conditions;
  - h) Preservation. The likelihood that the Affordable Housing Project will preserve housing projects in danger of being lost as affordable housing stock;
  - i) Involuntary Displacement. For Multifamily Housing Projects involving rehabilitation, the Sponsor must minimize involuntary displacement of current tenants who are Low-Income Households, taking into consideration their safety during rehabilitation and the scope and nature of the proposed rehabilitation;
  - j) Special Needs Populations. The availability and accessibility of the Affordable Housing Project for special needs populations, including, but not limited to, homeless or displaced individuals, persons with physical, mental or developmental disabilities, persons with alcohol or substance abuse problems, and persons with AIDS and related diseases;
  - k) Compliance Period. Whether the Compliance Period of the Affordable Housing Project exceeds the minimum requirements of Section 7.28;
  - l) Lower Income Households. The ability of the Affordable Housing Project to serve Households with incomes less than the maximum income for Low-Income Households for the geographical area in which the Affordable Housing Project will be located.

(Source: Amended at 26 Ill. Reg. 13220, effective Aug 20, 2002)

**Section 355.205 Approval or Rejection by Agency**

- a) Upon an Agency's completion of its review of an Application, the Agency shall notify the Sponsor in writing of its approval or rejection of the Application.
- b) Upon the approval of an Application, the Agency shall issue a Reservation Letter conditionally reserving Affordable Housing Tax Credits for the Affordable Housing Project. The amount of the Affordable Housing Tax Credits reserved shall be 50% of the amount of the proposed or actual Donation.
- c) The Reservation Letter shall set forth the terms and conditions upon which the Affordable Housing Tax Credits will be allocated to the Affordable Housing Project, including, but not limited to:
  - 1) Full compliance by both the Sponsor and the proposed Affordable Housing Project with the requirements of Section 7.28 and this Part;

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- 2) Certification from the Sponsor certifying to the Agency that the Sponsor and the Affordable Housing Project will be in full compliance with the requirements of Section 7.28 and this Part and will continue to be in compliance during the Compliance Period;
  - 3) Certification from the Sponsor that there will be no material change in the Sponsor, the Sponsor's ownership structure or the structure of the Affordable Housing Project without the prior written approval of the Agency; and
  - 4) Execution of either a Regulatory Agreement, as required by Section 355.207 of this Part, or one or more Recapture Agreements, as required by Section 355.404 of this Part.
- d) The Sponsor shall have 12 months from the date of the Reservation Letter to obtain a Donation for the Affordable Housing Project. This period may be extended for an additional period of up to 12 months upon written request to the Agency, provided that the Sponsor submits shows evidence of progress toward the Initial Closing of the Affordable Housing Project.

(Source: Amended at 26 Ill. Reg. 13220, effective Aug 20, 2002)

**Section 355.206 Sponsor Participation**

The Sponsor must have a Material Participation in the development and operation of its Multifamily Affordable Housing Project throughout the Compliance Period.

(Source: Amended at 26 Ill. Reg. 13220, effective Aug 20, 2002)

**Section 355.207 Regulatory Agreement for Rental Projects**

The Sponsor and the owner of each Affordable Housing Project that involves the rental of housing units shall enter into a Regulatory Agreement with the allocating Agency before the Agency allocates Affordable Housing Tax Credits in connection with that Affordable Housing Project. Under the Regulatory Agreement, the owner of the Affordable Housing Project shall be required to adhere to the Affordable Housing Restrictions for a period equal to the Compliance Period, and agree not to transfer the ownership, or materially change the ownership structure of the owner of the Affordable Housing Project, without the approval of the Agency. The Regulatory Agreement shall be recorded in the Office of the Recorder of Deeds in the county where the Affordable Housing Project is located as a restrictive covenant on the Affordable Housing Project. The Regulatory Agreement shall cease to apply in the event of a foreclosure, transfer of title by deed in lieu of foreclosure or similar event, unless the allocating Agency determines that such foreclosure, transfer of title by deed-in-lieu of foreclosure or similar event has occurred pursuant to an arrangement between the owner of the Affordable Housing Project

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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and any lenders or any other party, a purpose of which is to terminate the occupancy restrictions set forth in the Regulatory Agreement. If the Affordable Housing Project is receiving financing from lenders that require rental and occupancy restrictions on the Affordable Housing Project, the Affordable Housing Restrictions may, upon the written approval of the Agency, be incorporated into the documents containing the lenders' occupancy and rental restrictions, provided that:

- a) the Agency is made a party to the agreement in which the lenders' restrictions are incorporated; and
- b) the Agency shall have the right under that agreement to independently enforce the Affordable Housing Restrictions.

(Source: Amended at 26 Ill. Reg. 13220, effective Aug 20, 2002)

## SUBPART C: DONATIONS

**Section 355.306 Real Property**

Donations of real property shall be evidenced by a copy of the recorded deed conveying the fee simple title of the real property to the Sponsor and a title search or equivalent documentation showing that the donor held fee simple title to the real property as of the date of the transfer. The value of the real property shall be determined by a current independent appraisal of the property done by a State-licensed appraiser. An Agency may, in its discretion, have another appraisal done by a State-licensed appraiser; in such a case, the value of the property shall be the lesser of the two appraisals. The beneficial interest in a land trust shall be considered real property. The documentation required to evidence the conveyance of real property held in a land trust shall be the document transferring the beneficial interest in the land trust to the Sponsor and a copy of the land trust agreement, certified by the land trustee, showing that the Sponsor is the sole beneficiary of the land trust.

(Source: Amended at 26 Ill. Reg. 13220, effective Aug 20, 2002)

**Section 355.307 Personal Property**

Donations of personal property such as construction or other materials sold in the ordinary course of business shall be valued at the lesser of its fair market value or its cost to the Donor, and may include costs incurred in making the transfer, such as delivery costs, but excluding sales tax. For personal property such as art, antique furniture, coin collections or jewelry, the value may be established by an appraisal by a qualified appraiser. In the case of such property, an Agency may, in its discretion, have another appraisal done by a qualified appraiser; in such a case, the value of the property shall be the lesser of the two appraisals.

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## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 26 Ill. Reg. 13220, effective Aug 20, 2002)

**Section 355.310 Material Participation of Sponsor**

No transfer of cash, securities, real property or personal property to a Sponsor shall be a Donation unless the Sponsor is committed to Material Participation in the Multifamily Affordable Housing Project for the full term of the Compliance Period.

(Source: Amended at 26 Ill. Reg. 13220, effective Aug 20, 2002)

## SUBPART D: AFFORDABLE HOUSING PROJECTS

**Section 355.403 Employer-Assisted Housing Projects**

\$2,000,000 of the Affordable Housing Tax Credit Ceiling for a State fiscal year shall be reserved for Employer-Assisted Housing Projects. Of this ceiling, 24.5% shall be available for allocation by the City of Chicago and 75.5% shall be available for allocation by the Authority. If those funds are not reserved for Employer-Assisted Housing Projects by January 31 of that State fiscal year, the funds shall be available for Reservation and Allocation for any type of Affordable Housing Projects.

(Source: Amended at 26 Ill. Reg. 13220, effective Aug 20, 2002)

**Section 355.406 Set-Aside for Technical Assistance and General Operating Support**

\$1,000,000 of the Affordable Housing Tax Credit Ceiling for a State fiscal year shall be reserved for Technical Assistance and General Operating Support. Of this ceiling, 24.5% shall be available for allocation by the City of Chicago and 75.5% shall be available for allocation by the Authority.

(Source: Amended at 26 Ill. Reg. 13220, effective Aug 20, 2002)

## OFFICE OF THE LIEUTENANT GOVERNOR

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Keep Illinois Beautiful Program
- 2) Code Citation: 47 Ill. Adm. Code 600
- 3) 

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 600.10                  | Repeal                 |
| 600.20                  | Repeal                 |
| 600.30                  | Repeal                 |
| 600.40                  | Repeal                 |
| 600.50                  | Repeal                 |
| 600.60                  | Repeal                 |
- 4) Statutory Authority: 20 ILCS 605/605-75
- 5) Effective Date of Rulemaking: August 26, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 26 Ill. Reg. 8216; June 7, 2002.
- 10) Has JCAR issued a Statement of Objections to this repealer? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There are no agreements.
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: In the Spring 2000 session of the 91<sup>st</sup> General Assembly, House Bill 4022 was passed (Public Act 91-0853). This bill transferred the Lt. Governor's powers and duties under the Keep Illinois Beautiful

## OFFICE OF THE LIEUTENANT GOVERNOR

## NOTICE OF ADOPTED REPEALER

program to the Department of Commerce and Community Affairs (DCCA) and its Director. This repealer will permit DCCA to pursue its own program.

- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Cris Cray  
Office of the Lieutenant Governor  
Room 414  
Stratton Office Building  
Springfield IL 62706  
217/782-3734

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) 

| <u>Section Numbers:</u> | <u>Adopted Action:</u> |
|-------------------------|------------------------|
| 100.2197                | New Section            |
| 100.2210                | Amendment              |
| 100.2350                | Amendment              |
| 100.3010                | Amendment              |
| 100.3320                | Repealed               |
| 100.3350                | Amendment              |
| 100.3370                | Amendment              |
| 100.5215                | New Section            |
| 100.5270                | Amendment              |
| 100.9700                | Amendment              |
- 4) Statutory Authority: 35 ILCS 5/601, 35 ILCS 5/1401 and 35 ILCS 5/304
- 5) Effective Date of Amendments: August 23, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 26 Ill. Reg. 5876, 04/26/02; 26 Ill. Reg. 5702, 04/19/02; and 26 Ill. Reg. 5353, 04/12/02
- 10) Has JCAR issued a Statement of Objections to these Amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made. This is a consolidated rulemaking with 10 sections being amended.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

## DEPARTMENT OF REVENUE

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13) Will this rulemaking replace any emergency amendments currently in effect? No

14) Are there any amendments pending on this Part? Yes

| <u>Section Numbers</u> | <u>Proposed Action</u> | <u>IL Register Citation</u>  |
|------------------------|------------------------|------------------------------|
| 100.3420               | New Section            | 25 Ill. Reg. 13243, 10/19/01 |
| 100.3380               | Amendment              | 26 Ill. Reg. 7015, 05/10/02  |
| 100.2480               | Amendment              | 26 Ill. Reg. 10372, 07/12/02 |
| 100.9720               | Amendment              | 26 Ill. Reg. 11389, 07/26/02 |

15) Summary and Purpose of Amendments: Section 100.2197 - This rulemaking provides guidance for Illinois residents who are subject to tax in another state and are therefore entitled to a credit under IITA Section 601(b)(3).

Sections 100.2210, 100.2350, 100.3010, 100.3320, 100.3370, 100.5215, 100.5270 and 100.9700 - Most provisions of current Section 100.3320 are redundant of provisions elsewhere in Part 100, and all of its provisions dealing with unitary business groups properly belong elsewhere in Part 100. This rulemaking repeals Section 100.3320, amends other Sections of Part 100 to eliminate references to Section 100.3320 and to add provisions that are currently in Section 100.3320 but properly belong in these other Sections, and adds new Section 100.5215 to place combined return provisions currently in Section 100.3320 in their proper place within Part 100.

Section 100.3350 - The changes made to this rulemaking were for clarification purposes: Illinois includes payments of mineral lease royalties in "rent expense" for computing the property factor.

16) Information and questions regarding this adopted rulemaking shall be directed to:

Paul Caselton  
 Deputy General Counsel - Income Tax  
 Legal Services Office  
 Illinois Department of Revenue  
 101 West Jefferson  
 Springfield, Illinois 62794  
 Phone: (217) 782-7055

The full text of the adopted amendments begins on the next page:

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

PART 100  
INCOME TAX

## SUBPART A: TAX IMPOSED

## Section

- 100.2000 Introduction  
100.2050 Net Income (IITA Section 202)

## SUBPART B: CREDITS

## Section

- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))  
100.2101 Replacement Tax Investment Credit (IITA 201(e))  
100.2110 Investment Credit; Enterprise Zone (IITA 201(f))  
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))  
100.2130 Investment Credit; High Impact Business (IITA 201(h))  
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))  
100.2150 Training Expense Credit (IITA 201(j))  
100.2160 Research and Development Credit (IITA 201(k))  
100.2163 Environmental Remediation Credit (IITA 201(l))  
100.2165 Education Expense Credit (IITA 201(m))  
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)  
100.2180 Credit for Residential Real Property Taxes (IITA 208)  
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)  
| 100.2197 Foreign Tax Credit (IITA Section 601(b)(3))  
100.2198 Economic Development for a Growing Economy Credit (IITA 211)  
100.2199 Illinois Earned Income Tax Credit (IITA 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS  
OCCURRING PRIOR TO DECEMBER 31, 1986

## Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202)  
- Scope

## DEPARTMENT OF REVENUE

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- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Current Net Operating Losses; Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER  
DECEMBER 31, 1986

## Section

- 100.2300 Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986
- 100.2310 Computation of the Illinois Net Loss Deduction
- 100.2320 Determination of the Amount of Illinois Net Loss Carryovers
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring on or After December 31, 1986
- 100.2340 Illinois Net Loss Deductions of Corporations ~~that~~ ~~That~~ are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF  
INDIVIDUALS,  
CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

## Section

- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))

## DEPARTMENT OF REVENUE

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- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))

## SUBPART F: BASE INCOME OF INDIVIDUALS

## Section

- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

## SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

## Section

- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF  
BASE INCOME

## Section

- 100.3000 Terms Used in Article 3 (IITA Section 301)
- 100.3010 Business and Nonbusiness Income (IITA Section 301)
- 100.3020 Resident (IITA Section 301)

## SUBPART J: COMPENSATION PAID TO NONRESIDENTS

## Section

- 100.3100 Compensation (IITA Section 302)
- 100.3110 State (IITA Section 302)
- 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

## SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

## Section

- 100.3200 Taxability in Other State (IITA Section 303)
- 100.3210 Commercial Domicile (IITA Section 303)
- 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other than Residents (IITA Section 303)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENTS

## SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

## Section

- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
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APPENDIX A Business Income Of Persons Other Than Residents

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TABLE A Example of Unitary Business Apportionment

TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

**AUTHORITY:** Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

**SOURCE:** Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150

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days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective Aug 23, 2002.

## SUBPART B: CREDITS

**Section 100.2197 Foreign Tax Credit (IITA Section 601(b)(3))**

- a) IITA Section 601(b)(3) provides that *the aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by Section 201(a) and (b) of the Illinois Income Tax Act shall be credited against the tax imposed by Section 201(a) and (b) otherwise due under the Illinois Income Tax Act for such taxable year.*
- b) Definitions applicable to this Section.
- 1) Tax qualifying for the credit. A tax qualifies for the credit only if it is *imposed upon or measured by income* and is *paid by an Illinois resident* to another state *on income which is also subject to Illinois income tax.*
- A) A tax "imposed upon or measured by income" shall mean an income tax or tax on profits imposed by a state and deductible under IRC section 164(a)(3). Such term shall not include penalties or interest imposed with respect to the tax.
- B) A tax is "paid by an Illinois resident" to another state "on income which is also subject to Illinois income tax" only to the extent the income included in the tax base of the other state is also included in base income computed under IITA Section 203 during a period in which the taxpayer is an Illinois resident. Thus, for example, income tax paid to another state on retirement income excluded from base income under IITA Section 203(a)(2)(F) does not qualify for the credit, nor would income derived from a partnership or Subchapter S corporation whose tax year ends during a period in which the taxpayer is not an Illinois resident. See

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IRC section 706(a) and IRC section 1366(a)(1). If tax is paid to another state on income that is not included in base income or on income attributable to a period when the taxpayer was not a resident of Illinois, as well as on income that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois, the amount of tax qualifying for the credit shall be determined by multiplying the tax paid by a fraction equal to the income taxed by the other state that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois divided by the total tax base on which the other state's tax was computed.

- 2) For purposes of IITA Section 601(b)(3), "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any political subdivision of any of the foregoing. (IITA Section 1501(a)(22)) This definition is effective for tax years ending on or after December 31, 1989. The term "state" does not include foreign countries or any political subdivision of a foreign country.
- 3) "Resident" is defined at IITA Section 1501(a)(20) and in Section 100.3020 of this Part.
- 4) Base income subject to tax both by another state and by this State or "double-taxed income" means items of income minus items deducted or excluded in computing the tax for which credit is claimed, to the extent such items of income, deduction or exclusion are taken into account in the computation of base income under IITA Section 203 for the person claiming the credit. However, under IITA Section 601(b)(3), no compensation received by a resident which qualifies as compensation paid in this State as determined under IITA Section 304(a)(2)(B) shall be considered income subject to tax by another state or states.
  - A) Under IITA Section 203(a), base income of an individual is computed without allowing the standard deduction allowed in computing federal taxable income, and without allowing the exemptions provided in IITA Section 204. Double-taxed income is therefore computed without reduction for any standard deductions or exemptions allowed by the state.
  - B) An item of income is not included in double-taxed income to the extent it is excluded or deducted in computing the tax for which the credit is claimed. For example, State X allows a deduction or exclusion equal to 60% of long-term capital gains and for 100% of winnings from the State X lottery. Only 40% of long-term capital gains is subject to tax in that state. Similarly, an individual subject to the Washington, D.C. unincorporated business tax is allowed to deduct from taxable income a

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reasonable allowance for compensation for personal services rendered. This deduction is in fact an exclusion for the "personal income" of the individual, which Congress has forbidden Washington, D.C. to tax except in the case of residents. Accordingly, double-taxed income is net of this deduction.

- C) An item of income that is excluded, subtracted or deducted in the computation of base income under IITA Section 203 cannot be included in double-taxed income. For example, IITA Section 203(a)(2)(L) allows a subtraction for federally-taxed Social Security and Railroad Retirement benefits, while dividends received from a Subchapter S corporation are excluded from federal gross income and therefore from base income. Accordingly, even if another state taxes such benefits or dividends, these amounts are not included in double-taxed income.
- D) An item of expense is deducted or subtracted in computing double-taxed income only to the extent that item is deducted or subtracted in computing the tax base in the other state and in computing base income under IITA Section 203. For example, State Y allows deductions for federal itemized deductions and for individual federal income taxes paid. No deduction for federal income taxes is allowed in computing base income under IITA Section 203, and so that deduction is not taken into account in computing base income subject to tax in State Y. Also, IITA Section 203(a) generally does not allow a deduction for federal itemized deductions, and so federal itemized deductions are generally not taken into account in computing base income subject to tax in State Y. However, IITA Section 203(a)(2)(V) allows self-employed individuals a subtraction modification for health insurance premiums, which can be taken as an itemized deduction in computing federal taxable income. Accordingly, in the case of a self-employed individual eligible for the Illinois subtraction, any itemized deduction for health insurance premiums taken into account in computing the State Y tax base is also taken into account in computing double-taxed income.
- E) Compensation paid in Illinois under IITA Section 304(a)(2)(B), as further explained in Section 100.3120 of this Part, is not included in double-taxed income, even if another state taxes such compensation. For example, an Illinois resident whose base of operations is in Illinois, but whose employment requires him or her to work in Illinois and for a substantial period of time in State Z, must treat all compensation from such employment as paid in Illinois under IITA Section 304(a)(2)(B)(iii). None of that compensation may be included in double-taxed income, even if State Z actually taxes the compensation earned for periods during

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which the resident was working in State Z.

- F) Some states impose an alternative minimum tax similar to the tax imposed by IRC section 55, under which a taxpayer computes a regular taxable income and also computes an alternative minimum taxable income by reducing some exclusions or deductions, and eliminating other exclusions and deductions entirely. The taxpayer applies different rate structures to regular taxable income and to alternative minimum taxable income, and is liable for the higher of the two taxes so computed. An item of income included in a state's alternative minimum taxable income but not in the regular taxable income of that state is not included in base income subject to tax in that state unless the taxpayer is actually liable for alternative minimum tax in that state. For example, a state allows a 60% capital gains exclusion for regular tax purposes, but includes 100% of the capital gains in its alternative minimum taxable income. If a taxpayer incurs alternative minimum tax liability in that state, 100% of the capital gains is included in double-taxed income. If only regular tax liability is incurred, only 40% of capital gains is included in double-taxed income.
- G) Some states compute the tax liability of a nonresident by first computing the tax on all income of the nonresident from whatever source derived, and then multiplying the resulting amount by a percentage equal to in-state sources of income divided by total sources of income or by allowing a credit based on the percentage of total income from sources outside the state. Other states determine the tax base of a nonresident by computing the tax base as if the person were a resident and multiplying the result by the percentage equal to in-state sources of income divided by total sources of income. The use of either of these methods of computing tax does not mean that income from all sources is included in double-taxed income. See Comptroller of the Treasury v. Hickey, 114 Md. App. 388, 689 A.2d 1316 (1997); Chin v. Director, Division of Taxation, 14 N.J. Tax 304 (T.C. N.J. 1994). When a state uses either of these methods of computation, double-taxed income shall be the base income of the taxpayer from all sources subject to tax in that state, as computed in accordance with the rest of this subsection (b)(4), multiplied by the percentage of income from sources in that state, as computed under that state's law; provided, however, that no compensation paid in Illinois under IITA Section 304(a)(2)(B) shall be treated as income from sources in that state in computing such percentage.

EXAMPLE 1: Individual, an Illinois resident, has federal adjusted gross

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income of \$80,000 in Year 1, comprised of \$75,000 in wages, \$1,000 in taxable interest and \$4,000 in net rental income. Taxable interest includes \$200 in interest on federal government obligations and excludes \$500 in municipal bond interest. The rental income is from property in State X. Individual is subject to \$6,000 in federal income tax in Year 1.

Individual's Illinois base income is \$80,300: his \$80,000 in adjusted gross income, plus \$500 in municipal bond interest, minus \$200 in federal government obligation interest.

State X computes Individual's income subject to its tax by starting with the \$4,000 in net rental income included in his federal adjusted gross income, and requiring him to add back \$3,000 in depreciation allowed on his rental property under IRC Section 168 in excess of straight-line depreciation, and subtracting the portion of his federal income tax liability allocable to his State X income. State X also allows Individual an exemption of \$1,000.

Double-taxed income in this case is \$7,000: the \$4,000 in net rental income plus the \$3,000 addition modification for excess depreciation. The \$3,000 addition modification for excess depreciation is a deduction allowed by Illinois but not by State X, and only the amount of depreciation deductible in both states is taken into account. The subtraction for federal income tax and the exemption are not taken into account in computing base income under IITA Section 203(a), and therefore are not taken into account in computing double-taxed income.

EXAMPLE 2. Assume the same facts as in Example 1, except that State X requires Individual to compute income tax as if he were a resident of State X, and then multiply the result by a fraction equal to his federal adjusted gross income from State X sources divided by total federal adjusted gross income. Under this method, Individual has State X taxable income of \$76,300 (\$80,000 in federal adjusted gross income, plus \$500 in municipal bond interest and \$3,000 in excess depreciation, minus \$200 in federal government obligation interest, \$6,000 in federal income taxes, and the \$1,000 exemption). The fraction actually taxed by State X is 5% (the \$4,000 in rental income divided by \$80,000 in federal adjusted gross income).

Under subsection (b)(4)(G), double-taxed income is \$4,165, computed as follows. First, State X taxable income is computed using only those items of income and deduction taken into account by both State X and Illinois.

Accordingly, the \$6,000 in federal income taxes and the \$1,000 exemption are not taken into account. The State X taxable income so computed is \$83,300 (\$80,000 federal adjusted gross income plus \$3,000 in excess depreciation and \$500 in municipal bond interest minus \$200 in federal government obligation

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interest). Multiplying that amount by the 5% fraction used by State X yields double-taxed income of \$4,165.

EXAMPLE 3: Assume the same facts as in Example 2, except that State X deems \$10,000 of Individual's wages to be earned in State X. Under IITA Section 304(a)(2)(B)(iii), all of Individual's wages are considered "compensation paid in this State", even though Individual performs services in State X, because Individual's base of operations is in Illinois. Accordingly, Individual's State X taxable income is \$76,300, just as in Example 2, but his fraction allocated to State X is 17.5% (\$10,000 in wages plus \$4,000 in net rental income, the total divided by \$80,000 in federal adjusted gross income). Individual's double-taxed income is \$4,165, the same as in Example 2. Because compensation deemed "paid in this State" cannot be treated as double-taxed income, the State X fraction must be computed under subsection (b)(4)(G) without treating the \$10,000 in wages as allocable to State X.

- c) Amount of the credit. Subject to limitations described in subsection (d) of this Section, the amount of the credit for a taxable year is the *aggregate amount of tax paid by a resident for the taxable year.* (IITA Section 601(b)(3)) Because the credit is allowed for taxes paid for the taxable year, rather than for taxes paid in or during the taxable year:
- 1) The amount of tax withheld for another state, estimated payments made to that state and overpayments from prior years applied against the current liability to that state are not relevant to the computation of the credit.
  - 2) Any credit (including a credit for taxes paid to Illinois or another state, but not including a credit that is allowed for an actual payment of tax, such as a credit for income taxes withheld, for estimated taxes paid or for an overpayment of income tax in another taxable year) that is taken into account in determining the amount of tax actually paid or payable to another state shall reduce the amount of credit to which the taxpayer is entitled.
  - 3) Any increase or decrease in the amount of tax paid to another state for a taxable year, as the result of an audit, claim for refund, or other change, shall increase or decrease the amount of credit for that taxable year, not for the taxable year in which the increase or decrease is paid or credited.
- d) Limitations on the amount of credit allowed. *The aggregate credit allowed under IITA Section 601(b)(3) shall not exceed that amount which bears the same ratio to the tax imposed by IITA Section 201(a) and (b) otherwise due as the amount the taxpayer's base income subject to tax both by such other state or states and by this State bears to his total base income subject to tax by this State for the taxable year.* (IITA Section 601(b)(3)) The credit allowed under this Section is therefore the smaller of either the total amount of taxes paid to other states for the year or the

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- product of Illinois income tax otherwise due (before taking into account any Article 2 credit or the foreign tax credit allowed under IITA Section 601(b)(3)) multiplied by a fraction equal to the aggregate amount of the taxpayer's double-taxed income, divided by the taxpayer's Illinois base income.
- 1) In computing the aggregate amount of the taxpayer's double-taxed income, any item of income or deduction taken into account in more than one state shall be taken into account only once. For example, an individual subject to tax on his or her compensation by both State X and by a city in State X shall include the amount of such compensation only once in computing the aggregate amount of double-taxed income.
  - 2) Because base income subject to tax both in another state and in Illinois cannot exceed 100% of base income, the credit cannot exceed 100% of the tax otherwise due under IITA Section 201(a) and (b).
  - 3) No carryover of any amount in excess of this limitation is allowed by the IITA.
- e) Disallowance of credit for taxes deducted in computing base income. *The credit provided by IITA Section 601(b)(3) shall not be allowed if any creditable tax was deducted in determining base income for the taxable year. (IITA Section 601(b)(3)) A trust that has deducted the amount of a state tax imposed upon or measured by net income may include such tax in the computation of the credit allowed under this Section, but IITA Section 203(c)(2)(F) requires that trust to add back to its federal taxable income an amount equal to the tax deducted pursuant to section 164 of the Internal Revenue Code if the trust or estate is claiming the same tax for purposes of the Illinois foreign tax credit. The amount that must be added back for a taxable year shall be the amount of tax deducted for such year on the trust's federal income tax return. Because no similar provision is made for individuals, an individual who has deducted taxes paid to another state in computing his or her federal adjusted gross income may not claim a credit for such taxes on his or her Illinois tax return.*
- f) Credit for taxes paid on behalf of the taxpayer. An Illinois resident individual who is a shareholder or partner claiming a foreign tax credit for the shareholder's or partner's share of personal income taxes paid to a foreign state on his or her behalf by a Subchapter S corporation or a partnership, respectively, must attach to his or her Illinois return a written statement from the Subchapter S corporation or partnership containing the name and federal employee identification number of the Subchapter S corporation or partnership and clearly showing the paid amount of foreign tax attributable to the shareholder or partner, respectively. Additionally, the statement must include the shareholder's or partner's share of the Subchapter S corporation's or partnership's items of income, deduction and exclusion in sufficient detail to allow computation of the amount of base income subject to tax under subsection (b)(4) of this Section. Taxes imposed directly on the Subchapter S corporation or the partnership are not eligible for the credit.

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g) Documentation required to support claims for credit. Any person claiming the credit under IITA Section 601(b)(3) shall attach a statement in support thereof and shall notify the Director of any refund or reductions in the amount of tax claimed as a credit under IITA Section 601(b)(3) all in such manner and at such time as the Department shall by regulations prescribe. No credit shall be allowed under this Section for any tax paid to another state nor shall any item of income be included in base income subject to tax in that state except to the extent the amount of such tax and income is evidenced by the following documentation attached to the taxpayer's return (or, in the case of an electronically-filed return, to the taxpayer's Form IL-8453, Illinois Individual Income Tax Electronic Filing Declaration), amended return or claim for refund:

- 1) Unless otherwise provided in this subsection (g), a taxpayer claiming the credit must attach a copy of the tax return filed for taxes paid to the other state or states to the taxpayer's Illinois income tax return, Form IL-8453, amended return or claim for refund.
- 2) If the tax owed to the other state is satisfied by withholding of the tax from payments due to the taxpayer without the necessity of a return filing by the taxpayer, the taxpayer must attach a copy of the statement provided by the payor evidencing the amount of tax withheld and the amount of income subject to withholding.
- 3) A taxpayer claiming a credit for taxes paid by a Subchapter S corporation or partnership on the taxpayer's behalf must attach a copy of the statement provided to the taxpayer by the Subchapter S corporation or partnership pursuant to subsection (f) of this Section, showing the taxpayer's share of the taxes paid and the income of the taxpayer on which the taxes were paid.

(Source: Added at 26 Ill. Reg. 13237, effective Aug 23, 2002)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS  
OCCURRING PRIOR TO DECEMBER 31, 1986

**Section 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) -- Definitions**

Federal taxable income for Illinois income tax purposes and Federal NOL for Illinois income tax purposes mean:

- a) in the case of a corporation that files its own (unconsolidated) federal income tax return for the year, the amount of taxable income or NOL reflected on such return or if altered by IRS audit or amended return, as finally determined for federal

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- income tax purposes within the meaning of IITA Section 506(b) increased in any case by the amount of any net operating loss deduction (for carryback or carryforward of net operating losses from other years) actually reflected by the corporation on that federal return.
- b) in the case of a corporation that is a member of an affiliated group filing a consolidated federal income tax return for the year, the amount of taxable income or NOL which such corporation would have had it filed a separate return for federal income tax purposes for the taxable year and each preceding taxable year for which it was a member of an affiliated group, such calculation being made as if the elections of 26 USC U.S.C. 243(b)(2) and 172(b)(3)(C) had been in effect for all such years, the amount calculated hereunder being increased in any case by the amount of any net operating loss deduction (for carryback or carryforward of any net operating losses from other years) to which the corporation would otherwise be entitled under this subsection.
- c) in the case of the corporation that is not required to file a federal income tax return for the year, the equivalent federal taxable income which it computes under IITA Section 203(e)86 Ill. Adm. Code 100.3310; increased in any case by the amount of any net operating loss deduction (for carryback or carryforward of net operating losses from other years) to which the corporation would otherwise be entitled under that section.

(Source: Amended at 26 Ill. Reg. 13237, effective Aug 23, 2002)

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER  
DECEMBER 31, 1986

**Section 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership**

- a) Member entering the group from a separate return year. IITA Section 207 provides that the amount of Illinois net loss that is available as a carryback or carryover is determined after applying the allocation and apportionment provisions of Article 3. That Section does not limit the amount of Illinois net loss that may be carried into a given year. As a consequence, no such limitation shall apply.
- 1) Example 1:
- A) In 1986, Corporation A was not a member of a unitary business, and it reported a \$170 Illinois net loss on a separate return. The loss could not be carried back. Also in 1986, Corporation B and Corporation C constituted a unitary business group, and they reported Illinois net

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income. On January 1, 1987, B purchased the stock of A, and due to their operations A became part of the unitary business group with B and C. The following facts apply for 1987:

|                                   | <u>Corp. A</u> | <u>Corp. B</u> | <u>Corp. C</u> | <u>Combined</u> |
|-----------------------------------|----------------|----------------|----------------|-----------------|
| Base<br>Income                    |                |                |                | 1,000           |
| Business<br>Income                |                |                |                | 1,000           |
| Apportionment<br>Percentage       | 10%            | 15%            | 25%            | 50%             |
| Apportionment<br>Income           | 100            | 150            | 250            | 500             |
| Illinois<br>net loss<br>deduction | (170)          | ---            | ---            | (170)           |
| Illinois<br>net<br>income         | ---            | 150            | 250            | 330             |
| Loss<br>Carryover                 | (70)           |                |                |                 |

- B) If A, B, and C file separate returns using the combined apportionment method, A's \$170 Illinois net loss deduction will be applied against A's income for that year, and A will have a \$70 Illinois net loss carryover to 1988. B and C will report \$150 and \$250 of Illinois net income, respectively. If A, B, and C file a combined return, A's \$170 Illinois net loss deduction will be applied against the group's combined income, and the combined group will report \$330 of combined Illinois net income.
- 2) Example 2:
- A) Same facts as Example 1 except that in 1986 A reported Illinois net income instead of an Illinois net loss, and B and C reported Illinois net losses of \$200 and \$400, respectively, which could not be

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carried back. Consequently, the following facts apply for 1987:

|                                     | <u>Corp. A</u> | <u>Corp. B</u> | <u>Corp. C</u> | <u>Combined</u> |
|-------------------------------------|----------------|----------------|----------------|-----------------|
| Base<br>Income                      |                |                |                | 1,000           |
| Business<br>Income                  |                |                |                | 1,000           |
| Apportionment<br>Percentage         | 10%            | 15%            | 25%            | 50%             |
| Apportionment<br>Income             | 100            | 150            | 250            | 500             |
| Net loss<br>deduction               | ---            | (200)          | (400)          | (600)           |
| Illinois<br>net<br>income<br>(loss) | 100            | (50)           | (150)          | (100)           |
|                                     |                |                |                |                 |

- B) If A, B and C file separate returns in 1987, A will report \$100 of Illinois net income, and B and C will have Illinois net losses of \$50 and \$150, respectively. If A, B and C file a combined return in 1987, the group will have a combined net loss of \$100.
- b) Member leaving the group during a separate or combined return year. If a corporation ceases to be a member of a unitary business group during the year, regardless of whether it filed a separate or combined return, the amount of net loss attributable to that member for that portion of the tax year prior to leaving shall be determined in accordance with Section 100.5270(f)(2) ~~of this Part~~ ~~and 100.3320(f)~~.
- c) Carryover and Carryback of Combined Net Losses to Separate Return Years
- 1) This subsection applies to unitary members that have made an election to file a combined return under IITA Section 502(f). If a combined Illinois net loss (as defined in Section 100.5270(b)(3) of this Part) can be carried under the principles of Section 172(b) to a separate return year of a corporation (or could have been so carried if such corporation were in existence) which was a member of a unitary business group in the year in which such loss arose,

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then the portion of such combined Illinois net loss attributable to such corporation (as determined under subsection (c)(3) below) shall be assigned to such corporation and shall be an Illinois net loss carryover or carryback to such separate return year; accordingly, such portion shall not be included in the combined Illinois net loss carryovers or carrybacks to the equivalent combined return year. Thus, for example, if a member filed a separate return for the third year preceding a combined return year in which a combined Illinois net loss was sustained and if any portion of such loss is assigned to such member for such separate return year, such portion may not be carried back by the group to its third year preceding such combined return year.

- 2) Nonassignment to certain members not in existence. Notwithstanding subsection (c)(1) ~~above~~, the portion of a combined Illinois net loss attributable to a member shall not be assigned to a prior separate return year for which such member was not in existence and shall be included in the combined Illinois net loss carrybacks to the equivalent combined return year of the group (or, if such equivalent year is a separate return year, then to such separate return year), provided that such member was a member of the unitary business group immediately after its organization.
- 3) Portion of combined Illinois net loss attributable to a member. The portion of a combined Illinois net loss attributable to a member of a group is an amount equal to the combined Illinois net loss of the group multiplied by a fraction, the numerator of which is what would have been the separate Illinois net loss of such corporation had a combined return not been filed, and the denominator of which is the sum of what would have been the separate Illinois net losses of all members of the group in such year having such losses. The separate Illinois net loss of a member of the group shall be determined pursuant to Sections 100.2320 and 100.2340 above.
- 4) Examples. The provisions of this subsection (c) may be illustrated by the following examples:
  - A) Example 1:
    - i) In 1986, Corporations A and B were not members of a unitary business group and each filed separate Illinois returns. Both A and B reported net income in 1986 and prior years. On January 1, 1987, B purchased all the stock of A, and due to their operations A became part of the unitary business group with B. In 1987 A and B file a combined return and the following facts apply:

|             | <u>Corp. A</u> | <u>Corp. B</u> | <u>Combined</u> |
|-------------|----------------|----------------|-----------------|
| Base Income |                |                | (200)           |

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|                   |      |      |       |
|-------------------|------|------|-------|
|                   |      |      |       |
| Business Income   |      |      | (200) |
| Apport. %         | 10%  | 20%  | 30%   |
| Aport. Income     | (20) | (40) | (60)  |
| Illinois Net Loss | (20) | (40) | (60)  |

- ii) The portion of the 1987 \$60 combined Illinois net loss which will be attributable to A and B will be as follows:

|         |                        |
|---------|------------------------|
| Corp. A | $60 \times 20/60 = 20$ |
|         |                        |
| Corp. B | $60 \times 40/60 = 40$ |

- iii) It should be noted that where a combined net loss such as in this Example results entirely from a unitary business loss (i.e. there are no nonbusiness or separate apportionment partnership items of income or loss), and where there are no prior year losses being carried over (compare to Example 2), then each member's portion of the combined net loss can also be calculated by multiplying the combined business loss by each member's separate apportionment percentage (i.e. based on each member's factors in Illinois as compared to the group's combined factors everywhere). This is illustrated by the following calculations:

|         |                        |
|---------|------------------------|
| Corp. A | $200 \times 10\% = 20$ |
|         |                        |
| Corp. B | $200 \times 20\% =$    |

## B) Example 2:

- i) In 1986, Corporation A and Corporation B were not members of a unitary business group and each filed separate Illinois returns. A reported a \$100 Illinois net loss in 1986 and B reported net income. Corporation A's net loss could not be

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carried back because of losses in prior years. On January 1, 1987, B purchased all the stock of A, and due to their operations A became part of the unitary business group with B. In 1987 A and B file a combined return and the following facts apply:

|                                      | <u>Corp. A</u> | <u>Corp. B</u> | <u>Combined</u> |
|--------------------------------------|----------------|----------------|-----------------|
| Base Income                          |                |                | 200             |
| Business Income                      |                |                | 200             |
| <u>Apport. %</u><br><u>Apport. %</u> | 10%            | 20%            | 30%             |
| Apport. Income                       | 20             | 40             | 60              |
| Illinois Net Loss Deduction          | (100)          |                | (100)           |
| Illinois Net Income/Loss             | (80)           | 40             | (40)            |

- ii) If A and B file separate returns in 1988, the portion of the 1987 \$40 combined Illinois net loss which will be attributable to A and B in 1988 will be as follows:

|         |                          |
|---------|--------------------------|
| Corp. A | $40 \times 100/100 = 40$ |
|         |                          |
| Corp. B | $40 \times 0/100 = 0$    |

## C) Example 3:

- i) Corporation P was formed on January 1, 1986. P filed a separate return for the calendar year 1986. On March 15, 1987, P formed Corporation S. P and S filed a combined return for

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1987. On January 1, 1988, P purchased all the stock of Corporation T, which had been formed in 1987 and had filed a separate return for its taxable year ending December 31, 1987.

