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REGISTER

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OF GOVERNMENTAL
AGENCIES



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OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Auction License Act
- 2) Code Citation: 68 Ill. Adm. Code 1440
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1440.400	New
1440.410	New
1440.420	New
1440.430	New
1440.440	New
1440.450	New
1440.460	New
1440.470	New
1440.480	New
- 4) Statutory Authority: Implementing and authorized by the Auction License Act [225 ILCS 407]
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of this rule is to implement the registration of Internet Auction Listing Services pursuant to PA 92-798.
- 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? No
- 10) Statement of Statewide Policy Objectives: There is no effect on local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties should submit written comments or views concerning the proposed rulemaking to the attention of:

Kraig Lounsberry
Office of Banks and Real Estate
500 East Monroe
Springfield, Illinois 62701
(217) 785-2900

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

Fax: (217) 557-0330

The Agency will consider all written comments it receives in writing within 45 days after the date of publication to the *Illinois Register*.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed rulemaking will affect Internet Auction Listing Services, some of which may meet the definition of a small business. These types of business will be required to register with the Office of Banks and Real Estate and pay the registration fee as required by law and implemented by these rules.
- B) Reporting, bookkeeping or other procedures required for compliance: Internet Auction Listing Services will be required to submit a registration application as provided by law and implemented by these rules.
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2003

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

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATEPART 1440
AUCTION LICENSE ACT

SUBPART A: DEFINITIONS

Section
1440.10 Definitions

SUBPART B: AUCTION LICENSE

Section
1440.100 Necessity of License; Exemptions
1440.110 Examination
1440.120 Application for Auctioneer, Associate Auctioneer License and Auction Firm
1440.130 Application for Licensure, Practice Prior to the Act
1440.140 45 Day Permit Sponsor Card
1440.150 Restoration of Lapsed or Expired License
1440.160 Nonresident Auctioneer, Associate Auctioneer Reciprocity
1440.170 Fees
1440.180 Earnings from the Investment of Moneys in the Auction Recovery Fund
1440.190 Address Change, Notification
1440.200 Pocket Card
1440.210 Assumed Name
1440.220 Supervisory Duties
1440.230 Advertising; Buyer Premium; Disclosure
1440.240 Unlicensed Assistants
1440.250 Felony convictions; Discipline of Other Professional License; Notification
1440.260 Advertising; Auction without Reserve; Absolute Auction
1440.270 Escrow or Trust Accounts
1440.280 Termination for Failure to Pay Taxes, Child Support or Student Loan

SUBPART C: CONTINUING EDUCATION

Section
1440.300 Continuing Education Schools Approval and License
1440.310 Continuing Education
1440.320 Expiration and Renewal for Continuing Education Schools and Courses

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

1440.330	Distant Learning Programs
1440.340	Class Attendance Requirements
1440.350	Withdrawal of Approval of School and Courses
1440.360	Discipline of Schools

SUBPART D: INTERNET AUCTION LISTING SERVICESection

<u>1440.400</u>	<u>Definitions</u>
<u>1440.410</u>	<u>Registration</u>
<u>1440.420</u>	<u>Expiration of Registration</u>
<u>1440.430</u>	<u>Renewal of Registration</u>
<u>1440.440</u>	<u>Issuance of Certificate of Registration</u>
<u>1440.450</u>	<u>Notification of Name Change</u>
<u>1440.460</u>	<u>Assumed Name</u>
<u>1440.470</u>	<u>Address Change; Street Address</u>
<u>1440.480</u>	<u>Fees</u>

AUTHORITY: Implementing and authorized by the Auction License Act [225 ILCS 407].

SOURCE: Adopted by emergency rulemaking at 23 Ill. Reg. 13414, effective October 25, 1999, for a maximum of 150 days; adopted at 24 Ill. Reg. 3518, effective February 22, 2000; amended at 25 Ill. Reg. 12586, effective September 28, 2001; amended at 28 Ill. Reg. _____, effective _____.

SUBPART: D INTERNET AUCTION LISTING SERVICESection 1440.400 Definitions

Unless otherwise clarified by this Subpart, definitions set forth in the Act and this Part shall also apply for the purposes of this Subpart.

“Close of a transaction” shall mean the conclusion of the bidding process of a transaction on an Internet auction listing service web site. It shall not be construed to mean when a seller receives payment for the property and/or when a purchaser receives the property at the conclusion of a transaction on an Internet auction listing service web site.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

“Designated agent” means the person listed in the registration of an Internet auction listing service who will respond to OBRE written requests for information, records and related documents maintained in connection with the activities subject to registration.

“Registrant” means any person registered as an Internet auction listing service under the Act and this Part.

“Registration” means the acceptance by OBRE of the completed forms along with the applicable fees submitted by a person providing or seeking to provide an Internet auction listing service.

(Source: Added at 28 Ill. Reg. _____, effective _____)

Section 1440.410 Registration

- a) An applicant who desires to register as an Internet auction listing service shall submit to OBRE on forms provided by OBRE:
- 1) The applicant’s name, address, social security number or federal employer identification number, and telephone number;
 - 2) The applicant’s designated agent;
 - 3) The fee as provided by Section 1440.480; and
 - 4) Certifications as provided in Section 10-27(c) of the Act.
- b) If an applicant is making application as an Internet auction listing service in the form of a corporation, limited liability company or legally formed partnership, the applicant, in addition to the information provided in subsection (a), shall submit to OBRE on forms provided by OBRE:
- 1) The articles of incorporation or organization or evidence of other legal authority, and if the corporation, limited liability company, or other legally formed partnership is registered in a state other than Illinois, a certificate of authority to conduct business in the State of Illinois; and
 - 2) A list of all officers, directors, and owners with a percentage of ownership that is in excess of 10%.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 28 Ill. Reg. _____, effective _____)

Section 1440.420 Expiration of Registration

Pursuant to Section 10-27(e) of the Act, all certificates of registration issued under the Act and this Subpart shall expire on September 30 of odd numbered years.

(Source: Added at 28 Ill. Reg. _____, effective _____)

Section 1440.430 Renewal of Registration

- a) An applicant for renewal of a registration issued pursuant to Section 1440.410 shall submit to OBRE:
- 1) An application, provided by OBRE, that is signed and fully completed by the applicant; and
 - 2) The fee as provided by Section 1440.480.
- b) Any person who fails to submit a renewal application by the expiration date of the registration may renew the registration for a period of 2 years following the expiration date of the registration by submitting to OBRE:
- 1) An application, provided by OBRE, that is signed and fully completed by the applicant; and
 - 2) The fee and late penalty as provided by Section 1440.480.
- c) Any person who fails to submit a renewal application within 2 years of the expiration date of the registration shall not be eligible to renew the registration, and must meet the requirements of a new applicant as provided by Section 1440.410, plus pay all lapsed fees and penalties as provided by Section 1440.480 of this Subpart.

(Source: Added at 28 Ill. Reg. _____, effective _____)

Section 1440.440 Issuance of Certificate of Registration

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

OBRE shall issue a certificate of registration to all Internet auction listing services registered under the Act and this Subpart. The certificate shall include the name, address, date of expiration and registration number of the Internet auction listing service.

(Source: Added at 28 Ill. Reg. _____, effective _____)

Section 1440.450 Notification of Name Change

It is the responsibility of each registrant under the Act and this Subpart to notify OBRE in writing, within 15 days after any change of name. For example, if the registrant has had a name change either by court order or due to a change in marital status, the registrant 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 the name in which the registration shall be issued.

(Source: Added at 28 Ill. Reg. _____, effective _____)

Section 1440.460 Assumed Name

If a registrant operates under any name other than that appearing on the certificate of registration, the registrant shall submit to OBRE a certified copy of the registration under the Assumed Business Name Act [805 ILCS 405] at the time of the application or within 30 days after the registration.

(Source: Added at 28 Ill. Reg. _____, effective _____)

Section 1440.470 Assumed Name

It is the responsibility of the registrant to notify OBRE in writing within 15 days after a change of address. If a registrant uses a post office box number as a mailing address, the registrant shall also provide OBRE with the street address of the registrant's business location.

(Source: Added at 28 Ill. Reg. _____, effective _____)

Section 1440.480 Fees

- a) The initial application fee for an Internet auction listing service shall be \$200.
- b) The renewal application fee for an Internet auction listing service shall be calculated at \$225 per year for a total of \$450 per renewal.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

- c) The fee to renew an expired registration shall be the sum of all lapsed renewal fees plus a \$50 late fee. For the purposes of determining if a registrant failed to renew prior to the expiration date, if the postmark on the renewal application is a date later than the expiration date, the registrant shall be required to pay the penalty fee.
- d) The fee for a certification of a registrant's record for any purpose shall be \$25.
- e) The fee for a roster of registrants shall be the cost of producing the roster.
- f) The fee for a copy of any transcript of any proceeding shall be the cost to produce the transcript.
- g) The fee for certifying any record, for example, a copy of disciplinary order or application, shall be \$1 per page.

(Source: Added at 28 Ill. Reg. _____, effective _____)

ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Public Information, Rulemaking, Organization and Personnel
- 2) Code Citation: 2 Ill. Adm. Code 2675
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
2675.10	Amendment
2675.110	Amendment
2675.210	Amendment
2675.240	Amendment
2675.APPENDIX A	Amendment
- 4) Statutory Authority: 115 ILCS 5/5(i); 5 ILCS 100/5-15
- 5) A Complete Description of the Subjects and Issues Involved: These amendments reflect the fact that hearings are now under the jurisdiction of the General Counsel, rather than of the Executive Director. These amendments update the rule on the composition of the Board. These amendments update agency addresses and a statutory citation. These amendments also update the Board's organizational chart.
- 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? No
- 10) Statement of Statewide Policy Objectives: These amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

The Board will accept written public comments on this rulemaking for a period of 45 days following the date of this publication. Comments should be addressed to:

Susan J. Willenborg, Attorney
Illinois Educational Labor Relations Board
160 North LaSalle Street, Suite N-400
Chicago, Illinois 60601-3103

ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

Telephone: 312/793-3288

Comments submitted to the Board will be available for inspection and copying (with reimbursement to the Board for copying expenses) at the Board's Chicago office.

- 12) Initial Regulatory Flexibility Analysis:
- 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: January 2004 and July 2003

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

ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XLVIII: ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

PART 2675

PUBLIC INFORMATION, RULEMAKING, ORGANIZATION AND PERSONNEL

SUBPART A: PUBLIC INFORMATION

Section

2675.10	General Information
2675.20	Procedural Information
2675.30	Access to Board Materials

SUBPART B: RULEMAKING

Section

2675.110	Procedures
2675.120	Petitions for Rulemaking

SUBPART C: ORGANIZATION

Section

2675.210	Composition of the IELRB
2675.220	Executive Director and General Counsel
2675.230	Office of the Executive Director
2675.240	Office of the General Counsel
2675.250	Administrative Operations
2675.260	Advisory Committee

2675.APPENDIX A	Illinois Educational Labor Relations Board Staff Organization Chart
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AUTHORITY: Implementing Sections 5-10 and 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-10 and 5-15] and authorized by Section 5(i) of the Illinois Educational Labor Relations Act [115 ILCS 5/5(i)].

SOURCE: Adopted at 14 Ill. Reg. 4158, effective March 2, 1990; amended at 28 Ill. Reg. _____, effective _____.

ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART A: PUBLIC INFORMATION

Section 2675.10 General Information

The Illinois Educational Labor Relations Board ("IELRB" or "Board") has jurisdiction of labor relations matters involving educational employees and educational employers within Illinois. The IELRB maintains offices at 320 West Washington, Suite 260 Second Floor, Springfield, Illinois 62701, (217) 782-9068, and 160 North LaSalle Street, Suite N-400, 20 North Wacker Drive, Suite 1000, Chicago, Illinois 6060160606, (312) 793-3170. General information regarding the IELRB and its activities may be obtained by writing or telephoning the IELRB at either office. Information regarding the docket of cases pending before the IELRB or pending hearings may be obtained by contacting the IELRB's General Counsel at the Chicago Office. Information regarding the docket of cases pending investigation or hearing may be obtained by contacting the Executive Director at the Chicago Office. The IELRB's office will be open to the public from 8:30 a.m. to 5:00 p.m. on days other than Saturdays, Sundays and legal holidays.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART B: RULEMAKING

Section 2675.110 Procedures

Rules of the Board are subject to the requirements of the Illinois Administrative Procedure Act [5 ILCS 100](Ill. Rev. Stat. 1991, ch. 127, par. 1001-1 et seq.).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART C: ORGANIZATION

Section 2675.210 Composition of the IELRB

The IELRB is composed of a Chairman and fourtwo Members, all of whom are appointed by the Governor to six year terms with the advice and consent of the Senate. Their terms are set by Section 5 of the Act [5 ILCS 5/5].