- ii) P, S, and T join in the filing of a combined return for 1988, which return reflects a combined Illinois net loss of \$11,000. \$2,000 of such combined net loss is attributable to P, \$3,000 to S, and \$6,000 to T. Such attribution of the combined net loss was made on the basis of the separate net losses of each member as determined under ~~paragraph (3) of this~~ subsection (c) (3).
- iii) \$5,000 of the 1988 combined Illinois net loss can be carried back to P's separate return for 1986. Such amount is the portion of the combined net loss attributable to P and S. Even though S was not in existence in 1986, the portion attributable to S can be carried back to P's separate return year, since S (unlike T) was a member of the group immediately after its organization. The 1988 combined net loss can be carried back against the group's income in 1987 except to the extent (i.e., \$6,000) that it is apportioned to T for its 1987 separate return year and to the extent that it was absorbed in P's 1986 separate return year. The portion of the 1988 combined net loss attributable to T (\$6,000) is a net loss carryback to its 1987 separate return.

## D) Example 4:

- i) Assume the same facts as in Example 3. Assume further that on June 15, 1989, P sells all the stock of T to an outsider, that P and S file a combined return for 1989 (which includes the income of T for the period January 1 through June 15), and that T files a separate return for the period June 16 through December 31, 1989.
- ii) The 1988 combined Illinois net loss, to the extent not absorbed in prior years, must first be carried to the short period ending June 15, 1989. Any portion of the \$6,000 amount attributable to T which is not absorbed in T's 1987 separate return year or in the short combined period ending June 15, 1989, shall then be carried to T's separate short return year ending December 31, 1989.

(Source: Amended at 26 Ill. Reg. 13237, effective Aug 23, 2002)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF  
BASE INCOME

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**Section 100.3010 Business and Nonbusiness Income (IITA Section 301)**

- a) In general. For purposes of administration of Article 3 of the Illinois Income Tax Act, business income is income arising from transactions and activity in the regular course of a trade or business, net of the deductions allocable thereto, and includes income from tangible and intangible property constituting integral parts of a person's regular trade or business operations. The term does not include compensation or the deductions allocable thereto (see Section 100.3110 of this Part). A person's income is business income unless clearly classifiable as nonbusiness income. Nonbusiness income means all income other than business income or compensation. The classification of income by the labels occasionally used, such as manufacturing income, sales income, interest, dividends, rents, royalties, gains, and operating income, is of no aid in determining whether income is business or nonbusiness income. Income of any type or class and from any source is business income if it arises from transactions and activity occurring in the regular course of trade or business operations. Accordingly, the critical element in determining whether income is "business income" or "nonbusiness income" is the identification of the transactions and activity which are the elements of a particular trade or business. In general, all transactions and activity which are dependent upon or contribute to the operations of the economic enterprise as a whole will be transactions and activity arising in the regular course of a trade or business. See Section 100.3010(d) of this Part for more specific examples of the classification of income as business or nonbusiness income.
- b) Two or more businesses of a single person
- 1) A person may have more than one "trade or business". In such cases, it is necessary to determine the business income attributable to each separate trade or business. In the case of a person other than a resident, the income of each business is then apportioned by a formula which takes into consideration the instate and outstate factors which relate to the trade or business the income of which is being apportioned.
  - 2) Example: The person is a corporation with three operating divisions. One division is engaged in manufacturing aerospace items for the federal government. Another division is engaged in growing tobacco products. The third division produces and distributes motion pictures for theaters and television. Each division operates independently; there is no strong central management. Each division operates in this state as well as in other states. In this case, it is fair to conclude that the corporation is engaged in three separate "trades or businesses". Accordingly, the amount of business income attributable to the corporation's trade or business activities in this state is

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determined by applying an apportionment formula to the business income of each business.

- 3) The determination of whether the activities of the person constitute a single trade or business or more than one trade or business will turn on the facts in each case. In general, the activities of the person will be considered a single business if there is evidence to indicate that the segments under consideration are integrated with, dependent upon, or contribute to each other and the operations of the person as a whole. The following factors are considered to be good indicia of a single trade or business, and the presence of any one of these factors creates a strong indication that the activities of the person constitute a single trade or business.
  - A) Same type of business. A person is generally engaged in a single trade or business when all of its activities are in the same general line. For example, a person which operates a chain of retail grocery stores will almost always be engaged in a single trade or business.
  - B) Steps in a vertical process. A person is almost always engaged in a single trade or business when its various divisions or segments are engaged in a vertically structured enterprise. For example, a person which explores for and mines copper ores; concentrates, smelts and refines the copper ores; and fabricates the refined copper into consumer products is engaged in a single trade or business, regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from the person's executive offices.
  - C) Strong centralized management. A person which might otherwise be considered as engaged in more than one trade or business is properly considered as engaged in one trade or business when there is a strong central management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing. Thus, some corporations may properly be considered as engaged in only one trade or business when the central executive officers are normally involved in the operations of the various divisions and there are centralized offices which perform for the divisions the normal matters which a truly independent business would perform for itself, such as accounting, personnel, insurance, legal, purchasing, advertising, or financing. Note in this connection that neither the existence of central management authority, nor the exercise of that authority over any particular function (through centralized departments or offices), is determinative in itself; the entire operations of the person must be examined in order to determine whether or not strong

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centralized management absent other unitary indicia as described above (i.e., same type of business or steps in a vertical process) justifies a conclusion that the activities of the person constitute a single trade or business. Both elements of strong centralized management, i.e., strong central management authority and the exercise of that authority through centralized departments or offices, must exist in order to justify a conclusion that the operations of seemingly separate divisions are significantly integrated so as to constitute a single trade or business.

## c) Unitary business

- 1) Defined. A trade or business carried on by more than one person is unitary in nature when the persons are related through common ownership and when the trade or business activities of each of the persons are integrated with, dependent upon, or contribute to the activities of one or more of the other persons. Common ownership, while necessary to the existence of a unitary business group, is not sufficient in itself to establish the existence of a unitary business group. The passive ownership of as much as 100% of related persons will not, in the absence of any other indicia of unitary operations, lead to a conclusion that the operations of the group are unitary in nature. The following factors are considered to be good indicia of a single trade or business, and the presence of any one of these factors creates a strong indication that the activities of the persons constitute a single trade or business.

- A) Same type of business. A trade or business carried on by more than one person is unitary in nature when all of the activities of the persons are in the same general line. For example, separately incorporated grocery stores will almost always be engaged in a unitary trade or business.
- B) Steps in a vertical process. A trade or business carried on by more than one person is unitary in nature when the various members are engaged in a vertically structured enterprise. For example, assuming that the common ownership requirement is met, a trade or business that involves the exploration and mining of copper ore by one of the related persons; the smelting and refining of the copper ores by another of the related persons; and, the fabrication of the refined copper into consumer products by another of the related persons, is unitary in nature regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from one of the persons.
- C) Strong centralized management. A group of persons which might otherwise be considered as engaged in more than one trade or

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business is properly considered as engaged in a unitary trade or business when there is strong central management, coupled with the existence of centralized offices for such functions as financing, advertising, research, or purchasing. Thus, some groups of persons may properly be considered as engaged in a unitary trade or business when the executive officers of one of the persons are normally involved in the operations of the other persons in the group and there are centralized units which perform for some or all of the persons, functions which truly independent persons would perform for themselves, such as accounting, personnel, insurance, legal, purchasing, advertising or financing. Note in this connection that neither the existence of central management authority, nor the exercise of that authority over the particular function (through centralized operations), is determinative in itself; the entire operations of the group must be examined in order to determine whether or not strong centralized management absent other unitary indicia as described above (i.e., same type of business or steps in a vertical process) justifies a conclusion that the activities of the persons constitute a unitary trade or business. A finding of "strong centralized management" cannot be supported merely by showing that the requisite ownership percentage exists or that there is some incidental economic benefit accruing to a group because such ownership improves its financial position. Both elements of strong centralized management, i.e., strong central management authority and the exercise of that authority through centralized operations, must exist in order to justify a conclusion that the operations of otherwise seemingly separate trades or businesses are significantly integrated so as to constitute a unitary business.

- 2) Common ownership. Common ownership in the case of a corporation is the direct or indirect ownership or control of more than 50% of the outstanding voting stock of the persons conducting a unitary trade or business.
- 3) Apportionment for a group of related persons carrying on a unitary business. See Section 100.5270-100.3320(b) of this Part.
- 4) Examples. The provisions of this paragraph may be illustrated by the following examples.
  - A) Example A: Sales corporation owns 51% of the outstanding voting stock in each of four subsidiaries, Refining Corporation, Drilling Corporation, Transport Corporation and Research Corporation. Sales Corporation markets and sells petroleum products in the United States and abroad. Nearly all of the petroleum products are obtained from Refining Corporation which acquires the crude oil from Drilling Corporation. Transport Corporation operates pipeline facilities and a

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large fleet of ocean going vessels used to transport the crude oil from Drilling Corporation's storage facilities to Refining Corporation's refineries. Research Corporation conducts research and development for both Sales and Refining Corporations. The five corporations are conducting a unitary business.

- B) Example B: Corporation A owns 60% of the outstanding voting stock in each of three corporations, B, C and D. Corporation B, in turn, owns 100% of the outstanding voting stock in Corporation E. Corporation A is primarily engaged in operating multi-line department stores in Illinois and other mid-western states. Corporation B operates a chain of department stores in the northwestern portion of the United States. B's stores sell only high quality, top grade consumer items. Corporation C operates a chain of discount stores throughout the southwestern portion of the United States. Corporation D is a finance company, handling all of the consumer credit and financing arrangements of purchases at the stores owned by Corporation's A, B and C. Corporation E is the purchasing agent for Corporations A and B and maintains warehouses for the stores' inventories. Corporation A provides management services for all of the other corporations and maintains overall control of the other corporations' budgetary and financial affairs. All of these corporations are engaged in the conduct of a unitary business.
- C) Example C: Same facts as Example B, except that Corporation A owns only 15% of the outstanding voting stock of Corporation C. While the activities of Corporation C contribute to and are related to the business activities of the other corporations, it cannot be included in the unitary group for combined apportionment purposes since the requisite ownership is lacking. However, any dividends or other income paid A which arises from A's ownership interest in C will be business income and included in the total combined unitary business income since the acquisition, management, and disposition of Corporation C's stock constitutes an integral part of the business activity conducted by A.
- D) Example D: Corporation K was incorporated in 1945 and thereafter was engaged primarily in activities connected with the manufacture and sale of canned goods. In 1960, K embarked upon a diversification campaign designed to insulate its profits from fluctuations in the demand for canned goods. 100% of the voting stock of Corporation L was acquired. Corporation L operated a chain of department stores throughout the United States. In 1961, K purchased 80% of the voting

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stock of Corporation M which was engaged primarily in the manufacture and sale of household goods. In 1962, K acquired 75% of the voting stock of Corporation N which developed and marketed computer software and programs. There was no significant flow of goods between any of the corporations. While these subsidiaries were relatively autonomous in their day-to-day operations, Corporation K's board of directors maintained overall management control of all of the acquired corporations. The subsidiaries were required to submit annual budgets to K's board for approval. Capital expenditures in excess of \$500,000 needed approval from K's board. All of the financing arrangements for the subsidiaries were made by or with the approval of K's management team which authorized and directed intercompany loans when feasible. Tax matters were supervised by K's Tax Department which prepared the subsidiaries' federal and state income tax returns. Corporation K also performed centralized warehousing and accounting functions for itself and its subsidiaries. A uniform system of inventory control for Corporation K and the subsidiaries was developed and managed by Corporation N. Due to the control that Corporation K exerted over the subsidiaries and the integration and interdependence occasioned by the centralization of various business functions, all of the corporations are engaged in a unitary business.

- E) Example E: Same facts as in Example D, except that, although Corporation K's board of directors and executive officers maintained overall management control of all of the acquired corporations with regard to major policy matters such as personnel and capital expenditures, there was insufficient integration because of the absence of such centralized operations as warehousing, purchasing, inventory control, or marketing strategy. Consequently, due to the absence of strong centralized management, the corporations were not engaged in the conduct of unitary business.
- F) Example F: Corporation A and subsidiaries B, C and D are engaged in the manufacture and sale of sophisticated computer equipment. A separate subsidiary, Corporation E, was organized to engage in the manufacture and sale of aluminum building products. The plant occupied by E was constructed by A and rented to E at a fair market rental. The products of A, B, C and D require highly advanced technology involving extensive research and development and a highly skilled technical sales force. The products of E require little technology and are marketed by a separate sales force. Due to the absence of a common centralized executive force and accounting system, the

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existence of separate systems of operation, and the lack of sufficient interdependence, the business operation of E is not considered part of the unitary business of A and the other subsidiaries.

- d) Items referred to in IITA Section 303 and unspecified items under IITA Section 301(c)(2)
- 1) In general. IITA Section 303 provides rules for the allocation by persons other than residents of Illinois of any item of capital gain or loss, and any item of income from rents or royalties from real or tangible personal property, interest, dividends, and patent or copyright royalties, and prizes awarded under the Illinois Lottery Law [20 ILCS 1605] together with any item of deduction directly allocable thereto, to the extent such item constitutes nonbusiness income. In addition, IITA Section 301(c)(2) provides rules for the allocation by such persons of unspecified items of nonbusiness income. Any item may, in a given case, constitute either business income or nonbusiness income depending on all the facts and circumstances. The following are rules and examples for determining whether particular income is business or nonbusiness income. (The examples used throughout these regulations are illustrative only and do not purport to set forth all pertinent facts.)
  - 2) Rents from real and tangible personal property. Rental income from real and tangible property is business income if the property with respect to which the rental income was received is used in the person's trade or business or is attendant thereto and therefore is includable in the property factor under Section 100.3350 of this Part.
    - A) Example A: A corporation operates a multistate car rental business. The income from car rentals is business income.
    - B) Example B: A corporation is engaged in the heavy construction business in which it uses equipment such as cranes, tractors, and earth moving vehicles. The corporation makes short-term leases of the equipment when particular pieces of equipment are not needed on any particular project. The rental income is business income.
    - C) Example C: A corporation operates a multistate chain of men's clothing stores. The corporation purchases a five-story office building for use in connection with its trade or business. It uses the street floor as one of its retail stores and the second and third floors for its general corporate headquarters. The remaining two floors are leased to others. The rental of the two floors is attendant to the operation of the corporation's trade or business. The rental income is business income.
    - D) Example D: A corporation operates a multistate chain of grocery stores. As an investment, it uses surplus funds to purchase an office

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building in another state, leasing the entire building to others. The rental is not attendant to, but rather is separate from, the operation of the grocery store trade or business. Therefore, the net rental income is nonbusiness income.

- E) Example E: A corporation operates a multistate chain of men's clothing stores. The corporation invests in a 20-story office building and uses the street floor as one of its retail stores and second floor for its general corporate headquarters. The remaining 18 floors are leased to others. The rental of the 18 floors is not attendant to, but rather is separate from, the operation of the corporation's trade or business. Therefore, the net rental income is nonbusiness income.
  - F) Example F: A corporation constructed a plant for use in its multistate manufacturing business and 20 years later the plant was closed and put up for sale. The plant was rented for a temporary period from the time it was closed by the corporation until it was sold 18 months later. The rental income is business income and the gain on the sale of the plant is business income.
- 3) Gains or losses from sales of assets. Gain or loss from the sale, exchange or other disposition of real or tangible personal property constitutes business income if the property, while owned by the person, was used in its trade or business. However, if such property was utilized for the production of nonbusiness income or otherwise was removed from the property factor before its sale, exchange or other disposition, the gain or loss will constitute nonbusiness income. See Section 100.3350 of this Part.
- A) Example A: In conducting its multistate manufacturing business, a corporation systematically replaces automobiles, machines, and other equipment used in the business. The gains or losses resulting from those sales constitute business income.
  - B) Example B: A corporation constructed a plant for use in its multistate manufacturing business and 20 years later sold the property at a gain while it was in operation by the corporation. The gain is business income.
  - C) Example C: Same as (d)(3)(B) except that the plant was closed and put up for sale but was not in fact sold until a buyer was found 18 months later. The gain is business income.
  - D) Example D: Same as (d)(3)(C) except that the plant was rented while being held for sale. The rental income is business income and the gain on the sale of the plant is business income.
- 4) Interest. Interest income is business income where the intangible with respect to which the interest was received, is held or was created in the regular

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course of the person's trade or business operations or where the purpose for acquiring or holding the intangible is related or attendant to such trade or business operations.

- A) Example A: A corporation operates a multistate chain of department stores, selling for cash and on credit. Service charges, interest, or time-price differentials and the like are received with respect to installment sales and revolving charge accounts. These amounts are business income.
  - B) Example B: A corporation conducts a multistate manufacturing business. During the year the taxpayer receives a federal income tax refund and collects a judgment against a debtor of the business. Both the tax refund and the judgment bore interest. The interest income is business income.
  - C) Example C: A corporation is engaged in a multistate manufacturing and wholesaling business. In connection with that business, the corporation maintains special accounts to cover such items as workmen's compensation claims, rain and storm damage, machinery replacement, etc. The moneys in those accounts are invested at interest. Similarly, the corporation temporarily invests funds intended for payment of federal, state and local tax obligations. The interest income is business income.
  - D) Example D: A corporation is engaged in a multistate money order and traveler's check business. In addition to the fees received in connection with the sale of the money orders and traveler's checks, the corporation earns interest income by the investment of the funds pending their redemption. The interest income is business income.
  - E) Example E: A corporation is engaged in a multistate manufacturing and selling business. The corporation usually has working capital and extra cash totaling \$200,000 which it regularly invests in short-term interest bearing securities. The interest income is business income.
- 5) Dividends. Dividends are business income where the stock with respect to which the dividends are received, is held or was acquired in the regular course of the person's trade or business operations or where the purpose for acquiring or holding the stock is related or attendant to such trade or business operations.
- A) Example A: A corporation operates a multistate chain of stock brokerage houses. During the year the corporation receives dividends on stock it owns. The dividends are business income.
  - B) Example B: A corporation is engaged in a multistate manufacturing and wholesaling business. In connection with that business the

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- corporation maintains special accounts to cover such items as workmen's compensation claims, etc. A portion of the moneys in those accounts is invested in interest-bearing bonds. The remainder is invested in various common stocks listed on national stock exchanges. Both the interest income and any dividends are business income.
- C) Example C: Several unrelated corporations own all of the stock of another corporation whose business operations consist solely of acquiring and processing materials for delivery to the corporate owners of its stock. The corporations acquired the stock in order to obtain a source of supply of materials used in their manufacturing businesses. The dividends are business income.
- D) Example D: A corporation is engaged in a multistate heavy construction business. Much of its construction work is performed for agencies of the federal government and various state governments. Under state and federal laws applicable to contracts for these agencies, a contractor must have adequate bonding capacity, as measured by the ratio of its current assets (cash and marketable securities) to current liabilities. In order to maintain an adequate bonding capacity the corporation holds various stocks and interest-bearing securities. Both the interest income and any dividends received are business income.
- E) Example E: A corporation receives dividends from the stock of its subsidiary or affiliate which acts as the marketing agency for products manufactured by the corporation. The dividends are business income.
- F) Example F: A corporation is engaged in a multistate glass manufacturing business. It also holds a portfolio of stock and interest-bearing securities, the acquisition and holding of which are unrelated to the corporation's trade or business operations. The dividends and interest income received are nonbusiness income.
- 6) Patent and copyright royalties. Patent and copyright royalties are business income where the patent or copyright with respect to which the royalties were received, is held or was created in the regular course of the person's trade or business operations or where the purpose for acquiring or holding the patent or copyright is related or attendant to such trade or business operations.
- A) Example A: A corporation is engaged in the multistate business of manufacturing and selling industrial chemicals. In connection with that business, the corporation obtained patents on certain of its products. The corporation licensed the production of the chemicals in foreign countries, in return for which the corporation receives royalties. The

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- royalties received by the taxpayer are business income.
- B) Example B: A corporation is engaged in the music publishing business and holds copyrights on numerous songs. The corporation acquired the assets of a smaller publishing company, including music copyrights. These acquired copyrights are thereafter used by the corporation in its business. Any royalties received on these copyrights are business income.
- C) Example C: Same as example (B), except that the acquired company also held the patent on a type of phonograph needle. The corporation does not manufacture or sell phonographs or phonograph equipment and the holding of the patent is unrelated to its publishing business operations. Any royalties received on the patent would be nonbusiness income.
- e) Proration of deductions
- 1) Most of a person's allowable deductions will be attributable only to the business income arising from a particular trade or business or to a particular item of nonbusiness income. In some cases an allowable deduction may be attributable to the business income of more than one trade or business and/or to several items of nonbusiness income.
  - 2) In such cases the deduction shall be prorated among such trades or businesses and such items of nonbusiness income in a manner which fairly distributes the deduction among the classes of income to which it is attributable. In filing returns with this state, if a person departs from or modifies the manner of prorating any such deduction used in returns for prior years, the taxpayer should disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by a person with all states to which the taxpayer reports under Article IV of the Multistate Tax Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the attribution or proration of any deduction, the person shall disclose in its return to this state the nature and extent of the variance.
- f) Definitions
- 1) The term "allocation" refers to the assignment of nonbusiness income to a particular state.
  - 2) The term "apportionment" refers to the division of business income between states by the use of a formula containing apportionment factors.
  - 3) The term "business activity" refers to the transactions and activity occurring in the regular course of a particular trade or business.
  - 4) The term "person" under IITA Section 1501(a)(18) shall be construed to mean and include an individual, trust, estate, partnership, association, firm,

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- company, corporation or fiduciary.
- 5) The term "taxpayer" is defined in IITA Section 1501(a)(24) to mean any person subject to the tax imposed by the Act.
  - 6) For a definition of the term "commercial domicile", see Section 100.3210 of this Part.
  - 7) For a definition of the term "resident", see Section 100.3020 of this Part.
  - 8) For a definition of the term "state", see Section 100.3110 of this Part.
  - 9) For a definition of the term "taxable in another state", see Section 100.3200 of this Part.

(Source: Amended at 26 Ill. Reg. 13237, effective Aug 23, 2002)

## SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

**Section 100.3320 Business Income of Persons Other Than Residents(IITA Section 304) --  
Apportionment (Repealed)**

- ~~a) In general. If the business activity in respect to any trade or business of a person occurs both within and without this state, and if by reason of such business activity such person is taxable in another state, the portion of the net income arising from such trade or business which is derived from sources within Illinois shall be determined by apportionment in accordance with these regulations.~~
- ~~b) Unitary business apportionment.
  - 1) Where two or more persons are engaged in a unitary business(see 86Ill. Adm. Code 100.3010(e)), a part of which is conducted in Illinois by one or more members of the group, the business income attributable to Illinois by any such member or members as may be subject to the taxing jurisdiction of this state shall be apportioned by multiplying the group's unitary business income by the average of the property, payroll and sales factors. These factors are determined by dividing the Illinois property, payroll and sales figures for each person filing an Illinois return by the total property, payroll and sales figures of all the members of the unitary group. The property, payroll and sales factors are to be determined in accordance with the rules described in 86 Ill. Adm. Code 100.3350, 100.3360 and 100.3370, respectively. (But see paragraph (5) below.)The Department may require the submission of supporting schedules in columnar form to support the computations required under this paragraph.
  - 2) For an example see Appendix A, Table A.~~
- ~~c) Unitary business group; members having different accounting periods. Utilization of the combined method of apportionment will ordinarily require that unitary~~

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- ~~income be determined generally on the same accounting period for all members. Where the members' accounting periods differ, the parent's accounting period will be utilized. Where there is no common parent, the income of the group's members shall be determined generally on the basis of the accounting period of the member filing an Illinois return who is expected to have, on a recurring basis, the greater (or greatest) liability for Illinois income tax. In complying with this requirement, any particular member, in determining the proper income to be included in the appropriate accounting period, may reflect income and related deductions as may (or may not) be allocable to Illinois in accordance with the actual book or accounting entries for the relevant period. On the other hand, the member may determine income based on the number of months falling within the required common accounting period. For example, if one member utilizes a calendar year, and the common accounting period ends October 31, 1981, the member will include 2/12 of the income for the year ended December 31, 1980, and 10/12 of the income for the year ended December 31, 1981. Estimates may be necessary where this proration method involves a member's year which ends subsequent to the common accounting period.~~
- ~~d) Unitary business income; eliminations; intercompany transactions. Elimination of income and deduction items arising from transactions between members of the group must be done whenever necessary to avoid distortion of the group's income, the denominators used by all members of the group in calculating apportionment factors, or the numerators used by any particular member of the group in calculating its apportionment factors.~~
- ~~e) Unitary business income apportionment; factors; insurance companies; financial organizations; transportation companies; adjustments.~~
- ~~1) There may be instances where a unitary group of corporations includes one or more insurance companies (see HTA Section 304(b)), financial organizations (see HTA Sections 304(c) and 1501(a)(8)), or transportation companies (see HTA Section 304(d)), as well as members generally entitled to utilize, in apportioning business income, the three factor formula of property, payroll and sales specified in HTA Section 304(a). It will be necessary, in accounting for the income producing factors of insurance companies, financial organizations, or transportation companies, to reflect in the combined apportionment method utilized by the group the apportionment factors specified for such companies in HTA Sections 304(b), (c), or (d), respectively. The reflection, for Illinois combined method purposes, will be to require the computation of the regular single factor formula for such companies and adjust the combined denominator of the sales factor for the three factor members of the group. In addition, it will be necessary to reflect, in the payroll and property factors of the three factor~~

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~~members of the group, the payroll and property of the single factor members.~~

~~2) For an example see Appendix A, Table B.~~

~~f) Unitary business group: changes in membership and the treatment of part year members.~~

~~1) Scope. Whenever the membership of a unitary business group (as defined in IITA Section 1501(a)(28) as amended by Public Act 82-1029 applicable to all taxable years ending on or after December 13, 1982; and as defined previously by 86 Ill. Adm. Code 100.3010) is altered during the common accounting period for combined apportionment computation (see paragraph 3 of subsection (b) of this section), the members of the group must compute their liabilities in accordance with this paragraph (6). A unitary business group's membership may be altered by the entry of a new member or by the departure of an old member, such entry or departure ordinarily resulting from stock transactions which create or destroy the common ownership relative to the corporation entering or leaving the group.~~

~~2) General rule. If a corporation becomes a member of a group during the group's common accounting period or loses its status as a member during the group's common accounting period, then other members of the group, in computing their liabilities, must take into account the property, payroll, sales and income data of the part year member for the portion of the common accounting period that it was a member of the group. Likewise, the corporation which is a part year member of a group must make a dual computation to arrive at its liability:~~

~~A) its business income attributable to the portion of its year that it was a member of a group must be combined with the business income which other members of the group had for that same part year and must be apportioned to Illinois on a combined apportionment basis, and~~

~~B) its business income attributable to the portion of its year in which it was not a member of a group must be apportioned to Illinois on the basis of its own Illinois property, payroll, and sales for that part year as respective fractions of its own total property, payroll, and sales for that part year.~~

~~3) Examples. In each of the examples that follow, Corporation A is engaged in a unitary business with its wholly owned subsidiaries, Corporations B and C, and the group's common accounting period is the calendar year.~~

~~A) EXAMPLE 1: On June 1, 1984, Corporation A acquired shares of stock in Corporation D in sufficient number to raise its ownership interest in Corporation D to more than 50%. After the acquisition, Corporation D is a member of the same unitary business group under Section~~

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~~1501(a)(28) as Corporations A, B and C. In computing its liability for 1984, Corporation D must compute business income apportionable to Illinois for each of the two part years, January 1 through May 31, 1984 and June 1 through December 31, 1984. To do this, it shall take the following steps:~~

- ~~i) Calculate its total business income for the year in the usual manner, starting with federal taxable income (or equivalent), making addition and subtraction modifications, netting out nonbusiness income and partnership income;~~
- ~~ii) Divide the total business income to Step (i) between the two part years either on a proration or financial accounting basis(see subparagraph (D));~~
- ~~iii) Ascertain its total payroll, total sales, and average total property for the year;~~
- ~~iv) Divide its total payroll and total sales of Step (iii) between the two part years using either the proration or financial accounting method whichever was used to divide its business income in Step (ii);~~
- ~~v) Ascertain the average total property for each of the two part years: when the average total property figures computed in this step for the two part years are themselves averaged together on a weighted basis according to the number of months in each part year, the result should be the average total property for the year determined under Step (iii) above;~~
- ~~vi) Ascertain its payroll and sales for Illinois and average Illinois property for the entire taxable year and for each of the two part years, the division between the two part years being consistent in method with the division of business income in Step (ii) above and the division between the part years of the "total" property, payroll, and sales figures in Steps (iv) and (v) above;~~
- ~~vii) Apportion its business income for the January 1 through May 31 part year, computed under Step (ii), above, by respectively dividing Illinois payroll, Illinois sales, and average Illinois property for that part year as determined under Step (vi) above by the total payroll, total sales, and average total payroll for that part year as determined under Steps (iv) and (v) above, averaging the results of these division, and multiplying the average by its business income for the January 1 through May 31 part year.~~

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- ~~viii) Combine its business income for the June 1 through December 31 part year, computed under Step (ii) above, with a comparable figure for Corporations A, B and C for the June 1 through December 31, part year.~~
- ~~NOTE: The business incomes of Corporations A, B and C for the June 1 through December 31 part year must be computed on the same basis — proration or financial accounting — employed by Corporation D in Steps (ii), (iv) and (vi) above.~~
- ~~ix) Combined its total payroll, total sales, and total average property for the June 1 through December 31 part year with comparable figures for Corporations A, B and C for the June 1 through December 31 part year.~~
- ~~NOTE: The total payroll, total sales, and total average property of Corporations A, B and C for the June 1 through December 31 part year must also be computed on the same basis — proration or financial accounting — employed by Corporation D in Steps (ii), (iv) and (vi) above.~~
- ~~x) Taking the combined business income for the part year June 1 through December 31 as computed under Step (viii) above, determine Corporation D's apportionable share by respectively dividing the Illinois payroll, Illinois sales, and average Illinois property of Corporation D for the part year, calculated under Step (vi) above, by the combined total payroll, the combined total sales, and the combined total average property for that part year of Corporations A, B, C and D, averaging the results of these divisions, and multiplying the average by the combined business income for the June 1 through December 31 part year determined under Step (viii).~~
- ~~xi) Add the business income apportionable to Illinois for Corporation D for the January 1 through May 31 part year computed under Step (vii) to the business income apportionable to Illinois for Corporation B for the June 1 through December 31 part year computed under Step (x).~~
- ~~B) EXAMPLE 2: The facts are all the same as in Example (1), except in this Example Corporation A acquires its shares of stock in Corporation D from Corporation E. Prior to the acquisition, Corporation D had been under common ownership with and a member of the same unitary business group as Corporations E, F and G, none of which were under common ownership with Corporations A, B or C. As in Example (1), in computing its Illinois income tax liability for 1984, Corporation D~~

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~~will have to compute business income apportionable to Illinois for the January 1 through May 31 part year and business income apportionable to Illinois for the June 1 through December 31 part year. It will do this by following the same general procedures outlined in the 11 steps for Example (1). Of course, for the January 1 through May 31 part year, the business income that will be apportioned will be the combined business income of Corporations D, E, F and G, while for the part year June 1 through December 31, the business income that is apportioned will be the combined business income of Corporations A, B, C and D. Likewise, for the part year January 1 through May 31, the denominators of the property, payroll and sales factor will be composed of combined totals for the part year of Corporations D, E, F and G, while for the part year June 1 through December 31 the denominators of the property, payroll, and sales factors will be composed of the combined totals for that part year of Corporations A, B, C and D.~~

- ~~4) Accounting. A corporation which is a part year member of a group (or which is a member of one group for part of the year and a second group for the remainder of the year) may attribute business income to the different portions of its taxable year by prorating its business income for the entire taxable year on the basis of the number of months falling within the respective periods: For instance, in the examples of subparagraph (B), Corporation D could attribute 5/12ths of its total business income for 1984 to the period January 1 through May 31, 1984 and 7/12ths to the period June 1 through December 31, 1984. Alternatively, a corporation that is a member of a unitary business group for part of the year or a corporation that is a member of two different groups during its taxable year may divide its business income for the taxable year into revenue and expense elements and allocate those elements between the respective periods on the basis of generally accepted accounting principles applied as though those periods were separate and distinct for financial reporting purposes. However, the part year member divides its business income between the respective portions of its taxable year, all other corporations with which it is related for combined apportionment purposes for the taxable year shall be required, in computing their liabilities, to use the same method in accounting for the respective portions of the taxable year.~~

~~EXAMPLE: Assume all the same facts existed in Example (2) of subparagraph (C). Corporation D is in the retail business and 50% of its business income was actually generated by sales occurring during December 1984. In computing its liability for 1984, Corporation D elects to prorate its business income between the January 1 through May 31 portion of its taxable~~

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~~year and the June 1 through December 31 portion of its taxable year on the number of months basis, meaning that approximately 42% of its business income was combined with the business incomes for 1984 of Corporations E, F and G while approximately 58% of its business income was combined with the business incomes for 1984 of Corporations A, B and C. Corporations E, F and G are not free to compute their liabilities for 1984 premised on financial accounting allocation of the business income of Corporation D showing 50% of Corporation D's business income attributable to the month of December 1984. Corporations E, F and G are required to compute their liabilities for 1984 premised on the same 42/58 percent division of Corporation D's business income as Corporation D used to compute its own liability.~~

- ~~5) Eliminations: intercompany transactions. There may be instances where elimination of income and deduction items arising from transactions between members of the group must be made in order to avoid distortion of the group's income. Such eliminations as may be appropriate will be determined upon the same basis as that utilized in the computation for the division of business income illustrated in Step (ii) of Example (1) in subparagraph (C) — either the proration or financial accounting method. Thus, in the circumstances described in the example in subparagraph (D), any such eliminations would be determined on the basis of the proration method.~~
- ~~6) Application of the U.S. business activity 80-20 test to prospective part year members. The test prescribed by Section 1501(a)(28) of the Act for membership in a unitary business group that the prospective member must have more than 20% of its business activity in the United States should be applied only to that part of the year for which the prospective member otherwise qualifies for membership in the unitary business group.~~

~~EXAMPLE: On June 1, 1974, Corporation X, a calendar year corporation, acquires shares of stock in Corporation Y, also a calendar year corporation, in sufficient numbers to raise its ownership interest in Corporation Y to more than 50%. Corporation X is a member of a unitary group for 1984 including Corporations U, V and W. In order for Corporation Y to be a member of that same group for the part year June 1 1984 to December 31, 1984, it must have more than 20% of its business activity for that part year, measured by its property and payroll for that part year, inside the United States.~~

(Source: Repealed at 26 Ill. Reg. 13237, effective Aug 23, 2002)

**Section 100.3350 Property Factor (ITA Section 304)**

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- a) In general. The property factor of the apportionment formula for each trade or business of a person shall include all real and tangible personal property owned or rented by such person and used during the tax period in the regular course of such trade or business. The term "real and tangible personal property" includes land, building, machinery, stocks of goods, equipment, and other real and tangible personal property but does not include coin or currency. Property used in connection with the production of nonbusiness income shall be excluded from the property factor. Property used both in the regular course of a person's trade or business and in the production of nonbusiness income shall be included in the factor only to the extent the property is used in the regular course of the person's trade or business. The method of determining that portion of the value to be included in the factor will depend on the facts of each case. The property factor shall include the average value of property includable in the factor. See subsection (g), below.
- b) Property used for the production of business income. Property shall be included in the property factor if it is actually used or is available for or capable of being used during the tax period in the regular course of the trade or business of the person. Property held as reserves or standby facilities or property held as a reserve source of materials shall be included in the factor. For example, a plant temporarily idle or raw material reserves not currently being processed are includable in the factor. Property or equipment under construction during the tax period (except inventoriable goods in process), shall be excluded from the factor until such property is actually used in the regular course of the trade or business of the person. If the property is partially used in the regular course of the trade or business of the person while under construction, the value of the property to the extent used shall be included in the property factor. Property used in the regular course of the trade or business of the person shall remain in the property factor until its permanent withdrawal is established by an identifiable event such as its conversion to the production of nonbusiness income, its sale, or the lapse of an extended period of time (normally five years) during which the property is held for sale.
- 1) Example 1: Corporation A closed its manufacturing plant in State X and held such property for sale. The property remained vacant until its sale one year later. The value of the manufacturing plant is included in the property factor until the plant is sold.
  - 2) Example 2: Same as above except that the property was rented until the plant was sold. The plant is included in the property factor until the plant is sold.
  - 3) Example 3: Corporation A operates a chain of retail grocery stores. The corporation closed Store A, which was then remodeled into three small retail stores, such as a dress shop, dry cleaning, and barber shop, which were

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leased to unrelated parties. The property is removed from the property factor on the date the remodeling of Store A commenced.

- c) Consistency in reporting. In filing returns with this State, if a person departs from or modifies the manner of valuing property, or of excluding or including property in the property factor used in returns for prior years, the person shall disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by the person with all states to which the person reports under Article IV of the Multistate Tax Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the valuation of property and in the exclusion or inclusion of property in the property factor, the person shall disclose in its return to this State the nature and extent of the variance.
- d) Numerator. The numerator of the property factor shall include the average value of the real and tangible personal property owned or rented by the person and used in this State during the tax period in the regular course of the trade or business of the person. Property in transit between locations of the person to which it belongs shall be considered to be at the destination for purposes of the property factor. Property in transit between a buyer and seller which is included by a person in the denominator of its property factor in accordance with its regular accounting practices shall be included in the numerator according to the state of destination. The value of mobile or movable property such as construction equipment, trucks or leased electronic equipment which are located within and without this State during the tax period, shall be determined for purposes of the numerator of the factor on the basis of total time within the State during the tax period. An automobile assigned to a traveling employee shall be included in the numerator of the factor of the state to which the employee's compensation is assigned under the payroll factor or in the numerator of the state in which the automobile is licensed.
- e) Valuation of owned property. Property owned by the person shall be valued at its original cost. As a general rule "original cost" is the basis of property for federal income tax purposes at the time of acquisition and will not reflect any federal adjustments thereafter for deductions for depreciation, depletion, amortization and the like.
  - 1) In addition, however, the valuation will include the original cost, at acquisition, of any capital improvement as well as partial dispositions of any portion by reason of sale, exchange, abandonment, etc.
  - 2) However, capitalized intangible drilling and development costs shall be included in the property factor whether or not they have been expensed for either federal or state tax purposes. Intangible drilling and development costs include such elements as wages, fuel, repairs, hauling, draining, roadbuilding, surveying, geological works, construction of derricks, tanks, pipelines, and other physical structures necessary for the drilling of wells and their

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preparation for the production of oil and gas, and supplies incident to and necessary for the drilling of wells and clearing of ground.