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 2675.240 Office of the General Counsel

The members of the IELRB, personally, and through the Office of the General Counsel under the general supervision and direction of the General Counsel, perform the following operations:

ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

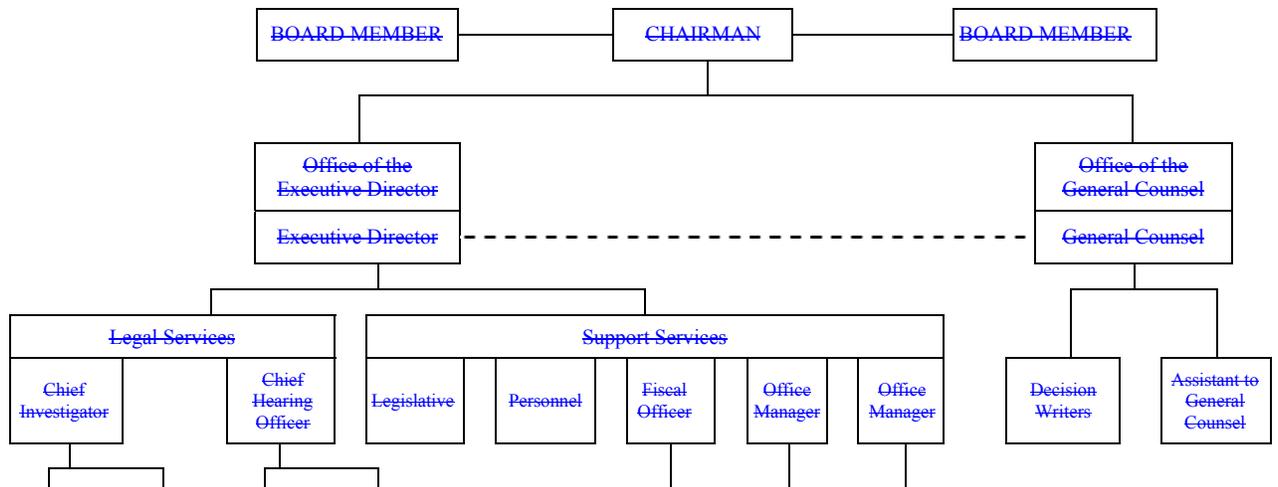
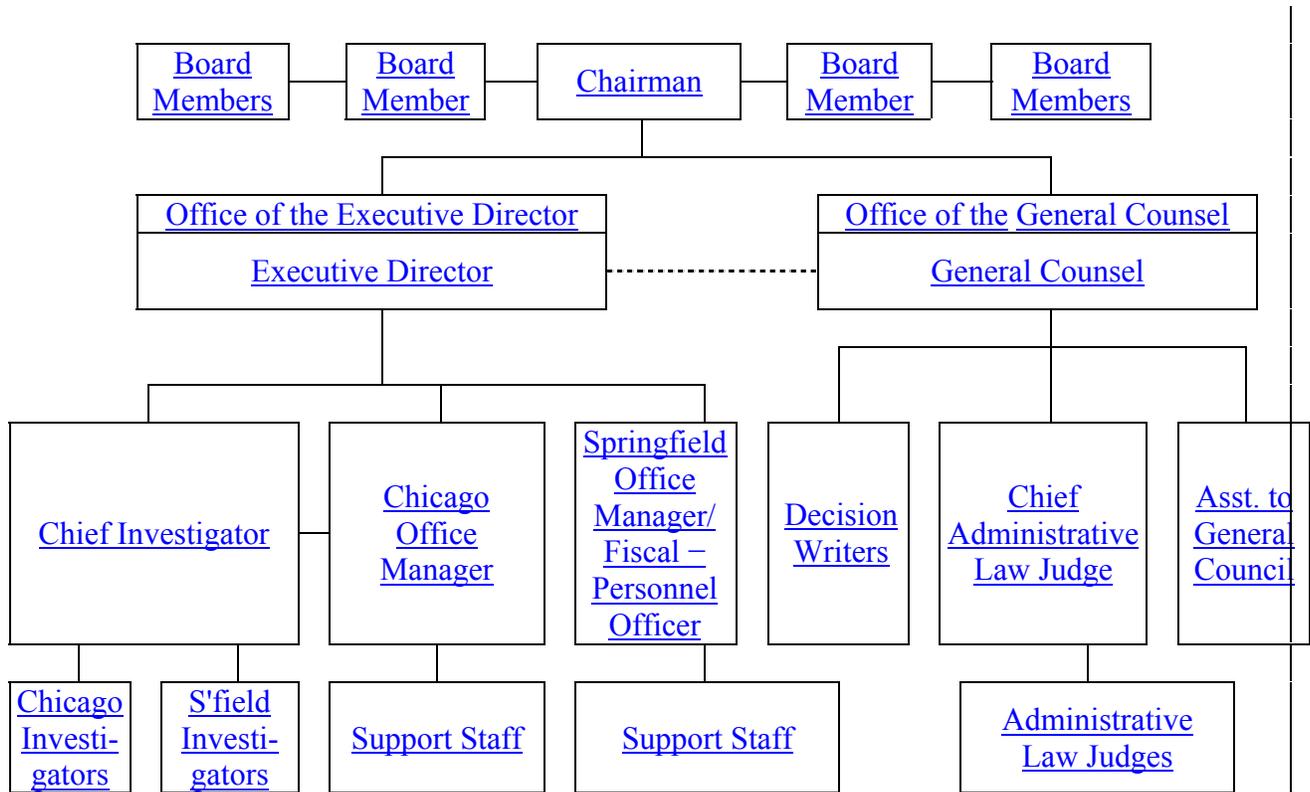
- a) Reviewing all recommended decisions of its hearing officers and Executive Director;
- b) Drafting and issuing all unfair labor practice and representation decisions of the Board;
- c) Advising the Board on legal issues which arise in the course of the Board's official duties;
- d) Assisting the Officer of the Attorney General in representing the Board in all legal matters pending in the courts;
- e) Representing the Board in legal proceedings before other agencies and courts;
- f) [Conducting representation and unfair labor practice hearings;](#) |
- gf) Reviewing and revising the Board's Rules and Regulations. |

(Source: Amended at 28 Ill. Reg. _____, effective _____)

ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 2675.APPENDIX A Illinois Educational Labor Relations Board Staff Organization Chart



ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

NOTICE OF PROPOSED AMENDMENTS

Chicago Investi- gators	S'field Investi- gators	Chicago Hearing Officers	S'field Hearing Officers	Assistant	Support Staff	Support Staff
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(Source: Amended at 28 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Group Health Policy Mandate Applicability To Nonresident Certificateholders Not Employed In Illinois
- 2) Code Citation: 50 Ill. Adm. Code 2021
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2021.10	New Section
2021.20	New Section
2021.30	New Section
2021.40	New Section
2021.50	New Section
- 4) Statutory Authority: Implementing Section 352(c) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/352(c) and 401].
- 5) A Complete Description of the Subjects and Issues Involved: This new rule will establish requirements for filing group accident and health insurance policy forms with the Department to be used for policies where the master contract is situated in this State and where certificates will be issued only to certificateholders who neither reside nor work in Illinois.
- 6) Will this proposed rule replace any emergency rule currently in effect? No
- 7) Does this proposed rule contain an automatic repeal date? No
- 8) Does this proposed rule contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rule 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) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Eve Blackwell-Lewis
Staff Attorney
Department of Insurance

Susan Anders
Paralegal
Department of Insurance

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

320 West Washington
Springfield, Illinois 62767-0001
(217) 782-0708

or

320 West Washington
Springfield, Illinois 62767-0001
(217) 785-8220

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: Filing procedures
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this proposed rule was summarized: July 2003

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER Z: ACCIDENT AND HEALTH INSURANCE

PART 2021

GROUP HEALTH POLICY MANDATE APPLICABILITY TO NONRESIDENT
CERTIFICATEHOLDERS NOT EMPLOYED IN ILLINOIS

Section

2021.10	Purpose
2021.20	Applicability and Scope
2021.30	Definitions
2021.40	Filing, Change in Status and Disclosure Requirements
2021.50	Out-of-State Certificate Policy Forms That Require Illinois Approval

AUTHORITY: Implementing Section 352(c) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/352(c) and 401].

SOURCE: Adopted at 28 Ill. Reg. _____, effective _____.

Section 2021.10 Purpose

The purpose of this Part is to establish requirements for filing group policy forms with the Illinois Department of Insurance pursuant to Section 352(c) of the Illinois Insurance Code [215 ILCS 5/352(c)], to be used for policies where the master contract has situs in this State and where certificates will be issued only to certificateholders who neither reside nor work in Illinois.

Section 2021.20 Applicability and Scope

This Part applies to all group accident and health insurance policy forms, amendments, or certificate of insurance policy forms submitted pursuant to Section 352(c) of the Code on or after the effective date of this Part.

Section 2021.30 Definitions

Code means the Illinois Insurance Code [215 ILCS 5].

Department means the Illinois Department of Insurance.

Section 2021.40 Filing, Change in Status and Disclosure Requirements

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

- a) Insurers filing for an exemption pursuant to Section 352(c) of the Code must state that they are filing for an exemption from State required coverages and services pursuant to this Section and:
 - 1) Specify that Illinois required coverages and services do not apply;
 - 2) Certify that the certificateholders who will be covered by policies using this form neither work nor reside in Illinois;
 - 3) Identify which state's coverages and services will apply to those certificateholders; and
 - 4) Certify that those certificate policy forms filed under this exemption contain the Illinois required coverages and services and meet the state requirements for the state in which they will be issued.
- b) Certificate policy forms containing required coverages and services of other states must be submitted to the Department separately and simultaneously with the Illinois forms. The Illinois forms must be submitted for approval with the transmittal document and the other state's forms must be submitted for information purposes with a separate transmittal document as required by 50 Ill. Adm. Code 916 for each state involved.
- c) Changes in Status and Disclosure Requirements
 - 1) The insurer must provide a certificateholder with an Illinois certificate if the certificateholder's residence or work status should change to Illinois.
 - 2) The insurer must disclose to policyholders and certificateholders which state's required coverages and services apply.

Section 2021.50 Out-of-State Certificate Policy Forms That Require Illinois Approval

Where an exemption is not sought under Section 352(c) of the Code for certificates issued to persons residing and working out-of-state, certificate policy forms must be submitted to the Department for approval with the master policy when the master policy has situs in Illinois. The certificate policy forms must comply with all Illinois laws and regulations.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Language Assistance Services Code
- 2) Code Citation: 77 Ill. Adm. Code 940
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
940.100	New Section
940.110	New Section
940.120	New Section
940.130	New Section
940.140	New Section
940.150	New Section
940.160	New Section
940.170	New Section
- 4) Statutory Authority: Language Assistance Services Act [210 ILCS 87]
- 5) A complete description of the subjects and issues: These rules implement the Language Assistance Services Act [210 ILCS 87]. The Act was amended by Public Act 93-0564 to make language assistance services mandatory, rather than voluntary, for hospitals and long-term care facilities. A facility is required to ensure access to health care information and services for limited-English-speaking or non-English-speaking residents or patients and deaf residents or patients by providing one or more of the following services:
 - Review existing policies regarding interpreters for patients with limited English proficiency and patients who are deaf, including the availability of staff to act as interpreters;
 - Adopt and review annually a policy for providing language assistance services to patients with language or communication barriers;
 - Develop, and post in conspicuous locations, notices that advise patients and their families of the availability of interpreters, the procedure for obtaining interpreters, and the telephone numbers for the compliant registry and a TDD number for the hearing impaired;
 - Identify and record a patient's primary language and dialect on one or more of: the medical chart, a hospital bracelet, a bedside notice, or a nursing card;
 - Prepare and maintain, as needed, a list of interpreters;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

Notify employees of the facility's commitment to provide interpreters;

Review all standardized forms and documents to determine which to translate into languages other than English;

Consider providing bilingual staff with materials for use in routine communications with patients or residents;

Develop community liaison groups to ensure the adequacy of interpreter services.

Public Act 93-0564 requires the Department to develop and implement a complaint system through which the Department may receive complaints related to violations of this Act, either by developing a new compliant system or using an existing one. If the Department finds that a facility is in violation of the Act, the health care facility may submit a plan of correction to the Department for its approval. The Department may impose monetary penalties for violation of a plan of correction within six months after the plan has been submitted to the Department.

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 rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain any incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.
- 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:

Susan Meister

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

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

- 12) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: Long term care facilities, hospitals
 - 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 2004

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED RULES

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICESPART 940
LANGUAGE ASSISTANCE SERVICES CODE

Section	
940.100	Definitions
940.110	Referenced Materials
940.120	Language Assistance Services
940.130	Qualifications of Interpreters
940.140	Complaints
940.150	Notice of Violation
940.160	Plan of Correction
940.170	Penalties

AUTHORITY: Implementing and authorized by the Language Assistance Services Act [210 ILCS 87].

SOURCE: Adopted at 28 Ill. Reg. _____, effective _____.

Section 940.100 Definitions

The following terms have the meaning ascribed to them here whenever the term is used in this Part:

Act – the Language Assistance Services Act [210 ILCS 87].

Department – the Department of Public Health. (Section 10 of the Act)

Health facility – a hospital licensed under the Hospital Licensing Act or a long-term care facility licensed under the Nursing Home Care Act. (Section 10 of the Act)

Interpreter – a person fluent in English and in the necessary language of the patient or resident, who can accurately speak, read, and readily interpret the necessary second language, or a person who can accurately sign and read sign language. (Section 10 of the Act)

DEPARTMENT OF PUBLIC HEALTH

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Language or communication barrier – either of the following:

With respect to spoken language, barriers that are experienced by limited-English-speaking or non-English-speaking individuals who speak the same primary language, if those individuals constitute at least 5% of the patients or residents served by the health facility annually.

With respect to sign language, barriers that are experienced by individuals who are deaf and whose primary language is sign language.
(Section 10 of the Act)

Section 940.110 Referenced Materials

The following Illinois laws are referenced in this Part:

- a) Hospital Licensing Act [210 ILCS 85]
- b) Nursing Home Care Act [210 ILCS 45]
- c) Illinois Administrative Procedure Act [5 ILCS 100]

Section 940.120 Language Assistance Services

A health facility shall *ensure access to health care information and services for limited-English-speaking or non-English-speaking residents or patients or deaf residents or patients.* To meet this requirement, *a health facility shall as a minimum do one or more of the following:*

- a) *Review existing policies regarding interpreters for patients or residents with limited English proficiency and for patients or residents who are deaf, including the availability of staff to act as interpreters.*
- b) *Adopt and review annually a policy for providing language assistance services to patients or residents with language or communication barriers. The policy shall include procedures for providing, to the extent possible as determined by the facility, the use of an interpreter whenever a language or communication barrier exists, except where the patient or resident, after being informed of the availability of the interpreter service, chooses to use a family member or friend who volunteers to interpret. The procedures shall be designed to maximize efficient use of interpreters and minimize delays in providing interpreters to patients or residents. The procedures shall ensure, to the extent possible as determined by*

DEPARTMENT OF PUBLIC HEALTH

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the facility, that interpreters are available, either on the premises or accessible by telephone, 24 hours a day. The facility shall annually transmit to the Department of Public Health a copy of the updated policy and shall include a description of the facility's efforts to ensure adequate and speedy communication between patients or residents with language or communication barriers and staff.