- 3) Example 1: Corporation W acquired a factory building in this State at a cost of \$500,000 and 18 months later expended \$100,000 for major remodeling of the building. The corporation files its return for the current taxable year on the calendar-year basis. Depreciation deduction in the amount of \$22,000 was claimed on the building for its return for the current taxable year. The value of the building includable in the numerator and denominator of the property factor is \$600,000 as the depreciation deduction is not taken into account in determining the value of the building for purposes of the factor.
- 4) Example 2: During the current taxable year, X Corporation merges into Y Corporation in a tax-free reorganization under the Internal Revenue Code. At the time of the merger, X Corporation owns a factory which X built five years earlier at a cost of \$1,000,000. X has been depreciating the factory at the rate of two percent per year, and its basis in X's hands at the time of the merger is \$900,000. Since the property is acquired by Y in a transaction in which, under the Internal Revenue Code, its basis in Y's hands is the same as its basis in X's, Y includes the property in Y's property factor at X's original cost, without adjustment for depreciation, i.e., \$1,000,000.
- 5) Example 3: Corporation Y acquires the assets of Corporation X in a liquidation by which Y is entitled to use its stock cost as the basis of the X assets under 26 U.S.C. Section 334(b)(2) (i.e. stock possessing 80 percent control is purchased and liquidated within two years). Under these circumstances, Y's cost of the assets is the purchase price of the X stock, prorated over the X assets.
  - A) If original cost of property is unascertainable, the property is included in the factor at its fair market value as of the date of acquisition by the person.
  - B) Inventory or stock of goods shall be included in the factor in accordance with the valuation method used for federal income tax purposes.
  - C) Property acquired by gift or inheritance shall be included in the factor at its basis for determining depreciation for federal income tax purposes.
- f) Valuation of rented property.
  - 1) Property rented by the person is valued at eight times the net annual rental rate. The net annual rental rate for any item of rented property is the annual rental rate paid by the person for such property, less the aggregate annual subrental rates paid by subtenants of the person. (See Section 100.3380(a) for special rules where the use of such net annual rental rate produces a negative or

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clearly inaccurate value or where property is used by the person at no charge or rented at a nominal rental rate.) Subrents are not deducted when the subrents constitute business income because the property which produces the subrents is used in the regular course of a trade or business of the person when it is producing such income. Accordingly there is no reduction in its value.

- A) Example A: Corporation A receives subrents from a bakery concession in a food market operated by it. Since the subrents are business income they are not deducted from the rent paid by Corporation A for the food market.
  - B) Example B: Corporation B rents a 5-story office building primarily for use in its multistate business, uses three floors for its offices and subleases two floors to various other businesses and persons such as professional people, shops and the like. The rental of the two floors is attendant to the operation of the corporation's trade or business. Since the subrents are business income they are not deducted from the rent paid by the corporation.
  - C) Example C: Corporation C rents a 20-story office building and uses the lower two stories for its general corporation headquarters. The remaining 18 floors are subleased to others. The rental of the eighteen floors is not attendant to but rather is separate from the operation of the corporation's trade or business. Since the subrents are nonbusiness income they are to be deducted from the rent paid by the corporation.
- 2) "Annual rental rate" is the amount paid as rental for property for a 12-month period (i.e., the amount of the annual rent). Where property is rented for less than a 12-month period, the rent paid for the actual period of rental shall constitute the "annual rental rate" for the tax period. However, where a corporation has rented property for a term of 12 or more months and the current tax period covers a period of less than 12 months (due, for example, to a reorganization or change of accounting period), the rent paid for the short tax period shall be annualized. If the rental term is for less than 12 months, the rent shall not be annualized beyond its term. Rent shall not be annualized because of the uncertain duration when the rental term is on a month to month basis.
- A) Example A: Corporation A which ordinarily files its returns based on a calendar year is merged into Corporation B on April 30. The net rent paid under a lease with 5 years remaining is \$2,500 a month. The rent for the tax period January 1 to April 30 is \$10,000. After the rent is annualized the net rent is \$30,000 (\$2,500 X 12).
  - B) Example B: Same facts as in Example A except that the lease would

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have terminated August 31. In this case the annualized net rent is \$20,000 (\$2,500 X 8).

- 3) "Annual rent" is the actual sum of money or other consideration payable, directly or indirectly, by the person or for its benefit for the use of the property and includes:
- A) Any amount payable for the use of real or tangible personal property, or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise.  
Example: A corporation pursuant to the terms of a lease, pays a lessor \$1,000 per month as a base rental and at the end of the year pays the lessor one percent of its gross sales of \$400,000. The annual rent is \$16,000 (\$12,000 plus one percent of \$400,000 or \$4,000).
  - B) Any amount payable as additional rent or in lieu of rents, such as interest, taxes, insurance, repairs or any other items which are required to be paid by the terms of the lease or other arrangement, not including amounts paid as service charges, such as utilities, janitor services, etc. If a payment includes rent and other charges unsegregated, the amount of rent shall be determined by consideration of the relative values of the rent and the other items.
    - i) Example i: A corporation, pursuant to the terms of a lease, pays the lessor \$12,000 a year rent plus taxes in the amount of \$2,000 and interest on a mortgage in the amount of \$1,000. The annual rent is \$15,000.
    - ii) Example ii: A corporation stores part of its inventory in a public warehouse. The total charge for the year was \$1,000 of which \$700 was for the use of storage space and \$300 for inventory insurance, handling and shipping charges, and C.O.D. collections. The annual rent is \$700.
  - C) "Annual rent" includes royalties based on extraction of natural resources, whether represented by delivery or purchase. For this purpose, a royalty includes any consideration conveyed or credited to a holder of an interest in property that constitutes a sharing of current or future production of natural resources from such property, irrespective of the method of payment or how such consideration may be characterized, whether as a royalty, advance royalty, rental or otherwise. "Annual rent" does not include incidental day-to-day expenses such as hotel or motel accommodations, daily rental of automobiles, etc.
- 4) Leasehold improvements shall, for the purposes of the property factor, be treated as property owned by the person regardless of whether the person is entitled to remove the improvements or the improvements revert to the

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lessor upon expiration of the lease. Hence, the original cost of leasehold improvements shall be included in the factor.

## g) Averaging property values

- 1) As a general rule the average value of property owned by the person shall be determined by averaging the values at the beginning and ending of the tax period. However, the Director may require or allow averaging by monthly values if such method of averaging is required to properly reflect the average value of the person's property for the tax period. Averaging by monthly values will generally be applied if substantial fluctuations in the values of the property exist during the tax period or where property is acquired after the beginning of the tax period or disposed of before the end of the tax period.
- 2) Example: The monthly value of the person's property was as follows:

|          |          |           |           |
|----------|----------|-----------|-----------|
| January  | \$ 2,000 | July      | \$ 15,000 |
| February | 2,000    | August    | 17,000    |
| March    | 3,000    | September | 23,000    |
| April    | 3,500    | October   | 25,000    |
| May      | 4,500    | November  | 13,000    |
| June     | 10,000   | December  | 2,000     |
|          |          | TOTAL     | \$120,000 |

- A) The average value of the person's property includable in the property factor for the taxable year is determined as follows: \$120,000 divided by 12 = \$10,000
- B) Averaging with respect to rented property is achieved automatically by the method of determining the net annual rental rate of such property as set forth in subsection(e) above.

(Source: Amended at 26 Ill. Reg. 13237, effective Aug 23, 2002)

**Section 100.3370 Sales Factor (IITA Section 304)**

## a) In general.

- 1) IITA Section 1501(a)(22) defines the term "sales" to mean all gross receipts of the person not allocated under IITA Sections 301, 302 and 303. Thus, for the purposes of the sales factor of the apportionment formula for each trade or business of the person, the term "sales" means all gross receipts derived by the person from transactions and activity in the regular course of such trade or business. The following are rules for determining "sales" in various situations:

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- A) In the case of a person engaged in manufacturing and selling or purchasing and reselling goods or products, "sales" includes all gross receipts from the sales of such goods or products (or other property of a kind which would properly be included in the inventory of the person if on hand at the close of the tax period) held by the person primarily for sale to customers in the ordinary course of its trade or business. Gross receipts for this purpose means gross sales less returns and allowances, and includes all interest income, service charges, carrying charges, or time-price differential charges attendant to such sales. Federal and state excise taxes (including sales taxes) shall be included as part of such receipts if such taxes are passed on to the buyer or included as part of the selling price of the product.
  - B) In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, "sales" includes the entire reimbursed cost, plus the fee.
  - C) In the case of a person engaged in providing services, such as the operation of an advertising agency, or the performance of equipment service contracts, or research and development contracts, "sales" includes the gross receipts from the performance of such services including fees, commissions, and similar items.
  - D) In the case of a person engaged in renting real or tangible property, "sales" includes the gross receipts from the rental, lease, or licensing of the use of the property.
  - E) In the case of a person engaged in the sale, assignment, or licensing of intangible personal property such as patents and copyrights, "sales" includes the gross receipts therefrom.
  - F) If a person derives receipts from the sale of equipment used in its business, such receipts constitute "sales". For example, a truck express company owns a fleet of trucks and sells its trucks under a regular replacement program. The gross receipts from the sales of the trucks are included in the sales factor.
- 2) The following gross receipts are not included in the sales factor:
- A) For taxable years ending on or after December 31, 1995, *dividends; amounts included under Section 78 of the Internal Revenue Code; and Subpart F income* are excluded from the sales factor under IITA Section 304(a)(3)(D).
  - B) Gross receipts that are excluded from or deducted in the computation of federal taxable income or federal adjusted gross income, and that are not added back in the computation of base income. For example, in years ending prior to December 31, 1995, dividends received from a domestic

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corporation are excluded from the sales factor to the extent the taxpayer is allowed a deduction under Section 243 of the Internal Revenue Code with respect to such dividends.

- C) Gross receipts that are subtracted from federal taxable income or federal adjusted gross income in the computation of base income or that are eliminated in the computation of taxable income in the case of a unitary business group under Section 100.5270(b)(1) of this Part~~86 Ill. Adm. Code 100.3320(d) or 100.5270(a)(1)~~. Examples of gross receipts excluded from the sales factor under this provision include:
- i) Interest on federal obligations subtracted under IITA Section 203(a)(2)(N), (b)(2)(J), (c)(2)(K) or (d)(2)(G).
  - ii) For taxable years ending prior to December 31, 1995, dividends included in federal taxable income or federal adjusted gross income are excluded from the sales factor if eliminated in combination or to the extent subtracted under IITA Section 203(a)(2)(J), (a)(2)(K), (b)(2)(K), (b)(2)(L), (b)(2)(O), (c)(2)(M), (c)(2)(O), (d)(2)(K) or (d)(2)(M).
- D) Gross receipts that are excluded from or deducted in the computation of federal taxable income or federal adjusted gross income, but are added back in the computation of base income, are included in the sales factor unless subtracted or eliminated in combination. For example:
- i) Interest on state obligations excluded from income under Section 103 of the Internal Revenue Code and added back in the computation of base income under IITA Section 203(a)(2)(A), (b)(2)(A), (c)(2)(A) or (d)(2)(A) is included in the sales factor except in the case of interest on certain Illinois obligations that is exempt from Illinois Income Tax. See 86 Ill. Adm. Code 100.2470(f).
  - ii) Gross receipts from intercompany transactions between two corporate members of a federal consolidated group, the taxable income on which is deferred under Treas. Reg. Section 1.1502-13, will be included in the sales factor of the recipient unless subtracted under a provision of IITA Section 203 or eliminated in combination of the two corporations as members of a unitary business group.
- E) In some cases certain gross receipts should be disregarded in determining the sales factor in order that the apportionment formula will operate fairly to apportion to this State the income of the person's trade or business. See 86 Ill. Adm. Code 100.3380(b).
- 3) In filing returns with this State, if the person departs from or modifies the basis

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for excluding or including gross receipts in the sales factor used in returns for prior years, the person shall disclose in the return for the current year the nature and extent of the modification. If the returns or reports filed by the person with all states to which the person reports under Article IV of the Multistate Tax Compact or the Uniform Division of Income for Tax Purposes Act are not uniform in the inclusion or exclusion of gross receipts, the person shall disclose in its return to this State the nature and extent of the variance.

- b) Denominator. The denominator of the sales factor shall include the total gross receipts derived by the person from transactions and activity in the regular course of its trade or business, except receipts excluded under 86 Ill. Adm. Code 100.3380(b).
- c) Numerator. The numerator of the sales factor shall include the gross receipts attributable to this State and derived by the person from transactions and activity in the regular course of its trade or business. All interest income, service charges, carrying charges, or time-price differential charges incidental to such gross receipts shall be included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.
  - 1) Sales of tangible personal property in this State.
    - A) Gross receipts from the sales of tangible personal property (except sales to the United States Government) (see 86 Ill. Adm. Code 100.3370(c)(2)) are in this State:
      - i) if the property is delivered or shipped to a purchaser within this State regardless of the f.o.b. point or other conditions of sale; or
      - ii) if the property is shipped from an office, store, warehouse, factory or other place of storage in this State and the taxpayer is not taxable in the state of the purchaser. However, premises owned or leased by a person who has independently contracted with the taxpayer for the printing of newspapers, periodicals or books shall not be deemed to be an office, store, warehouse, factory or other place of storage.
    - B) Property shall be deemed to be delivered or shipped to a purchaser within this State if the recipient is located in this State, even though the property is ordered from outside this State.

Example: A corporation, with inventory in State A, sold \$100,000 of its products to a purchaser having branch stores in several states including this State. The order for the purchase was placed by the purchaser's central purchasing department located in State B. \$25,000 of the purchase order was shipped directly to purchaser's branch store in this State. The branch store in this State is the "purchaser within this State" with respect to \$25,000 of the corporation's sales.
    - C) Property is delivered or shipped to a purchaser within this State if the

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shipment terminates in this State, even though the property is subsequently transferred by the purchaser to another state.

Example: A corporation makes a sale to a purchaser who maintains a central warehouse in this State at which all merchandise purchases are received. The purchaser reships the goods to its branch stores in other states for sale. All of the corporation's products shipped to the purchaser's warehouse in this State is property "delivered or shipped to a purchaser within this State".

- D) The term "purchaser within this State" shall include the ultimate recipient of the property if the person in this State, at the designation of the purchaser, delivers to or has the property shipped to the ultimate recipient within this State.

Example: A corporation in this State sold merchandise to a purchaser in State A. The corporation directed the manufacturer or supplier of the merchandise in State B to ship the merchandise to the purchaser's customer in this State pursuant to purchaser's instructions. The sale by the corporation is "in this State".

- E) When property being shipped by a seller from the state of origin to a consignee in another state is diverted while en route to a purchaser in this State, the sales are in this State.

Example: Corporation X, a produce grower in State A, begins shipment of perishable produce to the purchaser's place of business in State B. While en route the produce is diverted to the purchaser's place of business in this State in which state Corporation X is subject to tax. The sale by the corporation is attributed to this State.

- F) If the person is not taxable in the state of the purchaser, the sale is attributed to this State if the property is shipped from an office, store, warehouse, factory, or other place of storage in this State (subject to the exception noted in (c)(1)(A)(ii) above).

Example: A corporation has its head office and factory in State A. It maintains a branch office and inventory in this State. The corporation's only activity in State B is the solicitation of orders by a resident salesman. All orders by the State B salesman are sent to the branch office in this State for approval and are filled by shipment from the inventory in this State. Since the corporation is immune under Public Law 86-272 from tax in State B, all sales of merchandise to purchasers in State B are attributed to this State, the state from which the merchandise was shipped.

- 2) Sales of tangible personal property to the United States Government in this State. Gross receipts from the sales of tangible personal property to the United

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States Government are in this State if the property is shipped from an office, store, warehouse, factory, or other place of storage in this State. For the purposes of this regulation, only sales for which the United States Government makes direct payment to the seller pursuant to the terms of the contract constitute sales to the United States Government. Thus, as a general rule, sales by a subcontractor to the prime contractor, the party to the contract with the United States Government, do not constitute sales to the United States Government.

- A) Example A: A corporation contracts with General Services Administration to deliver X number of trucks which were paid for by the United States Government. The sale is a sale to the United States Government.
  - B) Example B: A corporation as a subcontractor to a prime contractor with the National Aeronautics and Space Administration contracts to build a component of a rocket for \$1,000,000. The sale by the subcontractor to the prime contractor is not a sale to the United States Government.
- 3) Sales other than sales of tangible personal property in this State. The sales factor includes gross receipts from transactions other than sales of tangible personal property (including transactions with the United States Government); gross receipts are attributed to this State if the income producing activity which gave rise to the receipts is performed wholly within this State. Also, gross receipts are attributed to this State if, with respect to a particular item of income, the income producing activity is performed in this State, based on costs of performance.
- A) Income producing activity defined. The term "income producing activity" applies to each separate item of income and means the transactions and activity directly engaged in by the person in the regular course of its trade or business for the ultimate purpose of obtaining gains or profit. Such activity does not include transactions and activities performed on behalf of a person, such as those conducted on its behalf by an independent contractor. The mere holding of intangible personal property is not, of itself, an income producing activity. Accordingly, the income producing activity includes but is not limited to the following:
    - i) The rendering of personal services by employees or the utilization of tangible and intangible property by the person in performing a service.
    - ii) The sale, rental, leasing, licensing or other use of real property.
    - iii) The rental, leasing, licensing or other use of tangible personal property.
    - iv) The sale, licensing or other use of intangible personal property.

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- B) Costs of performance defined. The term "costs of performance" means direct costs determined in a manner consistent with generally accepted accounting principles and in accordance with accepted conditions or practices in the trade or business of the person.
- C) Application. Receipts (other than from sales of tangible personal property) in respect to a particular income producing activity are in this State if:
- i) the income producing activity is performed wholly within this State; or
  - ii) the income producing activity is performed both in and outside this State and a greater proportion of the income producing activity is performed in this State than without this State, based on costs of performance.
- D) Special Rules. The following are special rules for determining when receipts from the income producing activities described below are in this State.
- i) Gross receipts from the sale, lease, rental or licensing of real property are in this State if the real property is located in this State.
  - ii) Gross receipts from the rental, lease, or licensing of tangible personal property are in this State if the property is located in this State. The principal cost of performance in a rental, leasing or licensing transaction is the depreciation or amortization of the tangible personal property, and the depreciation or amortization expense is incurred in the state in which the tangible personal property is located. The rental, lease, licensing or other use of tangible personal property in this State is a separate income producing activity from the rental, lease, licensing or other use of the same property while located in another state; consequently, if property is within and without this State during the rental, lease or licensing period, gross receipts attributable to this State shall be measured by the ratio which the time the property was physically present or was used in this State bears to the total time or use of the property everywhere during such period.  
Example: Corporation X is the owner of 10 railroad cars. During the year, the total of the days each railroad car was present in this State was 50 days. The receipts attributable to the use of each of the railroad cars in this State are a separate item of income. Total receipts attributable to this State shall be determined as follows:

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(10 x 50)/3650 x Total Receipts

- iii) Gross receipts for the performance of personal services are attributable to this State to the extent such services are performed partly within and partly without this State, the gross receipts for the performance of such services shall be attributable to this State only if a greater portion of the services were performed in this State, based on costs of performance. Where services are performed partly within and partly without this State and the services performed in each state constitute a separate income producing activity, the gross receipts for the performance of services attributable to this State shall be measured by the ratio which the time spent in performing such services in this State bears to the total time spent in performing such services everywhere. Time spent in performing services includes the amount of time expended in the performance of a contract or other obligation which gives rise to such gross receipts. Personal service not directly connected with the performance of the contract or other obligation, as for example, time expended in negotiating the contract, is excluded from the computations. Example: Corporation X, a road show, gave theatrical performances at various locations in State X and in this State during the tax period. All gross receipts from performances given in this State are attributed to this State. Example: A public opinion survey corporation conducted a poll by its employees in State X and in this State for the sum of \$9,000. The project required 600 man hours to obtain the basic data and prepare the survey report. Two hundred of the 600 man hours were expended in this State. The receipts attributable to this State are \$3,000, calculated as follows:

$$200/600 \times \$9,000$$

(Source: Amended at 26 Ill. Reg. 13237, effective Aug 23, 2002)

## SUBPART P: COMBINED RETURNS

**Section 100.5215 Filing of Separate Unitary Returns**

- a) Not every member of a unitary business group is eligible to join in the filing of a

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- combined return and, for taxable years ending prior to December 31, 1993, joining in the filing of a combined return was elective.
- b) Each member of a unitary business group who is subject to Illinois income tax and who properly does not join in the filing of a combined return must file a separate return, and compute its business income apportionable to Illinois by computing the base income of the unitary business group in accordance with Section 100.5270(a)(1) of this Part and by multiplying the business income included in such base income by an apportionment fraction computed by using the Illinois apportionment factor or factors applicable to the return filer under IITA Section 304 and the everywhere factor or factors of the entire unitary business group.
- c) Each member of a unitary business group who is subject to Illinois income tax and who properly does not join in the filing of a combined return shall separately determine the amount of its nonbusiness income allocable to Illinois, the amount of the exemption allowed to it under IITA Section 204, the amounts of net loss carryovers, and the amounts of any credits and credit carryforwards to which it is entitled, without regard to the income, deductions, credits and other tax items of other members of the unitary business group, except to the extent such items enter into the computation of business income of the member apportioned to Illinois under subsection (b) of this Section.

(Source: Added at 26 Ill. Reg. 13237, effective Aug 23, 2002)

**Section 100.5270 Computation of Combined Net Income and Tax**

- a) Determination of base income. The combined base income shall be determined by first computing the combined group's combined ~~taxable-net~~ income and then modifying this amount by the combined group's combined Illinois addition and subtraction modification amounts.
- 1) Combined net income. The designated agent will determine combined base income by treating all members of the unitary business group (including ineligible members) as if they constituted a federal consolidated group and by applying the federal regulations for determining consolidated taxable income, except that the separate return limitation year provisions and the limitations on consolidation of life and non-life companies in Treasury Reg. Section 1.1502-47 shall not apply. (See Treasury Reg. Section 1.1502-11, 26 CFR 1.1502-11.) A consolidated net operating loss deduction, as defined in Treasury Reg. Section 1.1502-21, 26 CFR 1.1502-21, shall be added back to taxable income, in whole or in part, in accordance with subsections (a)(2), (4) and (5) below. Pursuant to IITA Section 203(e)(2)(E), combined base income shall be

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determined as if the election provided by Section 243(b)(2) of the Internal Revenue Code had been in effect.

Example 1. Corporations A and B properly make an election under IITA Section 502(e), or are properly required to file a combined return under IITA Section 502(e). On a separate return basis, A's federal taxable income would be a loss of (\$500). This amount does not include an excess capital loss of \$75 pursuant to Internal Revenue Code Section 1211(a). B's federal taxable income is \$1,000 of which \$100 is capital gain. As a result of applying Treasury Reg. Section 1.1502-11 and Section 1.1502-22 (26 CFR 1.1502-22), the combined federal taxable income for A and B is \$425.

- 2) Combined Illinois net loss. The combined group's current year combined ~~taxable net~~ income may be less than zero, in which case it shall be determined by applying the provisions of Treasury Reg. 1.1502-21(f) (consolidated net operating loss) to the unitary business group.

Example 2. Same facts as Example 1 in subsection (a)(1) above except that Corporation C has also properly joined in the election, or is properly required to join in the combined return filing, and its federal taxable income is a loss of (\$800). If there are no addition or subtraction modifications and all of the group's base income is apportioned to Illinois, the group's combined Illinois net loss for the taxable year will be (\$375).

- 3) Carrybacks and carryovers. Carrybacks and carryovers, if any, shall be determined for each member and not for the group. A pro rata share of the loss is attributable to each of the loss members. For Illinois net losses that occurred in taxable years ending on or after December 31, 1986, the amount of any carryback or carryover shall be determined by applying Sections 100.2340, 100.2350(c)(3) and (c)(4) of this Part. For federal net operating losses that occurred in taxable years ending prior to December 31, 1986, the amount of any carryback or carryforward shall be determined by applying Section 100.2230 of this Part.

Example 3. Same facts as Example 2 in subsection (a)(2) above. Assuming the taxable year ends prior to December 31, 1986, the group's combined net operating loss of (\$375) will be divided between A and C as follows for purposes of carryback and carryover:

Corp. A:  $500/1,300 \times (375) = 144$

Corp. C:  $800/1,300 \times (375) = 231$

- 4) NOL addition modification of federal net operating loss deductions from a loss incurred in a taxable year ending on or after December 31, 1986. IITA Section 203(b)(2)(~~D~~)(~~E~~) requires that the amount of any federal net operating loss deduction taken in arriving at taxable income for federal tax purposes, other than from a loss in a taxable year ending prior to December 31, 1986, shall be

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added back to taxable income in the computation of base income. See Section 100.2320(a) of this Part.

- 5) NOL addition modification of pre December 31, 1986, federal losses. IITA Section 203(b)(2)(E) requires an addition modification subject to two limitations for taxable years in which a federal net operating loss carryforward from a taxable year ending prior to December 31, 1986, is an element of taxable income. Consequently, each member allowed to carryback or forward a portion of the group's combined net operating loss from a year in which that combined loss was used to offset a portion of the group's combined excess addition modifications must take as an addition modification in the carryback or carryover year its respective share of the NOL addition modification required by IITA Section 203(b)(2)(E). In accordance with Section 100.2240 of this Part, the respective shares shall be determined in the same manner as the determination of the amount of NOL carryback or carryover.

Example 4. Same facts as Example 2 in subsection (a)(2) above except that the group had combined excess addition modifications of \$100. This amount will be divided among the loss members as follows:

Corp. A:  $500/1,300 \times 100 = 38$

Corp. C:  $800/1,300 \times 100 = 62$

- b) Combined base income allocable to Illinois. Combined base income allocable to Illinois is the sum of the combined business income or loss apportioned to Illinois plus the combined nonbusiness income or loss allocated to Illinois plus the combined nonunitary partnership income or loss allocated to Illinois, less the combined net loss deduction.
- 1) Combined business income apportionable to Illinois. In the case of a combined group required to apportion its business income using the three-factor (payroll, property and sales) formula under Section 304(a) of the IITA, the designated agent will apportion the unitary business group's combined business income by using the total Illinois payroll, property and sales of each member of the combined group and the total everywhere payroll, property and sales of each member of the unitary business group (including ineligible members). In the case of groups composed exclusively of one-factor apportionment taxpayers (financial, insurance, or transportation), the unitary business group's combined business income will be apportioned by using the combined group's total Illinois financial, insurance, or transportation factors and total everywhere factors of the unitary business group. Items of income and deduction arising from transactions between members of the unitary business groups must be eliminated whenever necessary to avoid distortion of the denominators used by the unitary business group in calculating apportionment factors, or of the numerators used by the combined group or by ineligible members of the group

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in calculating apportionment factors.

- A) Example 1:
- i) Corporations A, B, and C constitute a unitary business group. Corporations A and B are eligible to make the election under IITA Section 502(e) for tax years ending before December 31, 1993. However, under Public Law 86-272, Corporation C is not taxable in Illinois.
  - ii) Based on these facts, if the election to be treated as one taxpayer is made, the combined Illinois sales factor must be determined by dividing the combined group's total combined Illinois sales (that is, excluding any sales of Corporation C shipped to purchasers in Illinois) by the total combined sales of the unitary business group everywhere. If the same facts are applied to a tax year ending on or after December 31, 1993, the same result will occur in the mandatory combined return situation.
- B) Example 2:
- i) Same facts as in Example 1, except these additional facts also exist. Under Public Law 86-272, Corporations B and C are taxable in South Carolina, but corporation A is not.
  - ii) Based on these facts, if the election to be treated as one taxpayer is made, or the taxpayers are required to be treated as one taxpayer, the combined Illinois sales factor must be determined by dividing the combined group's total Illinois sales (including any sales of Corporation A shipped to purchasers in South Carolina from any place of storage in Illinois, i.e., throwback sales) by the total sales of the unitary business group everywhere.
- 2) Combined nonbusiness and nonunitary partnership income allocable to Illinois. The designated agent shall compute the amount of combined nonbusiness income or loss allocable to Illinois by first determining the amount for each member of the combined group and then combining these amounts. Similarly, the designated agent shall compute the amount of combined nonunitary partnership income or loss allocable to Illinois by first determining the amount for each member and then combining these amounts.
  - 3) Combined Illinois net loss deduction. The designated agent shall compute the combined Illinois net loss deduction for losses originating in tax years ending on or after December 31, 1986 by determining the amount of deduction available for each member of the combined group in accordance with Sections 100.2330, 100.2340 and 100.2350 of this Part and then by combining these amounts.
- c) Combined exemption. Under the election or requirement to be treated as one

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taxpayer, there is one exemption per combined return. The designated agent shall compute the combined exemption by multiplying \$1,000 by a fraction, the numerator of which is combined base income allocable to Illinois and the denominator of which is the group's combined base income. The exemption amount for members of unitary groups not making the election, or subject to the requirement, and for members of unitary groups ineligible to make the election, or not subject to the requirement, is computed by multiplying \$1,000 by a fraction, the numerator of which is that member's base income allocable to Illinois, and the denominator of which is the group's combined base income.

- d) Combined credits
- 1) Applicability of credits. The designated agent will compute any credit allowed by the IITA based on the combined activities of the members of the combined group and such credit will be applied against the combined liability of the combined group.
  - 2) Credits based on members' activities. The investment credits provided in IITA Sections 201(e), (f) and (h) and 206(b) are available when certain property is purchased and placed in service by a taxpayer. The combined group shall be entitled to a combined credit, assuming the other statutory or regulatory requirements applicable to the given credit are satisfied, even if one of the members purchases the qualified property and another member uses the property in a qualified manner.
  - 3) Effective January 1, 1994, the investment credit provided in IITA Section 201(e) is allowed for a taxpayer who is *primarily engaged in manufacturing, or in mining coal or fluorite, or in retailing*. In the case of a combined group, the determination of eligibility shall be made for the combined group as a whole, rather than for any individual member. The determination of whether a combined group is primarily engaged in a qualifying activity shall be made by applying the 50% of gross receipts test in Section 100.2101(f) of this Part by taking into account the gross receipts of only the eligible members of the combined group. Gross receipts of corporations which would otherwise be members of the combined group, but which have no taxable presence in Illinois or which cannot be combined for any other reason, are not considered in this determination. In determining whether a combined group is primarily engaged in retailing, gross receipts from transactions between eligible members of the combined group shall be eliminated from both the numerator and the denominator of the computation. In determining whether a combined group is primarily engaged in manufacturing or in the mining of coal or fluorite, gross receipts from manufacturing or the mining of coal or fluorite shall include:
    - A) gross receipts from sales of products manufactured or coal or fluorite mined by one eligible member of the combined group to another eligible

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member of the combined group for use or consumption, and not for resale, provided, however, that the amount of such gross receipts shall be subject to adjustment by the Department under the provisions of Section 404 of the IITA; and

- B) gross receipts from sales to persons outside the combined group by one eligible member of the combined group of items manufactured, or coal or fluorite mined, by another eligible member of the combined group.
- 4) The additional credit provided in IITA Section 201(e) and the credit provided in Section 201(g) are based on specified increases in employment in Illinois. For purposes of determining entitlement to these credits during a combined-return year, the increase in employment shall be determined with respect to the employment of all members of the combined group in Illinois and not an individual member's employment. For purposes of determining the increase in employment in Illinois for a common taxable year, the Illinois employment of all taxpayers who are members of the combined group during that common taxable year shall be used; that is, both prior and current year Illinois employment of current members who were not members of the combined group in the prior year shall be included in the determination, while prior and current year Illinois employment of taxpayers who ceased to be members of the combined group during the current or prior year shall be excluded. The application of this subsection (d)(4) is illustrated by the following examples:
- Example 1. Corporations A, B and C were members of a unitary business group which elected to file a combined return for 1989. Corporation D was not a member of the ABC combined group in 1989, but becomes a member of combined group ABCD filing a combined return for 1990. During 1989, Corporations A, B and C employed a total of 150 persons in Illinois and Corporation D employed 50 people in Illinois, for a total of 200. During 1990, Corporations A, B and C employed 100 persons in Illinois and Corporation D employed 100 persons in Illinois, again for a total of 200. IITA Section 201(e), which provides for a Replacement Tax Investment Credit for qualified property placed in service by the taxpayer during the year, allows an additional 0.5% credit for such property to a taxpayer whose Illinois employment has increased by at least 1% over its Illinois employment in the immediately preceding year. Combined group ABCD cannot qualify for the additional 0.5% credit during 1990 because the combined Illinois employment of Corporations A, B, C and D remained unchanged between 1989 and 1990. Because eligibility is determined at the combined group level, no additional credit can be allowed for qualified property placed in service by Corporation D in 1990, even though Corporation D's Illinois employment doubled between 1989 and 1990.

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Example 2. Corporations P, Q, R and S filed a combined Illinois return for calendar year 1990. On January 1, 1991, Corporation S was sold to an unrelated purchaser. Corporations P, Q and R filed a combined Illinois return for calendar year 1991.

Combined group PQRS employed 400 people in Illinois during 1990, 100 of whom were actually employees of Corporation P and 100 of whom were actually employees of Corporation S. Combined group PQR employed 350 people in Illinois during 1991, 50 of whom were actually employees of Corporation P.

Combined group PQR can qualify for the additional 0.5% Replacement Tax Investment Credit allowed under IITA Section 201(e) for qualified property placed in service during 1990 because the Illinois employment of the three members of the combined group increased from 300 in 1989 to 400 in 1990. Because the eligibility is determined at the combined group level, property placed in service by Corporation P during 1990 may qualify for the additional 0.5% credit even though Corporation P's Illinois employment actually decreased.

Example 3. IITA Section 201(g) allows a Jobs Tax Credit equal to \$500 per eligible employee hired to work in an enterprise zone during a taxable year. The taxpayer must hire 5 or more eligible employees during the taxable year in order to qualify for the credit. The credit is taken in the taxable year following the year the employee is hired. Corporations W, X, Y and Z filed a combined Illinois return for calendar year 1990. Corporation Z was sold to an unrelated purchaser on December 31, 1990. Corporations W, X and Y filed a combined return for 1991.

During 1990, WXYZ hired 5 eligible employees to work in an enterprise zone, 3 of whom were actually hired by Corporation Z.

Combined group WXY may claim a Jobs Tax Credit of \$2,500 for 1991 because it hired 5 eligible employees during 1990. The fact that Corporation Z, which hired 3 of the employees, left the combined group at the beginning of 1991 does not alter the fact that the combined group earned the Jobs Tax Credit nor entitle Corporation Z to any portion of the credit for its separate company return for 1991.

- 5) The research and development credit provided in IITA Section 203(j) is based on increasing research activities in this State (see Section 100.2160 of this Part). For purposes of determining entitlement to the credit during a combined-return year, the increase in research activities shall be determined with respect to research activities conducted by all members of the combined group in Illinois and not an individual member's research activities. The following series of examples illustrate the application of the research and development

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credit in combined return situations involving Corporations A, B and C that incurred the following expenses for qualified research activities in Illinois:

|  |         | 1990    | 1991    | 1992    | 1993    |  |
|--|---------|---------|---------|---------|---------|--|
|  | Corp. A | 50,000  | 50,000  | 50,000  | 0       |  |
|  | Corp. B | 25,000  | 25,000  | 100,000 | 200,000 |  |
|  | Corp. C | 75,000  | 125,000 | 100,000 | 100,000 |  |
|  |         |         |         |         |         |  |
|  |         | 150,000 | 200,000 | 250,000 | 300,000 |  |

- A) Example 1. A, B, and C filed combined returns for the years ending December 31, 1990, December 31, 1991, December 31, 1992 and December 31, 1993. The proper amount of the Research and Development Credit for the year ending December 31, 1993 is determined based upon the combined activities on the combined return and is calculated as follows:
- |  |         |
|--|---------|
| Total qualified expenditures for 1993        | 300,000 |
| Average qualified expenditures for 1990-92   | 200,000 |
| Excess of 1993 expenditures over base period | 100,000 |
| Research and development credit for 1993     | 6,500   |
- B) Example 2. A and B filed a combined return for the year ending December 31, 1990. C filed a separate return for the year ending December 31, 1990. A purchased the common stock of C on January 1, 1991. A, B and C filed combined returns for the years ending December 31, 1991, December 31, 1992 and December 31, 1993. The \$75,000 of expenses for qualified research activities in Illinois incurred by C for the year ending December 31, 1990 should be included in the calculation of the average qualified expenditures for the base period. The credit for the combined return would be calculated as follows:
- |  |         |
|--|---------|
| Total qualified expenditures for 1993        | 300,000 |
| Average qualified expenditures for 1990-92   | 200,000 |
| Excess of 1993 expenditures over base period | 100,000 |
| Research & Development Credit for 1993       | 6,500   |
- C) Example 3. A, B and C filed combined returns for the years ending December 31, 1990, December 31, 1991 and December 31, 1992. On January 1, 1993, A sold the common stock of C to P (an unrelated corporation). For the year ending December 31, 1993, C was included in the combined return filed by P. In determining the proper amount of the Research and Development Credit for the combined return filed by A and B for the year ending December 31, 1993, the expenses for qualified

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research activities in Illinois incurred by C of \$75,000, \$125,000 and \$100,000 for the years ending December 31, 1990, December 31, 1991 and December 31, 1992, respectively, may not be included in the calculation of the average qualified expenditures for the base period for A and B for the year ending December 31, 1993. The credit for the combined return for A and B for the year ending December 31, 1993 would be calculated as follows:

|  |         |
|--|---------|
| Total qualified expenditures for 1993        | 200,000 |
| Average qualified expenditures for 1990-92   | 100,000 |
| Excess of 1993 expenditures over base period | 100,000 |
| Research & Development Credit for 1993       | 6,500   |

- 6) Credit carryforward. Any combined credit carryforward shall be available to the combined group for the next combined-return year. For purposes of the credits allowed with respect to certain qualifying property under IITA Sections 201(e), (f), and (h) and 206(b), where a member becomes ineligible to join in the election, or is no longer required to be part of the combined return, the credit carryforward shall be available to the remaining members if such members continue to both own and use the property for which the credit was claimed in a qualifying manner for 48 months after the placed-in-service date. The credit carryforward shall be available to the former member that has become ineligible if that former member both owns and uses the property for which the credit was claimed in a qualifying manner for the remainder of the 48-month period after the placed-in-service date. If a credit carryforward is available to the former member that has become ineligible, the amount of the carryforward is equal to the combined unused credit multiplied by a fraction, the numerator of which is the credit attributable to the qualified property of such former member for the combined unused credit year, and the denominator of which is the qualified property of the combined group for such unused credit year.

Example 1. In 1985, Corporation A purchased \$300,000 of eligible property, \$200,000 of which was used by A and \$100,000 of which was transferred to and used by Corporation B. A and B filed a combined return for that year which showed an income tax liability of \$1,000 and an investment credit of \$1,500. The group's unused credit was \$500. In 1987, B left the group, and during that year it owned and continued to use the \$100,000 of eligible property. Its credit carryforward would be computed as follows:  

$$\$500 \times \$100,000 / \$300,000 = \$166.67$$

- 7) Recapture. For purposes of credits which are recaptured when property ceases to be qualified property or is moved out of Illinois or when property is moved outside of an enterprise zone within 48 months of the placed-in-service date,

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the members of the combined group are responsible for the recapture of any personal property replacement tax or income tax.

Example 2. Same facts as in the Example 1 in subsection (d)(6) above except in 1987 Corporation A transferred its eligible property (originally purchased for \$200,000, in 1985) to Corporation B. Corporation B was acquired by Corporation C in 1987 and, immediately afterward, B sold all the eligible property (originally purchased for a total of \$300,000) to an unrelated third party. B and C file a combined return for that year and they must increase their tax liability by \$1,000 due to the credit that was allowed on the combined return filed by A and B in 1985.

- e) Ineligible members. If ~~a an election is in effect and the~~ unitary business group contains one or more an ineligible ~~members-member~~ (i.e., an S Corporation or, for years ending prior to December 31, 1987, a corporation with a different taxable year), the ineligible ~~members-member~~ shall file a separate unitary ~~returns-return~~. In the separate unitary return, the apportionment percentage of any such ineligible member shall be determined by dividing the Illinois factor or factors of that member by the combined everywhere factor or factors of all members of the unitary business group. The apportionment percentage shall then be multiplied by the combined business income of the unitary business group to determine the business income of such ineligible apportionable to Illinois. The taxable income of the members that joined in the election shall be their combined taxable income as determined under subsection (a)(1) of this Section. If a corporation is ineligible because it has a different taxable year, it shall use either method of accounting available to part-year members and set forth in subsection (f)(2) of this Section. If two or more corporations are ineligible because they have an accounting period that is different from other members making the election, they may elect to file their own combined return if they have the same taxable year. The foregoing rule also applies in the case of erroneous inclusion of a member in a group otherwise required to file a combined return.
- f) Part-year members
- 1) General rule. If a corporation becomes a member of a unitary business group after the beginning of the combined return year or ceases to be a member of the unitary business group during the combined return year, two tax returns will be affected for that taxable year. The combined return shall include the separate company items of such corporation for the part of the year it was a member of the unitary business group. Separate company items of a part-year member for any portion of its taxable year prior to the date it joins or after the date it leaves the unitary business group shall either be reported in a short-year separate return filed by such part-year member (if it is subject to Illinois income tax during that period) or included in any combined return filed on behalf of a unitary business group to which such part-year member belongs during that

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portion of the year.

- 2) Accounting. The part-year member shall use either Method 1 or Method 2 (described in Section 100.5265(b) of this Part) to determine its separate company items for the portion of the year before it becomes a member and the portion of the year after it becomes a member of the combined group.

(Source: Amended at 26 Ill. Reg. 13237, effective Aug 23, 2002)

## SUBPART BB: DEFINITIONS

**Section 100.9700 Unitary Business Group Defined (IITA Section 1501)**

a) Scope

This regulation is designed to clarify the meaning of IITA Section 1501(a)(27), defining "unitary business group", which definition became effective for tax years ending on or after December 31, 1982.

b) Persons related through common ownership

A unitary business group will be composed exclusively of business corporations. However, see the special rule at Section 3380(c) of this Part regarding inclusion of shares of partnership unitary business income and factors.

c) The 80-20 U.S. business activity test for prospective members

The factors to be used in determining whether 80% or more of a person's business activity is conducted outside the United States shall be gross figures without eliminations premised on the person's membership in any unitary business group. However, the factors should relate to the common taxable year accounting period, as defined in Section 100.5265 of this Part~~100.3310~~, of the unitary business group of which the person being tested could become a member were the person's business activity found to be less than 80% outside the United States. The factors to be used are as follows:

- 1) persons required to apportion business income under IITA Section 304(a) will use property and payroll,
- 2) persons required to apportion business income under IITA Sections 304(b), 304(c) or 304(d) will use the respective factors prescribed in those provisions.
  - A) In accordance with IITA Section 102 and 26 USC 7701(b)(9), the phrase "United States" as used in IITA Section 1501(a)(27) shall include only the fifty states and the District of Columbia.
  - B) Mechanically, the computation of the 80-20 U.S. business activity test requires the formation of one or two fractions, as the case may be, and the subsequent averaging of those fractions to arrive at an overall U.S.

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business activity in relation to world-wide business activity. The numerators of the fraction represents U.S. property, U.S. payroll, U.S. revenue miles, insurance premiums on property or risk in the U.S. or financial organization business income from sources within the U.S.; the respective denominators are world-wide figures.

- C) ~~Cross-reference~~ In the case of a person who would be a member of a unitary business group for only part of a taxable year if less than 80% of its business activities were conducted outside the United State, the 80-20 U.S. business activity test shall be applied only to that part of the person's taxable year for which the prospective member otherwise qualifies for membership in the unitary business group. If that person is a corporation and is a prospective member of a unitary business group required to file combined returns under IITA Section 502(f), the 80-20 U.S. business activity test shall be applied only to that part of the combined group's common taxable year for which that person otherwise qualifies for membership in the combined group. ~~For the proper application of the 80-20 United States business activity test to prospective part year members, see Section 100.3310 of this Part.~~
- d) Entities using different apportionment formulas under IITA Section 304
- 1) All members of a unitary business group must be eligible under IITA Section 304 to use the same apportionment formula. As a consequence, a corporation required to use the three factor apportionment formula of Section 304(a) cannot be a member of the same unitary group as a corporation required to use the one factor apportionment formula of IITA Section 304(c), nor may a corporation required to use the one factor apportionment formula of IITA Section 304(c) be a member of the same unitary business group as a corporation required to use the one factor apportionment formula of IITA Section 304(b). The proper method for determining unitary business group memberships under IITA Section 1501(a)(27) is first to identify all entities that are related through common ownership and engaged in either horizontally or vertically integrated enterprises with the requisite exercise of strong centralized management and second, to create from the population of entities thus identified one unitary business group composed of entities required to apportion under IITA Section 304(a), one unitary business group composed of entities required to apportion under IITA Section 304(b), one unitary business group composed of entities required to apportion under IITA Section 304(c) and one unitary business group composed of entities required to apportion under IITA Section 304(d).
  - 2) EXAMPLE:

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- A) **FACTS:** Corporation A owns all of the outstanding common stock of Corporations B and C. Corporations B and C each own 30% of the outstanding common stock of Corporation D. Corporation D owns 60% of the outstanding common stock of Corporation E. Corporation A is a mining company operating exclusively in Illinois. Corporation D is a manufacturing company with factories in Illinois and Indiana. Corporation C is an insurance company earning premiums for insuring property and risks located in Illinois and Indiana. Corporation B is an air freight company and Corporation E is a trucking company, both operating nationwide. In their relationships to one another, the five companies: are "steps in a vertically structured enterprise or process" and are "functionally integrated through the exercise of strong centralized management."
- B) **ANALYSIS AND CONCLUSION:** As a result of these facts, Corporations A and D, which would ordinarily be required to apportion business income by means of the three factor apportionment formula of IITA Section 304(a), will constitute one unitary business group; Corporations B and E, which would ordinarily be required to apportion business income by means of the one factor transportation formula IITA Section 304(d) will constitute a second unitary business group; and Corporation C will compute its liability on a non-combined apportionment basis under IITA Section 304(b).
- e) **Common ownership**  
Corporations: Direct or indirect control or ownership of more than 50% of outstanding voting stock. Insofar as corporations are concerned, one has direct ownership of the outstanding voting stock of another to the extent that it owns such stock and indirect control to the extent that it owns the voting stock of a third corporation which itself owns such stock. Any combination of direct and indirect control or ownership aggregating more than 50% will suffice to qualify the corporation whose stock is owned for membership in the unitary business group if other tests unrelated to ownership are met.
- 1) Corporation A owns 60% of the outstanding voting stock of Corporation B which in turn owns 60% of the outstanding voting stock of Corporation C. There is common ownership of Corporations A, B and C by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporation B and indirect control of more than 50% of the outstanding voting stock of Corporation C.
  - 2) Corporation A owns 60% of the outstanding voting stock of Corporation B and 60% of the outstanding voting stock of Corporation C. Corporations B and C in turn each own 30% of the outstanding voting stock of Corporation D.

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- Corporations A, B, C and D are all under common ownership by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporations B and C and by reason of Corporation A's indirect control of more than 50% of the outstanding voting stock of Corporation D.
- 3) Corporation A owns 60% of the outstanding voting stock of Corporation B and 40% of the outstanding voting stock of Corporation C. Corporations B and C each in turn own 30% of the outstanding voting stock of Corporation D. Corporations A and B are under common ownership by reason of Corporation A's direct ownership of more than 50% of the outstanding voting stock of Corporation B, but neither Corporations C or D are under common ownership with Corporations A and B because neither Corporation A nor Corporation B has direct or indirect control or ownership of more than 50% of the outstanding voting stock of Corporations C or D.
- 4) Corporation A owns 60% of the outstanding voting stock of Corporation B and 40% of the outstanding voting stock of Corporation C. Corporation B owns 30% of the outstanding voting stock of Corporation D and Corporation C owns 60% of the outstanding voting stock of Corporation D. Corporations A and B are under common ownership by reason of the fact that Corporation A owns more than 50% of the outstanding voting stock of Corporation B, and Corporations C and D are under separate common ownership by reason of the fact that Corporation C owns more than 50% of the outstanding voting stock of corporation D.
- f) Attribution of stock ownership among certain individuals  
For the purpose of IITA Section 1501(a)(27), an individual shall be considered to have indirect control over any stock that he is considered as owning under 26 USC 318(a)(1). EXAMPLE: Strictly as an investment, Mr. X and his wife, Mrs. X, each individually own 30% of the outstanding voting stock of Corporation A and 30% of the outstanding voting stock of Corporation B. Corporations A and B are under common ownership within the meaning of Section 1501(a)(27), and assuming that they meet the other requirements of IITA Section 1501(a)(27), they will be members of the same unitary business group. The common ownership stems from the fact that, under Section 318(a)(1) of the Internal Revenue Code, the stock holdings of Mr. X are imputed to his wife and vice versa. Note that it is not necessary in order for Corporations A and B to be members of a unitary business group that the "person" in whom the common ownership is embodied also be a member of the unitary business group.
- g) Strong centralized management  
Under IITA Section 1501(a)(27), no group of persons can be a unitary business group unless they are functionally integrated through the exercise of strong centralized management. It is this exercise of strong centralized management that is

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the primary indicator of mutual dependency, mutual contribution and mutual integration between persons that is necessary to constitute them members of the same unitary business group. The exercise of strong centralized management will be deemed to exist where authority over such matters as purchasing, financing, tax compliance, product line, personnel, marketing and capital investment is not left to each member. Thus, some groups of persons may properly be considered as constituting a unitary business group under IITA Section 1501(a)(27) when the executive officers of one of the persons are normally involved in the operations of the other persons in the group and there are centralized units which perform for some or all of the persons functions which truly independent persons would perform for themselves. Note in this connection that neither the existence of central management authority, nor the exercise of that authority over any particular function (through centralized operations), is determinative in itself; the entire operations of the group must be examined in order to determine whether or not strong centralized management exists. A finding of "strong centralized management" cannot be supported merely by showing that the requisite ownership percentage exists or that there is some incidental economic benefit accruing to a group because such ownership improves its financial position. Both elements of strong centralized management, i.e., strong central management authority and the exercise of that authority through centralized operations, must be present in order for persons to be a unitary business group under IITA Section 1501(a)(27). Finally, a finding of strong centralized management can be supported even though the authority resides in a person that is not a member of the group, provided that the authority is actually exercised by such person.

- h) General line of business and vertically structured enterprises
- 1) Section 1501(a)(27) of the Act establishes that persons meeting all of the other tests for inclusion in a unitary business group, including common ownership, strong centralized management and comparability of apportionment method, will ordinarily be in one of the following relationships to one another:
    - A) in the same general line of business, or
    - B) steps in a vertically structured enterprise or process.
  - 2) IITA Section 1501(a)(27) recites that two persons will ordinarily be considered to be in the same general line of business if they are both involved in one of the following activities:
    - A) manufacturing
    - B) wholesaling
    - C) retailing
    - D) insurance
    - E) transportation, or

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- F) finance
- 3) IITA Section 1501(a)(27) does not contemplate that the above list be exclusive. For example, two persons that are both involved in rendering services to the public would ordinarily be considered to be in the same general line of business. In this regard, a retailer that renders services that are incidental to its retail business will not be in the same general line of business as a person that is primarily a service dispenser.
  - 4) It is not a requirement of IITA Section 1501(a)(27) that the activities of the two persons in whichever category is applicable relate to the same product or product line in order for the two persons to be in the same general line of business.
  - 5) Two persons are steps in a vertically structured enterprise or process under IITA Section 1501(a)(27) even though other persons who are also steps in that enterprise or process are not members of the same unitary business group because of the intervention of: the 80-20 U.S. business activity test or the rules stated in subsection (d) of this Section, relating to the comparability of apportionment formulas of members of a unitary business group.

## EXAMPLE 1:

- A) **FACTS:** Corporation A manufactures furniture. Corporation C retails the furniture manufactured by Corporation A. Corporation B is a furniture finisher and wholesaler operating exclusively in Mexico which purchases Corporation A's unfinished furniture, applies the appropriate finishing materials in its Mexican plants, and sells the finished furniture to Corporation C.
  - B) **ANALYSIS AND CONCLUSION:** Corporations A and C are steps in a vertically structured enterprise and as such can be members of the same unitary business group. They do not lose their status as steps in a vertically structured enterprise by reason of the fact that they never directly deal with one another, since they both deal with Corporation B which is also a step in the vertically structured enterprise and which would be a member of the unitary business group were it not for the intervention of the 80/20 U.S. business activity test.
- 6) A person will not be a step in a vertically structured enterprise or process unless it is connected to one or more other persons that are steps in the vertically structured enterprise or process by a flow of goods or services, including management services, to itself or from itself. However, if such a flow of goods or service is present with respect to a particular person, that person's status as a step in the vertically structured enterprise or process shall not depend on the relationship between the price at which such flow exists and the fair market price at which such flow would exist in an arm's

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length transaction. EXAMPLE 2:

- A) **FACTS:** Same facts as in the previous example, except that Corporation A can establish that it sells its unfinished furniture to Corporation B at a fair market arm's length price and Corporation C can establish that it purchases the finished furniture from Corporation B at a fair market arm's length price.
- B) **ANALYSIS AND CONCLUSION:** Even with their respective showings that the flow of furniture connecting them to Corporation B existed at an arm's length price, Corporations A and C are still steps in a vertically structured enterprise and can still be members of the same unitary business group.

(Source: Amended at 26 Ill. Reg. 13237, effective Aug 23, 2002)

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- 1) Heading of the Part: Tobacco Products Tax Act of 1995
- 2) Code Citation: 86 Ill. Adm. Code 660
- 3) 

|                          |                         |
|--------------------------|-------------------------|
| <u>Section Numbers</u> : | <u>Adopted Action</u> : |
| 660.5                    | Amendment               |
| 660.10                   | Amendment               |
| 660.15                   | Amendment               |
| 660.20                   | Amendment               |
- 4) Statutory Authority: 35 ILCS 143 and Section 2505-795 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-795]
- 5) Effective Date of Amendments: August 23, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 26 Ill. Reg. 7422, May 17, 2002
- 10) Has JCAR issued a Statement of Objection to these Amendments? No
- 11) Differences between proposal and final version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These regulations are being amended in response to Public Acts 92-231 and 92-492. Public Act 92-231 amended the definition of "distributor" under the Tobacco Products Tax Act of 1995 ("the Act") to include persons

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having traditional nexus who make sales to consumers in this State from locations outside this State. This change is reflected in amendments to Sections 660.5, 660.10 and 660.15. Public Act 92-492 requires that persons whose annual liability under the Act is \$200,000 or more pay their tax by means of electronic funds transfer. This new requirement is reflected in the provisions of Section 660.20.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Jerilynn T. Gorden  
Senior Counsel, Sales & Excise Taxes  
Legal Services Office  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-6996

- 16) The full text of the adopted amendments begins on the next page:

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE  
PART 660  
TOBACCO PRODUCTS TAX ACT OF 1995

|         |   |
|---------|---|
| Section |   |
| 660.05  | Nature and Rate of Tobacco Products Tax |
| 660.10  | General Definitions                     |
| 660.15  | Licenses                                |
| 660.20  | Returns                                 |
| 660.25  | Books and Records                       |
| 660.30  | Exempt Sales                            |
| 660.35  | Claims for Credit                       |

AUTHORITY: Implementing the Tobacco Products Tax Act of 1995 [35 ILCS 143] and authorized by Section 2505-795 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-795].

SOURCE: Adopted at 20 Ill. Reg. 10174, effective July 16, 1996; amended at 26 Ill. Reg. 13310, effective Aug 23, 2002.

**Section 660.05 Nature and Rate of Tobacco Products Tax**

- a) The Tobacco Products Tax is imposed upon the last distributor, as defined in Section 660.10, who sells tobacco products to a retailer or consumer located in Illinois at the rate of 18% of the wholesale price of tobacco products sold or otherwise disposed of in this State.
- b) *The tax is in addition to all other occupation or privilege taxes imposed by the State of Illinois, by any political subdivision thereof, or by any municipal corporation.* (Section 10-10 of the Act)

(Source: Amended at 26 Ill. Reg. 13310, effective Aug 23, 2002)

**Section 660.10 General Definitions**

"Act" means the Tobacco Products Tax Act of 1995.

*"Distributor" means any of the following:*

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*Any manufacturer or wholesaler in this State engaged in the business of selling tobacco products who sells, exchanges, or distributes tobacco products to retailers or consumers in this State.*

*Any manufacturer or wholesaler ~~located outside of Illinois~~ engaged in the business of selling tobacco products from without this State who sells, exchanges, distributes, ships, or transports tobacco products to retailers or consumers located in this State, so long as that manufacturer or wholesaler has or maintains within this State, directly or by subsidiary, an office, sales house, or other place of business, or any agent or other representative operating within this State under the authority of the person or subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily.*

*Any retailer who receives tobacco products on which the tax has not been or will not be paid by a distributor. (Section 10-5 of the Act) Such retailers may include the following:*

A retailer who purchases tobacco products for delivery outside of Illinois. Such retailer may elect to register with the Department thereby enabling him or her to provide his or her distributors with a blanket Certificate of Resale. See Section 660.30(f) (Exempt Sales). The retailer must then report and pay tax on those tobacco products he or she sells in Illinois. If the retailer is able to calculate the percentage of tobacco products that he or she will sell to consumers, such retailer may pay his or her supplier for those taxable sales.

A retailer who purchases from an out-of-State distributor, which has no nexus with Illinois and is therefore not registered with the Department. This retailer must therefore register with the Department and remit tax on sales to Illinois consumers.

*Distributor does not include any person who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. (Section 10-5 of the Act) A Correctional Industries program is a program that employs committed persons confined in institutions and facilities of the Illinois Department of Corrections to make, manufacture, or fabricate tobacco products for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility.*

## DEPARTMENT OF REVENUE

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*"Manufacturer" means any person who manufactures and sells tobacco products, except a person who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. (Section 10-5 of the Act)*

*"Retailer" means any person in this State engaged in the business of selling tobacco products to consumers in this State, regardless of quantity or number of sales. (Section 10-5 of the Act)*

*"Sale" means any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration and includes all sales made by persons. (Section 10-5 of the Act)*

*"Tobacco products" means any cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but does not include cigarettes or tobacco purchased for the manufacture of cigarettes by cigarette distributors and manufacturers defined in the Cigarette Tax Act and persons who make, manufacture, or fabricate cigarettes as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. (Section 10-5 of the Act)*

*"Wholesale price" means the established list price for which a manufacturer sells tobacco products to a distributor, before the allowance of any discount, trade allowance, rebate, or other reduction. In the absence of such an established list price, the manufacturer's invoice price at which the manufacturer sells the tobacco product to unaffiliated distributors, before any discounts, trade allowances, rebates, or other reductions, shall be presumed to be the wholesale price. (Section 10-5 of the Act) The wholesale price of tobacco products is the established list price at the time of purchase, by the distributor who remits tax to the Department, of such tobacco products.*

*"Wholesaler" means any person who is engaged solely in making sales of tobacco products to others for resale or sales that are otherwise exempt from tax.*

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(Source: Amended at 26 Ill. Reg. 13310, effective Aug 23, 2002)

**Section 660.15 Licenses**

- a) *It shall be unlawful for any person to engage in business as a distributor of tobacco products ~~in this State~~ within the meaning of the Act without first having obtained a license to do so from the Department.* (Section 10-20 of the Act) Application for a distributor's license shall be made to the Department in form as furnished and prescribed by the Department and shall be accompanied by a joint and several bond in an amount fixed by the Department. Each licensed place of business shall be covered by a separate license.
- b) The Department may, in its discretion, upon application, issue licenses authorizing the payment of the tax imposed by the Act by any distributor or manufacturer not otherwise subject to the tax imposed under this Act who, to the satisfaction of the Department, furnishes adequate security to ensure payment of the tax.
- c) Wholesalers that are not registered and licensed as distributors with the Department but claim to only sell tobacco products in such a way that their sales are not taxable under this Act (e.g., resale or to exempt purchasers) are advised to apply to the Department for a resale number so that such wholesalers are able to provide distributors with Certificates of Resale when purchasing the tobacco products that will be resold. Such wholesalers need not file returns with the Department.

(Source: Amended at 26 Ill. Reg. 13310, effective Aug 23, 2002)

**Section 660.20 Returns**

- a) *Every distributor of tobacco products shall, on or before the 15th day of each calendar month, file a return with the Department covering the preceding calendar month* disclosing the following (Section 10-20 of the Act):
  - 1) The wholesale price for tobacco products manufactured and then sold or otherwise disposed of.
  - 2) The wholesale price for tobacco products purchased and then sold or otherwise disposed of.
  - 3) The total cost of all tobacco products sold or otherwise disposed of.
  - 4) Deductions authorized by law.
  - 5) Tobacco products tax base.
  - 6) Total tax.
- b) Such return shall be filed upon forms furnished and prescribed by the Department. Payment of the tax in the amount disclosed by the return shall accompany the return. Effective October 1, 2002, taxpayers whose annual liability is \$200,000 or more for

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the preceding calendar year are required to make payments of tax by Electronic Funds Transfer as provided in 86 Ill. Adm. Code 750.

- c) Tobacco products "otherwise disposed of" include samples of tobacco products. Transfers of tobacco products between divisions of a corporation that have separate Illinois Business Tax numbers are required to be reported as sales under "otherwise disposed of."

(Source: Amended at 26 Ill. Reg. 13310, effective Aug 23, 2002)

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- 1) Heading of the Part: Home Inspector License Act
- 2) Code Citation: 68 Ill. Adm. Code 1410
- 3) 

| <u>Section Numbers:</u> | <u>Emergency Action:</u> |
|-------------------------|--------------------------|
| 1410.10                 | New                      |
| 1410.100                | New                      |
| 1410.110                | New                      |
| 1410.120                | New                      |
| 1410.130                | New                      |
| 1410.140                | New                      |
| 1410.150                | New                      |
| 1410.160                | New                      |
| 1410.170                | New                      |
| 1410.200                | New                      |
| 1410.210                | New                      |
| 1410.220                | New                      |
| 1410.230                | New                      |
| 1410.240                | New                      |
| 1410.250                | New                      |
| 1410.300                | New                      |
| 1410.310                | New                      |
| 1410.320                | New                      |
| 1410.330                | New                      |
| 1410.340                | New                      |
| 1410.350                | New                      |
| 1410.400                | New                      |
| 1410.410                | New                      |
| 1410.420                | New                      |
| 1410.500                | New                      |
| 1410.510                | New                      |
| 1410.520                | New                      |
| 1410.530                | New                      |
| 1410.540                | New                      |
| 1410.550                | New                      |
| 1410.560                | New                      |
| 1410.570                | New                      |
| 1410.580                | New                      |
| 1410.590                | New                      |
| 1410.600                | New                      |

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- 11) Statutory Authority: Implementing and authorized by the Home Inspector License Act [225 ILCS 441].
- 12) Effective Date of Rulemaking: August 22, 2002
- 13) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it expires: This emergency rule expires at the end of the 150-day period.
- 14) Date Filed in Agency's Principal Office: August 22, 2002
- 15) A copy of the emergency rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 16) Reason for Emergency: The Office of Banks and Real Estate (OBRE) has been required to perform significant advance preparation work under the Home Inspector License Act, a new licensing Act and profession for OBRE to regulate. OBRE has performed considerable liaison with the home inspector industry and the real estate industry as well as establishing a Home Inspector Advisory Board to assist with preparation of these rules. OBRE now needs to provide significant lead time and early guidance to home inspector education providers and future home inspector licensees prior to licensing home inspectors and entities on January 1, 2003 as provided in Public Act 92-239.
- 17) A complete description of the subjects and issues involved: This emergency rule contains licensing, standards of practice, education, discipline, and other provisions to implement the new Home Inspector License Act.
- 18) Are there any other proposed rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objectives: The Home Inspector License Act [225 ILCS 441] provides for exclusive State jurisdiction over the regulation of home inspectors, but exempts code enforcement officials employed by a unit of local government, while acting within the scope of that government employment. This emergency rule has no provisions that are specific to units of local government.
- 13) Information and questions regarding this rule shall be directed to:

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OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY RULES

Alan Anderson  
Legislative Liaison  
Office of Banks and Real Estate  
500 E. Monroe Street  
Springfield IL 62701  
Telephone: 217/782-6167  
Telefax: 217/558-4297

The full text of the Emergency Amendments begins on the next page:

## OFFICE OF BANKS AND REAL ESTATE

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TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATEPART 1410  
HOME INSPECTOR LICENSE ACT

## SUBPART A: DEFINITIONS

## Section

1410.10 Definitions  
EMERGENCY

## SUBPART B: LICENSING AND EDUCATION REQUIREMENTS

## Section

1410.100 Application for a Home Inspector  
EMERGENCY

1410.110 Application for a Home Inspector Entity License  
EMERGENCY

1410.120 Application for Non-Resident Home Inspector License by Reciprocity  
EMERGENCY

1410.130 Expiration of Home Inspector Licenses  
EMERGENCY

1410.140 Renewal of Home Inspector Licenses  
EMERGENCY

1410.150 Pre-License Education Requirements  
EMERGENCY

1410.160 Continuing Education Requirements  
EMERGENCY

1410.170 Issuance of Certificate of Licensure  
EMERGENCY

## SUBPART C: STANDARDS OF PRACTICE AND BUSINESS REQUIREMENTS

## Section

1410.200 Standards of Practice  
EMERGENCY

1410.210 Notification of Name Change  
EMERGENCY

1410.220 Assumed Name

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## EMERGENCY

1410.230 Address Change; Street Address

## EMERGENCY

1410.240 Work Log of Inspections

## EMERGENCY

1410.250 Entities must Utilize Licensed Home Inspectors

## EMERGENCY

## SUBPART D: ENFORCEMENT PROVISIONS

## Section

1410.300 Grounds for Discipline

## EMERGENCY

1410.310 Felony Convictions; Discipline of Other Professional License; Notification

## EMERGENCY

1410.320 Cooperation Required with OBRE

## EMERGENCY

1410.330 Administrative Warning Letter

## EMERGENCY

1410.340 Additional Education; Reporting Requirements

## EMERGENCY

1410.350 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan

## EMERGENCY

## SUBPART E: ADMINISTRATIVE PROVISIONS

## Section

1410.400 Fees

## EMERGENCY

1410.410 Duties of the Liaison

## EMERGENCY

1410.420 Granting of Variances

## EMERGENCY

## SUBPART F: EDUCATION PROVIDER AND COURSE REQUIREMENTS

## Section

1410.500 Education Provider Application; Requirements

## EMERGENCY

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- 1410.510 Pre-License Education Course Requirements of Education Providers  
EMERGENCY
- 1410.520 Pre-License Course Curriculum  
EMERGENCY
- 1410.530 Example of Acceptable Pre-License Education Program  
EMERGENCY
- 1410.540 Continuing Education Course Requirements of Education Providers  
EMERGENCY
- 1410.550 Curriculum for Continuing Education Courses; Continuing Education Credit for  
Participation other than as a Student  
EMERGENCY
- 1410.560 Distance Education  
EMERGENCY
- 1410.570 Expiration Date and Renewal for Education Providers and Pre-License and  
Continuing Education Courses  
EMERGENCY
- 1410.580 Continuing Education Reporting  
EMERGENCY
- 1410.590 Transcript or Certificate of Completion  
EMERGENCY

## SUBPART G: HEARINGS

## Section

- 1410.600 Hearings  
EMERGENCY

**AUTHORITY:** Implementing and authorized by the Home Inspector License Act [225 ILCS 441].

**SOURCE:** Emergency rules adopted at 26 Ill. Reg. 13317, effective Aug 22, 2002, for a maximum of 150 days.

## SUBPART A: DEFINITIONS

**Section 1410.10 Definitions**  
**EMERGENCY**

Unless otherwise clarified by this Part, definitions set forth in the Act also apply or the purposes of this Part.

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“Act” means the Home Inspector License Act [225 ILCS 441].

“Classroom hour” or “hour” as it pertains to the education requirements means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through a distance-learning program approved by OBRE.

“Compensation” means the valuable consideration or the intention or expectation of receiving valuable consideration given by one person or entity to another person or entity in exchange for the performance of some activity or service. Compensation shall include the transfer of valuable consideration, including without limitation the following:

commissions;

referral fees;

bonuses;

prizes;

merchandise;

finder fees;

performance of services;

coupons or gift certificates;

discounts;

rebates;

a chance to win a raffle, drawing, lottery, or similar game of chance not prohibited by any other law or statute;

retainer fee; or

salary.

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“License” means a certificate of authority, permit or registration issued by OBRE.

“Licensee” means a person who has been issued a license under the Act or this Part.

## SUBPART B: LICENSING AND EDUCATION REQUIREMENTS

**Section 1410.100 Application for a Home Inspector License  
EMERGENCY**

Each initial applicant for a Home Inspector License shall submit to OBRE:

- a) An application, provided by OBRE, that is signed and fully completed by the applicant;
- b) The fee as provided this Part;
- c) Proof of successful completion of the pre-license education requirements as provided by the Act and this Part or has verified meeting the waiver requirements provided by Section 5-15 of the Act; and
- d) proof of successful completion of the examination authorized by OBRE.

**Section 1410.110 Application for a Home Inspector Entity License  
EMERGENCY**

An entity who desires to practice as a home inspector or provide home inspections in the State of Illinois in the form of a corporation, Limited Liability Company or a legally formed partnership shall submit to OBRE:

- a) An application, provided by OBRE, that is signed and fully completed by the applicant;
- b) The fee as provided by this Part;
- c) A list of all owners, partners, officers, members, managers or directors of the entity; and
- d) Articles of Incorporation, Articles of Organization or other evidence of legal formation or authority.

**Section 1410.120 Application for Non-Resident Home Inspector License by Reciprocity  
EMERGENCY**

An initial applicant who desires a Home Inspector License by reciprocity and holds a valid Home Inspector License issued by a proper licensing authority of another jurisdiction, that OBRE has a valid reciprocal agreement shall submit to OBRE:

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- a) An application, provided by OBRE, that is signed and fully completed by the applicant;
- b) The fee as provided by this Part; and
- c) A certificate of good standing from the applicant's licensing authority.

**Section 1410.130 Expiration of Home Inspector Licenses  
EMERGENCY**

All Home Inspector Licenses issued pursuant to Sections 100, 110 and 120 of this Part shall expire on November 30 of even numbered years.

**Section 1410.140 Renewal of Home Inspector Licenses  
EMERGENCY**

- a) Each applicant for renewal of a Home Inspector License issued pursuant to Sections 100 and 120 of this Part shall submit to OBRE:
  - 1) An application, provided by OBRE, that is signed and fully completed by the applicant;
  - 2) The fee as provided by this part; and
  - 3) Proof of successful completion of the continuing education requirements as provided by this Part.
- b) Each applicant for renewal of a home inspector entity license issued pursuant to Section 110 of this Part shall submit to OBRE:
  - 1) An application, provided by OBRE, that is signed and fully completed by the applicant;
  - 2) A certificate of good standing or authorization to conduct business in Illinois from the Secretary of State of Illinois; and
  - 3) The fee as provided by this Part.
- c) Any person who fails to submit a renewal application and renew his or her license by the expiration date of the license may renew his or her license for a period of 2 years following the expiration date of his or her license by submitting to OBRE:
  - 1) An application, provided by OBRE, that is signed and fully completed by the applicant;
  - 2) The fee and late penalty as provided by this Part; and
  - 3) proof of successful completion of the continuing education requirements as provided by this Part.
- d) Any person who fails to submit a renewal application within 2 years of the expiration date shall not be eligible to renew his or her license, and must meet the requirements of a new applicant as required by the Act and this Part.

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**Section 1410.150 Pre-License Education Requirements  
EMERGENCY**

- a) Any person who makes application for a Home Inspector License shall be required, as a pre-requisite to examination, to have successfully completed 60 classroom hours of pre-license instruction in a course of study pursuant to Subpart F of this Part. Pre-license education requirements shall only be accepted from education providers and courses approved by OBRE, except as provided in subparagraph (b) of this Section.
- b) OBRE may accept evidence of successful completion of pre-license education credit or partial credit from courses taken after January 1, 2001 and prior to January 1, 2003. An applicant who wishes to obtain credit for pre-license education courses not licensed by OBRE shall submit to OBRE prior to June 30, 2003:
  - 1) An application, provided by OBRE, to request approval for pre-license education credit signed and fully completed by the applicant;
  - 2) A certificate of successful completion provided by the education provider or any other evidence to be considered by OBRE; and
  - 3) The fee as provided in Section 1410.400.

**Section 1410.160 Continuing Education Requirements  
EMERGENCY**

- a) A home inspector who makes application to renew his or her Home Inspector License shall successfully complete the equivalent of 6 hours of approved continuing education pursuant to Subpart F, per year preceding the renewal, for example, a total of 12 hours of approved continuing education for a 2 year renewal cycle. Continuing education may be obtained anytime during the pre-renewal period.
- b) If a home inspector was issued an initial license for less than one year prior to the expiration of the license, then no continuing education is required for that renewal. If a home inspector has held a license for more than one year prior to the expiration, but less than two years, then 6 hours of approved continuing education is required.

**Section 1410.170 Issuance of Certificate of Licensure  
EMERGENCY**

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OBRE shall issue a certificate of licensure and a pocket card to all home inspectors approved for licensure under this Act and this Part. The certificate shall include the name and license number of the home inspector or home inspector entity, address, and the date of expiration.

**SUBPART C: STANDARDS OF PRACTICE AND BUSINESS REQUIREMENTS****Section 1410.200 Standards of Practice  
EMERGENCY**

- a) For the purposes of this Section, the terms listed below shall mean:
- 1) Alarm Systems: Warning devices, installed or free-standing, including but not limited to: carbon monoxide detectors, flue gas and other spillage detectors, security equipment, ejector pumps and smoke alarms.
  - 2) Client: A person or person who engages or seeks to engage the services of a home inspector for an inspection assignment.
  - 3) Component: A part of a system.
  - 4) Decorative: Ornamental; not required for the operation of the essential systems and components of a home.
  - 5) Describe: To report a system or component by its type or other observed, significant characteristics to distinguish it from other systems or components.
  - 6) Home Inspection: Shall be defined as in Section 1-10 of the Act.
  - 7) Home Inspection Report: A written evaluation prepared and issued by a home inspector upon completion of a home inspection, that meets the standards of practice as established by OBRE.
  - 8) Inspect: To examine readily accessible systems and components of a building in accordance with these Standards of Practice, using normal operating controls and opening readily accessible access panels.
  - 9) Roof Drainage Systems: Components used to carry water off a roof and away from a building.
  - 10) Significantly Deficient: Unsafe or not functioning.
  - 11) Solid Fuel Burning Appliances: A hearth and fire chamber or similar prepared place in which a fire may be built and which is built in conjunction with a chimney; or a listed assembly of a fire chamber, its chimney and related factory-made parts designed for unit assembly without requiring field construction.
  - 12) Structural Component: A component that supports non-variable forces or weights (dead loads) and variable forces or weights (live loads).
  - 13) System: A combination of interacting or interdependent components, assembled to carry out one or more functions.

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- 14) Under Floor Crawl Space: The area within the confines of the foundation and between the ground and the underside of the floor.
  - 15) Unsafe: A condition in a system or component, that is judged to be a significant risk of personal injury or property damage during normal, day-to-day use. The risk may be due to damage, deterioration, improper installation or a change in accepted residential construction standards.
- b) These Standards of Practice define the practice of home inspection in the State of Illinois and shall:
    - 1) Provide home inspection guidelines; and
    - 2) Define certain terms relating to these home inspections.
  - c) The purpose of these standards of practice is to establish a minimum and uniform standard for licensed home inspectors to provide the client with information regarding the condition of the systems and components of the home as inspected at the time of the home inspection.
  - d) Home inspectors or home inspector entities shall enter into a written agreement with the client that includes at a minimum:
    - 1) The purpose of the inspection;
    - 2) The date of the inspection;
    - 3) The name, address and license number of the home inspector or home inspector entity;
    - 4) The fee for services performed;
    - 5) A statement that the inspection will be performed in accordance with these Standards;
    - 6) A list of the systems and components to be inspected; and
    - 7) Limitations or exclusions of systems or components being inspected; and
    - 8) The signature of the home inspector or the duly authorized representative of a home inspector entity.
  - e) At the conclusion of the home inspection, a home inspector shall submit a written report to the client or duly authorized representative, that includes the home inspector's signature and license number and shall:
    - 1) Describe the systems and components that were inspected;
    - 2) Report on those systems and components inspected that, in the opinion of the inspector, are significantly deficient; and
      - A) A reason why, if not self-evident, the system or component is significantly deficient.
      - B) The inspector's recommendations to correct or monitor the reported deficiency.
      - C) Disclose any systems or components designated for inspection, that were present at the time of the home inspection, but were not inspected and a reason they were not inspected.

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- f) These Standards are not intended to limit home inspectors from:
- 1) Including other inspection services, systems or components in addition to those defined in these standards of practice;
  - 2) Recommending repairs, provided the home inspector is appropriately qualified to make such recommendations; and
  - 3) Excluding systems and components in the written agreement from the inspection.
- g) When, pursuant to written agreement with a client, the structural system/foundation is inspected, the home inspector shall:
- 1) Inspect the structural components including the foundation and framing; and
  - 2) Describe the foundation and report the methods used to inspect the under-floor crawl space, floor, wall, ceiling, roof, structure and report the methods used to inspect the attic.
- h) When, pursuant to the written agreement with a client, the exterior is inspected, the home inspector shall:
- 1) Inspect the exterior wall covering, flashing, trim, all exterior doors, attached decks, balconies, stoops, steps, porches, and their associated railings, the eaves, soffits, and fascias where accessible from the ground level, the vegetation, grading, surface drainage, and retaining walls on the property when any of these are likely to adversely affect the building, walkways, patios, and driveways leading to dwelling entrances; and
  - 2) Describe the exterior wall covering.
- i) When, pursuant to the written agreement with a client, the roof system is inspected, the home inspector shall:
- 1) Inspect the roof covering, the roof drainage systems, the flashings, the skylights, chimneys, and roof penetrations; and
  - 2) Describe the roof covering and report the methods used to inspect the roof.
- j) When, pursuant to the written agreement with a client, the plumbing system is inspected, the home inspector shall:
- 1) Inspect the interior water supply and distribution including all fixtures and faucets, the drain, waste and vent systems including all fixtures, the water heating equipment, the vent systems, flues, and chimneys, the fuel storage and fuel distribution systems, the drainage sumps, sump pumps, and related piping; and
  - 2) Describe the water supply, drain, waste, and vent piping materials, the water heating equipment including the energy source, the location of main water and main fuel shut-off valves.
- k) When, pursuant to the written agreement with a client, the electrical system is inspected, the home inspector shall:

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- 1) Inspect the service drop, the service entrance conductors, cables, and raceways, the service equipment and main disconnects, the service grounding, the interior components of service panels and sub panels, the conductors, the over-current protection devices, installed lighting fixtures, switches, and receptacles, the ground fault circuit interrupters;
  - 2) Describe the amperage and voltage rating of the service, the location of main disconnect(s) and sub panels, the wiring methods; and
  - 3) Report on the presence of solid conductor aluminum branch circuit wiring and on the absence of smoke detectors.
- l) When, pursuant to the written agreement with a client, the heating system is inspected, the home inspector shall:
- 1) Inspect the installed heating equipment, the vent systems, flues, and chimneys; and
  - 2) Describe the energy source, the heating method by its distinguishing characteristics.
- m) When, pursuant to the written agreement with a client, the cooling system is inspected, the home inspector shall:
- 1) inspect the installed central and through-wall cooling equipment; and
  - 2) describe the energy source, the cooling method by its distinguishing characteristics.
- n) When, pursuant to the written agreement with a client, the interior is inspected, the home inspector shall inspect the walls, ceilings, and floors, the steps, stairways, and railings, the countertops, installed cabinets, a representative number of doors and windows, garage doors and garage door operators.
- o) When, pursuant to the written agreement with a client, the insulation and ventilation are inspected, the home inspector shall:
- 1) inspect the insulation and vapor retarders in unfinished spaces, the ventilation of attics and foundation areas, the mechanical ventilation systems; and
  - 2) describe the insulation and vapor retarders in unfinished spaces, the absence of insulation in unfinished spaces at conditioned surfaces.
- p) When, pursuant to the written agreement with a client, the fireplaces and solid fuel burning appliances are inspected, the home inspector shall:
- 1) Inspect the system components, the vent systems, flues, and chimneys; and
  - 2) Describe the fireplaces, solid fuel burning appliances, and the chimneys.