- c) *Develop, and post in conspicuous locations, notices that advise patients or residents and their families of the availability of interpreters, the procedure for obtaining an interpreter, and the telephone numbers to call for filing complaints concerning interpreter service problems, including, but not limited to, a TDD number for the hearing impaired. In a hospital, the notices shall be posted, at a minimum, in the emergency room, the admitting area, the facility entrance, and the outpatient area. In a long-term care facility, the notices shall be posted in the facility entrance. Notices shall inform patients or residents that interpreter services are available on request, shall list the languages for which interpreter services are available, and shall instruct patients to direct complaints regarding interpreter services to the Department of Public Health, including the telephone numbers to call for that purpose.*
- d) *Identify and record a patient's or resident's primary language and dialect on one or more of the following: a patient or resident medical chart, hospital bracelet, bedside notice, or nursing card.*
- e) *Prepare and maintain, as needed, a list of interpreters who have been identified as proficient in sign language and in the languages of the population of the geographical area served by the facility who have the ability to translate the names of body parts, injuries, and symptoms.*
- f) *Notify the facility's employees of the facility's commitment to provide interpreters to all patients or residents who request them.*
- g) *Review all standardized written forms, waivers, documents, and informational materials available to patients or residents on admission to determine which to translate into languages other than English.*
- h) *Consider providing its nonbilingual staff with standardized picture and phrase sheets for use in routine communications with patients or residents who have language or communication barriers.*

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- i) *Develop community liaison groups to enable the facility and the limited-English-speaking, non-English-speaking, and deaf communities to ensure the adequacy of the interpreter services.* (Section 15 of the Act)

Section 940.130 Qualifications of Interpreters

- a) *Interpreters shall have the ability to translate the names of body parts and to describe completely symptoms and injuries in both English and in the necessary second language, or in sign language.* (Section 10 of the Act)
- b) *Interpreters may include members of the medical or professional staff.* (Section 10 of the Act)

Section 940.140 Complaints

- a) A person who believes that the Act or this Part may have been violated may submit a complaint to the Department. The complaint may be submitted in writing, by telephone, or in person.
- b) A health care facility shall be provided an *opportunity to resolve the complaint through an informal resolution process.* (Section 16 of the Act)
- c) The Department shall *determine the validity of complaint* by means of a *complaint verification process* (Section 16 of the Act) that includes:
 - 1) Reviewing the allegations of the complaint to determine whether the allegations concern a violation of one or more Sections of the Act;
 - 2) Reviewing the health care facility's policies or procedures to determine whether the policies and procedures are in compliance with the Act;
 - 3) Reviewing statements or written communication from residents or patients, facility staff, or others to determine whether such statements or communication supports that the health care facility is not in compliance with the Act; and
 - 4) Observing actions of the health care facility to determine any noncompliance with the Act.

Section 940.150 Notice of Violation

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- a) *If a complaint is not resolved informally, then the Department shall serve a notice of violation of the Act upon the health facility. (Section 16 of the Act)*
- b) *The notice of violation shall be in writing and shall:*
 - 1) *Specify the nature of the violation and the statutory provision alleged to have been violated;*
 - 2) *Inform the health facility of the action the Department may take under the Act;*
 - 3) *Inform the health facility of the amount of any financial penalty to be imposed;*
 - 4) *Inform the health facility of the opportunity for entering into a plan of correction. (Section 16 of the Act)*
- c) *The notice shall also inform the health facility of its rights to a hearing to contest the alleged violation under the Illinois Administrative Procedure Act. (Section 16 of the Act)*

Section 940.160 Plan of Correction

- a) *If the Department finds that a health facility is in violation of the Act, the health facility may submit to the Department, for its approval, a plan of correction. (Section 17 of the Act)*
- b) In determining whether to approve the plan of correction, the Department shall consider the following:
 - 1) Whether the plan of correction *ensures access to health care information and services for limited-English-speaking or non-English-speaking residents or patients and deaf residents or patients;*
 - 2) Whether the plan of correction addresses the conditions or occurrences that are the basis of the violation;

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- 3) Whether the plan of correction is specific enough to indicate corrective actions the facility will be taking or has already taken to abate, eliminate or correct the violation;
 - 4) Whether the plan of correction provides steps to avoid the violation or to prevent similar violations from recurring, including an evaluation and revision, as necessary, of policies and procedures, and staff training; and
 - 5) Whether the corrective action will be completed in a reasonable time frame, considering the seriousness of the violation, any possible harm to residents or patients, and the extent and complexity of the corrective action.
- c) *If a health facility violates an approved plan of correction within 6 months after its submission, the Department may impose a penalty on the health facility.* (Section 17 of the Act) The Department's decision to impose a penalty shall be based on:
- 1) The severity of harm, including death or serious physical or mental harm, that has resulted to a resident or patient and the extent to which residents or patients have been subject to potential serious harm.
 - 2) The gravity of the violation and the extent to which the provisions of the Act or this Part were violated, including whether the violation recurred or continued, is widespread throughout the facility or evidences a flagrant violation of the Act or this Part.
 - 3) The extent and seriousness of any previous violations committed by the facility and the extent of diligence exercised by the facility to correct such violations, including evidence that the violations constitute a pattern of deliberate action by the facility. The effect of any change in the ownership and management of the facility will be considered in relation to the seriousness of previous violations.
 - 4) Any possible financial benefit to the facility as a result of committing or continuing the violation. Such benefits include, but are not limited to, avoidance of costs associated with staff salaries, consultant fees, or direct patient care services.

Section 940.170 Penalties

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- a) *For the first violation of an approved plan of correction, the Department shall impose a penalty of \$100. (Section 17 of the Act)*
- b) *For a second or subsequent violation of an approved plan of correction, the Department shall impose a penalty of \$250. (Section 17 of the Act)*
- c) *The total fines imposed under the Act and this Part against a health facility in a 12 month period shall not exceed \$5,000. (Section 17 of the Act)*

ILLINOIS PURCHASED CARE REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Purchased Care Review Board
- 2) Code Citation: 89 Ill. Adm. Code 900
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
900.110	Amendment
900.310	Amendment
900.315	New Section
900.320	Amendment
900.321	Amendment
900.322	Amendment
900.330	Amendment
900.331	Amendment
900.340	Amendment
900.342	Amendment
900.343	Amendment
900.344	Amendment
900.345	Amendment
900.346	Repeal
900.347	Repeal
900.351	Repeal
- 4) Statutory Authority: 105 ILCS 5/14-7.02
- 5) Effective date of amendments: May 5, 2004
- 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: May 23, 2004; 27 Ill. Reg. 8523
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between proposal and final version: The purpose of the rules was expressly stated and clear distinctions were made among the terms "provider", "facility", "program", and "organization".

ILLINOIS PURCHASED CARE REVIEW BOARD

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Several points of further clarification were inserted. Information in Section 900.315 regarding the effective dates of rate determinations was reorganized and streamlined. The required content of cost reports was outlined and information was added to Section 900.320 regarding the basis on which the Board would extend the deadline for submission of a cost report or waive that requirement altogether. In Section 900.300, a statement was inserted to indicate the basis for the Board's identification of parameters for frequently incurred costs. In Section 900.343, further specificity was inserted to reflect the Board consideration of factors affecting the timing of increases in costs.

Several provisions originally proposed for deletion were restored or clarified, including Section 900.310(i) regarding transactions with "related organizations" and Section 900.344 regarding conditional increases.

The timeline for the Board's processing of appeals was reduced from 120 days to 90 days.

Numerous other technical changes were made in wording and punctuation to improve the overall clarity of the rules.

- 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 amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This set of amendments mainly involves technical updating and clarification. For example, the rules need to be revised because the title of the Review Board was changed by statute. In several places, language that refers to individuals with disabilities has been updated to reflect more current usage. Numerous other changes have been made to improve syntax, update statutory references, or reflect currently accepted rulemaking style.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Chuck Seybold
Special Education
Illinois State Board of Education
100 North First Street

ILLINOIS PURCHASED CARE REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

Springfield, Illinois 62777-0001
217/782-5589

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

ILLINOIS PURCHASED CARE REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER V: ~~ILLINOIS GOVERNOR'S~~ PURCHASED CARE REVIEW BOARD

PART 900

~~ILLINOIS GOVERNOR'S~~ PURCHASED CARE REVIEW BOARD

Section

900.110	Applicability and Purpose; Severability
900.310	General Provisions Relating to Determining Allowable Costs
900.315	Effective Dates of Rate Determinations
900.320	Cost Reports – General Requirements
900.321	Non-Allowable Costs and Revenue Offsets Attested Cost Reports
900.322	Definitions Governing Allowable Costs
900.330	Reasonable Cost Provisions Finding
900.331	Reimbursement for Allowable Costs
900.340	Notice and Filing of Appeal
900.341	Principles of Appeals Process
900.342	Basis for Appeals Increase in Allowable Costs
900.343	Effective Dates of Rates Changed on Appeal Date
900.344	Conditional Increases
900.345	Procedure for Filing Appeals
900.346	Review by Appeals Committee (Repealed)
900.347	Review by Board (Repealed)
900.348	Final Decision of Board
900.349	Mathematical and Clerical Errors in Calculation
900.351	Factors in Evaluating Appeals (Repealed)

AUTHORITY: Implementing and authorized by Section 14-7.02 of the School Code [105 ILCS 5/14-7.02].

SOURCE: Filed May 8, 1979, effective May 18, 1978; amended at 4 Ill. Reg. 9, pp. 241, 244 and 247, effective February 15, 1980; amended at 5 Ill. Reg. 4171, effective April 7, 1981; amended at 5 Ill. Reg. 5633, effective May 15, 1981; amended at 5 Ill. Reg. 9095, effective September 1, 1981; codified at 6 Ill. Reg. 12452; amended at 7 Ill. Reg. 6079, effective May 4, 1983; amended at 9 Ill. Reg. 9551, effective June 10, 1985; amended at 11 Ill. Reg. 20552, effective December 8, 1987; amended at 16 Ill. Reg. 5311, effective March 23, 1992; emergency amendment at 19 Ill. Reg. 13590, effective September 25, 1995, for a maximum of 150 days; emergency expired February 21, 1996; amended at 28 Ill. Reg. 7242, effective May 5, 2004.

Section 900.110 Applicability ~~and Purpose; Severability~~

ILLINOIS PURCHASED CARE REVIEW BOARD

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- a) ~~This Part applies~~These rules apply to the activities of the ~~Illinois Governor's~~ Purchased Care Review Board, established pursuant to ~~Section 14-7.02 of the School Code [105 ILCS 5/14-7.02] in determining the allowable costs of, and payments to be made by school districts for, special education services provided to students with disabilities whose needs districts cannot meet in the programs they offer. The rates determined pursuant to this Part shall also apply to payments made by State agencies that are financially responsible for residential or educational services to school-aged individuals with disabilities~~(Ill. Rev. Stat. 1981, ch. 122, par. 14-7.02).
- b) Should any rule, subdivision, clause, phrase, or provision of ~~this Part~~these rules be held unconstitutional or invalid for any reason whatsoever, such holding shall not affect the validity of the remaining portions of ~~this Part~~these rules.

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.310 General Provisions Relating to Determining Allowable Costs

- a) The ~~Illinois Governor's~~ Purchased Care Review Board (Board) approves costs for ~~providers of facilities providing~~ special educational and related services and also room and board ~~for to~~ children whose educational needs, because of their ~~disabilitieshandicap~~, cannot be met by the special education program of the district in which they reside.
- b) ~~Each program is~~The placement and services to be provided are subject to prior approval of the Illinois State Board of Education (ISBE).
- c) Providers must comply with the minimum educational standards as found in the ~~rules of the State Board of Education regarding Nonpublic Special Education Facilities (23 Ill. Adm. Code 401)Rules and Regulations for Approval of Nonpublic Facilities Educating Handicapped Students under Section 14-7.02 of The School Code.~~
- d) A "provider" is any organization that offers special education and/or residential services to students with disabilities under Section 14-7.02 of the School Code.
- 1) A "facility" is the physical premises where a provider offers services.
 - 2) A "program" is a set of special education services designed to serve students who have similar educational needs.

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~~A private for-profit facility is an agency which is registered as for-profit by the Secretary of State in the agency's principal location and recognized as a for-profit entity by the Internal Revenue Service.~~

- 3) A "private for-profit provider facility" is one that an agency which is registered as for-profit by the Secretary of State in the provider's agency's principal location and recognized as a for-profit by the Internal Revenue Service.
- 4) "Organization" or "organizational" pertains to the business and administrative structure of an entity that serves as a provider under this Part.
- e) "School health services" are defined as those direct or indirect services normally associated with the function of a school nurse, limited to health counseling, health education, personal hygiene/grooming, first aid/emergency care, administration and monitoring of medications, safety, and health protection (prevention) services provided by licensed, registered, or certified nurses or other non-physician health care professionals employed by a nonpublic special education provider facility for the purpose of serving providing such services to students placed in such facilities and those services required by the students' Individualized Education Programs Individual Education Plans (IEP).
- f) "Occupancy costs" are defined as those costs associated with the operation and maintenance of the physical plant, and all depreciation, all lease or rental, and all interest.
- g) "Support costs" are defined as those costs normally associated with the provision of food and dietary services, laundry services, housekeeping services, and other costs associated with the provision of domestic services, including salaries, wages, fringe benefits, and supplies used in providing such services.
- h) "Administrative Administration costs" are defined as those costs normally associated with the overall organizational leadership and direction of the various program service entities within the provider's organization with the agency. Such costs include salaries, wages, fringe benefits and supplies related to executive officers and assistants, clerical and bookkeeping staff and other costs and fees associated with organizational agency leadership and direction.
- i) When a provider purchases goods or services from a related organization, the cost

ILLINOIS PURCHASED CARE REVIEW BOARD

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of the goods or services shall be allowable only to the extent that it does not exceed the cost to that related organization. That is, a provider may not build a profit for a related organization into its cost structure. A "related organization" is one that:

- 1) directly or indirectly controls, or is controlled by, the provider; or
- 2) influences, or is influenced by, the provider in terms of financial and operational policies; or
- 3) is controlled or influenced by another organization that also controls or influences the provider.

~~Costs incurred by a provider for lease/rent, interest, management fees, contracts for goods or services, or other contractual agreements with a related organization shall be disallowed when such costs to the provider are greater than the costs to the related organization. Related organizations include:~~

- 1) ~~Those organizations comprised of one or more individuals, or persons related to individuals, who are appointed or elected by, employed by, or serve as paid or unpaid members of the provider's board of control;~~
- 2) ~~Organizations established for the primary purpose of providing capital asset management for the provider;~~
- 3) ~~Organizations that who are limited in their authority to acquire or dispose of any asset of interest to the provider, by any provision, agreement, covenant, or contract with the provider's board of control;~~
- 4) ~~Organizations where, upon dissolution of the organization or liquidation of any asset of interest to the provider, such assets and/or proceeds revert back to, or benefit, the provider through any provision, agreement, covenant, or contract with the provider's board of control.~~

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.315 Effective Dates of Rate Determinations

In each instance when the Board determines the rate of reimbursement applicable to a particular program, the Board shall identify the effective date of the rate. A rate for room and board placement only, other than a rate changed on appeal (see Section 900.343 of this Part), shall be effective from September 1 through August 31. A rate for tuition

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and room and board, other than a rate changed on appeal, shall be effective at the beginning of the affected school year, as reflected on the calendar filed by the provider with the State Board of Education pursuant to 23 Ill. Adm. Code 401.10 (Application for Eligibility) or the date on which the program was approved.