**Section 1410.210 Notification of Name Change  
EMERGENCY**

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It is the responsibility of each licensee issued a license under this Act to notify OBRE in writing, within fifteen (15) days of any change of name. For example, if the licensee has had a name change either by court order or due to a change in marital status, the licensee shall notify OBRE of the name change together with a certified copy of the marriage certificate or portions of the court order relating to the name change, and indicate under the name the license shall be issued.

**Section 1410.220 Assumed Name  
EMERGENCY**

If a licensee operates under any name other than that appearing on his or her license, he or she shall submit to OBRE a certified copy of his or her registration under the Assumed Business Name Act [805 ILCS 405] at the time of application or within 30 days after the registration.

**Section 1410.230 Address Change; Street Address  
EMERGENCY**

It is the responsibility of each licensee to notify OBRE in writing of a change of address within fifteen (15) days of such change. A licensee may use a Post Office Box number for example P.O. Box 1001, as a mailing address, but must additionally notify OBRE of a street address of the licensee's residence or business location.

**Section 1410.240 Work Log of Inspections  
EMERGENCY**

A person or entity licensed under the Act shall be required to maintain a work log record of home inspections conducted for a period of 5 years after the home inspection is performed. The work log shall be kept in a sequential format and shall include the date, the name of the client and the address of the home inspected.

**Section.1410.250 Entities must Utilize Licensed Home Inspectors  
EMERGENCY**

A Home Inspector Entity licensed pursuant to the Act and this Part shall only utilize licensed home inspectors to conduct home inspections and to sign home inspection reports. The licensed home inspector who signs a home inspection report on behalf of a home inspector entity shall include his or her license number on such report. A Home Inspector Entity is responsible for the actions of all their employees, agents and inspectors while providing home inspections in Illinois.

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## SUBPART D: ENFORCEMENT PROVISIONS

**Section 1410.300 Grounds for Discipline  
EMERGENCY**

A rebuttable presumption of dishonest, unethical or unprofessional conduct shall arise whenever a home inspector, while performing a home inspection or developing a home inspection report, commits one or more of the following acts or omissions and fails to provide a credible explanation upon request:

- a) The licensee expresses an opinion without being based on practical experience or education and honest conviction.
- b) The licensee fails to act in good faith in dealing with a client.
- c) The licensee discloses any information concerning the results of a home inspection without the approval of the client(s).
- d) The licensee accepts compensation from more than one interested party for the same service without the consent of all interested parties.
- e) The licensee offers or accepts commissions or allowances, directly or indirectly, from other parties dealing with a client while providing a home inspection.
- f) The licensee fails to promptly disclose in writing to a client any interest in a business or the subject property that may affect or have the potential to affect the client.
- g) The licensee allows an interest in any business to affect the quality of the results of a home inspection.
- h) The licensee performs a home inspection when the licensee is providing or may provide other services with the client during a real estate transaction, without obtaining prior written notice of the potential or actual conflict of interest and obtaining prior written consent of the client.
- i) The licensee fails to disclose in writing to the client prior to the home inspection any limitations or exclusions of systems or components being inspected.
- j) The licensee aides or assists another in the violation of the Act or this Part.
- k) The licensee fails to satisfy a material term of a consent to administrative supervision order or consent order.
- l) The licensee aides, assists, or facilitates another to use or appropriate credentials or a license for the purpose of preparing a home inspection report knowing such person to be unlicensed.
- m) The licensee advises a client as to whether the client should or should not engage in a real estate transaction or provides an opinion of value regarding the residential real property that is the subject of the home inspection.

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**Section 1410.310 Felony Convictions; Discipline of Other Professional License;  
Notification  
EMERGENCY**

- a) A licensee who holds a valid license issued under the Act shall notify OBRE in writing within 30 days from the date of conviction of any crime described in Section 15-10(a)(4) of the Act. In addition to the notice, the licensee shall provide to OBRE all court records, including but not limited to indictments, information, plea agreements, pre-trial sentencing motions, investigations and orders, as well as judgment and sentencing orders, or other information as required by OBRE to determine fitness for licensure.
- b) A licensee who holds a valid license issued under the Act who has had another professional license disciplined as described in Section 15-10(a)(9) of the Act shall notify OBRE in writing within 30 days after any adverse temporary or final order. In addition to the notice, the licensee shall provide all adverse orders, whether by consent or otherwise, plea agreements, motions or pleadings wherein a licensee has made a written statement or admission of culpability in the violation of a professional regulation or standard, or other information as required by OBRE to determine fitness for licensure.

**Section 1410.320 Cooperation Required with OBRE  
EMERGENCY**

Pursuant to Section 15-10(a)(16) of the Act, all licensees are required to fully cooperate with any audit, investigation, interrogatory, examination or request for information regarding any aspect of the licensee's home inspection practice or application for licensure. Full cooperation includes but is not necessarily limited to:

- a) Providing to OBRE a complete copy of a signed home inspection report as it was transmitted to the client, including file memoranda, work files, supporting and/or verification documentation that are required to be maintained by the Act;
- b) Providing to OBRE continuing education certificates or work logs that are required to be maintained by the Act or this Part; or
- c) Providing to OBRE a complete response to any written interrogatory or request for clarification submitted to a licensee or applicant.

**Section 1410.330 Administrative Warning Letter  
EMERGENCY**

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OBRE may issue an administrative warning letter with or without a compliance agreement that may include a fee pursuant to this Part. A compliance agreement may include conditions in order to maintain the standards of professional conduct, the competency of a licensee, and the protection of the public. Administrative warning letters with or without a compliance agreement are not considered to be discipline and are not subject to the Freedom of Information Act [5 ILCS 140].

**Section 1410.340 Additional Education; Reporting Requirements  
EMERGENCY**

OBRE may require a licensee, pursuant to a compliance agreement or order, to complete remedial education, additional continuing education or pre-license education coursework, provide any reports, records or other documents pertaining to home inspection practice that OBRE may deem necessary to maintain standards of professional conduct, the competency of a licensee, and for the protection of the public.

**Section 1410.350 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan  
EMERGENCY**

- a) If OBRE receives certification that a licensee is in violation of Section 15-40, 15-45 or 15-50 of the Act, OBRE shall notify the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery, that the licensee may be refused renewal of the license at its expiration date, unless the licensee provides to OBRE certification that the licensee has eliminated the arrearage or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.
- b) If OBRE receives certification that an applicant is in violation of Section 15-40, 15-45 or 15-50 of the Act, OBRE shall notify such applicant, by certified or registered mail, return receipt requested, or other signature restricted delivery, of its intent to deny the applicant a license under the Act, unless the applicant provides to OBRE proof that the applicant has eliminated the arrearage or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.
- c) For the purposes of this Section, "certification" shall mean:
  - 1) a verified statement by the appropriate administering agency of such delinquency, failure to file or failure to pay; or
  - 2) a finding by an administrative body after notice to the licensee or applicant of evidentiary proceedings or a court of competent jurisdiction that the licensee or applicant is delinquent in child support or is liable to pay a

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certain amount for Illinois taxes or is delinquent or has defaulted on an Illinois-guaranteed student loan obligation.

- d) A licensee or applicant may participate in a hearing, but the basis for the hearing shall only be for the purpose of proving that the petitioner is not the person for which such failure to pay or arrearage information was received, that the petitioner has executed a formal, written payment plan with the appropriate administering agency, signed by both parties, or that the petitioner has satisfied the outstanding debt. Collateral attack of the certification is not permitted.
- e) A license will be eligible for reinstatement, renewal or issuance upon a showing that the certified failure to file, failure to pay delinquency or default has been satisfied, and by completing the appropriate application and paying any fees provided in this Part.

## SUBPART E: ADMINISTRATIVE PROVISIONS

**Section 1410.400 Fees  
EMERGENCY**

- a) Initial application fee for a Home Inspector License.
  - 1) The application fee for an initial license as a home inspector shall be \$250.
  - 2) The application fee for an initial license as a home inspector entity shall be \$250.
- b) Renewal application fee for a Home Inspector License.
  - 1) The application fee to renew a license as a home inspector shall be calculated at \$200 per year.
  - 2) The application to renew a home inspector entity license shall be calculated at \$200 per year.
  - 3) The application fee to renew a license, that has expired, as a home inspector or a home inspector entity shall be the sum of all lapsed renewal fees plus \$50 late fee.
- c) Initial application fee for a license as an education provider, a pre-license course, and a continuing education course.
  - 1) The application fee for a license as an education provider shall be \$1,000, plus course application fees.
  - 2) The application fee for a license for a pre-license course shall be \$100.
  - 3) The application fee for a license for a continuing education course shall be \$50.
- d) Application fee to renew a license as an education provider, a pre-license course, and a continuing education course.

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- 1) The application fee to renew a license as an education provider shall be calculated at \$500 per year.
  - 2) The application fee to renew a license, that has expired, as an education provider shall be the sum of all lapsed renewal fees plus a \$50 late fee.
  - 3) The application fee to renew a license as a pre-license course shall be calculated at \$50 per year.
  - 4) The application fee to renew a license, that has expired, as a pre-license course shall be the sum of all lapsed renewal fees plus a \$50 late fee.
  - 5) The application fee to renew a license, as a continuing education course shall be calculated at \$25 per year.
  - 6) The application fee to renew a license, that has expired, as a continuing education course shall be the sum of all lapsed renewal fees plus a \$50 late fee.
- e) For the purposes of determining if a license has expired under this Section, OBRE shall consider the license expired, if the post-mark on the renewal application is a date later than the expiration date, or, if delivered other than by mail, the license shall be considered expired, if the renewal application is received by OBRE on a date after the expiration date.
- f) General
- 1) All fees paid pursuant to the Act and this Part are non-refundable.
  - 2) The fee for the issuance of a duplicate license certificate or pocket card for the issuance of a replacement license certificate or pocket card, that has been lost or destroyed, or for the issuance of a license certificate or pocket card with a name or address change other than during the renewal period shall be \$25.
  - 3) The fee for a certification of a licensee's record for any purpose shall be \$25.
  - 4) The fee for a decorative wall license showing registration shall be the cost of producing the license.
  - 5) The fee for a roster of persons licensed under the Act shall be the cost of producing the roster.
  - 6) The fee for an applicant to take the examination for a Home Inspector License shall be the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.
  - 7) The fee for requesting a waiver of any education requirement provided by the Act and this Part shall be \$50.

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- 8) The fee for a copy of the transcript of any proceeding under the Act shall be the cost to produce such copy.
- 9) The fee for certifying any record, for example, a copy of a disciplinary order or application, shall be \$1 per page.
- 10) OBRE may charge an administrative fee not to exceed \$2,000 as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1455.185 of this Part.

**Section 1410.410 Duties of the Liaison****EMERGENCY**

- a) The Commissioner may delegate authority to the liaison as provided in Section 25-15 of the Act. Such delegation may include, but is not limited to:
  - 1) Determine the course of an investigation based upon his or her knowledge, training and experience;
  - 2) Determine whether a complaint be closed without an investigation, given the allegations, or evidence of a violation of the Act and this Part;
  - 3) Close a complaint without any action;
  - 4) Issue an administrative warning letter, cease and desist letter, or request that an attorney issue such letters;
  - 5) Enter into compliance agreements;
  - 6) Refer a complaint for prosecution; or
  - 7) Act upon a request for a variance from this Part.
- b) The authority, once delegated, shall continue until such time as it is amended or withdrawn.

**Section 1410.420 Granting of Variances****EMERGENCY**

The Commissioner of the Office of Banks and Real Estate may grant variances from these rules in individual cases where he or she finds:

- a) the provision from that the variance is granted is not statutorily mandated;
- b) the granting of the variance would not be contrary to the public welfare; and
- c) the rule from that the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

## SUBPART F: EDUCATION PROVIDER AND COURSE REQUIREMENTS

**Section 1410.500 Education Provider Application; Requirements****EMERGENCY**

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- a) In accordance with Section 20-5 of the Act, any person or entity seeking approval to provide pre-license and/or continuing education courses shall submit an application on forms provided by OBRE, that is signed by the applicant and fully completed along with the appropriate fee required by this Part.
- b) The program of pre-license and/or continuing education for a licensed education provider shall:
  - 1) be approved by the provider's governing and/or supervising body;
  - 2) utilize qualified instructors; and
  - 3) offer courses that are approved and licensed, and conform to the standards established in this Subpart.
- c) Facilities
  - 1) An education provider must provide an office for the maintenance of all records, office equipment and office space necessary for customer service.
  - 2) The premises, equipment and facilities of the education provider shall comply with applicable community, state or federal fire codes, building codes, and health and safety standards.
  - 3) The education provider is subject to inspection prior to approval or at any time thereafter by authorized representatives of OBRE. Inspections shall be conducted during regular business hours, with at least 48 hours advance notice.
  - 4) No education provider shall maintain an office, or conduct education courses in a private residence.
  - 5) An education provider shall only conduct education courses in locations that are conducive to learning.
- d) Administration
  - 1) No licensed education provider shall advertise that it is endorsed, recommended, or accredited by OBRE. The education provider may indicate that it is licensed by and the course of study has been approved and licensed by OBRE.
  - 2) Each education provider shall provide a prospective student prior to enrollment with information that specifies the course of study to be offered, the tuition, the provider's policy regarding refund policies, any additional fee for supplies, materials or books, and other matters that are material to the relationship between the provider and the student.
  - 3) Each education provider shall maintain for each student a record that shall include the course of study undertaken, dates of attendance, and a transcript of courses satisfactorily completed. All records shall be maintained by the education provider for a period of 5 years and shall be made available to the student or to OBRE upon request during regular

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business hours. An education provider may charge a student the cost of reproducing copies of a transcript.

- 4) Each education provider shall upon request by OBRE, provide evidence of financial resources available to equip and maintain its program, as documented by, for example, a current balance sheet or an income statement.
- 5) Any out-of-state education providers shall reimburse OBRE for all reasonable expenses incurred by OBRE while inspecting its facilities.
- 6) Each education provider shall notify OBRE of all proposed changes in ownership of the education provider at least thirty (30) days prior to the change in ownership.

**Section 1410.510 Pre-License Education Course Requirements of Education Providers  
EMERGENCY**

- a) For the purposes of this section, a course shall be defined as a course of instruction, that meets the curriculum requirements of this Part, and shall be at least 15 hours in length.
- b) Each course shall meet the appropriate course curriculum prescribed by this Part.
- c) Each course shall include an examination of a minimum of 25 questions for each 15 hours of instruction, for example, a 15 hour course would require a 25 question examination, a 30 hour course would require a 50 question examination. The questions shall be either multiple choice or true/false or a combination of the same. Open book examinations shall not be accepted. No student shall be deemed to have successfully completed the course, unless he or she has scored a minimum of 70% on the course examination.
- d) OBRE shall only grant approval for courses, and that are a part of an overall pre-license education program for a Home Inspector License. An education provider must have a complete 60 hour pre-license program approved by OBRE.
- e) Each education provider who seeks approval of a course shall submit to OBRE an application on forms provided by OBRE, that is signed by the applicant and fully completed, and shall include, but not be limited to, an outline and course description for each course, materials to be used in instruction, an examination with answer key, and the appropriate fee pursuant to this Part.

**Section 1410.520 Pre-License Course Curriculum  
EMERGENCY**

- a) Pre-license education course work to obtain a license as a home inspector shall consist of a minimum of 60 hours of instruction, of which no less than 40 hours

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shall be classroom instruction and no less than 10 hours shall be practical lab instruction. The content for pre-license instruction courses shall not be repetitive and shall represent a progression of instruction in that the home inspector's knowledge is increased in the following topics, including but not limited to:

- 1) Exteriors: Exterior study must contain the following as a minimum.
  - A) Identification and inspection of exposed foundations.
  - B) Identification and inspection of siding and exterior wall covering material, flashing, and trim including: Aluminum, brick, vinyl, steel Asphalt, hardboard, stucco, wood, exterior insulation finish system.
  - C) Identification and inspection of gutter and drainage control systems.
  - D) Inspection of porches steps and rails including the structural composition.
  - E) Identification and implications on vegetation, grading and surface drainage including: retaining walls, walk ways and driveways leading to a dwelling entrance.
- 2) Interiors: Interior study must contain the following as a minimum:
  - A) Identification and inspection of wall, ceiling and floor defects.
  - B) Identification and inspection of step, stair and railing defects.
  - C) Identification and inspection of countertop, cabinet and island defects as it pertains to a kitchen or other type room.
  - D) Identification and inspection of interior and exterior door defects.
  - E) Identification and inspection of window defects and operation.
  - F) Identification and inspection of garage door defects, garage door opener defects, and garage structure defects including fire safety and habitability.
- 3) Roofing: Roofing study must contain the following as a minimum:
  - A) Identification of the type and style of roofs.
  - B) Identification and inspection of the roofing materials used including: asphalt, cedar shake, cedar shingle, tar, residential rolled roofing, clay and concrete tiles, slate, metal, and asbestos.
  - C) Identification and inspection of skylights and flashing.
  - D) Identification of chimneys and other penetrations including proper height and composition.
- 4) Plumbing: Plumbing study must contain the following as a minimum:
  - A) Identification and inspection of the main distribution system including all fixtures and faucets and materials.
  - B) Identification and inspection of all drain, waste and vent systems including all fixtures and materials.

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- C) Identification and inspection of water heating systems.
  - D) Identification and inspection of fuel distribution systems and materials.
  - E) Inspection and identification of all drainage control devices including sump pumps, ejector pumps or other related piping.
  - F) Identification of water source and sewer distribution.
- 5) Electrical: Electrical study must contain the following as a minimum:
- A) Identification and inspection of the main service including the size, location, over current protect, service entrance conductors, cables, and raceways.
  - B) Identification and inspection of the branch distribution including fuse boxes, breaker boxes, and sub-panels.
  - C) Identification and inspection of all over current protection devices and wire type identification.
  - D) Identification and inspection of installed lighting fixtures, switches, and receptacles.
  - E) Identification and inspection of safety devices including ground fault circuit interrupters.
- 6) Heating, ventilation and air conditioning (HVAC): HVAC study must include the following as a minimum:
- A) Identification and inspection of the installed heating equipment including: gas forced air, fuel oil forced air, heat pumps, electric forced air, and hydronic heating equipment as well and the distribution related to the various types.
  - B) Identification and inspection of fuel sources and distribution.
  - C) Identification and inspection of flue pipes and spent gas removal systems.
  - D) Identification and inspection of all related safety devices.
  - E) Identification and inspection of installed cooling systems including central and window mounted systems.
- 7) Structural: Structural study must contain the following as a minimum:
- A) Identification and inspection of all structural components including floor and wall framing.
  - B) Identification and inspection of all foundation support systems including: poured concrete, concrete block, brick, stone, wood and all related perimeter footing systems.
  - C) Identification and inspection of water related or seepage related sources.
  - D) Identification and inspection of flood control devices.

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- E) Identification and inspection of roof structure and systems related to composition.
  - F) Identification and inspection of under roof and under floor ventilation.
  - G) Identification and inspection of insulation and vapor protection systems.
- 8) Miscellaneous Appliances: Appliance study must contain the following as a minimum:
- A) Identification of all fireplaces, solid fuel burning appliances, chimneys and vents.
  - B) Identification and inspection of all major appliances including, but not limited to range, stove, oven, refrigerator, window air conditioner, washer, drier, trash compactor, and garbage disposal, and other appliances that may be a part of a transaction
- 9) Applicable laws: Illinois specific law study must contain at a minimum:
- A) Specific knowledge and understanding of the Illinois Home Inspector License Act and Administrative Rule.
  - B) General knowledge and understanding of Illinois Human Rights Act.
  - C) General knowledge and understanding of contract law.
- 10) Standards of Practice: Standards of practice study must contain the following as a minimum:
- A) Required disclosures to a client.
  - B) Required report content.
  - C) Competent report writing.
  - D) Specific knowledge of business practices and standards of practice.

**Section 1410.530 Example of Acceptable Pre-License Education Program  
EMERGENCY**

Examples of an acceptable pre-license education program and courses are:

- a) 15 hour course of classroom instruction.
  - 1) Exteriors;
  - 2) Interiors; and
  - 3) Roofing.
- b) 15 hour course of classroom instruction.
  - 1) Plumbing;
  - 2) Electrical; and
  - 3) HVAC.
- c) 15 hour course of classroom instruction.

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- 1) Structural;
  - 2) Miscellaneous Appliances;
  - 3) Applicable Laws; and
  - 4) Standards of Practice.
- d) 15 hour practical lab instruction.

**Section 1410.540 Continuing Education Course Requirements of Education Providers  
EMERGENCY**

- a) A continuing education course shall be at least 3 hours in length and shall meet the course curriculum prescribed in Section 1410.450 of this Subpart.
- b) Each education provider who seeks approval of a continuing education course shall submit to OBRE an application on forms provided by OBRE, that is signed by the applicant and fully completed, and shall include, but not be limited to, a course outline and description of the course, a minimum 25 question exam with answer key, the number of hours sought, and the appropriate fee pursuant to this Part.

**Section 1410.550 Curriculum for Continuing Education Courses; Continuing Education Credit for Participation other than as a Student  
EMERGENCY**

- a) Continuing education courses for a home inspector shall include course work that shall increase his or her skill, knowledge and competency in home inspections and shall cover topics such as, but not limited to:
  - 1) Identifying and inspecting the following components and systems:
    - A) Exteriors;
    - B) Interiors;
    - C) Roofing;
    - D) Plumbing;
    - E) Electrical;
    - F) HVAC;
    - G) Structural; and
    - H) Miscellaneous appliances;
  - 2) Applicable laws and standards of practice; and
  - 3) Other areas approved by OBRE.
- b) Continuing education credit may also be granted by OBRE for participation, other than as a student, in home inspection educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks; or similar activities, that are determined to

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be equivalent to obtaining continuing education by OBRE. A home inspector who wishes to obtain continuing education credit for these activities shall submit to OBRE:

- 1) An application on forms provided by OBRE, that is signed by the applicant and fully completed; and
- 2) The fee provided for by this Part

**Section 1410.560 Distance Education  
EMERGENCY**

- a) For pre-license education or continuing education, distance education is defined as any educational process based on the geographical separation of instructor and student for example CD ROM, on-line learning, correspondence courses, video conferencing, etc.
- b) Distance education courses may be approved and licensed by OBRE, if:
  - 1) the education provider is approved and licensed by OBRE;
  - 2) the distance education course meets the requirements for pre-license education and continuing education as provided in the Act and this Part; and
  - 3) the education provider establishes a mechanism for proctored examination approved by OBRE.

**Section 1410.570 Expiration Date and Renewal for Education Providers and Pre - License  
and Continuing Education Courses  
EMERGENCY**

- a) All education provider and pre-license and continuing education course licenses shall expire on December 31 of odd numbered years.
- b) Every education provider who wishes to renew his, her or its license and pre-license and continuing education course licenses shall submit to OBRE:
  - 1) an application, provided by OBRE, that is signed and fully completed;
  - 2) any course materials requested by OBRE during the renewal application process; and
  - 3) the fees as required by this Part.

**Section 1410.580 Continuing Education Reporting  
EMERGENCY**

Each licensed education provider, pursuant to Section 20-5(e) of the Act, approved to offer approved continuing education courses shall submit to OBRE on or before the 15<sup>th</sup> of each

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month, a report of those licensees successfully completing the continuing education courses offered by the provider during the preceding calendar month.

- a) The monthly reports shall include, but not be limited to, the following information for each licensee:
  - 1) the licensee's name, address, social security number, and license number;
  - 2) the education provider's name and license number;
  - 3) the continuing education course name and license number; and
  - 4) other information as required by OBRE.
- b) If an education provider during the preceding calendar month offered no continuing education courses, the provider shall so report on forms provided by OBRE.
- c) The monthly reports shall be submitted in a computer readable format provided and specified by OBRE.
- d) There will be no processing fee for a monthly report submitted in the computer readable format provided and specified by OBRE. Each monthly report submitted on paper or in a format other than a computer readable format provided and specified by OBRE shall be accompanied by a processing fee of \$.50 per licensee, per course, listed on the report, payable by check to OBRE.
- e) A monthly report received by OBRE with a postmark after the day it is due (the 15<sup>th</sup> day of the month) shall be accompanied by an administrative late fee of \$200 in addition to the fees set forth above.
- f) If an education provider fails to file monthly reports or a statement that no courses were offered, or fails to pay the required fees for three consecutive months, the courses offered by that school may be disqualified pursuant to the procedures set forth in the Act and this Part until all delinquent reports, processing fees, and administrative fees as set forth in this Section have been submitted to and are received by OBRE. OBRE shall send notice to the school of an informal conference before the Board and of pending disqualification pursuant to the Act this Part by certified or registered mail, return receipt requested or by other signature restricted delivery service.

**Section 1410.590 Transcript or Certificate of Completion  
EMERGENCY**

Each licensed education provider shall within 10 days of completion of the course provide to each student, who successfully completes an approved pre-license or continuing education course, a certified transcript or certificate of completion. The certified transcript or certificate of completion shall include the following information, but not limited to, the student's name, address, social security number, and license number (if applicable), the name and license number

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of the education provider, the name and license number of the course, and the approved hours completed.

SUBPART G: HEARINGS

**Section 1410.600 Hearings**  
**EMERGENCY**

All disciplinary hearings brought before the Board under Article 15 of the Act shall be conducted in accordance with the Rules of Practice in Administrative Hearings as provided for in 68 Illinois Administrative Code 1110.

## SECRETARY OF STATE

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Procedures and Standards
- 2) Code Citation: 92 Ill. Adm. Code 1001
- 3) Section Number: 1001.442                      Emergency Action: Amend
- 4) Statutory Authority: Subpart D authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implementing Sections 6-103, 6-205(c), (d) and (h), 6-206(c)3, and 11-501(i) of the Illinois Vehicle Code [625 ILCS 5/2-104, 6-103, 6-205(c), (d) and (h), 6-206(c)3, and 11-501(i)].
- 5) Effective Date of Amendment: August 21, 2002
- 6) If these rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable
- 7) Date filed with the Index Department: August 21, 2002.
- 8) A copy of the emergency amendment, including any materials incorporated by reference, is in the Department's Springfield and Chicago offices and is available for public inspection.
- 9) Reason for Emergency: Facts have recently come to the attention of the Secretary of State that indicate that the current rules lack a crucial enforcement provision. The current rules authorize the Secretary to disqualify a device manufacturer for various reasons. See 92 IAC 1001.442(d). If that occurred, the manufacturer would be prohibited from providing interlock devices to BAIID permittees assigned to that manufacturer's region and there is no provision as to the future of those permittees already assigned and being serviced by the disqualified manufacturer. As a consequence, those permittees who are currently driving with interlocks provided by a disqualified manufacturer must be reassigned to another manufacturer which can maintain the interlock device currently installed or provide another interlock device. The current rules do not allow for this reassignment and protection of the affected BAIID permittees. The Secretary finds that the omission of this reassignment provision constitutes a threat to the public interest, safety or welfare.
- 10) A Complete Description of the Subjects and Issues Involved: The current version of the rule in question does not provide for the reassignment of BAIID permittees to other interlock manufacturers when the manufacturer which is responsible for the permittee's

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interlock device is disqualified or ceases operations (due to bankruptcy or death of the owner/operator, for example.) The General Assembly recently gave the Secretary of State authority to establish by rule and regulation the procedures for “certification” and use of the interlock system. See the amendment to Section 6-205(h) of the Illinois Vehicle Code (625 ILCS 5/6-205(h)) made by P.A. 92-248.

This emergency rule, to be followed by the regular rulemaking process, provides for the reassignment of BAIID permittees to other manufacturers.

- 11) Are there any other proposed amendments to this Part pending? No.
- 12) Statement of Statewide Policy Objectives: This proposed amendment will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Information and questions regarding these rules shall be directed to:

Marc Christopher Loro, Legal Advisor  
Department of Administrative Hearings  
200 Howlett Building  
Springfield, Illinois 62756  
(217) 785-8245  
Fax: (217) 782-2192  
mloro@ilsos.net

The full text of the Proposed Amendment begins on the next page:

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NOTICE OF EMERGENCY AMENDMENT

TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATE

PART 1001  
PROCEDURES AND STANDARDS

SUBPART A: FORMAL ADMINISTRATIVE HEARINGS

Section

- 1001.10 Applicability
- 1001.20 Definitions
- 1001.30 Right to Counsel
- 1001.40 Appearance of Attorney
- 1001.50 Special Appearance
- 1001.60 Substitution of Parties
- 1001.70 Commencement of Actions; Notice of Hearing
- 1001.80 Motions
- 1001.90 Form of Papers
- 1001.100 Conduct of Formal Hearings
- 1001.110 Orders
- 1001.120 Record of Hearings
- 1001.130 Invalidity

SUBPART B: ILLINOIS SAFETY RESPONSIBILITY HEARINGS

Section

- 1001.200 Applicability
- 1001.210 Definitions
- 1001.220 Hearings: Notice; Locations; Procedures; Record
- 1001.230 Rules of Evidence
- 1001.240 Scope of Hearings
- 1001.250 Decisions and Orders
- 1001.260 Rehearings
- 1001.270 Judicial Review
- 1001.280 Invalidity

SUBPART C: RULES ON THE CONDUCT OF INFORMAL HEARINGS  
IN DRIVER'S LICENSE SUSPENSIONS AND REVOCATIONS

Section

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- 1001.300 Applicability
- 1001.310 Definitions
- 1001.320 Right to Representation
- 1001.330 Record and Reports
- 1001.340 Location of Hearings
- 1001.350 Duties and Responsibilities
- 1001.360 Decisions
- 1001.370 Invalidity

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING  
PERMITS, REINSTATEMENT, AND THE TERMINATION OF  
CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE  
SECRETARY OF STATE

## Section

- 1001.400 Applicability
- 1001.410 Definitions
- 1001.420 General Provisions Relating to the Issuance of Restricted Driving Permits
- 1001.430 General Provisions for Reinstatement of Driving Privileges after Revocation
- 1001.440 Provisions for Alcohol and Drug Related Revocations, Suspensions, and Cancellations
- 1001.441 Breath Alcohol Ignition Interlock Device Program
- 1001.442 Manufacturer's Responsibilities; Approval for Analyzing Alcohol Content of Breath; DPH Inspections; Disqualification of a Manufacturer; Designation and Assignment of Regions

EMERGENCY

- 1001.443 Installers' Responsibilities
- 1001.450 New Hearings
- 1001.460 Requests for Modification of Revocations and Suspensions
- 1001.470 Renewal, Correction and Cancellation of RDP's
- 1001.480 Unsatisfied Judgment Suspensions
- 1001.485 Reinstatement Application Based Upon Issuance of Drivers License in a State Which is a Member of the Driver License Compact
- 1001.490 Invalidity

## SUBPART E: FORMAL MEDICAL HEARINGS

## Section

- 1001.500 Applicability
- 1001.510 Definitions

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- 1001.520 Procedure
- 1001.530 Conduct of Medical Formal Hearings
- 1001.540 Subsequent Hearings

SUBPART F: ZERO TOLERANCE SUSPENSION OF DRIVING PRIVILEGES; PERSONS  
UNDER THE AGE OF 21 YEARS; IMPLIED CONSENT HEARINGS; RESTRICTED  
DRIVING PERMITS

- 1001.600 Applicability
- 1001.610 Definitions
- 1001.620 Burden of Proof
- 1001.630 Implied Consent Hearings; Religious Exception
- 1001.640 Implied Consent Hearings; Medical Exception
- 1001.650 Rebuttable Presumption
- 1001.660 Alcohol and Drug Education and Awareness Program
- 1001.670 Petition for Restricted Driving Permits
- 1001.680 Form and Location of Hearings
- 1001.690 Invalidity

SUBPART G: MOTOR VEHICLE FRANCHISE ACT

- 1001.700 Applicability
- 1001.710 Definitions
- 1001.720 Organization of Motor Vehicle Review Board
- 1001.730 Motor Vehicle Review Board Meetings
- 1001.740 Board Fees
- 1001.750 Notice of Protest
- 1001.760 Hearing Procedures
- 1001.770 Conduct of Protest Hearing
- 1001.780 Mandatory Settlement Conference
- 1001.785 Technical Issues
- 1001.790 Hearing Expenses; Attorney's Fees
- 1001.795 Invalidity

APPENDIX A    BAIID Regions and Minimum Installation/Service Center Site Location  
Guidelines

AUTHORITY: Subpart A implements Sections 2-113, 2-118, 6-108, 6-205, and 6-206 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-108, 6-205 and 6-206]. Subpart B implements Chapter 7 and is authorized by

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Sections 2-103, 2-104, 2-106, 2-107, 2-108, 2-113, and 2-114, and Ch. 7 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-106, 2-107, 2-108, 2-113, 2-114 and Ch. 7]. Subpart C implements Sections 6-205(c) and 6-206(c)3 and is authorized by Sections 2-103 and 2-104 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 6-205(c) and 6-206(c)3]. Subpart D is authorized by Sections 2-104 and 11-501 of the Illinois Vehicle Code and implements Sections 6-103, 6-205(c), 6-206(c)3, and 6-208 of the Illinois Vehicle Code [625 ILCS 5/2-104, 6-103, 6-205(c), 6-206(c)3, 6-208 and 11-501]. Subpart E implements Sections 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, and 6-908 and is authorized by Sections 2-103, 2-104, 6-906, and 6-909 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 2-123, 6-103, 6-201, 6-906, 6-908 and 6-909]. Subpart F implements Sections 2-113, 2-118, 6-208.2, 11-501.1, and 11-501.8 and is authorized by Sections 2-103, 2-104, and 11-501.8 of the Illinois Vehicle Code [625 ILCS 5/2-103, 2-104, 2-113, 2-118, 6-208.2, 11-501.1 and 11-501.8]. Subpart G implements and is authorized by the Motor Vehicle Franchise Act [815 ILCS 710].

SOURCE: Adopted and codified at 7 Ill. Reg. 7501, effective June 17, 1983; amended at 8 Ill. Reg. 4220, effective April 1, 1984; emergency amendment at 9 Ill. Reg. 17030, effective October 18, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 4558, effective March 18, 1986; amended at 11 Ill. Reg. 17844, effective October 15, 1987; amended at 13 Ill. Reg. 15803, effective October 1, 1989; amended at 14 Ill. Reg. 2601, effective February 15, 1990; amended at 14 Ill. Reg. 16041, effective October 1, 1990; emergency amendment at 16 Ill. Reg. 19926, effective December 8, 1992, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 2047, effective January 27, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6274, effective May 1, 1993; amended at 17 Ill. Reg. 8528, effective June 1, 1993; emergency amendment at 18 Ill. Reg. 7916, effective May 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15127, effective September 21, 1994; emergency amendment at 19 Ill. Reg. 54, effective January 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6667, effective May 1, 1995; emergency amendment at 20 Ill. Reg. 1626, effective January 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8328, effective June 12, 1996; emergency amendment at 20 Ill. Reg. 9355, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15773, effective November 28, 1996; amended at 23 Ill. Reg. 692, effective January 15, 1999; amended at 24 Ill. Reg. 19257, effective December 15, 2000; expedited correction at 25 Ill. Reg. 7352, effective December 15, 2000; emergency amendment at 25 Ill. Reg. 13790, effective October 15, 2001, for a maximum of 150 days; emergency expired on March 13, 2002; emergency amendment at 25 Ill. Reg. 14979, effective November 9, 2001, for a maximum of 150 days; emergency expired on April 7, 2002; amended at 26 Ill. Reg. 9380, effective June 13, 2002; amended at 26 Ill. Reg. 13347, effective Aug 21, 2002.

SUBPART D: STANDARDS FOR THE GRANTING OF RESTRICTED DRIVING PERMITS, REINSTATEMENT, AND THE TERMINATION OF CANCELLATIONS OF DRIVING PRIVILEGES BY THE OFFICE OF THE SECRETARY OF STATE

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**Section 1001.442 Manufacturer's Responsibilities; Approval for Analyzing Alcohol Content of Breath; DPH Inspections; Disqualification of a Manufacturer; Designation and Assignment of Regions**  
**EMERGENCY**

- a) The responsibilities of a device manufacturer shall include:
- 1) The manufacturer shall carry product liability insurance with minimum liability limits of \$1 million per occurrence and \$3 million aggregate total. The liability insurance shall include coverage for defects in product design and materials as well as manufacturing, calibration, installation, and removal of devices. The proof of insurance shall include a statement from the insurance company that thirty (30) days notice will be given to the Secretary and DPH before cancellation of the insurance;
  - 2) The manufacturer shall indemnify and hold harmless the State, the Secretary and its officers, employees and agents, and DPH and its officers, from all claims, demands, actions and costs whatsoever which may arise, directly or indirectly, out of any act or omission by the manufacturer relating to the installation, service, repair, use or removal of a device;
  - 3) The manufacturer of a device shall develop separate detailed written instructions regarding the installation, maintenance and the normal operation of the device;
  - 4) The manufacturer shall provide an 800 customer service/question/complaint hotline;
  - 5) The manufacturer shall provide a training program for the individual operating the device on operation, maintenance, and safeguards against improper operations. The manufacturer shall warn the BAIID Permittee that any tampering with or unauthorized circumvention of the device will result in the immediate cancellation of their RDP. The manufacturer shall instruct the BAIID Permittee and other individuals participating in the training program to maintain a journal of events surrounding failed readings or problems with the device;
  - 6) The manufacturer shall provide informational materials to the Secretary for distribution to BAIID Eligible Petitioners;
  - 7) The manufacturer shall provide a warranty of performance to ensure responsibility for support of service within a maximum of forty-eight (48) hours after notification of a request for service. This support shall be in effect during the period the device is required to be installed in a motor vehicle;
  - 8) The manufacturer shall provide expert or other required testimony in any civil or criminal proceedings or administrative hearings as to the method of

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manufacture of the device, how said device functions. In the event it should become necessary for the Secretary or DPH to provide testimony in any civil or criminal procedures involving the approval or use of the device, the manufacturer shall reimburse the Secretary or DPH for any costs incurred in providing such testimony. Failure to provide this reimbursement shall result in withdrawal of approval for the device;

- 9) The leases, fee schedules, installation verification forms, noncompliance report forms, calibration verification/tamper report forms, and removal/deinstallation report forms used by manufacturers in the program shall be approved by the Secretary;
  - 10) If a manufacturer requires a security deposit by a BAIID Permittee and the amount of the deposit required is more than an amount equal to one (1) month's rental or lease fee, said security deposit must be deposited in an escrow account established at a bank, savings bank or savings and loan association located within the manufacturer's Illinois BAIID region. The manufacturer will provide the Secretary with a certified statement of the escrow account upon his request.
  - 11) Any manufacturer whose device is installed must submit monitor reports to the Secretary no later than seven (7) days from the date the device is brought in for a monitor report or an appropriate portion of the device is sent to the manufacturer. These monitor reports shall be transmitted using agreed upon electronic transfer protocols. The Secretary shall provide an electronic copy of all monitor reports to DPH;
  - 12) The manufacturer shall provide to the Secretary upon request additional reports, to include but not be limited to records of installation, reinstallations, deinstallations, calibrations, maintenance checks and usage records on devices placed in service in the State. These records shall be agreed upon and transmitted using electronic transfer protocols and a copy shall be provided by the Secretary to DPH upon request;
  - 13) The manufacturer shall provide to the Secretary any available physical evidence of tampering with or circumvention of the device. The Secretary shall notify DPH of any such evidence upon request;
  - 14) The manufacturer shall service all BAIID Permittees in their designated geographic region under standards established for that region as set forth in Appendix A.
- b) Approval of BAIIDs for analyzing the alcohol content of breath:
- 1) Preliminary approval of a device may be granted by the Secretary, in consultation with DPH, based on a review and evaluation of test results from a state or nationally recognized certified laboratory test facility regarding the device's ability to meet the Model Safety and Utility Specifications for Breath

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Alcohol Ignition Interlock Devices (BAIIDs) promulgated by the National Highway Traffic Safety Administration, U.S. Department of Transportation, 400 S. 7th St. SW, Washington, D.C. 20590, (202)366-5593, 57 Fed. Reg. 1172, April 7, 1992 (no subsequent dates or editions), except for:

- A) 1.4.S, Power, if the device is not designed to be operated from the battery.
  - B) 1.5.2.S, Extreme Operating Range, if the device is not designed to be operated below  $-20^{\circ}\text{C}$  and above  $+70^{\circ}\text{C}$ .
  - C) 2.3.S, Warm Up, if the device is not designed to be operated below  $-20^{\circ}\text{C}$ .
  - D) 2.5.S, Temperature Package, if the device is not designed to be operated below  $-20^{\circ}\text{C}$  and above  $+70^{\circ}\text{C}$ .
- 2) Within thirty-six (36) months, final approval of a device may be granted by the Secretary, in consultation with DPH, based on a field testing protocol developed by the DPH and review of field performance results from the program.
  - 3) No device shall be given approval if it demonstrates an accuracy rate = 0.01 in unstressed conditions or = 0.02 in stressed conditions.
  - 4) Any device to be approved shall be designed and constructed with an alcohol setpoint of 0.025.
  - 5) Any device to be approved shall require the operator of the vehicle to submit to a rolling retest at a random time within five (5) to fifteen (15) minutes after starting the vehicle. Rolling retests shall continue at a rate of two (2) per hour in random intervals not to exceed forty-five (45) minutes after the first rolling retest.
  - 6) Any device to be approved shall be designed and constructed to immediately begin blowing the horn if:
    - A) The rolling retest is not performed;
    - B) The BrAC readings of the rolling retest is 0.05 or more;
    - C) Tampering or circumvention attempts are detected.
  - 7) The device shall be required to have permanent lockout five (5) days after the Service or Inspection Notification if it is not serviced or calibrated. Notification shall be given by the device in the following cases: anytime the device registers three (3) BrAC readings of .05 or more within a thirty (30) minute period; ten (10) or more unsuccessful attempts to start the vehicle after the initial monitor report; to notify BAIID Permittee of the initial monitor report; a failure to successfully complete a rolling retest; after any attempted tampering or circumvention; every sixty (60) days after the initial monitor report.
  - 8) The device shall be required to have Twenty-Four (24) Hour Lockout anytime

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- the BAIID Permittee registers three (3) BrAC readings of 0.05 or more within a thirty (30) minute period.
- 9) Any device to be approved shall provide for calibration at least once every sixty (60) days using a wet bath simulator or other approved equivalent procedure; ie., dry gas standard.
  - 10) Any manufacturer/service center/vendor who sells, rents, and/or leases ignition interlock devices in Illinois shall report to the Secretary all such sales, rentals, and/or leases listing the name of the individual, his or her driver's license number, the installer, the installer's location, the make, serial number of the device, the make and model of the vehicle it is installed in, and VIN number of the vehicle within fifteen (15) days using an agreed upon electronic transfer medium and format. The Secretary shall provide a copy of the information to DPH.
  - 11) Any device which is not provided a preliminary approval or a final approval shall be re-tested at the request of the manufacturer but not more often than once in a given year.
  - 12) A manufacturer may apply for preliminary approval of a device by submitting a written request to the Secretary and DPH certifying the device:
    - A) Does not impede the safe operation of a vehicle.
    - B) Minimizes opportunities to bypass the device.
    - C) Performs accurately and reliably under normal conditions.
    - D) Prevents a BAIID Permittee from starting a vehicle when the BAIID Permittee has a prohibited BrAC; ie = 0.025.
    - E) Satisfies the requirements for certification set forth in this Section.
  - 13) The written request shall include all of the following information:
    - A) The name and address of the manufacturer of the device.
    - B) The name and model number of the device. A separate request is required for each model or type of device.
    - C) A detailed description of the device, including complete instructions for installation, operation, service, repair and removal.
    - D) Complete technical specifications describing the device's accuracy, reliability, security, data collection and recording, tamper detection, and environmental features.
    - E) A complete and accurate copy of data from a state or nationally recognized certified laboratory test facility regarding the device's ability to meet or exceed the specifications in this Section.
    - F) A description of the manufacturer's present and two (2) year plan for distribution and service in Illinois.
    - G) A certification from the manufacturer that it will accept the region assigned as a result of a random draw and will service all BAIID

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Permittees residing in the designated region under standards established for that region.

- 14) The Secretary, in consultation with DPH, shall issue a preliminary approval or disapproval of a device no later than thirty (30) days after receipt of all required requested materials and certifications.
  - 15) The manufacturer shall provide the Secretary:
    - A) A list of all locations in Illinois where the device may be purchased, rented, leased, installed, removed, serviced, repaired, calibrated, accuracy checked, inspected and monitored in an agreed upon format. The manufacturer shall notify the Secretary of any new locations or any locations which are closed;
    - B) Five (5) production devices of which three (3) will be used for field testing; and
    - C) Training for the Secretary's employees and DPH's inspectors and program administrator at no cost.
  - 16) The manufacturer shall, at no cost to the State of Illinois, install the selected devices for field testing in the vehicles provided by the Secretary and DPH. DPH shall independently evaluate each device to ensure compliance with the requirements in this Section. The evaluation criteria include, but are not limited to, repeated testing of alcohol-laden samples, filtered samples, circumvention attempts and tampering.
  - 17) A list of approved devices shall be maintained by the Secretary.
- c) DPH Inspections
- DPH may conduct independent inspections on any of the devices, installers, service providers, or manufacturers to determine if they are in compliance with these rules. If the independent inspection indicates a noncompliance with the rules, DPH shall notify the Secretary and he shall require the manufacturer to correct any noncompliance so reported. The manufacturer shall report in writing to the Secretary within thirty (30) days after receiving notification of the noncompliance any corrective actions taken.
- d) Disqualification of a Manufacturer
- 1) The Secretary shall disqualify a manufacturer or installer from participation in the program upon written notification and a thirty (30) day opportunity to come into compliance in any of the following cases:
    - ~~A)H~~ Failure to submit monitor reports in a timely manner as provided in subsection (a)(11). If the Secretary finds, through investigation, that the BAIID Permittee did take the vehicle with the installed device to the manufacturer or installer or sent the appropriate portion of the device to the manufacturer for a monitor report in a timely manner, a warning notification shall be sent to the manufacturer or installer indicating that

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a second such occurrence will result in cancellation of participation;

~~B)2)~~ Failure to maintain liability insurance as required;

~~C)3)~~ Failure to comply with all of the duties and obligations contained in this Part.

2) Upon disqualification or the cessation of the operation of a manufacturer, the Secretary shall assign future BAIID Permittees from that manufacturer's region to another manufacturer closest to the Permittee. Upon disqualification of the manufacturer, the Secretary may:

A) Immediately reassign all Permittees previously assigned to the manufacturer to another manufacturer closest to the Permittee; or

B) If such action does not jeopardize the safety of the public, allow the disqualified manufacturer to continue to service any Permittee assigned to it prior to the disqualification. However, such Permittees shall have the option of being reassigned to another manufacturer closest to the Permittee.

All costs related to such reassignments shall be paid by the Permittees.

e) Designation and Assignment of Regions

The Secretary shall by a random draw designate a defined geographic region for each approved manufacturer participating in the program. Each manufacturer shall be responsible for establishing installation or service sites within its assigned region to service BAIID Permittees residing in said region under standards established for that region as set forth in Appendix A.

(Source: Amended by emergency rulemaking at 26 Ill. Reg. 13347, effective August 21, 2002, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
SEPTEMBER AGENDA

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER  
ROOM 16-503  
CHICAGO, ILLINOIS  
10:30 A.M.  
SEPTEMBER 10, 2002

**NOTICES:** The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

*If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706  
Email: [jcar@legis.state.il.us](mailto:jcar@legis.state.il.us)  
Phone: 217/785-2254*

**RULEMAKINGS CURRENTLY BEFORE JCAR**

**PROPOSED RULEMAKINGS**

Central Management Services

1. Pay Plan (80 Ill. Adm. Code 310)
  - First Notice Published: 26 Ill. Reg. 6897 – 5/10/02
  - Expiration of Second Notice: 9/25/02
2. Pay Plan (80 Ill. Adm. Code 310)
  - First Notice Published: 26 Ill. Reg. 7790 – 5/31/02
  - Expiration of Second Notice: 9/25/02

Children and Family Services

3. Administrative Case Reviews and Court Hearings (89 Ill. Adm. Code 316)
  - First Notice Published: 26 Ill. Reg. 6899 – 5/10/02

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-Expiration of Second Notice: 10/4/02

Environmental Protection Agency

4. Regulatory Innovation Projects (35 Ill. Adm. Code 187)
  - First Notice Published: 26 Ill. Reg. 5295 – 4/12/02
  - Expiration of Second Notice: 10/2/02

Human Services

5. Maternal and Child Health Services Code (77 Ill. Adm. Code 630)
  - First Notice Published: 26 Ill. Reg. 8630 – 6/21/02
  - Expiration of Second Notice: 10/3/02
6. WIC Vendor Management Code (77 Ill Adm Code 672)
  - First Notice Published: 26 Ill Reg 7514 – 5/24/02
  - Expiration of Second Notice: 9/21/02
7. Collections and Recoveries (89 Ill Adm Code 165)
  - First Notice Published: 26 Ill Reg 8512 – 6/14/02
  - Expiration of Second Notice: 9/21/02

Insurance

8. Life Insurance and Annuity Replacement Regulation (50 Ill. Adm. Code 917)
  - First Notice Published: 26 Ill. Reg. 5531 – 4/19/02
  - Expiration of Second Notice: 9/25/02
9. Advertising and Sales Promotion of Life Insurance and Annuities (50 Ill. Adm. Code 909)
  - First Notice Published: 26 Ill. Reg. 5527 – 4/19/02
  - Expiration of Second Notice: 9/25/02
10. Insurance Producers Doing Business Under and an Assumed Name or Firm Name (50 Ill. Adm. Code 3109)
  - First Notice Published: 26 Ill. Reg. 5540 – 4/19/02
  - Expiration of Second Notice: 9/25/02
11. Premium Fund Trust Account (50 Ill. Adm. Code 3113)
  - First Notice Published: 26 Ill. Reg. 5544 – 4/19/02
  - Expiration of Second Notice: 9/25/02

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12. Pre-Licensing and Continuing Education (50 Ill. Adm. Code 3119)  
-First Notice Published: 26 Ill. Reg. 5548 – 4/19/02  
-Expiration of Second Notice: 9/25/02

Natural Resources

13. Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting (17 Ill Adm Code 530)  
-First Notice Published: 26 Ill Reg 7917 – 5/31/02  
-Expiration of Second Notice: 9/14/02
14. Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting (17 Ill Adm Code 550)  
-First Notice Published: 26 Ill Reg 8226 – 6/7/02  
-Expiration of Second Notice: 9/11/02

Nuclear Safety

15. Fees for Radioactive Material Licensees and Registrants (32 Ill. Adm. Code 331)  
-First Notice Published: 26 Ill. Reg. 7959 – 5/31/02  
-Expiration of Second Notice: 10/3/02

Professional Regulation

16. Illinois Architecture Practice Act of 1989 (68 Ill. Adm. Code 1150)  
-First Notice Published: 26 Ill. Reg. 3389 – 3/8/02  
-Expiration of Second Notice: 10/6/02
17. Illinois Orthotics, Prosthetics and Pedorthics Practice Act (68 Ill Adm Code 1325)  
-First Notice Published: 26 Ill Reg 7966 – 5/31/02  
-Expiration of Second Notice: 9/13/02

Public Aid

18. Medical Assistance Programs (89 Ill Adm Code 120)  
-First Notice Published: 26 Ill Reg 5047 – 4/5/02  
-Expiration of Second Notice: 10/6/02
19. Medical Payment (89 Ill Adm Code 140)  
-First Notice Published: 26 Ill Reg 3852 – 3/15/02

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-Expiration of Second Notice: 10/6/02

20. Hospital Services (89 Ill Adm Code 148)  
-First Notice Published: 26 Ill Reg 2974 – 3/1/02  
-Expiration of Second Notice: 9/13/02
21. Hospital Services (89 Ill Adm Code 148)  
-First Notice Published: 26 Ill Reg 4056 – 3/22/02  
-Expiration of Second Notice: 9/13/02

Public Health

22. Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)  
-First Notice Published: 26 Ill. Reg. 8751 – 6/21/02  
-Expiration of Second Notice: 10/3/02

Racing Board

23. Thoroughbred Breeders Cup (11 Ill Adm Code 1441)  
-First Notice Published: 26 Ill Reg 8757 – 6/21/02  
-Expiration of Second Notice: 9/22/02

Revenue

24. Income Tax (86 Ill Adm Code 100)  
-First Notice Published: 26 Ill Reg 7015 – 5/10/02  
-Expiration of Second Notice: 9/21/02
25. Motor Fuel Tax (86 Ill. Adm. Code 500)  
-First Notice Published: 26 Ill. Reg. 5893 – 4/26/02  
-Expiration of Second Notice: 10/12/02

Secretary of State

26. Regulations Under the Illinois Securities Law of 1953 (14 Ill. Adm. Code 130)  
-First Notice Published: 26 Ill. Reg. 8771 – 6/21/02  
-Expiration of Second Notice: 10/6/02
27. Regulations Under the Business Opportunity Sales Law of 1995 (14 Ill. Adm. Code 135)  
-First Notice Published: 26 Ill. Reg. 8778 – 6/21/02  
-Expiration of Second Notice: 10/6/02

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
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28. Regulations Under the Illinois Business Brokers Act of 1995 (14 Ill. Adm. Code 140)  
-First Notice Published: 26 Ill. Reg. 8793 – 6/21/02  
-Expiration of Second Notice: 10/6/02
29. Regulations Under the Illinois Loan Brokers Act of 1995 (14 Ill. Adm. Code 145)  
-First Notice Published: 26 Ill. Reg. 8798 – 6/21/02  
-Expiration of Second Notice: 10/6/02
30. Commercial Driver Training Schools (92 Ill. Adm. Code 1060)  
-First Notice Published: 26 Ill. Reg. 9623 – 7/5/02  
-Expiration of Second Notice: 10/6/02

State Police Merit Board

31. Procedures of the Department of State Police Merit Board (80 Ill. Adm. Code 150)  
-First Notice Published: 26 Ill. Reg. 7713 – 5/24/02  
-Expiration of Second Notice: 10/7/02

Veterans' Affairs

32. Admission to and Discharge from Illinois Veterans Homes (95 Ill. Adm. Code 107)  
-First Notice Published: 26 Ill. Reg. 8516 – 6/14/02  
-Expiration of Second Notice: 9/25/02

**EMERGENCY AND PEREMPTORY RULEMAKINGS**

Central Management Services

33. Extensions of Jurisdiction (80 Ill Adm Code 305) (Emergency)  
-Notice Published: 26 Ill Reg 12060 – 8/2/02

Natural Resources

34. Wildlife Conservation Measures and Practices (17 Ill. Adm. Code 635) (Emergency)  
-Notice Published: 26 Ill. Reg. 12650 – 8/16/02

Public Aid

35. Medical Payment (89 Ill. Adm. Code 140) (Emergency)

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
SEPTEMBER AGENDA

-Notice Published: 26 Ill. Reg. 12461 – 8/9/02

36. Medical Payment (89 Ill. Adm. Code 140) (Emergency)  
-Notice Published: 26 Ill. Reg. 12772 – 8/23/02

37. Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153) (Emergency)  
-Notice Published: 26 Ill. Reg. 12791 – 8/23/02

**EXPEDITED CORRECTION**

Commerce Commission

38. Certification of Alternative Retail Electric Suppliers (83 Ill. Adm. Code 451; 26 Ill. Reg. 12478)

**AGENCY RESPONSE**

Liquor Control Commission

39. The Illinois Liquor Control Commission (11 Ill. Adm. Code 100; 26 Ill. Reg. 7531)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 20, 2002 through August 26, 2002 and have been scheduled for review by the Committee at its September 10, 2002 or October 8, 2002 meetings in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

| <u>Second<br/>Notice<br/>Expires</u> | <u>Agency and Rule</u>   | <u>Start<br/>Of First<br/>Notice</u> | <u>JCAR<br/>Meeting</u> |
|--------------------------------------|--|--------------------------------------|-------------------------|
| 10/3/02                              | <u>Department of Nuclear Safety</u> , Fees for Radioactive Material Licensees and Registrants (32 Ill. Adm. Code 331)      | 5/31/02<br>26 Ill. Reg.<br>7959      | 9/10/02                 |
| 10/3/02                              | <u>Department of Public Health</u> , Long-Term Care Assistants and Aides Training Programs Code (77 Ill. Adm. Code 395)    | 6/21/02<br>26 Ill. Reg.<br>8751      | 9/10/02                 |
| 10/3/02                              | <u>Department of Human Services</u> , Maternal and Child Health Services Code (77 Ill. Adm. Code 630)                      | 6/21/02<br>26 Ill. Reg.<br>8630      | 9/10/02                 |
| 10/4/02                              | <u>Department of Children and Family Services</u> , Administrative Case Reviews and Court Hearings (89 Ill. Adm. Code 316) | 5/10/02<br>26 Ill. Reg.<br>6899      | 9/10/02                 |
| 10/6/02                              | <u>Department of Public Aid</u> , Medical Payment (89 Ill. Adm. Code 140)  | 3/15/02<br>26 Ill. Reg.<br>3852      | 9/10/02                 |
| 10/6/02                              | <u>Department of Public Aid</u> , Medical Assistance Programs (89 Ill. Adm. Code 120)                                      | 4/5/02<br>26 Ill. Reg.<br>5047       | 9/10/02                 |
| 10/6/02                              | <u>Department of Professional Regulation</u> , Illinois Architecture Practice Act of 1989 (68 Ill. Adm.                    | 3/8/02<br>26 Ill. Reg.               | 9/10/02                 |

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

|         |   |                                 |         |
|---------|---|---------------------------------|---------|
|         | Code 1150)  | 3389                            |         |
| 10/6/02 | <u>Secretary of State</u> , Regulations Under the Illinois Securities Law of 1953 (14 Ill. Adm. Code 130)                                   | 6/21/02<br>26 Ill. Reg.<br>8771 | 9/10/02 |
| 10/6/02 | <u>Secretary of State</u> , Regulations Under the Business Opportunity Sales Law of 1995 (14 Ill. Adm. Code 135)                            | 6/21/02<br>26 Ill. Reg.<br>8788 | 9/10/02 |
| 10/6/02 | <u>Secretary of State</u> , Regulations Under the Illinois Business Brokers Act of 1995 (14 Ill. Adm. Code 140)                             | 6/21/02<br>26 Ill. Reg.<br>8793 | 9/10/02 |
| 10/6/02 | <u>Secretary of State</u> , Regulations Under the Illinois Loan Brokers Act of 1995 (14 Ill. Adm. Code 145)                                 | 6/21/02<br>26 Ill. Reg.<br>8798 | 9/10/02 |
| 10/6/02 | <u>Secretary of State</u> , Commercial Driver Training Schools (92 Ill. Adm. Code 1060)   | 7/5/02<br>26 Ill. Reg.<br>9623  | 9/10/02 |
| 10/9/02 | <u>State Board of Education</u> , Evaluation of Certified School District Employees in Contractual Continued Service (23 Ill. Adm. Code 50) | 5/3/02<br>26 Ill. Reg.<br>6025  | 10/8/02 |
| 10/9/02 | <u>State Board of Education</u> , Electronic Transfer of Funds (23 Ill. Adm. Code 155)  | 5/3/02<br>26 Ill. Reg.<br>6030  | 10/8/02 |
| 10/9/02 | <u>State Board of Education</u> , Student Records (23 Ill. Adm. Code 375)   | 5/31/02<br>26 Ill. Reg.<br>7807 | 10/8/02 |

## PROCLAMATIONS

**2002-445****September 26-October 10, 2002 as Vision Rehabilitation Days**

WHEREAS, more than 468,208 people in Illinois have some form of impaired vision; and

WHEREAS, thanks to the benefit of training, education and community support persons with vision impairments lead independent, productive lives; and

WHEREAS, October 10, 2002, has been proclaimed by George W. Bush as National Rehabilitation Day; and

WHEREAS, the Illinois Department of Human Services' Office of Rehabilitation Services, Bureau of Blind Services and numerous partners and providers will host a conference entitled Discovery, the Low Vision Conference, from September 26-28, 2002, in Chicago; and

WHEREAS, the conference will bring together people with vision impairments, educators, and rehabilitation professionals and vendors to offer a regional perspective on low vision, vision rehabilitation and low vision education;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 26-October 10, 2002, as VISION REHABILITATION DAYS in Illinois.

Issued by the Governor August 21, 2002

Filed by the Secretary of State August 26, 2002

**2002-446****September 10, 2002 as National Business Association Day**

WHEREAS, the National Business Association, with members in Springfield, Illinois, is celebrating more than a decade of continuous service to the self-employed and small business community; and

WHEREAS, no group of individuals better exemplifies the spirit that has built this great nation than the self-employed Americans, whose determination, courage and hard work enabled them to start their own businesses and take control of their own destiny; and

WHEREAS, the National Business Association is a non-profit association dedicated to assisting the self-employed and small business owners in achieving their professional and personal goals; and

WHEREAS, the National Business Association offers their members cost and time savings benefits and services in the area of business, lifestyle, health, and education; and

WHEREAS, the National Business Association provides a united voice to the small business owner and self-employed American, thereby providing the vital support needed for small businesses to grow;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 10, 2002, as NATIONAL BUSINESS ASSOCIATION DAY in Illinois, in recognition of the association's continued service to its citizens.

Issued by the Governor August 21, 2002

Filed by the Secretary of State August 26, 2002

**2002-447**

## PROCLAMATIONS

**September 22-28, 2002 as Older Worker Week**

WHEREAS, older workers bring stability to the workforce and serve as role models to their younger counterparts; and

WHEREAS, employers benefit from the older worker's maturity, life experience, productivity and dependability; and

WHEREAS, older workers are conscientious, have much patience and low absenteeism; and

WHEREAS, older workers have high morale and job satisfaction; and

WHEREAS, Illinois and the nation cherish the contribution of older workers, and the state celebrates the work ethics and examples set by our elders; and

WHEREAS, the theme of National Employ the Older Worker Week is "Mature Workers...Red, White and True Blue;"

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 22-28, 2002, as OLDER WORKER WEEK in Illinois.

Issued by the Governor August 22, 2002

Filed by the Secretary of State August 26, 2002

**2002-448****September 1-2, 2002 as Schweidsbeng Wine Festival Days**

WHEREAS, the "Schweidsbenger Waifescht" which was first published in September 1953, continues today without interruption and is celebrating its 50th anniversary; and

WHEREAS, the "Schweidsbenger Waifescht" publication's purpose is to promote the Village of Schweidsbeng in Luxembourg; and

WHEREAS, the Village of Schweidsbeng is noted for its quality "Letzeborger Wain" wine; and

WHEREAS, Nicholas Strotz, Mayor of Schweidsbeng, announced the Annual Wine Festival will be the first weekend in September; and

WHEREAS, Charles Urbany, President of the Annual Schweidsbeng Wine Festival announced the United States Air Force in Europe Music Band is featured in the program at the celebration; and

WHEREAS, Jim and Anita Madler and John Josee Schlink will present this proclamation on behalf of the descendants of the Rock, Madler, Schmidt and Lulling families, and the 12 million citizens of Illinois; and

WHEREAS, the Luxembourg American community has made significant contributions in all areas of life including education, medicine, science, business, arts, technology, government and public service in Illinois, including Speaker of the House Dennis Hastert and former President of the Senate Philip J. Rock;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 1-2, 2002, as SCHWEIDSBENG WINE FESTIVAL DAYS in Illinois.

Issued by the Governor August 22, 2002

Filed by the Secretary of State August 26, 2002

## PROCLAMATIONS

**2002-449****September 2002 as Leukemia & Lymphoma Awareness Month**

WHEREAS, blood-related cancers currently afflict more than 700,000 Americans with an estimated 110,000 new cases diagnosed each year; and

WHEREAS, leukemia, lymphoma, and myeloma will kill an estimated 60,500 people in the United States this year; and

WHEREAS, the Leukemia & Lymphoma Society, through voluntary contributions, is dedicated to finding cures for these diseases through research efforts and the support for those that suffer from them; and

WHEREAS, the Leukemia & Lymphoma Society maintains an office in Illinois to support patients with these diseases and their family members in the State of Illinois; and

WHEREAS, the State of Illinois is similarly committed to the eradication of these diseases and supports the treatment of its citizens that suffer from them; and

WHEREAS, the State of Illinois encourages private efforts to enhance research funding and education programs that address these diseases;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 2002 as LEUKEMIA & LYMPHOMA AWARENESS MONTH in Illinois.

Issued by the Governor August 22, 2002

Filed by the Secretary of State August 26, 2002

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.Subpart F, the following water quality criteria have been derived as listed. This listing includes only the waterbodies for which water quality criteria have been used during the period February 1, 2002 through July 31, 2002.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; 19 Ill. Reg. 12527, September 1, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; 20 Ill. Reg. 15619, December 6, 1996; 21 Ill. Reg. 3761, March 21, 1997; 21 Ill. Reg. 7554, June 13, 1997; 21 Ill. Reg. 12695, September 12, 1997; 21 Ill. Reg. 16193, December 12, 1997; 22 Ill. Reg. 5131, March 13, 1998; 22 Ill. Reg. 10689, June 12, 1998; 22 Ill. Reg. 16376, September 11, 1998; 22 Ill. Reg. 22423, December 28, 1998; 23 Ill. Reg. 3102, March 12, 1999; 23 Ill. Reg. 6979, June 11, 1999; 23 Ill. Reg. 11774, September 24, 1999; 23 Ill. Reg. 14772, December 27, 1999; 24 Ill. Reg. 4251, March 17, 2000; 24 Ill. Reg. 8146, June 9, 2000; 24 Ill. Reg. 14428, September 29, 2000; 25 Ill. Reg. 270, January 5, 2001; 25 Ill. Reg. 4049, March 16, 2001; 25 Ill. Reg. 7367, June 8, 2001; 25 Ill. Reg. 12186, September 21, 2001; 25 Ill. Reg. 16175, December 14, 2001 and 26 Ill. Reg. 4974, March 29, 2002.

|  |                             |
|--|-----------------------------|
| Chemical: Acenaphthene                               | CAS #83-32-9                |
| Acute criterion: 124 ug/l                            | Chronic criterion: 9.9 ug/l |
| Date criteria derived: November 14, 1991             |                             |
| Applicable waterbodies: Not used during this period. |                             |
| Chemical: Acetone                                    | CAS #67-64-1                |
| Acute criterion: 1,530 mg/l                          | Chronic criterion: 122 mg/l |
| Date criteria derived: May 25, 1993                  |                             |
| Applicable waterbodies: Not used during this period. |                             |
| Chemical: Acetonitrile                               | CAS #75-05-8                |
| Acute criterion: 375 mg/l                            | Chronic criterion: 30 mg/l  |
| Date criteria derived: December 7, 1993              |                             |
| Applicable waterbodies: Not used during this period. |                             |
| Chemical: Acrylonitrile                              | CAS #107-13-4               |
| Acute criterion: 910 ug/l                            | Chronic criterion: 73 ug/l  |
| Human health criterion (HNC): 0.21 ug/l              |                             |
| Date criteria derived: November 13, 1991             |                             |
| Applicable waterbodies: Not used during this period. |                             |

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

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|--|
| <p>Chemical: Anthracene CAS #120-12-7<br/> Human health criterion (HTC): 35 mg/l<br/> Date criteria derived: August 18, 1993<br/> Applicable waterbodies: Not used during this period.</p>   |
| <p>Chemical: Benzene CAS #71-43-2<br/> Acute criterion: 4,200 ug/l Chronic criterion: 330 ug/l<br/> Human health criterion (HNC): 21 ug/l<br/> Date criteria derived: August 15, 1990; revised January 14, 1999; revised June 25, 2001<br/> Applicable waterbodies: Not used during this period.</p> |
| <p>Chemical: Benzo(a)anthracene CAS #56-55-3<br/> Human health criterion (HNC): 0.01 ug/l<br/> Date criteria derived: August 10, 1993<br/> Applicable waterbodies: Not used during this period.</p>  |
| <p>Chemical: Benzo(a)pyrene CAS #50-32-8<br/> Human health criterion (HNC): 0.01 ug/l<br/> Date criteria derived: August 10, 1993<br/> Applicable waterbodies: Not used during this period.</p>  |
| <p>Chemical: Benzo(b)fluoranthene CAS # 205-99-2<br/> Human health criterion (HNC): 0.01 ug/l<br/> Date criteria derived: August 10, 1993<br/> Applicable waterbodies: Not used during this period.</p>  |
| <p>Chemical: Benzo(k)fluoranthene CAS #207-08-9<br/> Human health criterion (HNC): 0.01 ug/l<br/> Date criteria derived: August 10, 1993<br/> Applicable waterbodies: Not used during this period.</p>   |
| <p>Chemical: Carbon tetrachloride CAS #56-23-5<br/> Acute criterion: 3,500 ug/l Chronic criterion: 280 ug/l<br/> Human health criterion (HNC): 1.4 ug/l<br/> Date criteria derived: June 18, 1993<br/> Applicable waterbodies: Not used during this period.</p>                                      |
| <p>Chemical: Chlorobenzene CAS #108-90-7<br/> Acute criterion: 993 ug/l Chronic criterion: 79 ug/l<br/> Date criteria derived: December 11, 1991<br/> Applicable waterbodies: Not used during this period.</p>   |

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

|  |                               |
|--|-------------------------------|
| Chemical: Chloroform                                 | CAS #67-66-3                  |
| Acute criterion: 1,870 ug/l                          | Chronic criterion: 150 ug/l   |
| Human health criterion (HNC): 130 ug/l               |                               |
| Date criteria derived: October 26, 1992              |                               |
| Applicable waterbodies: Not used during this period. |                               |
| Chemical: Chrysene                                   | CAS #218-01-9                 |
| Human health criterion (HNC): 0.01 ug/l              |                               |
| Date criteria derived: August 10, 1993               |                               |
| Applicable waterbodies: Not used during this period. |                               |
| Chemical: 1,2-dichlorobenzene                        | CAS #95-50-1                  |
| Acute criterion: 210 ug/l                            | Chronic criterion: 16.8 ug/l  |
| Date criteria derived: December 1, 1993              |                               |
| Applicable waterbodies: Not used during this period. |                               |
| Chemical: 1,3-dichlorobenzene                        | CAS #541-73-1                 |
| Acute criterion: 500 ug/l                            | Chronic criterion: 196 ug/l   |
| Date criteria derived: July 31, 1991                 |                               |
| Applicable waterbodies: Not used during this period. |                               |
| Chemical: 1,2-dichloroethane                         | CAS #107-06-2                 |
| Acute criterion: 24,900 ug/l                         | Chronic criterion: 4,540 ug/l |
| Human health criterion (HNC): 23 ug/l                |                               |
| Date criteria derived: March 19, 1992                |                               |
| Applicable waterbodies: Not used during this period. |                               |
| Chemical: 1,1-dichloroethylene                       | CAS #75-35-4                  |
| Acute criterion: 3,030 ug/l                          | Chronic criterion: 242 ug/l   |
| Human health criterion (HNC): 0.95 ug/l              |                               |
| Date criteria derived: March 20, 1992                |                               |
| Applicable waterbodies: Not used during this period. |                               |
| Chemical: 2,4-dichlorophenol                         | CAS #120-83-2                 |
| Acute criterion: 631 ug/l                            | Chronic criterion: 83.1 ug/l  |
| Date criteria derived: November 14, 1991             |                               |
| Applicable waterbodies: Not used during this period. |                               |
| Chemical: 1,2-dichloropropane                        | CAS #78-87-5                  |
| Acute criterion: 4,800 ug/l                          | Chronic criterion: 380 ug/l   |
| Date criteria derived: December 7, 1993              |                               |
| Applicable waterbodies: Not used during this period. |                               |

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

|   |                              |
|---|------------------------------|
| Chemical: 1,3-dichloropropylene   | CAS #542-75-6                |
| Acute criterion: 99 ug/l  | Chronic criterion: 7.9 ug/l  |
| Date criteria derived: November 13, 1991  |                              |
| Applicable waterbodies: Not used during this period.                                |                              |
| Chemical: 2,4-dimethyl phenol   | CAS #105-67-9                |
| Acute criterion: 740 ug/l   | Chronic criterion: 220 ug/l  |
| Date criteria derived: October 26, 1992   |                              |
| Applicable waterbodies: Not used during this period.                                |                              |
| Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol                         | CAS #534-52-1                |
| Acute criterion: 28.8 ug/l  | Chronic criterion: 2.3 ug/l  |
| Date criteria derived: November 14, 1991  |                              |
| Applicable waterbodies: Not used during this period.                                |                              |
| Chemical: 2,4-dinitrophenol   | CAS #51-28-5                 |
| Acute criterion: 85.3 ug/l  | Chronic criterion: 4.07 ug/l |
| Date criteria derived: December 1, 1993   |                              |
| Applicable waterbodies: Not used during this period.                                |                              |
| Chemical: 2,6-dinitrotoluene  | CAS #606-20-2                |
| Acute criterion: 1,910 ug/l   | Chronic criterion: 153 ug/l  |
| Date criteria derived: February 14, 1992  |                              |
| Applicable waterbodies: Not used during this period.                                |                              |
| Chemical: Diquat  | CAS #85-00-7                 |
| Acute criterion: 1,330 ug/l   | Chronic criterion: 106 ug/l  |
| Date criteria derived: January 30, 1996   |                              |
| Applicable waterbodies: Not used during this period.                                |                              |
| Chemical: Ethylbenzene  | CAS #100-41-4                |
| Acute criterion: 210 ug/l   | Chronic criterion: 17 ug/l   |
| Date criteria derived: August 15, 1990, revised May 17, 1991; revised June 25, 2001 |                              |
| Applicable waterbodies: 07130009-1518/off Sugar Creek                               |                              |
| Chemical: Fluoranthene  | CAS #206-44-0                |
| Human health criterion (HTC): 120 ug/l  |                              |
| Date criteria derived: August 10, 1993  |                              |
| Applicable waterbodies: Not used during this period.                                |                              |
| Chemical: Formaldehyde  | CAS #50-00-0                 |
| Acute criterion: 4.9 mg/l   | Chronic criterion: 0.39 mg/l |
| Date criteria derived: January 19, 1993   |                              |
| Applicable waterbodies: Not used during this period.                                |                              |

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

|   |
|---|
| <p>Chemical: Hexachlorobenzene CAS #118-74-1<br/> Human health criterion (HNC): 0.00025 ug/l<br/> Date criteria derived: November 15, 1991<br/> Applicable waterbodies: Not used during this period.</p>  |
| <p>Chemical: Hexachlorobutadiene CAS #87-68-3<br/> Acute criterion: 34.5 ug/l Chronic criterion: 2.76 ug/l<br/> Date criteria derived: March 23, 1992<br/> Applicable waterbodies: Not used during this period.</p>   |
| <p>Chemical: Hexachloroethane CAS #67-72-1<br/> Acute criterion: 381 ug/l Chronic criterion: 30.5 ug/l<br/> Human health criterion (HNC): 2.9 ug/l<br/> Date criteria derived: November 15, 1991<br/> Applicable waterbodies: Not used during this period.</p>      |
| <p>Chemical: Isobutyl alcohol = 2-methyl-1-propanol CAS #78-83-1<br/> Acute criterion: 434 mg/l Chronic criterion: 34.8 mg/l<br/> Date criteria derived: December 1, 1993<br/> Applicable waterbodies: Not used during this period.</p>                             |
| <p>Chemical: Methylene chloride CAS #75-09-2<br/> Acute criterion: 17,200 ug/l Chronic criterion: 1,380 ug/l<br/> Human health criterion (HNC): 340 ug/l<br/> Date criteria derived: January 21, 1992<br/> Applicable waterbodies: Not used during this period.</p> |
| <p>Chemical: Methyl ethyl ketone CAS #78-93-3<br/> Acute criterion: 322,000 ug/l Chronic criterion: 26,000 ug/l<br/> Date criteria derived: July 1, 1992<br/> Applicable waterbodies: Not used during this period.</p>  |
| <p>Chemical: 4-methyl-2-pentanone CAS #108-10-1<br/> Acute criterion: 46 mg/l Chronic criterion: 3.68 mg/l<br/> Date criteria derived: January 13, 1992<br/> Applicable waterbodies: Not used during this period.</p>   |
| <p>Chemical: 2-methyl phenol CAS #95-48-7<br/> Acute criterion: 4.7 mg/l Chronic criterion: 0.37 mg/l<br/> Date criteria derived: November 8, 1993<br/> Applicable waterbodies: Not used during this period.</p>  |

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

|   |                                |
|---|--------------------------------|
| Chemical: 4-methyl phenol                                 | CAS #106-44-5                  |
| Acute criterion: 670 ug/l                                 | Chronic criterion: 120 ug/l    |
| Date criteria derived: January 13, 1992                   |                                |
| Applicable waterbodies: Not used during this period.      |                                |
| Chemical: Naphthalene                                     | CAS #91-20-3                   |
| Acute criterion: 670 ug/l                                 | Chronic criterion: 68 ug/l     |
| Date criteria derived: November 7, 1991                   |                                |
| Applicable waterbodies: Not used during this period.      |                                |
| Chemical: 4-nitroaniline                                  | CAS #100-01-6                  |
| Acute criterion: 1.5 mg/l                                 | Chronic criterion: 0.12 mg/l   |
| Date criteria derived: May 5, 1996                        |                                |
| Applicable waterbodies: Not used during this period.      |                                |
| Chemical: Nitrobenzene                                    | CAS #98-95-3                   |
| Acute criterion: 15.4 mg/l                                | Chronic criterion: 4.67 mg/l   |
| Human health criterion (HTC): 0.52 mg/l                   |                                |
| Date criteria derived: February 14, 1992                  |                                |
| Applicable waterbodies: Not used during this period.      |                                |
| Chemical: Pentachlorophenol                               |                                |
| Acute criterion: 20 ug/l                                  | Chronic criterion: 13 ug/l     |
| Date criteria derived: national criterion, September 1986 |                                |
| Applicable waterbodies: Not used during this period.      |                                |
| Chemical: Phenanthrene                                    | CAS #85-01-8                   |
| Acute criterion: 46 ug/l                                  | Chronic criterion: 3.7 ug/l    |
| Date criteria derived: October 26, 1992                   |                                |
| Applicable waterbodies: Not used during this period.      |                                |
| Chemical: Pyrene  | CAS #120-00-0                  |
| Human health criterion (HTC): 3,500 ug/l                  |                                |
| Date criteria derived: December 22, 1992                  |                                |
| Applicable waterbodies: Not used during this period.      |                                |
| Chemical: Tetrachloroethylene                             | CAS #127-18-4                  |
| Acute criterion: 1,220 ug/l                               | Chronic criterion: 152 ug/l    |
| Date criteria derived: March 23, 1992                     |                                |
| Applicable waterbodies: Not used during this period.      |                                |
| Chemical: Tetrahydrofuran                                 | CAS #109-99-9                  |
| Acute criterion: 216,000 ug/l                             | Chronic criterion: 17,300 ug/l |
| Date criteria derived: March 16, 1992                     |                                |
| Applicable waterbodies: Not used during this period.      |                                |

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

## LISTING OF DERIVED WATER QUALITY CRITERIA

|   |                               |
|---|-------------------------------|
| Chemical: Toluene   | CAS #108-88-3                 |
| Acute criterion: 2,000 ug/l   | Chronic criterion: 230 ug/l   |
| Date criteria derived: August 16, 1990, revised May 17, 1991, January 26, 1993, and January 14, 1999, revised June 25, 2001 |                               |
| Applicable waterbodies: 07130009-1518/off Sugar Creek   |                               |
| Chemical: 1,2,4-trichlorobenzene  | CAS #120-82-1                 |
| Acute criterion: 353 ug/l   | Chronic criterion: 69.2 ug/l  |
| Date criteria derived: December 14, 1993  |                               |
| Applicable waterbodies: Not used during this period.  |                               |
| Chemical: 1,1,1-trichloroethane   | CAS #71-55-6                  |
| Acute criterion: 4,910 ug/l   | Chronic criterion: 393 ug/l   |
| Date criteria derived: October 26, 1992   |                               |
| Applicable waterbodies: Not used during this period.  |                               |
| Chemical: 1,1,2-trichloroethane   | CAS #79-00-5                  |
| Acute criterion: 19,000 ug/l  | Chronic criterion: 3,540 ug/l |
| Human health criterion (HNC): 12 ug/l   |                               |
| Date criteria derived: December 13, 1993  |                               |
| Applicable waterbodies: Not used during this period.  |                               |
| Chemical: Trichloroethylene   | CAS #79-01-6                  |
| Acute criterion: 11,700 ug/l  | Chronic criterion: 940 ug/l   |
| Date criteria derived: October 23, 1992   |                               |
| Applicable waterbodies: Not used during this period.  |                               |
| Chemical: Xylenes   | CAS # 1330-20-7               |
| Acute criterion: 920 ug/l   | Chronic criterion: 73 ug/l    |
| Date criteria derived: August 23, 1990, revised January 14, 1999, revised June 25, 2001                                     |                               |
| Applicable waterbodies: 07130009-1518/off Sugar Creek   |                               |

For additional information concerning these criteria or the derivation process used in generating them, please contact:

Bob Mosher  
 Illinois Environmental Protection Agency  
 Division of Water Pollution Control  
 1021 North Grand Avenue East  
 Post Office Box 19276

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ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

LISTING OF DERIVED WATER QUALITY CRITERIA

Springfield, Illinois 62794-9276  
217-782-3362

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## NOTICE OF PUBLICATION ERROR

- (a) DEPARTMENT OF REVENUE
- (b) DEPARTMENT OF TRANSPORTATION
- (c, d) DEPARTMENT OF PUBLIC AID

- 1) Heading of the Parts: (a) Income Tax  
(b) Airport Land Loan Program  
(c) Medical Payment  
(d) Long Term Care Reimbursement Changes
- 2) Code Citations: (a) 86 Ill. Adm. Code 100  
(b) 92 Ill. Adm. Code 15  
(c) 89 Ill. Adm. Code 140  
(d) 89 Ill. Adm. Code 153
- 3) Register citation of proposed or adopted rulemakings :
  - (a) 26 Ill. Reg. 12715
  - (b) 26 Ill. Reg. 12746
  - (c) 26 Ill. Reg. 12772
  - (d) 26 Ill. Reg. 12791
- 4) Explanation: In issue 34 (8/23/02) of the *Illinois Register*, 2 proposed rulemakings and 2 emergency rulemakings were inadvertently printed without showing the changes with strikes and underlines. The error occurred in the process of converting the Illinois Administrative Code database from TextDBMS to Microsoft Windows XP. The notice pages of the 4 affected rulemakings accurately summarized the rulemakings, the emergency rule effective dates were accurate, and the published texts were accurate. However, to fully inform the public of the rule text changes, these 4 rulemakings are reprinted below with underlines and strikes. JCAR regrets any inconvenience the initial printing error may have caused.