(Source: Added at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.320 Cost Reports – General Requirements

- a) ~~To the extent that financial information filed with ISBE meets the requirements of the Board, such information shall be used as the basis for approving costs.~~
b) ~~The~~In addition, the Board shall require the annual filing of an attested cost report on such financial schedules as the Board may prescribe ~~for such reporting (see Section 900.321).~~ Attested cost reports shall convey information on those items of cost defined as nonallowable in Section 900.321, as well as those defined as allowable in Section 900.322, and shall attribute allowable costs to special education, related services, or room and board. The time period covered by this report must correspond with the provider's fiscal year. Whenever possible, the~~The~~ Board will accept ~~may designate~~ cost reports filed with other State~~state~~ agencies as suitable for fulfilling this requirement. Cost reports submitted to the Board for purposes of determining allowable costs must be accompanied by a certified audit for the most recently ended fiscal year unless this requirement is waived by the Board. ~~Factors to be considered in waiving this requirement would include but not be limited to:~~
- b) The Board may waive the requirement for a certified audit and/or for a cost report when it deems either of these to be unnecessary; for example, if:
- 1) the ~~absolute~~ number of pupils placed with a provider by Illinois ~~local~~ school districts totals fewer than six; in an individual facility,
 - 2) the rate for an out-of-state provider is not negotiable according to law or rules in that state; the total enrollment of that facility, or
 - 3) ~~the magnitude of~~ the provider's annual operating budget is very low for the school.
- c) Unless prior arrangements for an extension of the deadline are made with the Board due to extenuating circumstances (such as unexpected loss of key personnel, inadvertent destruction of records due to fire or flooding, bankruptcy, etc.), this report must be filed by on or before the latter of either January 15 or 90 days after the end of the provider's fiscal year. ~~The Board will notify the ISBE on~~

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~~at least a monthly basis of those facilities which do not comply with this provision.~~

- d) Financial data must be reported using the accrual basis for accounting, unless prior arrangements are made with the Board.
- e) The Board may request such additional financial information as is necessary to fulfill its duties. Circumstances ~~that~~which would cause the Board to request additional information include, but are not limited to, substantial revisions in the provider's program or substantial ~~changes~~revisions in the population served by the provider~~of the provider's facility~~. This may include requiring a provider to submit a certified financial statement if the Board~~it~~ determines that such a statement is needed.
- f) ~~No provider shall receive payment from a public education agency for special education and related services provided to a handicapped individual unless cost reporting requirements are met.~~ Providers shall cooperate in audits undertaken to verify the truth, accuracy and completeness of reported costs.

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.321 Non-Allowable Costs and Revenue Offsets~~Attested Cost Reports~~

- a) ~~Wherever possible, the Board will approve cost reporting formats already being used by other State agencies. The Board may also encourage other State agencies to adopt cost reporting formats which it approves if such formats meet the mutual needs of the agencies involved.~~
- b) ~~The format for cost reporting approved by the Board will specify the reporting of costs in the four categories of special education costs, related service costs, room and board costs, and non-reimbursable service costs.~~
 - 1) ~~Special education costs. The following shall be considered special education costs:~~
 - A) ~~Salaries, wages and fringe benefits for staff and fees for consultants involved in the direct planning and delivery of educational services, including teachers, teacher aides, and child workers insofar as they are carrying out tasks which are necessary as specified in the student's individual education plan.~~
 - B) ~~Supplies used by the above personnel in carrying out their activities.~~
 - C) ~~Overhead costs incurred in the provision of services by the above personnel and breakfast and lunch costs during school days.~~

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- 2) ~~Related service costs. The following shall be considered related service costs:~~
- A) ~~Salaries, wages and fringe benefits for staff and fees for consultants involved in the direct delivery of related services including: certified speech and language clinicians; qualified audiologists; qualified physical therapists; qualified occupational therapists; certified, licensed or registered social workers; certified, licensed or registered psychologists; qualified recreation workers; certified counselors; qualified personnel providing school health services, as defined in Section 900.310(e); and such other qualified personnel as required by the individualized education plan.~~
 - B) ~~Supplies used by the above personnel in carrying out their activities.~~
 - C) ~~Overhead costs incurred in the provision of services by the above personnel.~~
- 3) ~~Room and board costs. The following shall be considered room and board costs:~~
- A) ~~Salaries, wages and fringe benefits for recreational staff, aides and child care workers to the extent these services are primarily custodial.~~
 - B) ~~Supplies used by the above personnel in carrying out their activities.~~
 - C) ~~Overhead costs incurred in the provision of services by the above personnel and evening, weekend and holiday meals.~~
- a4) Non-allowable~~Non-reimbursable service~~ costs. The following shall be considered non-allowable or non-reimbursable service costs:
- 1A) Medical care provided by ~~Salaries, wages and fringe benefits for staff and fees for consultants not involved in the delivery of educational services listed in subsection (b)(1) of this Section or related services listed in subsection (b)(2) of this Section, including licensed physicians, and therapy services provided by psychiatrists,~~ except for their diagnostic or evaluation services and consultation to education staff; ~~licensed dentists, except for diagnosis or evaluation and consultation to education staff;~~ other health or medical personnel, including nurses, except as they are providing school health services, as defined in Section 900.310(e); and other medical personnel involved in the provision of ongoing medical care. Nursing services necessary to meet State child care licensing requirements are allowable. Costs attributable to the exceptions specified should be reported in subsection (b)(1) of this Section and/or subsection

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~~(b)(2) of this Section as appropriate.~~

- ~~2B)~~ Supplies used by the ~~above medical care~~ personnel listed in subsection (a)(1) of this Section in carrying out activities thatwhich are not reimbursable ~~under subsection (b)(4)(A) of this Section.~~
- ~~3C)~~ Overhead costs incurred by the ~~above medical care~~ personnel listed in subsection (a)(1) in the provision of services thatwhich are not reimbursable ~~under subsection (b)(4)(A) of this Section.~~
- e) ~~Disallowed costs. The following costs shall not be considered for inclusion in any of the above costs components:~~
- ~~41)~~ Expenses resulting from transactions with related organizations thatwhich are greater than the expense to the related organization.
- A) Where the provider makes rent/lease payments to a related organization, as defined in Section 900.310(i) of this Part, rent/lease expense is disallowed and the capital costs of the related organization must be used.
- B) Interest expense paid to a related organization is disallowed. However, interest expense incurred by the related organization is allowable.
- C) The cost of goods and services purchased from a related organization shall be allowable to the extent that the cost to the provider does not exceed the cost to the related organization.
- D) Providers may be required to submit evidence to substantiate or refute any claim of relatedness in determining allowable costs.
- E) Providers shall identify all transactions with related organizations in their organization ~~transactions with the~~ annual filing of the cost report.
- F) ~~Allowable~~ Related organization allowable costs of related organizations shall be added to the provider's costs for the same cost centers for determination of reasonable cost standards applicable to the provider's costs.

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- 52) ~~Non-straight-line~~Non-straightline depreciation. (However, straight-line depreciation is an allowable cost.)
- 63) Research cost, other than costs for program evaluation.
- 74) Bad debt.
- 85) Special benefits to owners, including owner and keyman life insurance, except insofar as required by lending institutions.
- 96) Compensation to non-working owners and non-working ~~officers'~~officer's salary.
- 107) Discounts, rebates, allowances and charity grants.
- 118) Entertainment expenses.
- 129) Fund raising.
- 1310) Costs of production, including wages paid to students, incurred solely for the purpose of generating revenue from the sale of goods and services. Wages paid to students and other services approved by the State Board of Education for vocational training or educational arts and craft activities are allowable, even if they generate revenue. Revenue producing expenses, including expenses generated from the sale of goods and services, but excluding expenses for workshops and for craft activities, even if these generate revenue.
- 1411) Interest payments related to a provider's assets that are unrelated to a special education program~~non-program assets~~.
- 1512) Costs incurred by owners or boards of directors for non-program activities, including that portion of overhead ~~that~~which should be allocated to these activities.
- 1613) Printing expenses not related to the program.
- 1714) ~~Conferences and conventions as specified hereafter.~~ Travel, lodging, food and registration ~~expenses~~expense related to ~~attend~~attending conferences,

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~~and conventions, and meetings related to lobbying activities, association business, or entertainment beyond 50 miles of Illinois are not allowable. Costs to attend conferences and conventions~~ Conferences held in-state, or within 50 miles of the state where the attendee is employed, Illinois are allowable under the following conditions:

- A) The conference or convention is specifically ~~of an educational nature (i.e., improvement of skill levels)~~ related to special education, or the conference, convention or meeting was sponsored by the State. Meetings directed towards lobby activities or devoted primarily to association business are not considered educational.
- B) ~~Staff in attendance are those involved in supervising and providing direct care to clients.~~
- C) ~~Costs associated with other than direct care staff (i.e., accountant, bookkeeper, etc.) are allowable when attendance at a conference was at the request of, or sponsored by, the state.~~
- B~~D~~) Allowable conference and convention expenses shall ~~expenses must~~ be grouped underwith the administrative costs ~~enter~~ and subject to the administrative ceiling, in accordance with Section 900.330(b)(1) of this Part.
- C) Allowable employee development or training costs incurred to meet staff certification or licensure requirements of any State agency or other governmental unit may be reported under program costs.

1815) Dues to national, Statestate and parent organizations.

1916) Scholarships or awards ~~Awards~~ and grants to individuals ~~should never be included as special education and related services costs or as room and board costs.~~

2017) Fees for ~~nonprogram related~~ professional, technical, social or other organizations unrelated to the program.

2118) Nonclient transportation, including staff transportation to and from work. ~~Program-related~~ excluding program-related staff transportation ~~which~~ is an allowable cost.

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- 22) Meals provided to individuals who are not clients.
- 23~~19~~) Interest on loans among intra-organizational funds~~Intra-agency fund loan interest.~~
- 24~~20~~) Fines and penalties.
- 25~~21~~) Mortgage and loan principal payments.
- 26~~22~~) Contributions and donations by the provider~~agency~~.
- 27~~23~~) Asset acquisition costs. (That is, costs of items reported on the provider's~~agency's~~ books when those costs exceed \$500 for items having a life of one year or more. Depreciation for these items is, however, an allowable expense.)
- 28~~24~~) Contingencies.
- 29~~25~~) Legal expenses incurred on behalf of clients for non-program activities or for litigation against governmental agencies.~~Special legal fees, such as legal work relating to non-program activities of the owners or legal fees for suing the State.~~
- 30~~26~~) Imputed value of goods and services.
- 31~~27~~) Severance pay.
- 32~~28~~) Sales tax for not-for-profit organizations.
- 33~~29~~) Income tax.
- 34~~30~~) Student transportation to and from the provider's program~~facility~~, as a responsibility of the placing school district, reimbursable under Section 14-13.01~~14-31.01~~ of the School Code [105 ILCS 5/14-13.01].
- 35~~31~~) Clothing and allowances.
- 36~~32~~) Costs of advertising for clients and public relations.
- bd) Revenues to be offset.—Private contributions and non-governmental revenues

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granted to a provider for improving or enhancing its program shall not be offset. The following sources of revenue shall be offset: ~~as appropriate, against costs itemized in subsections (b)(1), (b)(2) or (b)(3) of this Section:~~

- 1) Revenues from government-funded school breakfast and lunch programs must be offset against the cost of meals. ~~(These would be offset against the cost of meals only in the special educational component of costs as defined in subsection (b)(1) of this Section.)~~
- 2) Revenues from the rental of portions of the provider's building must be offset against property costs. ~~(These would be offset against occupancy cost in all three components of costs.)~~
- 3) Revenues from unrestricted investments must be offset against interest costs; revenues from unrestricted investments exceeding interest expenses need not be offset. ~~(These should be offset against interest costs in all three components of costs.)~~
- 4) Revenues from local educational agencies for diagnostic services.
- 5) Revenues from workshop programs must be offset against the cost of those programs in whichever of the ~~above~~ components listed in this subsection (b) they were reported.
- 6) Revenues for special education, related services, and room and board, insofar as any ~~nonclient specific~~ income not related to a specific client is received from any ~~governmental~~state or federal agency.
- 7) A gain on a sale of an asset, in which the ~~State~~state has any monetary interest, shall be offset against the cost center in which the asset was reported.
 - A) The total offset taken shall not exceed the ~~State's~~state's interest in ~~the~~said asset.
 - B) The offset shall not be applied against other cost centers unless an expense allocation has been made to more than one cost center.
 - C) An offset schedule shall be developed any time a ~~single-year~~single year offset creates a financial difficulty for the provider. The

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length of an offset schedule shall not exceed the length of the original expense schedule (depreciation) as reported to the Board on the annual cost report or certified audit.

- 8) Fees paid by any governmental agency for specific client services in addition to the per diem cost approved by the Board, insofar as the fees are for services included in program costs reported to the Board. The Board may waive the offset if the provider stops charging these fees and there is documentation with respect to the necessity for specific client services from the State agency that is responsible for program approval or that purchases services from the provider.

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.322 ~~Definitions Governing~~ Allowable Costs

- a) The definitions used in the determination of allowable costs shall be in accordance with Sections 14-1.08 and 14-7.02 of the School Code [105 ILCS 5/14-1.08 and 14-7.02] Ill. Rev. Stat. 1991, ch. 122, pars. 14-1.08 and 14-7.02 and applicable rules governing educational services to children with disabilities, including 23 Ill. Adm. Code 226 and ~~23 Ill. Adm. Code 401~~. The following shall be considered allowable costs, except as excluded pursuant to Section 900.321 of this Part:
- 1) Salaries, wages and fringe benefits for qualified staff and fees for consultants involved in the direct planning and delivery of classroom educational services, including teachers, teacher aides, and the supplies and overhead costs necessary to carry out these activities.
 - 2) Salaries, wages and fringe benefits for qualified staff and fees for consultants involved in the direct delivery of program-related services, including: speech and language clinicians; audiologists; occupational therapists; social workers; counselors; psychologists; recreation workers; vocational training personnel; and school health services personnel; and the supplies and overhead costs necessary to carry out these activities.
 - 3) Salaries, wages and fringe benefits for qualified staff and fees for consultants involved in the direct delivery of residential care services, including habilitation/child care workers and the supplies and overhead costs necessary to carry out these activities.