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TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUE

PART 100  
INCOME TAX

## SUBPART A: TAX IMPOSED

- Section
- 100.2000 Introduction
  - 100.2050 Net Income (IITA Section 202)

## SUBPART B: CREDITS

- Section
- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
  - 100.2101 Replacement Tax Investment Credit (IITA 201(e))
  - 100.2110 Investment Credit; Enterprise Zone (IITA 201(f))
  - 100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
  - 100.2130 Investment Credit; High Impact Business (IITA 201(h))
  - 100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
  - 100.2150 Training Expense Credit (IITA 201(j))
  - 100.2160 Research and Development Credit (IITA 201(k))
  - 100.2163 Environmental Remediation Credit (IITA 201(l))
  - 100.2165 Education Expense Credit (IITA 201(m))
  - 100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
  - 100.2180 Credit for Residential Real Property Taxes (IITA 208)
  - 100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
  - 100.2198 Economic Development for a Growing Economy Credit (IITA 211)
  - 100.2199 Illinois Earned Income Tax Credit (IITA 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS  
OCCURRING PRIOR TO DECEMBER 31, 1986

Section

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- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Current Net Operating Losses; Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES OCCURRING ON OR AFTER DECEMBER 31, 1986

## Section

- 100.2300 Illinois Net Loss Deduction ~~Deductions~~ for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986 ~~Carryovers~~
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or ~~on~~ After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for of ~~of~~ Corporations that ~~That~~ are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions for of ~~of~~ Losses Occurring On or

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After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

## Section

- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))

## SUBPART F: BASE INCOME OF INDIVIDUALS

## Section

- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

## SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

## Section

- 100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

## Section

- 100.3000 Terms Used in Article 3 (IITA Section 301)
- 100.3010 Business and Nonbusiness Income (IITA Section 301)
- 100.3020 Resident (IITA Section 301)

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SUBPART J: COMPENSATION ~~PAID TO NONRESIDENTS~~

## Section

- 100.3100 Compensation (IITA Section 302)
- 100.3110 State (IITA Section 302)
- 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

## SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

## Section

- 100.3200 Taxability in Other State (IITA Section 303)
- 100.3210 Commercial Domicile (IITA Section 303)
- 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other than Residents (IITA Section 303)

## SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

## Section

- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
- 100.3310 Business Income of Persons Other than Residents (IITA Section 304) – In General
- 100.3320 Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (~~Repealed~~)
- 100.3330 Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
- 100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
- 100.3350 Property Factor (IITA Section 304)
- 100.3360 Payroll Factor (IITA Section 304)
- 100.3370 Sales Factor (IITA Section 304)
- 100.3380 Special Rules (IITA Section 304)
- 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
- 100.3400 Apportionment of Business Income of Financial Organizations (IITA Section 304(c))

## SUBPART M: ACCOUNTING

## Section

- 100.4500 Carryovers of Tax Attributes (IITA Section 405)

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## SUBPART N: TIME AND PLACE FOR FILING RETURNS

## Section

- 100.5000 Time for Filing Returns: Individuals (IITA Section 505)
- 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
- 100.5040 Innocent Spouses

## SUBPART O: COMPOSITE RETURNS

## Section

- 100.5100 Composite Returns: Eligibility
- 100.5110 Composite Returns: Responsibilities of Authorized Agent
- 100.5120 Composite Returns: Individual Liability
- 100.5130 Composite Returns: Required forms and computation of Income
- 100.5140 Composite Returns: Estimated Payments
- 100.5150 Composite Returns: Tax, Penalties and Interest
- 100.5160 Composite Returns: Credits ~~Credit~~ for Resident Individuals
- 100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"

## SUBPART P: COMBINED RETURNS

## Section

- 100.5200 Filing of Combined Returns
- 100.5201 Definitions and Miscellaneous Provisions Relating to Combined Returns
- 100.5205 Election to File a Combined Return
- 100.5210 Procedures for Elective and Mandatory Filing of Combined Returns
- 100.5220 Designated Agent for the Members
- 100.5230 Combined Estimated Tax Payments
- 100.5240 Claims for Credit of Overpayments
- 100.5250 Liability for Combined Tax, Penalty and Interest
- 100.5260 Combined Amended Returns

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- 100.5265 Common Taxable Year
- 100.5270 Computation of Combined Net Income and Tax
- 100.5280 Combined Return Issues Related to Audits

## SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

## Section

- 100.7000 Requirement of Withholding (IITA Section 701)
- 100.7010 Compensation Paid in this State (IITA Section 701)
- 100.7020 Transacting Business Within this State (IITA Section 701)
- 100.7030 Payments to Residents (IITA Section 701)
- 100.7040 Employer Registration (IITA Section 701)
- 100.7050 Computation of Amount Withheld (IITA Section ~~702-704~~)
- 100.7060 Additional Withholding (IITA Section 701)
- 100.7070 Voluntary Withholding (IITA Section 701)
- 100.7080 Correction of Underwithholding or Overwithholding (IITA Section 701)
- 100.7090 Reciprocal Agreement (IITA Section 701)
- 100.7095 Cross References

## SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

## Section

- 100.7100 Withholding Exemption (IITA Section 702)
- 100.7110 Withholding Exemption Certificate (IITA Section 702)
- 100.7120 Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

## SUBPART S: INFORMATION STATEMENT

## Section

- 100.7200 Reports for Employee (IITA Section 703)

## SUBPART T: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

## Section

- 100.7300 Returns of Income ~~Tax~~ Withheld from Wages (IITA Section 704)
- 100.7310 Quarterly Returns Filed on ~~an~~ Annual Basis (IITA Section 704)

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- 100.7320 Time for Filing Returns (IITA Section 704)
- 100.7330 Payment of Tax Deducted and Withheld (IITA Section 704)
- 100.7340 Correction of Underwithholding or Overwithholding (IITA Section 704)

## SUBPART U: COLLECTION AUTHORITY

## Section

- 100.9000 General Income Tax Procedures (IITA Section 901)
- 100.9010 Collection Authority (IITA Section 901)
- 100.9020 Child Support Collection (IITA Section 901)

## SUBPART V: NOTICE AND DEMAND

## Section

- 100.9100 Notice and Demand (IITA Section 902)

## SUBPART W: ASSESSMENT

## Section

- 100.9200 Assessment (IITA Section 903)
- 100.9210 Waiver of Restrictions on Assessment Assessments (IITA Section 907)

## SUBPART X: DEFICIENCIES AND OVERPAYMENTS

## Section

- 100.9300 Deficiencies and Overpayments (IITA Section 904)
- 100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
- 100.9320 Limitations on Notices of Deficiency (IITA Section 905)
- 100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

## SUBPART Y: CREDITS AND REFUNDS

## Section

- 100.9400 Credits and Refunds (IITA Section 909)
- 100.9410 Limitations on Claims for Refund (IITA Section 911)
- 100.9420 Recovery of Erroneous Refund (IITA Section 912)

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## SUBPART Z: INVESTIGATIONS AND HEARINGS

## Section

- 100.9500 Access to Books and Records (IITA Section 913)
- 100.9505 Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
- 100.9510 Taxpayer Representation and Practice Requirements
- | 100.9520 Conduct of Investigations and Hearings (IITA Section 914)
- 100.9530 Books and Records

## SUBPART AA: JUDICIAL REVIEW

## Section

- 100.9600 Administrative Review Law (IITA Section 1201)

## SUBPART BB: DEFINITIONS

## Section

- | 100.9700 Unitary Business Group Defined. (IITA Section 1501)
- 100.9710 Financial Organizations (IITA Section 1501)
- 100.9720 Nexus
- 100.9750 Corporation, Subchapter S Corporation, Partnership and Trust Defined (IITA Section 1501)

## SUBPART CC: LETTER RULING PROCEDURES

## Section

- 100.9800 Letter Ruling Procedures

## APPENDIX A Business Income Of Persons Other Than Residents

TABLE A Example of Unitary Business Apportionment

TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

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SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623,

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effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13378, effective \_\_\_\_\_.

## SUBPART BB: DEFINITIONS

**Section 100.9710 Financial Organizations (IITA Section 1501)**

- a) **General Definition.** The term "financial organization" is defined in IITA Section 1501(a)(8)(A) to mean *any bank, bank holding company, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, building and loan association, credit union, currency exchange, cooperative bank, small loan company, sales finance company, investment company, or any person which is owned by a bank or bank holding company. For the purpose of this Section a "person" will include only those persons which a bank holding company may acquire and hold an interest in, directly or indirectly, under the provisions of the Bank Holding Company Act of 1956 (12 USC 1841), except where interests in any person must be disposed of within certain required time limits under the Bank Holding Company Act of 1956.* This definition constitutes an exclusive and exhaustive list of the types of organization ~~that which~~ are "financial organizations" under the Illinois Income Tax Act.
- b) **Entities Engaged in Financial Organization Activities and Other Activities.** For purposes of this Section, an entity that is classified as a "bank" under subsection (e) of this Section; as a "bank holding company" under subsection (f) of this Section; or as a person owned by a bank or bank holding company under subsection (g) of this Section, is a "financial organization" regardless of whether the entity is predominantly engaged in the business activities characteristic of a financial organization. In order for any other entity to be characterized as a "financial organization" in any tax year, the entity must be predominantly engaged in the

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business activities of a financial organization during the year. For this purpose, an entity engaged in business activities of a financial organization, as well as other business activities in the same tax year, is predominantly engaged in the business activities of a financial organization during that year only if more than 80% (50% in the case of a sales finance company under subsection (d)(10) of this Section) of the entity's gross income, averaged over a period of three years, which includes the current tax year and the immediately preceding two tax years, is derived from the business activities characteristic of one or more of the categories of financial organization defined in this Section for which the entity otherwise qualifies. For purposes of this subsection, gross income shall include only amounts that are received in the ordinary course of the entity's regular business activities and that are included in net income under the Illinois Income Tax Act. For purposes of determining whether an entity is predominantly engaged in the business activities of a financial organization when an entity is formed in a current tax year or in its immediately preceding tax year, only the years for which the entity is in existence will be used in determining whether the entity meets the 80% test (or 50% test in the case of a sales finance company under subsection (d)(10) of this Section).

- 1) Income which results from transactions outside the ordinary course of an entity's regular business activities is not taken into account for the purposes of the gross income test. For example, amounts received from the sale of an entity's headquarters shall be disregarded, whether or not the gain is characterized as business income.
- 2) The classification of an entity as a "financial organization" under the IITA is relevant to how the business income of the entity shall be apportioned to Illinois under IITA Section 304(c). The treatment of items of income that are not included in apportionable business income is not affected by such classification, and such items are therefore disregarded for purposes of the gross income test. For example, interest received on United States Treasury obligations is excluded from Illinois base income, and accordingly is disregarded for purposes of determining whether the business income of an entity should be apportioned using the financial organization formula. Similarly, dividends received by a corporation shall be disregarded to the extent the dividends are deducted from federal taxable income under ~~section~~ **Section** 243 of the Internal Revenue Code or are subtracted in the computation of Illinois base income under IITA Section 203(b)(2)(O).
- 3) In the case of a sale or disposition of any asset (whether tangible or intangible,

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and whether the asset is part of the taxpayer's stock in trade) that occurs in the ordinary course of an entity's regular business activities, only the net gain shall be taken into account for purposes of the gross income test. Thus, for example, gross income from the sale of inventory is equal to its gross receipts minus the cost of goods sold; while gross income from the sale of stock is equal to the sales price minus any brokerage commission and minus the taxpayer's basis in the stock. If gross income from a transaction is negative, the loss shall not be considered for purposes of the gross income test.

- 4) Leasing Activities. For purposes of the IITA and the Internal Revenue Code, a "finance lease" is treated as an extension of credit, rather than as a true lease. In a finance lease, the lessor is treated as a creditor, and the lessee is treated as the owner of the leased asset entitled to any deduction for depreciation allowed under ~~section~~ Section 167 of the Internal Revenue Code. For purposes of this Section, a finance lease shall be treated as a loan or other extension of credit, rather than as a lease, regardless of how the transaction is characterized for any other purpose, including the purposes of any regulatory agency to which the lessor is subject.
- 5) In applying the gross income test to an entity engaged in the businesses of more than one of the types of organization defined in subsection (d) of this Section, "gross income from financial services" shall include gross income derived from all services characteristic of any specific defined type of organization for which the entity qualifies. For example:
  - A) Selling and exchanging currency is a characteristic service only of banks. Accordingly, "gross income from financial services" of an entity which qualifies as a bank under subsection (d)(1) of this Section, and as a safe deposit company under subsection (d)(6) of this Section, includes both income from trading in foreign currency and safe deposit box rentals. However, "gross income from financial services" of an entity which qualifies as a safe deposit company, but not as a bank, does not include income from trading in foreign currency.
  - B) A taxpayer that meets all other qualifications of a sales finance company and also of a small loan company, and that derives 40% of its gross income from transactions characteristic of a sales finance company and 35% of its gross income from transactions characteristic of a small loan company is not a financial organization because it does not meet either the 50% test for sales finance companies nor the 80% test applicable to

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other types of financial organization. If, however, the taxpayer derives 45% of its gross income from transactions characteristic of a sales finance company and 36% of its gross income from transactions characteristic of a small loan company, it would not be a sales finance company because it does not meet the 50% test, but it would be a financial organization under the 80% test.

- 6) IITA Section 1501(a)(8)(D) provides that an entity *that is a "financial organization" that engages in any transaction with an affiliate shall be a "financial organization" for all purposes of the Act.* Accordingly, in applying the gross income test, an entity's transactions with a person to which it is related (including transactions with a member of the entity's unitary business group which are eliminated in combination under Section 100.3320(d) of this Part) shall be treated in the same manner as transactions between the entity and an unrelated person, subject in all cases to the authority of the Department under IITA Section 404 to make such adjustments as are necessary to properly reflect each party's Illinois business activities.
- c) Some of the types of organizations listed in subsection (a) of this Section are defined by State or federal statutes. The remaining types of organization are terms frequently used in other states' laws to refer to entities engaged in the same businesses as the entities in one or more of the types defined in Illinois or federal law. An entity defined as a bank or a bank holding company, or that is owned by a bank or bank holding company, under subsection (e), (f) or (g) of this Section, is a financial organization regardless of its actual business activities. For any other entity, notwithstanding the title or characterization of the entity for purposes of any other law, the entity is a "financial organization" for purposes of the IITA only if that entity is predominantly engaged in a business which is identical in all material respects to the characteristic business of an entity within one or more of the types of organization defined in Illinois or federal law. In order for an entity's business to be identical in all material respects to the business of one of the defined types of organization, the entity must:
  - 1) provide substantially all of the characteristic services provided by entities in the defined type of organization; and
  - 2) be subject to regulation by the Illinois or federal agency (if any) with authority over entities in the defined type of organization or by the equivalent authority (if any) established under the laws of the entity's state or country of formation or of its commercial domicile. However, "sales finance companies," as defined

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in subsections (d)(10)(A) and (B) of this Section are not required to be regulated by any state or federal authority.

- d) Application to Defined Types of Financial Organization. This subsection lists the types of financial organization defined in Illinois or federal law and describes the characteristic business of each type as provided in the relevant Illinois or federal statutes. The references to Illinois State and federal statutes and authorities in this subsection shall be construed to refer to any predecessor to the current statute or authority, whenever appropriate.
- 1) Entities engaged in the business of a "bank-". The term "bank" includes any entity described in subsection (e) of this Section. In addition, for purposes of categorizing an entity that does not come within the scope of subsection (e) of this Section, the term "bank" means an entity predominantly engaged in the business activities characteristic of an entity which has been issued a charter by the Commissioner of Banks and Real Estate under 205 ILCS 5/13 or that has been given a certificate of authority to commence banking by the Comptroller of the Currency under 12 USC ~~Section~~ 27. The terms "savings bank-," "industrial bank" and "cooperative bank" are sometimes used in the laws of other states to refer to entities engaged in the same business as a "bank" as defined in Illinois or federal law. The term "private banker" means an unincorporated bank, conducted as a partnership of individuals or as an individual proprietorship. Notwithstanding that an entity does or does not come within the meaning of any of these terms for any other purpose, the determination of whether an entity is engaged in the business of a "bank" for purposes of the IITA shall be made pursuant to the following standards:
    - A) Characteristic Services. The Illinois and federal statutes providing for the formation of banks state that the characteristic activities of banks are accepting deposits, making loans, discounting evidences of debt, and buying and selling exchange. (See 205 ILCS 5/3; 12 USC 24; and section ~~Section~~-581 of the Internal Revenue Code.) In order to be engaged in a business identical in all material respects to the business of a "bank," an entity formed under the laws of another state or of a foreign country as a bank, savings bank, industrial bank, or cooperative bank must engage in each of these characteristic financial services of a bank. Thus, for example, an entity that does not accept deposits is not engaged in the business of a bank. For purposes of applying the 80% of gross income test in subsection (b) of this Section, examples of gross income from

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characteristic services of a bank include:

- i) application and origination fees, points, interest, late payment fees and other charges received in connection with loans or with commitments to make loans or provide other credits;
- ii) service charges and early withdrawal or other penalties received in connection with deposit accounts;
- iii) fees and gains realized from buying and selling exchange, including foreign currency;
- iv) loan servicing fees and charges received in connection with syndicated loans or loans sold to third parties; and
- v) discounts and gains realized on the purchase or resale of loans.

Examples of items of income that are not gross income from the characteristic services of a bank include rental income from real estate; gains from sale of property obtained in foreclosure or settlement of loans; and interest and dividends received from, and gains realized on the sale or exchange of, securities.

B) Regulation. Illinois State banks are subject to regulation by the Commissioner of Banks and Real Estate (see 205 ILCS 5/48), while national banks are subject to regulation by the Comptroller of the Currency (see 12 USC 27(b)(2)). These entities qualify as banks under subsection (e) of this Section regardless of their business activities. In order to qualify as a bank, an entity that is not a bank within the meaning of subsection (e) of this Section must be regulated by the authority (if any) equivalent to the Commissioner of Banks and Real Estate or the Comptroller of the Currency having regulatory jurisdiction within the entity's state or country of formation or commercial domicile.

2) Entities engaged in the business of a "trust company." The term "trust company" means a corporation organized under the laws of the State of Illinois for the purpose of accepting and executing trusts [205 ILCS 620/1-5.11], and that has received a certificate of authority to accept trusts from the Commissioner of Banks and Real Estate under 205 ILCS 620/2-4.

A) Characteristic Services. A trustee performs services as a fiduciary on behalf of the trust's beneficiaries. A trustee is entitled to compensation for expenses incurred on behalf of the trust and to reasonable compensation for services rendered (see 760 ILCS 5/7). Under Illinois law, a trustee may continue an unincorporated business on behalf of the

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trust in certain circumstances (see 760 ILCS 5/4.23 and 4.24). A trustee may act as an advisor or manager of a mutual fund in which trust funds are invested, without having to reduce or waive its compensation for such services when provided to a trust (see 760 ILCS 5/5.2). However, the trustee is not entitled to any profit from any business it conducts on behalf of a trust or beneficiary, but only to compensation for services rendered to the trust. Accordingly, the gross income from characteristic services of a trust company shall include only trustees' fees or other compensation receivable for services rendered as a trustee on behalf of trusts. Amounts received for services provided other than as a trustee, such as fees received as an advisor or manager of a mutual fund in which trust funds are invested, are not gross income from characteristic services of a trust company.

- B) Regulation. A trust company conducting business within Illinois is subject to the Corporate Fiduciary Act [205 ILCS 620]. Some types of regulated entities, such as national banks, are authorized by law to engage in trust activities (see 12 USC 92a). Any entity operating in any other state must be licensed or subject to regulation by any equivalent authority in that state.
- 3) Entities engaged in the business of a "savings bank." The term "savings bank" means a taxpayer which is predominantly engaged in the business of an entity that is either chartered as a federal savings bank under the Home Owners' Loan Act (12 USC 1462 and 1464(a)) and whose investments comply with the guidelines of 12 USC 1464(c) or of an entity which has been issued a certificate of organization by the Commissioner of Savings and Loan Associations under the Savings Bank Act [205 ILCS 205/3007] and that, as required by 205 ILCS 205/1009, maintains at least 60% of its total assets in qualifying "domestic savings and loan association" assets described in ~~section~~ Section 7701(a)(19) of the Internal Revenue Code. The qualifying assets listed in Section 7701(a)(19) are cash, federal and municipal obligations, loans secured by deposits or shares in the lender, residential real estate loans, educational loans, and related investments. The terms "bank," "savings and loan association," "building and loan association," "industrial bank" and "cooperative bank" are sometimes used in the laws of other states to refer to entities engaged in the same business as a "savings bank" as defined in Illinois or federal law. Notwithstanding that an entity does or does not come within the meaning of any of these terms for

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any other purpose, the determination of whether the entity is engaged in the business of a "savings bank" for purposes of the IITA shall be made pursuant to the following standards:

- A) Characteristic Services. The business of a savings bank consists principally of acquiring the savings of the public and investing in loans (~~section Section~~ 7701(a)(19)(B) of the Internal Revenue Code). In general, qualifying loans are related to residential real estate. An entity that does not take deposits from the public and invest the deposited funds primarily in qualifying loans to the public is not a savings bank for purposes of the IITA. For purposes of applying the 80% of gross income test in subsection (b) of this Section, examples of gross income from characteristic services of a savings bank include:
    - i) application and origination fees, points, interest, late payment fees and other charges received in connection with loans or with commitments to make loans or provide other credits;
    - ii) service charges and early withdrawal or other penalties received in connection with deposit accounts;
    - iii) loan servicing fees and charges received in connection with syndicated loans or loans sold to third parties; and
    - iv) discounts and gains realized on the purchase or resale of loans.Examples of items of income that are not gross income from the characteristic services of a savings bank include rental income from real estate; gains from sale of property obtained in foreclosure or settlement of loans; interest and dividends received from, and gains realized on the sale or exchange of, securities.
  - B) Regulation. No entity is a savings bank for purposes of the IITA unless it is subject to regulation by the Commissioner of Banks and Real Estate under the Savings Bank Act [205 ILCS 205/1003], the Office of Thrift Supervision (12 USC 1461), or the appropriate authority of another state responsible for regulating savings banks.
- 4) Entities engaged in the business of a "land bank-": The term "land bank" was defined in federal law to mean a federally chartered association organized to make loans on farm security at low interest rates as governed by 12 USC, ch. 23 (Farm Credit System). Under the Agricultural Credit Act of 1987 (P.L. 100-233), the federal land banks were merged with the Federal Intermediate Credit Banks which had also been created under the Farm Credit System. Under

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current law, the surviving entities are exempt from state income taxation (see 12 USC 2098).

- A) Characteristic Services. Congress established the federal land banks as cooperatives to encourage farmer and rancher ownership and control over a system of credit for agriculture. The characteristic service of a land bank is making loans to farmers. Gross income from characteristic services of a land bank include application and origination fees, points, interest, late payment fees and other charges received in connection with loans to farmers and ranchers.
  - B) Regulation. Federal land banks are not subject to Illinois taxation. A land bank that was not created under federal statute must be subject to any regulation by any authority equivalent to the Farm Credit System regulation as may exist in the state or country of incorporation or commercial domicile of the land bank.
- 5) Entities engaged in the business of a "safe deposit company-". The term "safe deposit company" means an entity licensed by the Department of Financial Institutions under the Safety Deposit License Act [240 ILCS 5/22] to engage in the business of renting or permitting the use of, for compensation, safety deposit boxes, safes, vaults or other facilities for the safekeeping of personal property (see 240 ILCS 5/2). The Safety Deposit License Act does not apply to banks, savings and loans, credit unions, warehouses, or grain storage companies (see 240 ILCS 5/3).
- A) Characteristic Services. A safe deposit company provides facilities for the safekeeping of personal property in safes or vaults, as compared to warehouses. Gross income from the characteristic services of a safe deposit company includes rental income or similar charges for safe deposit boxes.
  - B) Regulation. Safe deposit companies doing business in Illinois must be licensed by the Department of Financial Institutions. An entity operating in any other state must be licensed or subject to regulation by any equivalent authority in that state.
- 6) Entities engaged in the business of a "savings and loan association-". The term "savings and loan association" means a federal savings and loan association chartered under the Home Owners' Loan Act of 1933 (12 USC 1462 and 1464(a)) whose investments comply with the guidelines of 12 USC 1464(c) or a savings and loan association organized under the Illinois Savings and Loan

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Act of 1985 [205 ILCS 105/2-6] and whose investments comply with the requirements of 205 ILCS 105/5-1 through 5-16. In particular, 205 ILCS 105/5-3 provides that savings and loan associations must generally make their assets available to make loans to their members secured by the members' shares or for residential real estate purchase, construction and related matters under 205 ILCS 105/5-2. The Internal Revenue Code provides special rules for savings and loan associations, which are defined in ~~section Section~~ 7701(a)(19) of the Internal Revenue Code as depository institutions that invest at least 60% of their assets in cash, federal and municipal obligations, loans secured by deposits or shares in the lender, residential real estate loans, educational loans, and related investments. The terms "bank," "savings bank," "building and loan association," and "cooperative bank" are sometimes used in the laws of other states or of other countries to refer to entities engaged in the same business as a "savings and loan association" as defined in Illinois or federal law.

Notwithstanding that an entity does or does not come within the meaning of any of these terms for any other purpose, the determination of whether the entity is engaged in the business of a "savings and loan association" for purposes of the IITA shall be made pursuant to the following standards:

- A) Characteristic Services. The business of a savings and loan association consists principally of acquiring the savings of the public and investing in loans (~~section Section~~ 7701(a)(19)(B) of the Internal Revenue Code). An entity that does not take deposits and invest primarily in qualifying loans is not a savings and loan association for purposes of the IITA. For purposes of applying the gross income test in subsection (b) of this Section, examples of gross income from characteristic services of a savings and loan association include:
  - i) application and origination fees, points, interest, late payment fees and other charges received in connection with loans or with commitments to make loans or provide other credits;
  - ii) service charges and early withdrawal or other penalties received in connection with deposit accounts;
  - iii) loan servicing fees and charges received in connection with syndicated loans or loans sold to third parties; and
  - iv) discounts and gains realized on the purchase or resale of loans.

Examples of items of income that are not gross income from the characteristic services of a savings and loan association include rental

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income from real estate; gains from sale of property obtained in foreclosure or settlement of loans; interest and dividends received from, and gains realized on the sale or exchange of, securities.

- B) Regulation. No entity is a savings and loan association for purposes of the IITA unless it is subject to regulation by the Office of Banks and Real Estate under the Savings Bank Act [205 ILCS 105/7-1], the Office of Thrift Supervision (12 USC 1462), or the appropriate authority (if any) of another state responsible for regulating savings and loan associations.
- 7) Entities engaged in the business of a "credit union-". Federal credit unions that have received a charter under 12 USC 1754 are exempt from state income taxation (see 12 USC 1768). Under present law, only "cooperative, non-profit" credit unions may be incorporated under the Illinois Credit Union Act or permitted to do business in Illinois (see 205 ILCS 305/1.1 (defining "credit union") and 7 (permitting credit unions chartered in other states to do business in Illinois)). Under current law, a credit union doing business in Illinois is most likely exempt from Illinois Income Tax pursuant to IITA Section 205(a) and 12 USC 501(a) and (c)(14). 12 USC 1753(5) and 205 ILCS 305/2(2)(b) each require an entity applying for permission to organize as a credit union to define the class of persons entitled to membership.
  - A) Characteristic Services. 12 USC 1752(a)(1) provides that a federal credit union is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes and 12 USC 1757(7) requires a federal credit union to invest its funds in loans to its members, bank accounts, government securities and in other credit unions. 205 ILCS 305/1.1 defines "credit union" to mean a *cooperative, non-profit association, incorporated for the purposes of encouraging thrift, creating a source of credit at a reasonable rate of interest, and providing an opportunity for its members to use and control their own money in order to improve their economic and social conditions*, and 205 ILCS 305/59 allows credit unions to invest only in loans to members, bank accounts, government securities and other credit unions. The characteristic services of a credit union involve taking interest-paying deposits from its members and making loans to its members. For purposes of applying the gross income test in subsection (b) of this Section, examples of gross income from characteristic services of a credit union include:

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- i) application and origination fees, points, interest, late payment fees and other charges received in connection with loans or with commitments to make loans to members; and
- ii) service charges and early withdrawal or other penalties received in connection with deposit accounts.

Examples of items of income that are not gross income from the characteristic services of a credit union include interest and other income from loans to non-members; rental income from real estate; gains from sale of property obtained in foreclosure or settlement of loans; interest and dividends received from, and gains realized on the sale or exchange of, securities.

- B) Regulation. In order for an entity to qualify as a credit union, an entity must be subject to regulation by any appropriate authority in the state of organization, and the class of persons entitled to membership in the entity must be defined by law or approved by the appropriate state authority.
- 8) Entities engaged in the business of a "currency exchange-". The term "currency exchange" means an entity licensed by the Director of Financial Institutions under the Currency Exchange Act [205 ILCS 405/4] *for purposes of engaging in the business of, and providing facilities for, cashing checks, drafts, money orders or any other evidences of money for a consideration or selling or issuing money orders in the entity's own name* [205 ILCS 405/1].
- A) Characteristic Services. Currency exchanges cash checks and other evidences of money for the general public, and may issue money orders. Currency exchanges are not permitted to accept any form of deposit or bailment of money (see 205 ILCS 405/3). The gross income from characteristic services of a currency exchange is the fees or other charges for cashing checks or issuing money orders. Interest or other income earned from investment of funds received from the issuance of money orders during the period between the issuance of a money order and its clearance is not gross income from a characteristic service of a currency exchange.
  - B) Regulation. A currency exchange doing business in Illinois must be licensed by the Director of Financial Institutions and meet certain bonding requirements to protect its customers. An entity operating in any other state must be licensed or subject to regulation by any equivalent authority in that state.

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- 9) Entities engaged in the business of a "small loan company-". The term "small loan company" means an entity licensed by the Director of Financial Institutions under the Consumer Installment Loan Act [205 ILCS 670/1] for the purpose of making loans in a principal amount not exceeding \$25,000. Small loan companies are required to disclose the terms of their loans pursuant to specific statutory requirements or in conformity with the federal Truth in Lending Act (see 205 ILCS 670/16 (referencing 15 USC 1601)). The predecessor of the Consumer Installment Loan Act, the Small Loans Act (Ill. Rev. Stat., ch. 74, par. 27 (1933)), was held to apply only to lenders, and not to persons selling goods or services on a credit or installment basis. (See, e.g., *Wernick v. National Bond and Investment Co.*, 276 Ill. App. 84 (1934).)
- A) Characteristic Services. Small loan companies are permitted to make loans not exceeding an aggregate principal amount of \$25,000 to any obligor and for terms not exceeding 121 months. A credit or installment sale of goods or services is not a characteristic service of a small loan company. Gross income from the provision of the characteristic services of a small loan company includes loan application and origination fees, interest, late payment charges and similar amounts realized in connection with loans not exceeding the principal amount of \$25,000 and for terms not exceeding 121 months. Amounts received or accrued in connection with any loan for a principal amount in excess of \$25,000 or for a term in excess of 121 months are not gross income from the provision of the characteristic services of a small loan company. Finally, because 205 ILCS 670/21 provides that the Consumer Installment Loan Act does not apply to persons making loans to business associations or corporations, or to sole proprietors of businesses for the purpose of carrying on or acquiring such businesses, amounts received in connection with such business loans are not gross income from the provision of the characteristic services of a small loan company.
  - B) Regulation. A small loan company operating in Illinois must be licensed by the Director of Financial Institutions. An entity operating in any other state must be licensed or subject to regulation by any equivalent authority in that state. In all cases, the entity must comply with the regulations issued by the Board of Governors of the Federal Reserve System under the Truth in Lending Act.
- 10) Entities engaged in the business of a "sales finance company-". The term "sales

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finance company" has the meaning provided in subsection (d)(10)(A) or (B):

A) Under IITA Section 1501(a)(8)(C)(i), the term "sales finance company" means an entity *primarily engaged in one or more of the following businesses: the business of purchasing customer receivables, the business of making loans upon the security of customer receivables, the business of making loans for the express purpose of funding purchases of tangible personal property or services by the borrower, or the business of finance leasing.* For purposes of this subsection (d)(10)(A), a "customer receivable" means:

- i) *A retail installment contract or retail charge agreement within the meaning of the Sales Finance Agency Act [205 ILCS 660/2], the Retail Installment Sales Act [815 ILCS 405/2.6 and 2.7], or the Motor Vehicle Retail Installment Sales Act [815 ILCS 375/2.5];*
- ii) *An installment, charge, or similar contract or agreement arising from the sale of tangible personal property or services in a transaction involving a deferred payment price payable in one or more installments subsequent to the sale;*
- iii) *The outstanding balance of a contract or agreement described in subsection (d)(10)(A)(i) or (ii) of this Section; or*
- iv) A loan, or balance under a loan, made by a lender for the express purpose of funding purchases of tangible personal property or services by the borrower.

*A customer receivable need not provide for payment of interest on deferred payments. A sales finance company may purchase a customer receivable from, or make a loan secured by a customer receivable to, the seller or lender in the original transaction or from or to a person who purchased the customer receivable directly or indirectly from that seller or lender.*

Example 1: A manufacturer sells a product to a retailer. Payment is due 7 days after issuing the sales invoice. An account receivable is recorded when the invoice is issued. The receivable would constitute a customer receivable.

Example 2: An entity purchases or otherwise acquires customer receivables or finance leases. The entity sells those customer receivables or finance leases to a third party and enters into an agreement to service

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such receivables or finance leases in exchange for a fee. The purchase, sale and/or servicing of such receivables or finance leases is a business of a "sales finance company-".

- B) Under IITA Section 1501(a)(8)(C)(ii), the term "sales finance company" also means a corporation meeting each of the following criteria:
- i) *The corporation must be a member of an "affiliated group" within the meaning of ~~section~~ Section 1504(a) of the Internal Revenue Code, determined without regard to ~~section~~ Section 1504(b) of the Internal Revenue Code;*
  - ii) *More than 50% of the gross income of the corporation for the taxable year must be interest income derived from qualifying loans. A "qualifying loan" is a loan made to a member of the corporation's affiliated group that originates customer receivables or to whom customer receivables originated by a member of the affiliated group have been transferred, to the extent the average outstanding balance of loans from that corporation to members of its affiliated group during the taxable year do not exceed the limitation amount for that corporation. The "limitation amount" for a corporation is the average outstanding balances during the taxable year of customer receivables originated by all members of the affiliated group. If the average outstanding balances of the loans made by a corporation to members of its affiliated group exceed the limitation amount, the interest income of that corporation from qualifying loans shall be equal to its interest income from loans to members of its affiliated group times a fraction equal to the limitation amount divided by the average outstanding balances of the loans made by that corporation to members of its affiliated group;*
  - iii) *The total of all shareholder's equity (including, without limitation, paid-in capital on common and preferred stock and retained earnings) of the corporation plus the total of all of its loans, advances, and other obligations payable or owed to members of its affiliated group may not exceed 20% of the total assets of the corporation at any time during the tax year; and*
  - iv) *More than 50% of all interest-bearing obligations of the affiliated*

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group payable to persons outside the group determined in accordance with generally accepted accounting principles must be obligations of the corporation.

Example 3: In connection with the conduct of its business, A Corporation either originates customer receivables (as defined in subsection (d)(10)(A) of this Section), or is transferred customer receivables from one or more of its affiliates. B Corporation, a wholly-owned subsidiary of A and a member of its affiliated group, conducts business exclusively in State X, its commercial domicile. B issues commercial paper and other debt obligations and uses the proceeds to make loans to A or other members of the affiliated group. B Corporation derives more than 50% of its gross income from interest on making "qualifying loans" to A or other members of the affiliated group. Assuming B also meets the tests in subsections (d)(10)(B)(iii) and (iv) of this Section, B would constitute a "sales finance company" as defined in IITA Section 1501(a)(8)(C)(ii).

- C) Characteristic Services. A "sales finance company" is defined by its characteristic services in subsections (d)(10)(A) and (B) of this Section. A company satisfies the primary test of subsection (d)(10)(A) of this Section if more than 50% of its gross income is from its characteristic services.
- D) Regulation. There is no requirement that a sales finance company that meets the definition provided in subsection (d)(10)(A) or (B) of this Section be subject to license or regulation by any state or federal authority.

11) Entities engaged in the business of an "investment company". The term "investment company" means an entity that comes within the meaning of 15 USC 80a-3 and is predominantly engaged in the business of investing, reinvesting and trading in securities.

A) Characteristic Services. In the Investment Company Act of 1940, 15 USC 80a-3 defines an investment company as an entity engaged in the business of investing, reinvesting and trading in securities. Accordingly, the characteristic services of an investment company are the raising of capital from investors in order to purchase capital securities of other entities. Gross income from the characteristic services of an investment company includes interest, dividends and gains from sales of securities.

B) Regulation. In order to be characterized as an investment company under

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the IITA, an entity doing business in the United States must be registered as an investment company with the Securities and Exchange Commission under the Investment Company Act of 1940. Any entity that is not doing business in the United States must be subject to the equivalent authority (if any) in its country of formation or commercial domicile.

- e) The term "bank" includes the following entities, regardless of whether the entity is engaged in the characteristic business of a bank as described in subsection (d)(1) of this Section. An entity described in this subsection (e) is a bank even if it qualifies as a financial organization under one of the provisions of subsection (d) of this Section:
  - 1) any entity that is regulated by the Comptroller of the Currency under the National Bank Act, or by the Federal Reserve Board, or by the Federal Deposit Insurance Corporation.
    - A) An "entity regulated by the Comptroller of the Currency under the National Bank Act" means a national banking association formed under 12 USC 21.
    - B) An "entity regulated by the Federal Reserve Board" means a member of the Federal Reserve System under the provisions of 12 USC 222 or 12 USC 321.
    - C) An "entity regulated by the Federal Deposit Insurance Corporation" means an insured depository institution under 12 USC 1814.
  - 2) any federally or State chartered bank operating as a credit card bank. A "credit card bank" is the common term for an entity that comes within the definition of "bank" for purposes of the Bank Holding Company Act of 1956 (12 USC 1841(c)(1)), but ~~that which~~ is excluded from being treated as a bank under 12 USC 1841(c)(2)(F).
- f) Entities ~~Engaged engaged~~ in the ~~Business business~~ of a "Bank Holding Company bank holding company". The term "bank holding company" means an entity that directly or indirectly owns, controls or has power to vote 25% or more of any class of voting securities of any bank or of any other bank holding company (see 12 USC 1841(a)), and which is registered with the Board of Governors of the Federal Reserve System under Section 1844(a) of the Bank Holding Company Act of 1956 (12 USC 1844(a)).
- g) Special Rule for Persons Owned by a Bank or Bank Holding Company. The term "financial organization" under the Illinois Income Tax Act includes any person that is owned by a bank (within the meaning of subsection (d)(1) of this Section or subsection (e) of this Section) or by a bank holding company (within the meaning of

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subsection (f) of this Section). For purposes of this provision, the term "person" includes only those persons in which a bank holding company may acquire and hold an interest, directly or indirectly, under the provisions of the Bank Holding Company Act of 1956 (12 USC 1841) and Regulation Y promulgated thereunder by the Board of Governors of the Federal Reserve System (12 CFR 225), and does not include any person that must be disposed of within certain required time limits under the Bank Holding Company Act of 1956. Under this provision, an entity that would not otherwise be a "financial organization" is deemed to be a financial organization for any period during which it is owned by a bank or bank holding company. For example, prior to the enactment of Public Law 106-102, 12 USC 1843(c)(8) authorized bank holding companies to own insurance companies in certain circumstances. 12 USC 1843(c)(8) allows a bank holding company that owned an insurance company prior to November 12, 1999, to continue to own that insurance company. An insurance company owned by a bank holding company is a "financial organization" for purposes of the IITA, even though the insurance company would not otherwise be a financial organization. The fact that an entity that is not owned by a bank holding company would be a financial organization under this provision if it were owned by a bank holding company, or that the entity in the past may have been owned by a bank holding company and therefore characterized as a financial organization, is irrelevant to the determination of whether the entity is a financial organization.

- h) Effective ~~Dates dates~~ and ~~Elections-elections~~. Public Act 89-711 amended the definition of "financial organization" in IITA Section 1501(a)(8) by adding the definition of "bank" in IITA Section 1501(a)(8)(B) and the definition of "sales finance company" in IITA Section 1501(a)(8)(C).
  - 1) Application of IITA Section 1501(a)(8) to taxable years beginning on or before December 31, 1996. The General Assembly declared in IITA Section 1501(a)(8)(D) that the definitions of the terms "bank" and "sales finance company" in IITA ~~Section Sections~~ 1501(a)(8)(B) and (C) are *declaratory of existing law and apply retroactively for all tax years beginning on or before December 31, 1996*. No other definitions were changed. Accordingly, except as provided in this subsection (h), the interpretations of the statutory definitions contained in subsections (a) through (g) apply retroactively and for all purposes to all taxable years.
  - 2) For taxable years beginning on or before December 31, 1996, Public Act 89-711 provides that the definitions of "bank" and "sales finance company" shall

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apply to all original returns; to all amended returns filed within 30 days after the effective date of the Act; to all math error notices issued by the Department under IITA Section 903(a); to all Notices of Deficiency issued by the Department under IITA Section 904(a); to all notices of denial of refund claims issued under IITA Section 909(e); and to all assessments of erroneous refunds made under IITA Section 912.

- A) Public Act 89-711 imposes no time limit for the filing of an original return applying its provisions to taxable years beginning on or prior to December 31, 1996. Accordingly, taxpayers may file original returns claiming financial organization status under the amended definitions of "bank" and "sales finance company" at any time, provided that such returns are filed within the applicable statute of limitations period and meet all other relevant requirements of the IITA.
- B) Taxpayers required to file amended returns in order to claim financial organization status for a taxable year beginning on or prior to December 31, 1996, were required to do so on or before March 17, 1997, which was 30 days after the enactment of Public Act 89-711.
- C) In the case of a taxpayer that had claimed financial organization status on an original or amended return and whose status as a financial organization was denied by the Department, IITA Section 1501(a)(8)(D) provides that the amended definitions of "bank" and "sales finance company" apply to the Notice of Deficiency or notice of denial of refund claim issued by the Department after review of such return.
  - i) If the Notice of Deficiency or notice of denial has not become final, a taxpayer with a matter pending before the Office of Administrative Hearings of the Illinois Department of Revenue for a particular taxable year may raise as an issue the taxpayer's status as a "bank" or "sales finance company" by the making of a motion in conformance with the rules on motion practice as set forth in 86 Ill. Adm. Code 200.185.
  - ii) If the Notice of Deficiency or notice of denial has become final, and the taxpayer is not contesting the Department's action in the courts under the Administrative Review Law [735 ILCS 5/Art. III] or the State Officers and Employees Money Disposition Act [30 ILCS 230], the taxpayer must have filed a timely amended return as set forth in subsection (h)(2)(B) of this Section in order

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to assert a claim that it qualifies as a "bank" or "sales finance company" under the amended definitions.

- iii) A taxpayer with a matter pending before the courts of this State for a particular taxable year must request treatment as a "bank" or "sales finance company" by the making of a motion in conformance with the rules of the court.
- 3) Election under IITA Section 1501(a)(8)(E). IITA Section 1501(a)(8)(E) provides that, *for all taxable years beginning on or before December 31, 1996, a taxpayer that falls within the definition of a "financial organization" under Section 1501(a)(8)(B) or (C) of the IITA, but who does not fall within the definition of a "financial organization" under the Proposed Regulations issued by the Department of Revenue on July 19, 1996 (20 Ill. Reg. 9488) may irrevocably elect to apply the Proposed Regulations for all of those years as though the Proposed Regulations had been lawfully promulgated, adopted, and in effect for all of those years.*
- A) In order to support a claim for refund, the election must have been filed by March 17, 1997. Procedures for making an election which would support a claim for refund were published in Emergency Rule 100.9710 (21 Ill. Reg. 2969).
  - B) A taxpayer who has filed an original or amended return for any taxable year beginning on or before December 31, 1996, as a non-financial organization and that wishes to elect to be bound by the July 19, 1996, proposed rules solely for the purpose of preserving its return position, and not for purposes of claiming a refund for any year, may file an election document meeting the following requirements:
    - i) The election document must state on the first page "Financial Organization Election to Apply Proposed Rules Under Public Act 89-711 – No Refund Claim-".
    - ii) The election document must be filed prior to the issuance of any Notice of Deficiency or notice of claim denial that is based in whole or in part on the retroactive application of Public Act 89-711 to treat the taxpayer as a financial organization.
    - iii) The election document must list all members of the unitary business group to whom the election applies. The election shall be binding on all such members, whether or not listed, and the Department may enforce such election against such members. In

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addition, no refund claimed after the effective date of Public Act 89-711 shall be allowed to the extent such refund results from the application of the July 19, 1996, proposed rules to any such member.

- C) All elections to apply the July 19, 1996, proposed rules, whether made by amended return or by an election document, shall be sent to the following address:

Deputy General Counsel – Income Tax  
Legal Services Office – Room 5-500  
Illinois Department of Revenue  
P.O. Box 19014  
Springfield, Illinois 62794-9014

- D) Effect of election.
- i) Effect on "banks" as defined in IITA Section 1501(a)(8)(B). Public Act 89-711 expanded the definition of the term "bank" to include entities described in subsection (e) of this Section, without regard to the actual business activities of the entity. A taxpayer governed by an election under this subsection (h) must be engaged in the business of a "bank" as described in subsection (d)(1) of this Section in order to be characterized as a bank. For example, under IITA Section 1501(a)(8)(B), a "credit card bank" is characterized as a "bank" even though a credit card bank is prohibited from accepting deposits from the public. A credit card bank governed by an election under this subsection (h) therefore cannot be a "bank" under subsection (d)(1) of this Section. Note, however, that a credit card bank governed by such an election may qualify as a financial organization under some other provision of this Section; in particular, a credit card bank may be engaged in the business of a sales finance company as defined in subsection (i)(3)(D)(ii) of this Section.
  - ii) Effect on "sales finance companies" as defined in IITA Section 1501(a)(8)(C). Public Act 89-711 expanded the definition of "sales finance company" to include entities that buy, or make loans secured by, installment agreements or charge agreements of

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corporations and businesses and to include entities which are primarily engaged in the business of a sales finance company. An entity governed by an election under this subsection (h) will be a sales finance company only if: it is engaged in the business of buying, or making loans secured by, installment agreements and charge agreements arising from retail purchases for personal, family or household use; more than 80% of its gross income is derived from transactions characteristic of a financial organization; and it meets the other requirements of subsection (d)(10) of this Section.

- iii) An election made under Section 1501(a)(8)(E) applies only to taxable years beginning on or before December 31, 1996. For all subsequent taxable years, the provisions of Section 1501(a)(8) as amended in Public Act 89-711 and interpreted in subsections (a) through (h) of this Section shall apply.
- iv) Section 1501(a)(8)(E) provides that the election applies *to those members of the taxpayer's unitary business group who are ordinarily required to apportion business income under the same subsection of Section 304 of the IITA*. An election made by one or more such members is binding on all such members, whether or not they expressly joined in the election, and the Department may enforce such election either directly or by offsetting any refund payable to the taxpayer as the result of the election by any underpayment of any other taxpayer to whom such election also applies to the extent such underpayment results from the making of the election.
- i) Effective January 1, 2000, Public Act 91-535 amended the definition of the term "sales finance company" in IITA Section 1501(a)(8)(C). The General Assembly declared the definition of the term "sales finance company" in Public Act 91-535 to be declaratory of existing law. Accordingly, except as provided in this subsection (i), the interpretation of the term "sales finance company" shall apply retroactively and for all purposes to all taxable years.
  - 1) The definition of "sales finance company" provided by Public Act 91-535 shall apply to all original returns; to all amended returns; to all math error notices issued by the Department under IITA Section 904(a); to all Notices of Denial of refund claims issued under IITA Section 909(e); and to all notices of

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erroneous refunds made under IITA Section 912.

- A) Public act 91-535 imposes no time limit for the filing of an original or amended return applying its provisions to a particular taxable year. Accordingly, taxpayers may file original or amended returns claiming financial organization status under the amended definition of "sales finance company" at any time, provided that such returns are filed within the applicable statute of limitations period and meet all other relevant requirements of the IITA.
- B) In the case of a taxpayer that had claimed financial organization status on an original or amended return and whose status as a financial organization was denied by the Department:
  - i) If the Notice of Deficiency or Notice of Denial has not become final, a taxpayer with a matter pending before the Office of Administrative Hearings of the Illinois Department of Revenue for a particular taxable year may raise as an issue the taxpayer's status as a "sales finance company" by making of a motion in conformance with the rules on motion practice as set forth in Section 100.185 of this Part.
  - ii) If the Notice of Deficiency or Notice of Denial has become final, and the taxpayer is not contesting the Department's action in the courts under the Administrative Review Law [735 ILCS 5/Art. III] or the State Officers and Employees Money Disposition Act [30 ILCS 230], the taxpayer must have filed a timely amended return as set forth in subsection (h)(2)(B) of this Section in order to assert a claim that it qualifies as a "sales finance company" under the amended definition.
  - iii) A taxpayer with a matter pending before the courts of this State for a particular taxable year must request treatment as a "sales finance company" by the making of a motion in conformance with the rules of the court.

(Source: Amended at 26 Ill. Reg. 13378, effective \_\_\_\_\_)

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TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER b: AERONAUTICS

PART 15  
AIRPORT LAND LOAN PROGRAM

## Section

- 15.10 Purpose
- 15.20 Definitions
- 15.30 Airport Eligibility
- 15.40 Eligible Property
- 15.50 Application Procedure
- 15.60 Evaluating and Prioritizing Loan Applications
- 15.70 Conditions of Loan
- 15.80 Repayment Requirements
- 15.90 Default

AUTHORITY: Implementing and authorized by Section 34b of the Illinois Aeronautics Act [620 ILCS 5/34b].

SOURCE: Adopted at 25 Ill. Reg. 5643, effective April 4, 2001; amended at 25 Ill. Reg. 14523, effective October 27, 2001; amended at 26 Ill. Reg. 13378, effective \_\_\_\_\_.

**Section 15.30 Airport Eligibility**

The Department may make a loan to an Owner subject to the following conditions and in compliance with this Part:

- a) the airport must be publicly owned;
- b) the airport must have been in operation as *of January 1, 1999* (Section 34b(a)(1) of the Act);
- c) the Owner must have current height restrictive zoning for the public airport (see 620 ILCS 25 and 30);
- d) the airport does not *provide scheduled commercial air service in counties greater than 5,000,000 population* (Section 34b(a)(2) of the Act);

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- e) the Owner ~~is does~~ not in default of ~~have~~ an outstanding, unpaid loan under this Part.

(Source: Amended at 26 Ill. Reg. 13378, effective \_\_\_\_\_)

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140  
MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

## Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

## SUBPART B: MEDICAL PROVIDER PARTICIPATION

## Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance

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|        | Program   |
|--------|---|
| 140.18 | Effect of Termination on Individuals Associated with Vendor   |
| 140.19 | Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring                    |
| 140.20 | Submittal of Claims   |
| 140.21 | Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)   |
| 140.22 | Magnetic Tape Billings (Repealed)   |
| 140.23 | Payment of Claims   |
| 140.24 | Payment Procedures  |
| 140.25 | Overpayment or Underpayment of Claims   |
| 140.26 | Payment to Factors Prohibited   |
| 140.27 | Assignment of Vendor Payments   |
| 140.28 | Record Requirements for Medical Providers   |
| 140.30 | Audits  |
| 140.31 | Emergency Services Audits   |
| 140.32 | Prohibition on Participation, and Special Permission for Participation  |
| 140.33 | Publication of List of Terminated, Suspended or Barred Entities   |
| 140.35 | False Reporting and Other Fraudulent Activities   |
| 140.40 | Prior Approval for Medical Services or Items  |
| 140.41 | Prior Approval in Cases of Emergency  |
| 140.42 | Limitation on Prior Approval  |
| 140.43 | Post Approval for items or Services When Prior Approval Cannot Be Obtained  |
| 140.55 | Recipient Eligibility Verification (REV) System   |
| 140.71 | Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments |
| 140.72 | Drug Manual (Recodified)  |
| 140.73 | Drug Manual Updates (Recodified)  |

## SUBPART C: PROVIDER ASSESSMENTS

| Section |   |
|---------|---|
| 140.80  | Hospital Provider Fund  |
| 140.82  | Developmentally Disabled Care Provider Fund   |
| 140.84  | Long Term Care Provider Fund  |
| 140.94  | Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund |

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| 140.95  | Hospital Services Trust Fund   |
| 140.96  | General Requirements (Recodified)  |
| 140.97  | Special Requirements (Recodified)  |
| 140.98  | Covered Hospital Services (Recodified)   |
| 140.99  | Hospital Services Not Covered (Recodified)   |
| 140.100 | Limitation On Hospital Services (Recodified)   |
| 140.101 | Transplants (Recodified)   |
| 140.102 | Heart Transplants (Recodified)   |
| 140.103 | Liver Transplants (Recodified)   |
| 140.104 | Bone Marrow Transplants (Recodified)   |
| 140.110 | Disproportionate Share Hospital Adjustments (Recodified)   |
| 140.116 | Payment for Inpatient Services for GA (Recodified)   |
| 140.117 | Hospital Outpatient and Clinic Services (Recodified)   |
| 140.200 | Payment for Hospital Services During Fiscal Year 1982 (Recodified)                                       |
| 140.201 | Payment for Hospital Services After June 30, 1982 (Repealed)   |
| 140.202 | Payment for Hospital Services During Fiscal Year 1983 (Recodified)                                       |
| 140.203 | Limits on Length of Stay by Diagnosis (Recodified)   |
| 140.300 | Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified) |
| 140.350 | Copayments (Recodified)  |
| 140.360 | Payment Methodology (Recodified)   |
| 140.361 | Non-Participating Hospitals (Recodified)   |
| 140.362 | Pre July 1, 1989 Services (Recodified)   |
| 140.363 | Post June 30, 1989 Services (Recodified)   |
| 140.364 | Prepayment Review (Recodified)   |
| 140.365 | Base Year Costs (Recodified)   |
| 140.366 | Restructuring Adjustment (Recodified)  |
| 140.367 | Inflation Adjustment (Recodified)  |
| 140.368 | Volume Adjustment (Repealed)   |
| 140.369 | Groupings (Recodified)   |
| 140.370 | Rate Calculation (Recodified)  |
| 140.371 | Payment (Recodified)   |
| 140.372 | Review Procedure (Recodified)  |
| 140.373 | Utilization (Repealed)   |
| 140.374 | Alternatives (Recodified)  |
| 140.375 | Exemptions (Recodified)  |

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- 140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
- 140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.391 Definitions (Recodified)
- 140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
- 140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

## Section

- 140.400 Payment to Practitioners
- 140.402 Copayments for Noninstitutional Medical Services
- 140.410 Physicians' Services
- 140.411 Covered Services By Physicians
- 140.412 Services Not Covered By Physicians
- 140.413 Limitation on Physician Services
- 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items - Physicians
- 140.416 Optometric Services and Materials
- 140.417 Limitations on Optometric Services
- 140.418 Department of Corrections Laboratory
- 140.420 Dental Services
- 140.421 Limitations on Dental Services
- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items - Dentists
- 140.425 Podiatry Services
- 140.426 Limitations on Podiatry Services
- 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items - Podiatry
- 140.428 Chiropractic Services
- 140.429 Limitations on Chiropractic Services (Repealed)
- 140.430 Independent Clinical Laboratory Services
- 140.431 Services Not Covered by Independent Clinical Laboratories
- 140.432 Limitations on Independent Clinical Laboratory Services
- 140.433 Payment for Clinical Laboratory Services
- 140.434 Record Requirements for Independent Clinical Laboratories
- 140.435 Advanced Practice Nurse Services
- 140.436 Limitations on Advanced Practice Nurse Services

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- 140.438 Imaging Centers
- 140.440 Pharmacy Services
- 140.441 Pharmacy Services Not Covered
- 140.442 Prior Approval of Prescriptions
- 140.443 Filling of Prescriptions
- 140.444 Compounded Prescriptions
- 140.445 Legend Prescription Items (Not Compounded)
- 140.446 Over-the-Counter Items
- 140.447 Reimbursement
- 140.448 Returned Pharmacy Items
- 140.449 Payment of Pharmacy Items
- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Clinic Services
- 140.453 Definitions
- 140.454 Types of Mental Health Clinic Services
- 140.455 Payment for Mental Health Clinic Services
- 140.456 Hearings
- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
- 140.462 Covered Services in Clinics
- 140.463 Clinic Service Payment
- 140.464 Healthy Moms/Healthy Kids Managed Care Clinics (Repealed)
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
- 140.469 Hospice
- 140.470 Home Health Services
- 140.471 Home Health Covered Services
- 140.472 Types of Home Health Services
- 140.473 Prior Approval for Home Health Services
- 140.474 Payment for Home Health Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices

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- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies
- 140.480 Equipment Rental Limitations
- 140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
- 140.482 Family Planning Services
- 140.483 Limitations on Family Planning Services
- 140.484 Payment for Family Planning Services
- 140.485 Healthy Kids Program
- 140.486 Limitations on Medichex Services (Repealed)
- 140.487 Healthy Kids Program Timeliness Standards
- 140.488 Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
- 140.490 Medical Transportation
- 140.491 Limitations on Medical Transportation
- 140.492 Payment for Medical Transportation
- 140.493 Payment for Helicopter Transportation
- 140.494 Record Requirements for Medical Transportation Services
- 140.495 Psychological Services
- 140.496 Payment for Psychological Services
- 140.497 Hearing Aids

## SUBPART E: GROUP CARE

- Section
- 140.500 Long Term Care Services
- 140.502 Cessation of Payment at Federal Direction
- 140.503 Cessation of Payment for Improper Level of Care
- 140.504 Cessation of Payment Because of Termination of Facility
- 140.505 Informal Hearing Process for Denial of Payment for New ICF/MR
- 140.506 Provider Voluntary Withdrawal
- 140.507 Continuation of Provider Agreement
- 140.510 Determination of Need for Group Care
- 140.511 Long Term Care Services Covered by Department Payment

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- 140.512 Utilization Control
- 140.513 Notification of Change in Resident Status
- 140.514 Certifications and Recertifications of Care
- 140.515 Management of Recipient Funds--Personal Allowance Funds
- 140.516 Recipient Management of Funds
- 140.517 Correspondent Management of Funds
- 140.518 Facility Management of Funds
- 140.519 Use or Accumulation of Funds
- 140.520 Management of Recipient Funds--Local Office Responsibility
- 140.521 Room and Board Accounts
- 140.522 Reconciliation of Recipient Funds
- 140.523 Bed Reserves
- EMERGENCY**
- 140.524 Cessation of Payment Due to Loss of License
- 140.525 Quality Incentive Program (QUIP) Payment Levels
- 140.526 Quality Incentive Standards and Criteria for the Quality Incentive Program (QUIP) (Repealed)
- 140.527 Quality Incentive Survey (Repealed)
- 140.528 Payment of Quality Incentive (Repealed)
- 140.529 Reviews (Repealed)
- 140.530 Basis of Payment for Long Term Care Services
- 140.531 General Service Costs
- 140.532 Health Care Costs
- 140.533 General Administration Costs
- 140.534 Ownership Costs
- 140.535 Costs for Interest, Taxes and Rent
- 140.536 Organization and Pre-Operating Costs
- 140.537 Payments to Related Organizations
- 140.538 Special Costs
- 140.539 Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
- 140.540 Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
- 140.541 Salaries Paid to Owners or Related Parties
- 140.542 Cost Reports-Filing Requirements

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| 140.543 | Time Standards for Filing Cost Reports  |
| 140.544 | Access to Cost Reports (Repealed)   |
| 140.545 | Penalty for Failure to File Cost Reports  |
| 140.550 | Update of Operating Costs   |
| 140.551 | General Service Costs   |
| 140.552 | Nursing and Program Costs   |
| 140.553 | General Administrative Costs  |
| 140.554 | Component Inflation Index   |
| 140.555 | Minimum Wage  |
| 140.560 | Components of the Base Rate Determination   |
| 140.561 | Support Costs Components  |
| 140.562 | Nursing Costs   |
| 140.563 | Capital Costs   |
| 140.565 | Kosher Kitchen Reimbursement  |
| 140.566 | Out-of-State Placement  |
| 140.567 | Level II Incentive Payments (Repealed)  |
| 140.568 | Duration of Incentive Payments (Repealed)   |
| 140.569 | Clients With Exceptional Care Needs   |
| 140.570 | Capital Rate Component Determination  |
| 140.571 | Capital Rate Calculation  |
| 140.572 | Total Capital Rate  |
| 140.573 | Other Capital Provisions  |
| 140.574 | Capital Rates for Rented Facilities   |
| 140.575 | Newly Constructed Facilities (Repealed)   |
| 140.576 | Renovations (Repealed)  |
| 140.577 | Capital Costs for Rented Facilities (Renumbered)  |
| 140.578 | Property Taxes  |
| 140.579 | Specialized Living Centers  |
| 140.580 | Mandated Capital Improvements (Repealed)  |
| 140.581 | Qualifying as Mandated Capital Improvement (Repealed)                                       |
| 140.582 | Cost Adjustments  |
| 140.583 | Campus Facilities   |
| 140.584 | Illinois Municipal Retirement Fund (IMRF)   |
| 140.590 | Audit and Record Requirements   |
| 140.642 | Screening Assessment for Nursing Facility and Alternative Residential Settings and Services |

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- 140.643 In-Home Care Program
- 140.645 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
- 140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
- 140.647 Description of Developmental Training (DT) Services
- 140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
- 140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs
- 140.650 Certification of Developmental Training (DT) Programs
- 140.651 Decertification of Day Programs
- 140.652 Terms of Assurances and Contracts
- 140.680 Effective Date Of Payment Rate
- 140.700 Discharge of Long Term Care Residents
- 140.830 Appeals of Rate Determinations
- 140.835 Determination of Cap on Payments for Long Term Care (Repealed)

## SUBPART F: FEDERAL CLAIMING FOR STATE AND LOCAL GOVERNMENTAL ENTITIES

- Section
- 140.850 Reimbursement of Administrative Expenditures
- 140.855 Administrative Claim Review and Reconsideration Procedure
- 140.860 Covered Services (Repealed)
- 140.865 Sponsor Qualifications (Repealed)
- 140.870 Sponsor Responsibilities (Repealed)
- 140.875 Department Responsibilities (Repealed)
- 140.880 Provider Qualifications (Repealed)
- 140.885 Provider Responsibilities (Repealed)
- 140.890 Payment Methodology (Repealed)
- 140.895 Contract Monitoring (Repealed)
- 140.896 Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
- 140.900 Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)

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| 140.901 | Functional Areas of Needs (Recodified)                  |
| 140.902 | Service Needs (Recodified)                              |
| 140.903 | Definitions (Recodified)                                |
| 140.904 | Times and Staff Levels (Repealed)                       |
| 140.905 | Statewide Rates (Repealed)                              |
| 140.906 | Reconsiderations (Recodified)                           |
| 140.907 | Midnight Census Report (Recodified)                     |
| 140.908 | Times and Staff Levels (Recodified)                     |
| 140.909 | Statewide Rates (Recodified)                            |
| 140.910 | Referrals (Recodified)                                  |
| 140.911 | Basic Rehabilitation Aide Training Program (Recodified) |
| 140.912 | Interim Nursing Rates (Recodified)                      |

## SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

| Section |   |
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| 140.920 | General Description   |
| 140.922 | Covered Services  |
| 140.924 | Maternal and Child Health Provider Participation Requirements |
| 140.926 | Client Eligibility (Repealed)                                 |
| 140.928 | Client Enrollment and Program Components (Repealed)           |
| 140.930 | Reimbursement   |
| 140.932 | Payment Authorization for Referrals (Repealed)                |

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND REIMBURSEMENT  
EQUITY (ICARE) PROGRAM

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| 140.940 | Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified) |
| 140.942 | Definition of Terms (Recodified)  |
| 140.944 | Notification of Negotiations (Recodified)   |
| 140.946 | Hospital Participation in ICARE Program Negotiations (Recodified)                 |
| 140.948 | Negotiation Procedures (Recodified)   |
| 140.950 | Factors Considered in Awarding ICARE Contracts (Recodified)                       |
| 140.952 | Closing an ICARE Area (Recodified)  |

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- 140.954 Administrative Review (Recodified)
- 140.956 Payments to Contracting Hospitals (Recodified)
- 140.958 Admitting and Clinical Privileges (Recodified)
- 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
- 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
- 140.964 Contract Monitoring (Recodified)
- 140.966 Transfer of Recipients (Recodified)
- 140.968 Validity of Contracts (Recodified)
- 140.970 Termination of ICARE Contracts (Recodified)
- 140.972 Hospital Services Procurement Advisory Board (Recodified)
- 140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
- 140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

- TABLE A Medicare Recommended Screening Procedures (Repealed)
- TABLE B Geographic Areas
- TABLE C Capital Cost Areas
- TABLE D Schedule of Dental Procedures
- TABLE E Time Limits for Processing of Prior Approval Requests
- TABLE F Podiatry Service Schedule
- TABLE G Travel Distance Standards
- TABLE H Areas of Major Life Activity
- TABLE I Staff Time and Allocation for Training Programs (Recodified)
- TABLE J HSA Grouping (Repealed)
- TABLE K Services Qualifying for 10% Add-On (Repealed)
- TABLE L Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
- TABLE M Enhanced Rates for Maternal and Child Health Provider Services

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508,

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effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a

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maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988;

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amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 26, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298,

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effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg.

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18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at

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22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2000, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days.

## SUBPART E: GROUP CARE

**Section 140.523 Bed Reserves****EMERGENCY**

- a) Nursing Facilities
  - 1) All bed reserves must:

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- A) be authorized by a physician;
  - B) have post payment approval from Bureau of Long Term Care staff based on satisfying the requirements of this Section;
  - C) be limited to residents who desire to return to the same facility; and
  - D) be limited to facilities having a 93 percent or higher occupancy level.  
The occupancy level shall be calculated including both payable and non-payable (non-payable defined as those residents that have transitioned from the maximum days allowed for payable bed reserve to non-payable bed reserve status) bedhold days as occupied beds.
- 2) Payment may be approved for hospitalization for a period not to exceed ~~ten~~ ~~five~~ days per hospital stay. The day the resident is transferred to the hospital is the first day of the reserve bed period.
  - 3) Payment may be approved for home visits which have been indicated by a physician as therapeutically beneficial. In such instances, bed reserve is limited to ~~seven~~ ~~five~~ consecutive ~~or non-consecutive~~ days in a billing month ~~or ten non-consecutive days in a billing month~~. The day after the resident leaves the facility is the first day of the reserve bed period. Home visits may be extended with the approval of the Department.
  - 4) Bureau of Long Term Care staff will approve ongoing therapeutic home visits based on the physician's standing orders for the individual. Standing orders for therapeutic home visits limited to ~~ten~~ ~~five~~ days per month are valid for a period not exceeding six months.
  - 5) Payment for approved bed reserves is a daily rate at ~~75~~ ~~33~~ percent of an individual's current Medicaid per diem.
  - 6) In no facility may the number of vacant beds be less than the number of beds identified for residents having an approved bed reserve. The number of vacant beds in the facility must be equal to or greater than the number of residents allowed bed reserve.
- b) ICF/MR Facilities (including ICF/DD and SNF/Ped licenses)
- 1) All bed reserves must:
    - A) be authorized by the interdisciplinary team (IDT); and
    - B) be limited to residents who desire to return to the same facility.
  - 2) There is no minimum occupancy level ICF/MR facilities must meet for receiving bed reserve payments.
  - 3) In no facility may the number of vacant beds be less than the number of beds identified for residents having an approved bed reserve. The number of vacant

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beds in the facility must be equal to or greater than the number of residents allowed bed reserve.

- 4) Payment may be approved for hospitalization for a period not to exceed 45 consecutive days. The day the resident is transferred to the hospital is the first day of the reserve bed period. Payment for approved bed reserves for hospitalization is a daily rate at:
  - A) 100 percent of a facility's current Medicaid per diem for the first ten days of an admission to a hospital;
  - B) 75 percent of a facility's current Medicaid per diem for days 11 through 30 of the admission;
  - C) 50 percent of a facility's current Medicaid per diem for days 31 to 45 of the admission.
- 5) Payment may be approved for therapeutic visits which have been indicated by the IDT as therapeutically beneficial. There is no limitation on the bed reserve days for such approved therapeutic visits. The day after the resident leaves the facility is the first day of the bed reserve period. Payment for approved bed reserves for therapeutic visits is a daily rate at:
  - A) 100 percent of a facility's current Medicaid per diem for a period not to exceed ten days per State fiscal year;
  - B) 75 percent of a facility's current Medicaid per diem for a period which exceeds ten days per State fiscal year.

(Source: Amended by emergency rulemaking at 26 Ill. Reg. 13378, effective August 12, 2002, for a maximum of 150 days)

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TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 153  
LONG TERM CARE REIMBURSEMENT CHANGES

## Section

153.100 Reimbursement for Long Term Care Services

153.125 Long Term Care Facility Rate Adjustments

**EMERGENCY**

153.150 Quality Assurance Review (Repealed)

**AUTHORITY:** Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

**SOURCE:** Emergency rules adopted at 18 Ill. Reg. 2159, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10154, effective June 17, 1994; emergency amendment at 18 Ill. Reg. 11380, effective July 1, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16669, effective November 1, 1994; emergency amendment at 19 Ill. Reg. 10245, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16281, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9306, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14840, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 9568, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13633, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 13114, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16285, effective August 28, 1998; amended at 22 Ill. Reg. 19872, effective October 30, 1998; emergency amendment at 23 Ill. Reg. 8229, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12794, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13638, effective November 1, 1999; emergency amendment at 24 Ill. Reg. 10421, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15071, effective October 1, 2000; emergency amendment at 25 Ill. Reg. 8867, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14952, effective November 1, 2001; emergency amendment at 26 Ill. Reg. 6003, effective April 11, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11087, effective July 1, 2002, for a maximum of 150 days;

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emergency amendment at 26 Ill. Reg. 12791, effective August 9, 2002, for a maximum of 150 days.

**Section 153.125 Long Term Care Facility Rate Adjustments****EMERGENCY**

- a) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates established on July 1, 1996, shall be increased by 6.8 percent for services provided on or after January 1, 1997.
- b) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1998, for services provided on or after that date, shall be increased by three percent. For nursing facilities (SNF/ICF) only, \$1.10 shall also be added to the nursing component of the rate.
- c) Notwithstanding the provisions set forth in Section 153.100, long term care facility (SNF/ICF and ICF/MR) rates and developmental training rates established on July 1, 1999, for services provided on or after that date, shall include:
  - 1) an increase of 1.6 percent for SNF/ICF, ICF/MR and developmental training rates;
  - 2) an additional increase of \$3.00 per resident day for ICF/MR rates; and
  - 3) an increase of \$10.02 per person, per month for developmental training rates.
- d) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF rates shall be increased by \$4.00 per resident day for services provided on or after October 1, 1999.
- e) Notwithstanding the provisions set forth in Section 153.100, SNF/ICF, ICF/MR and developmental training rates shall be increased 2.5 percent per resident day for services provided on or after July 1, 2000.
- f) Notwithstanding the provisions set forth in Section 153.100, nursing facility (SNF/ICF) rates effective on July 1, 2001, and each subsequent year thereafter, shall be computed using the most recent cost reports on file with the Department no later than April 1, 2000, updated for inflation to January 1, 2001.
  - 1) The Uniform Building Value shall be as defined in 89 Ill. Adm. Code 140.570(b)(10), except that, as of July 1, 2001, the definition of current year is the year 2000.
  - 2) The real estate tax bill that was due to be paid in 1999 by the nursing facility shall be used in determination of the capital component of the rate. The real estate tax component shall be removed from the capital rate if the facility's

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- status changes so as to be exempt from assessment to pay real estate taxes.
- 3) Wages shall be calculated according to 89 Ill. Adm. Code 147.150, except that wages will be updated for inflation to January 1, 2001.
  - 4) Capital and support rates in effect on July 1, 2001, shall be adjusted based on audits of cost report data in accordance with 89 Ill. Adm. Code 140.582(b) and 140.590.
  - 5) For rates effective July 1, 2001, only, rates shall be the greater of the rate computed for July 1, 2001, or the rate effective on June 30, 2001.
  - 6) All accounting records or other documentation necessary to support the costs and other information reported on the cost report to be used in accordance with rate setting under Section 153.125(f) shall be kept for a minimum of two years after the Department's final payment using rates that were based in part on that cost report.
- g) Notwithstanding the provisions set forth in Section 153.100, intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled nursing facilities for persons under 22 years of age (SNF/Ped), shall receive an increase in rates for residential services equal to a statewide average of 7.85 percent. Residential rates taking effect March 1, 2001, for services provided on or after that date, shall include an increase of 11.01 percent to the residential program rate component and an increase of 3.33 percent to the residential support rate component, each of which shall be adjusted by the geographical area adjuster, as defined by the Department of Human Services (DHS).
  - h) For developmental training services provided on or after March 1, 2001, for residents of long term care facilities, rates shall include an increase of 9.05 percent and rates shall be adjusted by the geographical area adjuster, as defined by DHS.
  - i) ~~Notwithstanding the provisions set forth in Section 153.100, daily rates for intermediate care facilities for persons with developmental disabilities (ICF/MR), including skilled long term care facilities for persons under 22 years of age (SNF/Ped), shall be increased by 2.247 percent for services provided on or after April 11, 2002, and this increase shall be reduced to 2 percent of the rate in effect on April 1, 2002, effective July 1, 2002.~~

(Source: Amended by emergency rulemaking at 26 Ill. Reg. 13378, effective August 9, 2002, for a maximum of 150 days)

# ILLINOIS ADMINISTRATIVE CODE

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