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- 4) Food and dietary, transportation and other costs essential to the program.
- b) For those providers whose cost reports to other agencies are used by the Board, the definition of allowable costs used by the agency that collected the original report will be considered.
- c) The manner in which allowable costs are assigned to residential and education cost centers will be subject to review and adjustment by the Board to ensure that costs are allocated in accordance with applicable requirements. The Board may assign all costs other than the cost of instructional services to the residential cost center for Medicaid-eligible, hospital, psychiatric care, or juvenile correctional programs or when reported costs are not assigned to education or residential cost centers.

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.330 Reasonable Cost Provisions Finding

- a) ~~Allowable costs, except as specified below, and in Section 900.321(e), shall be those costs reported on the State of Illinois Interagency Statistical and Financial Report, which are supported by an audited financial statement for the same period. These reported costs must also be consistent with Section 900.321. Budgeted costs will be acceptable within the parameters of Section 900.330 (b) where there are no historical costs available. b) Only reasonable costs that which are necessary for the accomplishment of program goals and objectives shall will be allowable. A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent buyer under the circumstances prevailing at the time the decision was made to incur the costs. Accordingly, the Board shall seek to approve expenditures for goods and services at a cost that is as low as possible without sacrificing the quality of goods or services received. Allowable costs shall not exceed costs which would be incurred by a "prudent buyer." Parameters for frequently incurred costs, including staffing costs, will be developed by the Board based on analysis of regional variations in costs for comparable services through comparison of costs incurred by all reporting schools by type of program.~~
 - 1) In determining allowable costs for new programs (i.e., those without audited historical cost data), the Board will consider the special education and related services that will be required in response to the unique characteristics of the children to be served.

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- 2) For new residential programs, allowable costs may be determined based on costs approved by another child care agency of the State of Illinois.
- b1) Reasonable cost ceilings for support, administration and occupancy costs shall be determined as follows: ~~Cost Calculations~~
- 1A) All providers facilities will be grouped by type of program offered on the basis of actual costs for support, administration, and occupancy of facilities. Allowable costs for support, administration and occupancy utilize a cost range ceiling of 125% of the median as a reasonable upper limit.
- 2B) For a private for-profit provider facility, reimbursement will be allowable at 115% of the median cost for support, administration and the physical plant operation and maintenance portion of the occupancy costs for all facilities where operating a similar type of program is offered. When actual costs exceed 115% of these medians, a cost ceiling of 125% of these medians will be utilized.
- 3C) Calculation of median costs for the coming rate year will be based on cost reports received prior to April 15 ~~for the coming rate year~~. Cost reports not received prior to April 15 may be included in the median calculation using the prior year's year cost report, adjusted for inflation, as established by the Board.
- c2) Reported costs will be updated for inflation experienced and projected for the time between the period covered on the cost report and the middle of the current school year. The Board will develop an appropriate index for inflation factors each year using the component method to update costs of in programs for the same time periods.
- de) Allowable costs approved by the Illinois Governor's Purchased Care Review Board for any nonpublic school program or segment thereof shall not exceed the allowable costs for that program school which are approved by any other Illinois Statestate agency for the same program or program segment.
- ed) Each Illinois Statestate agency that which approves room and board rates for purchases services from nonpublic providers schools shall notify certify to the Illinois Governor's Purchased Care Review Board of the approved rate for each nonpublic program school receiving funding (subject to Section 14-7.02 of the

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School Code.) ~~the means by which rates are determined. This certification shall include a statement of the services purchased and their itemized cost. (For the purposes of this rule a local school district is not a state agency.)~~

- ~~fe) Allowable costs may be adjusted for the cost of excess or idle capacity. Adjustments for these costs shall be described in subsection (f) of this Section. The Board may use as bases for allowable costs ~~those~~these costs reimbursed by the state in which a provider's ~~the~~ facility is located. These may, however, be adapted to meet known differences in cost determination methodologies ~~to insure that no costs are allowed which should be disallowed under Illinois' cost finding methodology.~~ The Board may waive allowable cost provisions for a provider's out-of-state program or programs. Circumstances that would lead the Board to waive allowable cost provisions ~~Factors to be considered in determining whether to adopt the costs reimbursed by other states shall include~~ but are not limited to the following:~~
- 1) Fewer than six Illinois children are served by the program or programs;~~The number of Illinois children treated by the out-of-state facility;~~
 - 2) The out-of-state provider submits a substitute cost report as prescribed by the Board and/or the provider requests that the Board adopt the official rate of another state or local governmental agency;~~the unique nature of services provided by the out-of-state facility;~~
 - 3) The out-of-state provider will only provide treatment services at a non-negotiable or stated cost and the treatment services are not available in other settings;~~unique characteristics of the children being served by the out-of-state facility;~~
 - 4) The placement of a child in the out-of-state program is the result of a court order;~~the difficulty in obtaining treatment for these children in other settings.~~
- gf) Per-student allowable costs shall be determined in the following manner:
- 1) Per-student allowable costs for room and board will be determined on the basis of actual enrollment or 90% of licensed capacity, whichever is larger.

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- 2) Per-student allowable education costs shall be determined on the basis of program enrollment, as reported by the provider facility and verified by the Illinois State Board of Education. Such verification shall be based on the total reimbursement days claimed by all school districts for each program facility. In the event of a discrepancy between the enrollment reported by the provider facility and the enrollment reported by the Illinois State Board of Education, the higher enrollment figure shall be used in determining the per-student allowable education cost, except as provided for in Section 900.342(a)(6) of this Part.
- hg) Cost determination for an out-of-state ~~out-of-state~~ public school program shall be made on the basis of documented prior costs or the an-operating budget for the public program.
- 1) Cost ~~Such budget~~ information shall be reported annually, prior to the first day of each school year, by an authority representing the out-of-state ~~out-of state~~ public school district or other public entity operating the program.
- 2) Additional information such as enrollment, school calendar, weighting factors, or budget detail may be required if such information is not included with ~~in~~ the cost information ~~operating budget~~ submitted for review.
- 3) Any increase in the actual costs of a program, determined after the original cost determination, shall be submitted to the Board in the form of an appeal, to be approved by the Board prior to payment being made by any Illinois school district. Only appeals that Appeals will only be considered which address changes in the current school year shall be considered.

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.331 Reimbursement for Allowable Costs

- a) Reimbursement shall be made on the basis of days of enrollment in a program at a nonpublic school approved by the Illinois State Board of Education.
- b) Reimbursement to the school district ~~local educational agency~~ shall be made on the basis of an-allowable cost ~~cost determination~~ approved in advance by the Illinois Governor's Purchased Care Review Board, subject to appropriation.
- c) Except as specified below, the Illinois State Board of Education will reimburse

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~~local educational agencies for the allowable costs of educational programs provided by nonpublic schools and out of state public schools under Chapter 122, Section 14-7.02 of the School Code.~~

- d) ~~The local educational agency that has placed the student in a nonpublic school or out of state public school pursuant to Section 14-7.02 shall reimburse that nonpublic school for allowable costs of special education and related services and room and board except as specified below.~~
- e) ~~Reimbursement to the nonpublic school or the out of state public school shall only be made for services required for the individualized educational program of the student which are contracted for by a local educational agency.~~
- f) ~~Terms of enrollment shall be as contracted for by the school district local educational agency.~~
- g) ~~A portion of any grant made by the Department of Mental Health and Developmental Disabilities (DMH/DD) directly to a nonpublic school which is not linked to specific pupils/clients may be taken as a credit against reimbursement for allowable educational costs in the following manner:~~
 - 1) ~~The grant amount will first be applied to any costs as defined in Section 900.321(b)(4).~~
 - 2) ~~The grant amount will next be applied against the per student allowable educational costs of those students who were not placed by a local educational agency. (Since this will be done prospectively, the calculation will be made on the basis of information from the most recently filed cost report prior to establishment of allowable costs by the Board.)~~
 - 3) ~~The grant amount will then be applied to costs as defined in Section 900.321(b)(2).~~
 - 4) ~~One half of the grant amount which remains will be applied to reduce special educational costs.~~
- dh) ~~Wherever a pupil/client meets the eligibility requirements of some other state agency and that state agency has approved the placement of that pupil/client in accordance with its own rules and procedures the other state agency shall be responsible for the reimbursement for the pupil/client. The Illinois State Board of~~

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Education will reimburse for room and board payments only when no other ~~Statestate~~ agency is involved in the placement of the child. (See Sections 14-7.02 and 14-8.01 of the School Code [105 ILCS 5/14-7.02 and 14-8.01].)

- e) A school district shall receive no reimbursement for any portion of an established rate that has been covered by a third-party payor.
- i) ~~All payments by an insurer or other third party payor which have not been taken as a credit against special education or related services costs and which can be used for room and board will be taken as credit against room and board costs.~~
- j) ~~The Illinois State Board of Education will not reimburse costs which are considered nonreimbursable in Section 900.321(b)(4).~~
- fk) Other ~~Statestate~~ agencies may reimburse for costs ~~that~~which are otherwise nonreimbursable, but their responsibility for so doing shall be limited by their own rules and procedures regarding such payments. To the extent no other ~~Statestate~~ agency has responsibility for these costs, parents or other responsible parties will be assumed to have accepted responsibility for these costs. In no event shall ~~Statestate~~ agencies, parents or other parties be allowed to pay for special education, related services and room and board fees in excess of those determined allowable by the Board for a child placed only by a local school district. Any such payments made by other than the Illinois State Board of Education for a child placed only by the local school district would be used to offset the allowable costs for special education, related services and/or room and board approved by the Board for that particular student.
- l) ~~Other state agencies will continue to maintain effort as required by statute and regulation.~~

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.340 Notice and Filing of Appeal

Providers will be informed in writing of the allowable costs for their services. Appeals of allowable costs shall be limited to the circumstances described in Section 900.342 of this Part and shall be submitted in writing within 60 days ~~of after~~ the postmark date of the notice. ~~Notice shall be effective upon the date of mailing to the provider's address. Appeals submitted more than 60 days after the notice will not be considered by the Board, except for good cause as determined by a majority of the members of the Board. Thereafter, an appeal shall be considered only when submitted within 30 days after the provider becomes aware that one of the~~

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circumstances described in Section 900.342 of this Part has arisen, as documented by the affected provider. Upon a provider's written request, the Board shall provide in writing a detailed cost calculation including a description of each cost amount disallowed. No adjustment to allowable costs shall be made with respect to any prior school year.

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.342 Basis for Appeals~~Increase in Allowable Costs~~

- a) The Increases in allowable costs can be granted by the Board can grant an increase in allowable costs for any of the following reasons:
- 1) There has been an extraordinary increase in program operating costs that is beyond the reasonable control of the provider and which substantially threatensthreaten the educational program's financial viabilitystability.
 - 2) Mechanical or clerical errors were committed by the provider or the Board as depicted on required cost reports and in the rate calculation process used by the Board in determination of allowable costs.
 - 3) Statutory or regulatory requirements of any state-governmental agencyunit have which has or will have generated or will generate a substantial increase in allowable costs during the current cost reporting period.
 - 4) There has been or will be an extraordinary decrease in program revenues or a substantial decrease in external funding, subsidies, grants, gifts, or donations which constitute a substantial portion of the funding for the core functions of the provider's provided by a standard purchase program to the extent that such revenues were considered available when the Board approved the allowable costs for the provider.
 - 5) A substantial program change has been or will be undertaken, resulting which has or will result in a substantial increase in costs. Each The appeal must in all cases contain documentation with respect to the necessity of these program costs from the state agency or purchases services from the provider.
 - 6) A Where a provider believes a significant discrepancy exists between its enrollment figures as submitted and the enrollment figures determined by the State Board of Education, the The provider may resolve the discrepancy with the appropriate local school districts and appeal the

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initial per-student allowable cost determination. Such an appeal will only be considered where the local school districts amend their enrollment figures with the State Board of Education.

- b) If a provider elects not to submit costs to the Board for approval because the tuition charge for special education and related services has not increased by more than 10% over the prior school year and does not exceed \$4500 per year, the provider may not then submit its costs for review after the beginning of the school year. Such costs will not be approved by the Board. Any provider electing to submit a cost report used for allowable cost determination may not revert to this provision in subsequent years.

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.343 Effective Dates of Rates Changed on Appeal Date

When the Board changes a rate of reimbursement as a result of an appeal, it shall determine the effective date of the change as part of its final decision on the appeal. In determining the effective date of a rate changed on appeal, the Board shall, to the extent possible, consider information regarding the dates on which relevant changes or events began to affect the provider's costs for providing services. No adjustment to allowable costs shall be made with respect to any prior school year.

- a) ~~The effective date of any determination of allowable costs which is increased on appeal shall be determined by the Board as part of its final decision on the appeal. Factors to be considered in determining the effective date will include the date the appeal was filed and the basis for the appeal.~~ In no case shall the effective date of any rate change appeal be ~~granted~~ prior to the date on which the program was approved or prior to the first day of the school year in which the appeal is received ~~by the Executive Director.~~
- b) The Board shall not change a rate of tuition reimbursement applicable to a particular school year later than its first meeting in the month of July following the end of the regular school term.
- c) For room and board rates involving the coordination of rates with other states or other Illinois State agencies, the Board may change the applicable rate for the school year no later than its first meeting in the month of August following the end of the regular school term.

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

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Section 900.344 Conditional Increases

The Board will grant a conditional increase prior to the occurrence of the reason for the appeal if that reason conforms to the provisions of Section 900.342(a)(3), (a)(4) or (a)(5) of this Part, as appropriate, and if ~~thesuch~~ projected ~~increaseincreases~~ in cost is predictable both as to effective date and amount. An appeal requesting this conditional increase will be considered if it conforms to the provisions of Section 900.345. Within 45 days ~~afterof~~ the effective date of an increase under this ~~Sectionsection~~, or ~~afterof~~ notification of ~~such~~ an increase, whichever is later, the provider must submit ~~such~~ documentation ~~from the principal purchasing governmental unit or licensing authority as appropriate~~, that the costs upon which ~~thesaid~~ appeal is based have occurred. Upon receipt of ~~thesuch~~ documentation within the required period ~~described above~~, the allowable costs approved under the conditional increase shall be ~~reaffirmedapproved~~ as allowable costs. If ~~adequatesuch~~ documentation is not received within the ~~prescribedabove~~ period, the Board will ~~reaffirmapprove~~ the prior allowable costs as of the effective date of the costs approved under the conditional increase.

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.345 Procedure for Filing Appeals

- a) An appeal for an increase in allowable costs shall be submitted in writing to the ~~Illinois Executive Director of the Governor's~~ Purchased Care Review Board and shall, to the extent applicable, contain the following:
- 1) The name and address of the provider ~~and the governmental unit which makes payment to the provider~~.
 - 2) The current, approved allowable costs and the allowable costs sought pursuant to the appeal.
 - 3) A clear, concise statement of the reasons for the appeal, the requested effective date of the increased allowable costs which are sought, and the reasons for this effective date.
 - 4) A detailed statement of financial, statistical and related information in support of the appeal which indicates the relationship between the additional costs submitted and the change of circumstances or other reasons for the higher costs.
 - 5) Documentation of A citation to any statutory, regulatory or contractual

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requirement pertinent to the appeal.

- 6) In the case of appeals based on Section 900.342(a)(3), (a)(4) or (a)(5) of this Part, such appeals shall be accompanied by a written statement secured by the provider from the governmental agency that~~unit(s) which~~ purchases services~~some~~ from the provider that the governmental agency~~unit(s)~~ considers the costs claimed in the application for administrative adjustment to be warranted.
 - 7) Certification by either the chief executive officer or the financial officer of the provider that the application and all information reports, schedules, budgets, books and records submitted are true, correct and accurate. False certification shall be subject to whatever penalties are appropriate under the criminal statutes of the State of Illinois.
- b) ~~No~~The Board will not accept or process an appeal which does not meet the requirement of this subsection. In addition, no appeal can be acted upon unless the provider has filed an attested cost report in accordance with Section 900.320(a) of this Part for its fiscal year ending in the calendar year prior to the year in which the appeal is being made. Attested reports from more recently completed fiscal years may also be considered in an appeal, as may other relevant documents.
 - c) Documentation submitted in support of the appeal, but subsequent to filing of the appeal, shall contain the certification described in Section 900.342 of this Part.
 - d) Any appeal under this ~~Section~~section shall contain sufficient information to permit the Board to translate the ~~expenditures~~expenditure(s) giving rise to the appeal into reimbursable allowable costs. The provider shall provide any other information, books and records ~~that~~which the Board may reasonably request. If the provider fails to provide such information, books and records within ~~45~~forty-five (45) days ~~after of such a~~ request, the application will be rejected.
 - e) The Board shall process an appeal filed in accordance with this Section within 90 days after receiving it, except that, if the Board requests additional information, the response period shall be extended by the amount of time taken in providing that information. The Board may delay an appeal decision beyond 90 days at the request of the affected provider.

(Source: Amended at 28 Ill. Reg. 7242, effective May 5, 2004)

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Section 900.346 Review by Appeals Committee (Repealed)

- a) ~~The Appeals Committee, (Committee), shall consist of one staff member from the office of each board member. This Committee will review each appeal for adequacy of documentation and appropriateness of request and will advise the Board in preparation for hearing. The Chairman of the Board shall designate a chairman of the Appeals Committee.~~
- b) ~~The Appeals Committee may request a meeting with representatives of the provider prior to submission of its recommendation to the Board. The purposes of such a meeting shall include:
 - 1) ~~clarification, formulation and simplification of issues;~~
 - 2) ~~resolution of matters in controversy;~~
 - 3) ~~exchange of documents and information;~~
 - 4) ~~stipulation of fact so as to avoid unnecessary presentation before the Board;~~
 - 5) ~~identification of all documents which the provider or the staff intend to present to the Board;~~
 - 6) ~~such other matters as may aid in the simplification of the evidence and disposition of the issues.~~~~

(Source: Repealed at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.347 Review by Board (Repealed)

~~When a provider has filed an appeal with the Board, the Board shall acknowledge in writing that it has received it. Within 60 days of receipt of an appeal which has complied with the principles and requirements of this section, or within 30 days of a scheduled meeting between the Appeals Committee and the provider, whichever is later, the Appeals Committee will make a recommendation to the Board on this matter. The Board will consider this Committee recommendation at a regularly scheduled Board meeting. The provider shall be notified of the Committee recommendation and be invited to attend the meeting and discuss the Committee recommendation. The provider may present documents to the Board at a formal Board meeting which were not presented previously to the Appeals Committee. The Board may postpone consideration of a facility's appeal until the Committee has had an opportunity to review the additional documents.~~

(Source: Repealed at 28 Ill. Reg. 7242, effective May 5, 2004)

Section 900.351 Factors in Evaluating Appeals (Repealed)

~~For those providers whose cost reports to other agencies are used by the Board, the definition of~~

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~~allowable costs used by the agency which collected the original report will be considered. The manner in which allowable costs were allocated to room and board versus tuition (special education and related services excluding room and board) cost centers may also be considered.~~

(Source: Repealed at 28 Ill. Reg. 7242, effective May 5, 2004)

OFFICE OF BANKS AND REAL ESTATE

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- 1) Heading of the Part: Illinois Savings and Loan Act of 1985
- 2) Code Citation: 38 Ill. Adm. Code 1000
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1000.4010	Add
1000.4020	Add
1000.4030	Add
1000.4040	Add
1000.4050	Add
1000.4060	Add
1000.4070	Add
1000.4080	Add
- 4) Statutory Authority: Implementing and authorized by section 7-3 and 7-9 of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-3 and 7-9]
- 5) Effective date of rulemaking: May 7, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. In section 100.4010, the definition of "confidential supervisory information" refers to the definition of that term in section 7-9 of the Illinois Savings and Loan Act; and the definition of "person" refers to the definition of that term in section 1-10.14 of the Illinois Savings and Loan Act.
- 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: 28 Ill. Reg. 1820 (Feb. 6, 2004)
- 10) Has JCAR issued a Statement of Objection to these amendments? 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? Not applicable
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: The rules implement section 7-9 of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-9]. The rules establish procedures and standards by which the Commissioner shall determine whether to disclose confidential supervisory information in response to a request for discovery or disclosure of such information. The rules match existing rules for state commercial banks [38 Ill. Adm. Code 325].
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jeff Riley
Legislative Liaison
Office of Banks and Real Estate
500 E. Monroe Street
Springfield IL 62701
217/782-6167

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

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

PART 1000
ILLINOIS SAVINGS AND LOAN ACT OF 1985

SUBPART A: FEES

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1000.110	Filings
1000.120	Conditions
1000.130	Examination Fees
1000.140	Annual Supervisory Fees (Repealed)
1000.141	Supervisory Fees
1000.142	Adjusted Supervisory Fees
1000.143	Special Assessment (Emergency Expired)
1000.150	Manner of Payment
1000.151	Special Credit (Repealed)
1000.160	Withdrawal of Applications or Other Filings

SUBPART B: DEFINITIONS

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1000.205	Introduction
1000.210	Association
1000.220	Commissioner
1000.230	Single Family Dwelling
1000.240	Unsafe
1000.250	Mobile Home
1000.260	Mobile Home Chattel Paper
1000.270	Person
1000.280	Proposed Borrower
1000.290	Redlining

SUBPART C: REPORTS

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1000.310	Contracts (Repealed)

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1000.410	Permanent Reserve Shares
1000.420	Dividend Advertising
1000.430	Maintenance of Records
1000.440	Business Plan

SUBPART E: APPRAISALS

Section

1000.510	Appraisals
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SUBPART F: INVESTMENTS

Section

1000.610	Prudent Person Rule
1000.615	Investment Underwriting Practices
1000.620	Discrimination and Redlining Prohibited
1000.630	Loans Secured by Real Estate
1000.640	Construction Loans
1000.650	College Loans (Repealed)
1000.660	Mobile Home Financing
1000.665	Other Loans
1000.670	Collateral Loans (Repealed)
1000.675	Investment Parity (Repealed)
1000.680	Unsecured Loans (Repealed)
1000.690	Sale of Loans and Participations (Repealed)
1000.700	Insider Loan Rates (Repealed)
1000.710	Reverse Mortgage Loans
1000.720	Repurchase Agreements

SUBPART G: BONUS PLANS

Section

1000.810	Bonus Plans
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SUBPART H: NOTICE TO COMMISSIONER

Section

1000.910	Corrective Action
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SUBPART I: SERVICE CORPORATIONS

Section

1000.1010	Requirements
1000.1020	Approval by the Commissioner
1000.1030	Lending Limitations
1000.1040	Investments by Service Corporations
1000.1050	Ownership of Capital Stock of Service Corporation
1000.1060	Prohibited Transactions
1000.1070	Disclosure to Service Corporation
1000.1080	Reporting Requirements
1000.1090	Audit Requirements

SUBPART J: RELOCATIONS AND BRANCHING

Section

1000.1110	General
1000.1120	Application
1000.1130	Request for Preliminary Determination
1000.1140	Amendment of Application (Repealed)
1000.1150	Public Notice and Inspection
1000.1160	Protest
1000.1170	Oral Argument
1000.1180	Application for and Maintenance of Branch Office after Conversion, Consolidation, Purchase of Assets or Merger
1000.1190	Redesignation of Offices
1000.1200	Termination of Operation and/or Closing of a Branch Office
1000.1210	Agency Offices
1000.1220	Remote Drive-In and/or Remote Pedestrian Facilities

SUBPART K: CAPITAL NOTES AND DEBENTURES

Section

1000.1310	Approval
1000.1320	Conversion to Stock
1000.1330	Priority of Claim
1000.1340	Effect on Reserve Requirements

SUBPART L: THIRD-PARTY PAYMENT ACCOUNTS

OFFICE OF BANKS AND REAL ESTATE

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Section

1000.1410	General
1000.1420	Depositors
1000.1430	Rate of Interest
1000.1440	Overdraft Privilege
1000.1450	Charges and Fees
1000.1460	Disclosure
1000.1470	Membership
1000.1480	Approval and Authorization

SUBPART M: ADMINISTRATIVE HEARING PROCEDURES

Section

1000.1510	Applicability
1000.1520	Definitions
1000.1530	Filing
1000.1540	Form of Documents
1000.1550	Computation of Time
1000.1560	Appearances
1000.1570	Notice of Hearing
1000.1580	Service of the Notice of Hearing
1000.1590	Motion and Answer
1000.1600	Consolidation and Severance of Matters – Additional Parties
1000.1610	Intervention
1000.1620	Postponement or Continuance of Hearing
1000.1630	Authority of Hearing Officer
1000.1640	Bias or Disqualification of Hearing Officer
1000.1650	Prehearing Conferences
1000.1660	Discovery
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1000.1680	Conduct of the Hearing
1000.1690	Default
1000.1700	Evidence
1000.1710	Official Notice
1000.1720	Hostile Witnesses
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1000.1770	Rehearings
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Section

1000.1800	Applicability
1000.1810	Plain Meaning/Strict Interpretation
1000.1905	Affiliate
1000.1910	Assets
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1000.1925	Charter
1000.1930	Control
1000.1935	Eligible Account Holder
1000.1940	Eligibility Record Date
1000.1945	Employee
1000.1950	Equity Security
1000.1955	Insured Institution
1000.1970	Member
1000.1972	Net Worth
1000.1975	Officer
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1000.1982	Qualifying Deposit
1000.1985	Sale
1000.1990	Security
1000.1993	Source Documents
1000.1997	Subsidiary
1000.2005	Liquidation Account and Proxies
1000.2010	Mutual Holding Company Ceasing to be a Depository Institution
1000.2020	Directors of a Mutual Holding Company
1000.2030	Stock Sales
1000.2040	Stock of a Subsidiary of a Mutual Holding Company
1000.2050	Stock Subsidiary Formation
1000.2055	Net Worth Maintenance Agreement
1000.2060	Members' Rights
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1000.2105	Notice Requirement/Corrective Action
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1000.2120	Penalty (Emergency Expired)
1000.2200	Determination of the Qualification and Condition of an Out-of-State Acquisition
1000.2300	Disposal of a Subsidiary
1000.2310	Dividends
1000.2320	Officers and Directors List
1000.2330	Access to Books and Records
1000.2340	Reports (Emergency Expired)
1000.2400	Annual Audit Requirements
1000.2410	Maintenance of Records
1000.2420	Notice of Appointment of CPA
1000.2500	Savings and Loan Holding Company Filing Fees
1000.2510	Savings and Loan Holding Company Supervisory Fees
1000.2520	Examination Fees
1000.2530	Conditions
1000.2540	Manner of Payment
1000.2550	Transformation from Deposit to Non-Deposit (Emergency Expired)

SUBPART O: SAVINGS AND LOAN ADVISORY BOARD

Section	
1000.2700	Purpose (Repealed)
1000.2710	Composition, Appointment (Repealed)

SUBPART P: HIGH RISK HOME LOANS

Section	
1000.3000	Definitions
1000.3100	Ability to Repay
1000.3150	Verification of Ability to Pay Loan
1000.3200	Fraudulent or Deceptive Practices
1000.3225	Prepayment Penalty
1000.3250	Pre-paid Insurance Products and Warranties
1000.3300	Refinancing Prohibited in Certain Cases
1000.3325	Balloon Payments
1000.3350	Financing of Certain Points and Fees
1000.3400	Payments to Contractors
1000.3450	Negative Amortization
1000.3500	Negative Equity
1000.3550	Counseling Prior to Perfecting Foreclosure Proceedings
1000.3600	Mortgage Awareness Program

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- 1000.3650 Report of Default and Foreclosure Rates on Conventional Loans
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1000.3750 Third Party Review of High Risk Home Loans

SUBPART Q: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATIONSection

- 1000.4010 Definitions
1000.4020 Purpose and Scope
1000.4030 Requests for Confidential Supervisory Information
1000.4040 Where to Submit a Request
1000.4050 Consideration of Requests
1000.4060 Disclosure of Confidential Supervisory Information
1000.4070 Retrieval and Destruction of Previously Disclosed Confidential Supervisory Information Used in Litigation
1000.4080 Fees for Services

- 1000.APPENDIX A Estimated Monthly Income and Expenses Worksheet
1000.APPENDIX B Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by Section 7-3(b)(2) of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-3(b)(2)] and Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35].

SOURCE: Filed and effective January 18, 1974; amended at 2 Ill. Reg. 44, p. 179, effective October 30, 1978; emergency amendment at 2 Ill. Reg. 45, p. 169, effective November 1, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 5, p. 883, effective January 29, 1979; amended at 3 Ill. Reg. 11, p. 163, effective March 12, 1979; amended at 3 Ill. Reg. 19, p. 22, effective May 12, 1979; emergency amendment at 3 Ill. Reg. 39, p. 230, effective September 17, 1979, for a maximum of 150 days; emergency amendment at 4 Ill. Reg. 8, p. 207, effective February 14, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1241, effective July 14, 1980; emergency amendment at 5 Ill. Reg. 2524, effective February 19, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 7124, effective June 24, 1981; amended at 5 Ill. Reg. 7125, effective June 24, 1981; amended at 5 Ill. Reg. 11377, effective October 14, 1981; amended at 6 Ill. Reg. 3175, effective March 4, 1982; amended at 6 Ill. Reg. 4218, effective April 6, 1982; amended at 6 Ill. Reg. 4219, effective April 6, 1982; amended at 6 Ill. Reg. 4227, effective April 6, 1982; amended at 6 Ill. Reg. 7141, effective June 1, 1982; amended at 7 Ill. Reg. 1993, effective January 28, 1983; codified at 7 Ill. Reg. 13669; amended at 8 Ill. Reg. 8630, effective June 1, 1984; amended at 8 Ill. Reg. 15066, effective August 7, 1984; emergency amendment at 9 Ill. Reg. 17437, effective October 24, 1985, for a maximum of 150 days;

OFFICE OF BANKS AND REAL ESTATE

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emergency amendment at 10 Ill. Reg. 4946, effective March 11, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 14290, effective August 20, 1986; amended at 10 Ill. Reg. 19781, effective November 6, 1986; amended at 11 Ill. Reg. 20648, effective December 2, 1987; emergency amended at 11 Ill. Reg. 20672, effective December 3, 1987, for a maximum of 150 days; emergency amendments at 12 Ill. Reg. 8106, effective April 20, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 15165, effective September 13, 1988; amended at 13 Ill. Reg. 8927, effective May 26, 1989; amended at 16 Ill. Reg. 4881, effective March 17, 1992; transferred from Chapter III, 38 Ill. Adm. Code 400 March 17, 1992; transferred from Chapter III, 38 Ill. Adm. Code 400 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1000 (Commissioner of Savings and Residential Finance) pursuant to Savings Bank Act [205 ILCS 1003] at 17 Ill. Reg. 4464; recodified from Chapter III, Commissioner of Savings and Residential Finance, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6707, effective March 30, 1998; amended at 24 Ill. Reg. 53, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 19312, effective December 15, 2000, for a maximum of 150 days; emergency repealed at 25 Ill. Reg. 3694, effective January 30, 2001, in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1856; amended at 25 Ill. Reg. 6152, effective May 17, 2001; amended at 26 Ill. Reg. 13471, effective September 13, 2002; emergency amendment at 27 Ill. Reg. 16029, effective September 29, 2003, for a maximum of 150 days; emergency amendments suspended at 27 Ill. Reg. 18484, effective November 18, 2003; emergency suspension withdrawn at 28 Ill. Reg. 408, effective December 16, 2003; emergency repealed at 28 Ill. Reg. 414, effective December 16, 2003, in response to the objection and suspension of the Joint Committee on Administrative Rules; amended at 28 Ill. Reg. 783, effective December 29, 2003; amended at 28 Ill. Reg. 7270, effective May 7, 2004.

SUBPART Q: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATIONSection 1000.4010 DefinitionsFor purposes of this Subpart:

"Act" means the Illinois Savings and Loan Act of 1985 [205 ILCS 105].

"Commissioner" means the Commissioner of Banks and Real Estate, or a person authorized by the Commissioner to act in the Commissioner's stead.

"Compelling" need means that no other non-confidential source is available to obtain information of equal relevance.

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"Complete request" means a request that provides all of the information required in Section 1075.4030 of this Subpart.

"Confidential supervisory information" shall have the same meaning ascribed to that term in Section 7-9 of the Act [205 ILCS 105/7-9].

"Person" shall have the same meaning ascribed to that term in Section 1-10.14 of the Act [205 ILCS 105/1-10.14].

"Relevant" means the requested confidential supervisory information could substantially contribute to the resolution of the issues identified in the pleadings contained within the request.

"Requester" means any person who makes a request for the discovery or disclosure of confidential supervisory information, whether by subpoena, order, or other judicial or administrative process.

(Source: Added at 28 Ill. Reg. 7270, effective May 7, 2004)

Section 1000.4020 Purpose and Scope

- a) Purpose. The purpose of this Subpart is to establish the procedures and standards by which the Commissioner shall determine whether to disclose confidential supervisory information in response to a request for discovery or disclosure of such information.
- b) Scope. This Subpart applies to requests, whether by subpoena, order, or other judicial or administrative process, for discovery or disclosure of confidential supervisory information prepared or obtained by the Commissioner under the Act and any report of examination, visitation or investigation prepared by the state regulatory authority of another state that examines a branch of an association in that state. This Subpart does not apply to:
 - 1) a request made pursuant to the Freedom of Information Act [5 ILCS 140] (FOIA), provided that, if the information requested constitutes confidential supervisory information, it shall nonetheless be exempt from disclosure pursuant to Section 7(1)(x) of FOIA;
 - 2) a request made by a party to whom the Commissioner may furnish confidential supervisory information as permitted in Section 7-9 of the Act [205 ILCS 105/7-9]; or

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- 3) a request made by a party to whom a savings bank or other financial institution may furnish confidential supervisory information as permitted in Section 7-9(b) of the Act [205 ILCS 105/7-9].

(Source: Added at 28 Ill. Reg. 7270, effective May 7, 2004)

Section 1000.4030 Requests for Confidential Supervisory Information

Pursuant to Section 7-9 of the Act [205 ILCS 105/7-9], a request for confidential supervisory information arising from an adversarial matter, whether by subpoena, order, or other judicial or administrative process, shall be made to the Commissioner. If the request is for a record, the requester must adequately describe the records sought by type and date. Such request shall be accompanied by:

- a) a copy of the formal complaint or pleading setting forth the assertions of the adversarial matter;
- b) the caption and docket number assigned to the adversarial proceeding;
- c) the name, address, and telephone number of designated legal counsel to each party named in the adversarial proceeding;
- d) a statement detailing the relevance of the requested confidential supervisory information;
- e) a statement detailing a compelling need for the requested confidential supervisory information;
- f) a statement describing any prior judicial decisions or pending motions in the case that may bear on the asserted relevance of the requested information; and
- g) a statement detailing why the requester believes that the compelling need outweighs the public interest considerations in maintaining confidentiality and why the compelling need outweighs the burden on the Office of Banks and Real Estate to produce the requested confidential supervisory information.

(Source: Added at 28 Ill. Reg. 7270, effective May 7, 2004)

Section 1000.4040 Where to Submit a Request

OFFICE OF BANKS AND REAL ESTATE

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A person requesting discovery or disclosure of confidential supervisory information under this Part shall mail, or hand deliver, the request to:

Office of Banks and Real Estate
Bureau of Residential Finance/Thrift Division
310 South Michigan Avenue, Suite 2130
Chicago, Illinois 60604-4278
Attention: Thrift Legal Counsel

(Source: Added at 28 Ill. Reg. 7270, effective May 7, 2004)

Section 1000.4050 Consideration of Requests

- a) Standards for the Disclosure of Confidential Supervisory Information. When making a determination with respect to the disclosure of confidential supervisory information, the Commissioner shall consider the following standards:
- 1) the confidential supervisory information identified in the request is relevant;
 - 2) a compelling need exists;
 - 3) if the requested confidential supervisory information is to be used in connection with an adversarial matter, the lawsuit or administrative action has been filed; and
 - 4) the production and disclosure of the confidential supervisory information is not unduly burdensome to the Office of Banks and Real Estate.
- b) In determining whether to disclose the requested confidential supervisory information, the Commissioner may inquire into the circumstances of any case underlying the request and rely on sources of information other than the requester, including other parties.
- c) Time Required by the Commissioner to Respond. The Commissioner, within 15 days, shall determine whether to disclose the requested confidential supervisory information. The 15-day time period shall not commence until the Commissioner receives a complete request. If the request is not complete, the Commissioner shall notify the requester of the required information that has not previously been provided.

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- d) Notice to Other Parties. Following receipt of a complete request for confidential supervisory information, the Commissioner may notify the association or Illinois association holding company (SLA foreign associations) office that is the subject of the requested information, unless the Commissioner determines that to do so would advantage or prejudice any of the parties in the matter at issue.

(Source: Added at 28 Ill. Reg. 7270, effective May 7, 2004)

Section 1000.4060 Disclosure of Confidential Supervisory Information

- a) Conditions and Limitations. The Commissioner may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of such information. Except as authorized by the Commissioner, no person obtaining access to confidential supervisory information under this Subpart may make a copy of the confidential supervisory information.
- b) Restrictions on Dissemination of Confidential Supervisory Information. The Commissioner may condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in the particular case or on a written agreement of confidentiality. In a case in which a protective order or agreement has already been entered between parties other than the Commissioner, the Commissioner may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The Commissioner may authorize a party who obtained the records for use in one case to provide them to another party in another case, subject to any conditions that the Commissioner may impose on either or both parties.
- c) Notification of Parties and Procedures for Sharing and Using Confidential Supervisory Information in Litigation. The requester shall promptly notify other parties to a case of the release of confidential supervisory information obtained pursuant to this Subpart and, upon entry of a protective order, shall provide copies of confidential supervisory information to the other parties.

(Source: Added at 28 Ill. Reg. 7270, effective May 7, 2004)

Section 1000.4070 Retrieval and Destruction of Previously Disclosed Confidential Supervisory Information Used in Litigation

OFFICE OF BANKS AND REAL ESTATE

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At the conclusion of an action:

- a) the requester shall retrieve the disclosed confidential supervisory information from the judicial or administrative file as soon as the presiding judicial or administrative authority no longer requires the information;
- b) the requester, and each party who may have subsequently received confidential supervisory information pursuant to a protective order, shall destroy the disclosed confidential supervisory information covered by the protective order; and
- c) each party shall certify to the Commissioner that the disclosed confidential supervisory information covered by the protective order has been destroyed.

(Source: Added at 28 Ill. Reg. 7270, effective May 7, 2004)

Section 1000.4080 Fees for Services

The Commissioner may charge the following fees for any record search or copying performed by the Commissioner:

- a) Reproduction costs incurred in making photocopies of documents shall be reimbursed at \$.25 per exposure.
- b) All other costs, including but not limited to the cost of telephone calls, telegrams, and shipping incurred in searching for and transporting data pursuant to a request for confidential supervisory information shall be reimbursed at actual costs.

The Commissioner may require a requester to remit payment prior to providing the requested confidential supervisory information.

(Source: Added at 28 Ill. Reg. 7270, effective May 7, 2004)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Savings Bank Act
- 2) Code Citation: 38 Ill. Adm. Code 1075
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1075.4010	Add
1075.4020	Add
1075.4030	Add
1075.4040	Add
1075.4050	Add
1075.4060	Add
1075.4070	Add
1075.4080	Add
- 4) Statutory Authority: Implementing and authorized by section 9002 and 9012 of the Savings Bank Act [205 ILCS 205/9002 and 9012].
- 5) Effective date of rulemaking: May 7, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes. In Section 1075.4010, the definition of "confidential supervisory information" refers to the definition of that term in section 9012 of the Savings Bank Act; and the definition of "person" refers to the definition of that term in section 1007.90 of the Savings Bank Act.
- 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: 28 Ill. Reg. 1835 (Feb. 6, 2004)
- 10) Has JCAR issued a Statement of Objection to these amendments? 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? Not Applicable
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: The rules implement section 9012 of the Savings Bank [205 ILCS 205/9012]. The rules establish procedures and standards by which the Commissioner shall determine whether to disclose confidential supervisory information in response to a request for discovery or disclosure of such information. The rules match existing rules for state commercial banks [38 Ill. Adm. Code 325].
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jeff Riley
Legislative Liaison
Office of Banks and Real Estate
500 E. Monroe Street
Springfield IL 62701
217/782-6167

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

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF ADOPTED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: OFFICE OF BANKS AND REAL ESTATEPART 1075
SAVINGS BANK ACT

SUBPART A: FILINGS

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1075.100	Filings
1075.110	Conditions
1075.120	Examination Fees
1075.130	Supervisory Fees
1075.140	Adjusted Supervisory Fees
1075.141	Special Credit (Repealed)
1075.150	Withdrawal of Application or Other Filings

SUBPART B: DEFINITIONS

Section	
1075.200	Definitions

SUBPART C: REPORTS

Section	
1075.300	Contracts
1075.310	Financial Reports

SUBPART D: OPERATIONS

Section	
1075.400	Capital Stock (Repealed)
1075.410	Minimum Capital Requirement
1075.415	Conflicting Federal Powers, Law and Regulations
1075.420	Advertising
1075.430	Maintenance of Records
1075.440	Business Plan
1075.450	Excess Insurance
1075.455	Vacancies in the Board of Directors
1075.460	Bond of Officers, Directors, Employees and Agents

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1075.465	Indemnification of Officers, Directors, Employees and Agents
1075.470	Deceptively Similar Names
1075.480	Manner of Display of Annual Meeting Notice
1075.490	Procedures for Exercise of Dissenters Rights

SUBPART E: INVESTMENTS

Section

1075.500	Prudent Person Rule
1075.505	Investment Underwriting Practice
1075.510	Discrimination and Redlining
1075.515	Loans Secured by Real Estate
1075.520	Construction Loans
1075.525	Mobile Home Financing (Repealed)
1075.530	Overdraft Loans
1075.535	Education Loans
1075.540	Vehicle/Automobile Loans
1075.545	Home Equity Loans
1075.550	Letter of Credit
1075.555	Other Investments
1075.560	Commercial Paper
1075.565	Financial Futures
1075.570	Financial Options
1075.575	Finance Leasing
1075.580	Suretyship
1075.585	Asset Reserves
1075.590	Asset Composition Test

SUBPART F: SERVICE CORPORATION AND OPERATING SUBSIDIARIES

Section

1075.600	Requirements
1075.610	Approval by the Commissioner
1075.620	Investment Limitations
1075.630	Investments by Service Corporations
1075.640	Ownership of Capital Stock of Service Corporation
1075.650	Prohibited Transactions
1075.660	Disclosure to Service Corporation
1075.670	Reporting Requirements
1075.680	Audit Requirements

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SUBPART G: RELOCATIONS AND BRANCHING

Section	
1075.700	General
1075.705	Application
1075.710	Request for Preliminary Determination
1075.715	Public Notice and Inspection
1075.720	Protest
1075.725	Oral Argument
1075.730	Application for the Maintenance of Branch Office after Conversion, Consolidation, Purchase of Assets or Merger
1075.735	Redesignation of Offices
1075.740	Termination of Operation and/or Closing of a Branch Office
1075.745	Agency Offices
1075.750	Remote Drive-In and/or Remote Pedestrian Facilities

SUBPART H: CAPITAL NOTES AND DEBENTURES

Section	
1075.800	Approval
1075.810	Conversion to Stock
1075.820	Priority of Claim

SUBPART I: ADMINISTRATIVE HEARING PROCEDURES

Section	
1075.900	Applicability
1075.905	Definitions
1075.910	Early Neutral Evaluation
1075.915	Conference Adjudicative Hearing
1075.920	Filing
1075.925	Form of Documents
1075.930	Computation of Time
1075.935	Appearances
1075.940	Notice of Hearing
1075.945	Service of the Notice of Hearing
1075.950	Motion and Answer
1075.955	Consolidation and Severance of Matters – Additional Parties
1075.960	Intervention

OFFICE OF BANKS AND REAL ESTATE

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1075.965	Postponement or Continuance of Hearing
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1075.1420	Conversion Plan Requirements (Repealed)
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- 1075.2165 Conversion Incident to Acquisition by Savings Bank Holding Company or Merger or Consolidation with Savings Bank Holding Company Subsidiary – Restriction on Sale of Shares of Stock by Directors and Officers
- 1075.2170 Sale of Control in Connection with the Conversion of a Mutual Savings Bank to Capital Stock Savings Bank – Undercapitalized Mutual Savings Bank
- 1075.2175 Conversion of a Savings Bank in Connection with the Formation of a Holding Company
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- 1075.2560 Offering Circular – Preliminary Offering Circular
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1075.3200 Fraudulent or Deceptive Practices
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SUBPART Q: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATIONSection

- 1075.4010 Definitions
1075.4020 Purpose and Scope
1075.4030 Requests for Confidential Supervisory Information
1075.4040 Where to Submit a Request
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1075.4060 Disclosure of Confidential Supervisory Information
1075.4070 Retrieval and Destruction of Previously Disclosed Confidential Supervisory
Information Used in Litigation
1075.4080 Fees for Services

1075.APPENDIX A Estimated Monthly Income and Expenses Worksheet

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1075.APPENDIX B Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by the Savings Bank Act [205 ILCS 205].

SOURCE: Emergency Rules adopted at 14 Ill. Reg. 15029, effective September 4, 1990, for a maximum of 150 days; adopted at 15 Ill. Reg. 1916, effective January 25, 1991; amended at 16 Ill. Reg. 4891, effective March 16, 1992; amended at 17 Ill. Reg. 8894, effective June 7, 1993; expedited correction at 17 Ill. Reg. 18223, effective June 7, 1993; emergency amendment adopted at 18 Ill. Reg. 7016, effective April 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15094, effective September 26, 1994; emergency amendment at 19 Ill. Reg. 10277, effective June 29, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15474, effective October 31, 1995; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6719, effective March 30, 1998; amended at 24 Ill. Reg. 73, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 6986, effective April 24, 2000, for a maximum of 150 days; emergency expired on September 20, 2000; amended at 24 Ill. Reg. 15026, effective September 26, 2000; emergency amendment at 24 Ill. Reg. 19331, effective December 15, 2000, for a maximum of 150 days; emergency amendment repealed at 25 Ill. Reg. 3698, effective January 30, 2001, in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1858; amended at 25 Ill. Reg. 6197, effective May 17, 2001; amended at 26 Ill. Reg. 13483, effective September 13, 2002; emergency amendment at 27 Ill. Reg. 16043, effective September 29, 2003, for a maximum of 150 days; emergency amendments suspended at 27 Ill. Reg. 18485, effective November 18, 2003; emergency suspension withdrawn at 28 Ill. Reg. 409, effective December 16, 2003; emergency repealed at 28 Ill. Reg. 427, effective December 16, 2003, in response to the objection and suspension of the Joint Committee on Administrative Rules; amended at 28 Ill. Reg. 807, effective December 29, 2003; amended at 28 Ill. Reg. 7285, effective May 7, 2004.

[SUBPART Q: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATION](#)

[Section 1075.4010 Definitions](#)

[For purposes of this Subpart:](#)

["Act" means the Savings Bank Act \[205 ILCS 205\].](#)

["Commissioner" means the Commissioner of Banks and Real Estate, or a person authorized by the Commissioner to act in the Commissioner's stead.](#)

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"Compelling need" means that no other non-confidential source is available to obtain information of equal relevance.

"Complete request" means a request that provides all of the information required in Section 1075.4030 of this Subpart.

"Confidential supervisory information" shall have the same meaning ascribed to that term in Section 9012 of the Act [205 ILCS 205/9012].

"Person" shall have the same meaning ascribed to that term in Section 1007.90 of the Act [205 ILCS 205/1007.90].

"Relevant" means the requested confidential supervisory information could substantially contribute to the resolution of the issues identified in the pleadings contained within the request.

"Requester" means any person who makes a request for the discovery or disclosure of confidential supervisory information, whether by subpoena, order, or other judicial or administrative process.

(Source: Added at 28 Ill. Reg. 7285, effective May 7, 2004)

Section 1075.4020 Purpose and Scope

- a) Purpose. The purpose of this Subpart is to establish the procedures and standards by which the Commissioner shall determine whether to disclose confidential supervisory information in response to a request for discovery or disclosure of such information.
- b) Scope. This Subpart applies to requests, whether by subpoena, order, or other judicial or administrative process, for discovery or disclosure of confidential supervisory information prepared or obtained by the Commissioner under the Act and any report of examination, visitation or investigation prepared by the state regulatory authority of another state that examines a branch of an Illinois savings bank in that state. This Subpart does not apply to:
 - 1) a request made pursuant to the Freedom of Information Act [5 ILCS 140] (FOIA), provided that, if the information requested constitutes confidential supervisory information, it shall nonetheless be exempt from disclosure

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pursuant to Section 7(l)(x) of FOIA;

- 2) a request made by a party to whom the Commissioner may furnish confidential supervisory information as permitted in Section 9012 of the Act [205 ILCS 205/9012]; or
- 3) a request made by a party to whom a savings bank or other financial institution may furnish confidential supervisory information as permitted in Section 9012(b) of the Act [205 ILCS 205/9012].

(Source: Added at 28 Ill. Reg. 7285, effective May 7, 2004)

Section 1075.4030 Requests for Confidential Supervisory Information

Pursuant to Section 9012 of the Act [205 ILCS 205/9012], a request for confidential supervisory information arising from an adversarial matter, whether by subpoena, order, or other judicial or administrative process, shall be made to the Commissioner. If the request is for a record, the requester must adequately describe the records sought by type and date. Such request shall be accompanied by:

- a) a copy of the formal complaint or pleading setting forth the assertions of the adversarial matter;
- b) the caption and docket number assigned to the adversarial proceeding;
- c) the name, address, and telephone number of designated legal counsel to each party named in the adversarial proceeding;
- d) a statement detailing the relevance of the requested confidential supervisory information;
- e) a statement detailing a compelling need for the requested confidential supervisory information;
- f) a statement describing any prior judicial decisions or pending motions in the case that may bear on the asserted relevance of the requested information; and
- g) a statement detailing why the requester believes that the compelling need outweighs the public interest considerations in maintaining confidentiality and

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why the compelling need outweighs the burden on the Office of Banks and Real Estate to produce the requested confidential supervisory information.

(Source: Added at 28 Ill. Reg. 7585, effective May 7, 2004)

Section 1075.4040 Where to Submit a Request

A person requesting discovery or disclosure of confidential supervisory information under this Subpart shall mail, or hand deliver, the request to:

Office of Banks and Real Estate
Bureau of Residential Finance/Thrift Division
310 South Michigan Avenue, Suite 2130
Chicago, Illinois 60604-4278
Attention: Thrift Legal Counsel

(Source: Added at 28 Ill. Reg. 7285, effective May 7, 2004)

Section 1075.4050 Consideration of Requests

- a) Standards for the Disclosure of Confidential Supervisory Information. When making a determination with respect to the disclosure of confidential supervisory information, the Commissioner shall consider the following standards:
- 1) the confidential supervisory information identified in the request is relevant;
 - 2) a compelling need exists;
 - 3) if the requested confidential supervisory information is to be used in connection with an adversarial matter, the lawsuit or administrative action has been filed; and
 - 4) the production and disclosure of the confidential supervisory information is not unduly burdensome to the Office of Banks and Real Estate.
- b) Commissioner Inquiries. In determining whether to disclose the requested confidential supervisory information, the Commissioner may inquire into the circumstances of any case underlying the request and rely on sources of information other than the requester, including other parties.

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- c) Time Required by the Commissioner to Respond. The Commissioner, within 15 days, shall determine whether to disclose the requested confidential supervisory information. The 15-day time period shall not commence until the Commissioner receives a complete request. If the request is not complete, the Commissioner shall notify the requester of the required information that has not previously been provided.
- d) Notice to Other Parties. Following receipt of a complete request for confidential supervisory information, the Commissioner may notify the savings bank or Illinois savings bank holding company office that is the subject of the requested information, unless the Commissioner determines that to do so would advantage or prejudice any of the parties in the matter at issue.

(Source: Added at 28 Ill. Reg. 7285, effective May 7, 2004)

Section 1075.4060 Disclosure of Confidential Supervisory Information

- a) Conditions and Limitations. The Commissioner may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of such information. Except as authorized by the Commissioner, no person obtaining access to confidential supervisory information under this Subpart may make a copy of the confidential supervisory information.
- b) Restrictions on Dissemination of Confidential Supervisory Information. The Commissioner may condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in the particular case or on a written agreement of confidentiality. In a case in which a protective order or agreement has already been entered between parties other than the Commissioner, the Commissioner may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The Commissioner may authorize a party who obtained the records for use in one case to provide them to another party in another case, subject to any conditions that the Commissioner may impose on either or both parties.
- c) Notification of Parties and Procedures for Sharing and Using Confidential Supervisory Information in Litigation. The requester shall promptly notify other parties to a case of the release of confidential supervisory information obtained

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pursuant to this Subpart and, upon entry of a protective order, shall provide copies of confidential supervisory information to the other parties.

(Source: Added at 28 Ill. Reg. 7285, effective May 7, 2004)

Section 1075.4070 Retrieval and Destruction of Previously Disclosed Confidential Supervisory Information Used in Litigation

At the conclusion of an action:

- a) the requester shall retrieve the disclosed confidential supervisory information from the judicial or administrative file as soon as the presiding judicial or administrative authority no longer requires the information;
- b) the requester, and each party who may have subsequently received confidential supervisory information pursuant to a protective order, shall destroy the disclosed confidential supervisory information covered by the protective order; and
- c) each party shall certify to the Commissioner that the disclosed confidential supervisory information covered by the protective order has been destroyed.

(Source: Added at 28 Ill. Reg. 7285, effective May 7, 2004)

Section 1075.4080 Fees for Services

The Commissioner may charge the following fees for any record search or copying performed by the Commissioner:

- a) Reproduction costs incurred in making photocopies of documents shall be reimbursed at \$.25 per exposure.
- b) All other costs, including but not limited to the cost of telephone calls, telegrams, and shipping incurred in searching for and transporting data pursuant to a request for confidential supervisory information shall be reimbursed at actual costs.

The Commissioner may require a requester to remit payment prior to providing the requested confidential supervisory information.

(Source: Added at 28 Ill. Reg. 7285, effective May 7, 2004)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Premium Fund Trust Account
- 2) Code Citation: 50 Ill. Adm. Code 3113
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
3113.30	Amended
3113.40	Amended
- 4) Statutory Authority: Implementing Sections 500-70, 500-110 and 500-115 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401, 500-70, 500-110 and 500-115].
- 5) Effective date of amendments: May 10, 2004
- 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 Department of Insurance's principal office and is available for public inspection.
- 9) Notice of Proposal published in Illinois Register: December 26, 2003; 27 Ill. Reg. 19108
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: No substantive changes have been made.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rulemaking: The proposed amendments to Section 3113.40 are intended to permit an insurance producer to have greater flexibility when making investments, but will ensure that the investment risk undertaken is at a level consistent

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with the requirements of this Part. The balance of the Department's amendments are housekeeping in nature and are meant to bring clarity to this Part.

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

Jim Hanson
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
217/782-6284

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE
REPRESENTATIVES AND BUSINESS ENTITIES

PART 3113
PREMIUM FUND TRUST ACCOUNT

Section

3113.10	Authority (Repealed)
3113.20	Purpose and Scope
3113.30	Definitions
3113.40	Premium Fund Trust Account
3113.50	Minimum Record Requirements
3113.60	Return Premium
3113.70	Severability
3113.EXHIBIT A	Consent and Authorization Form

AUTHORITY: Implementing Sections 500-70, 500-110 and 500-115 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401, 500-70, 500-110 and 500-115].

SOURCE: Adopted at 4 Ill. Reg. 15, p. 194, effective April 11, 1980; amended at 6 Ill. Reg. 12474, effective September 30, 1982; codified at 6 Ill. Reg. 12471; amended at 8 Ill. Reg. 25007, effective January 1, 1985; amended at 14 Ill. Reg. 2088, effective January 19, 1990; amended at 16 Ill. Reg. 5329, effective March 23, 1992; amended at 26 Ill. Reg. 16518, effective October 28, 2002; amended at 28 Ill. Reg. 7303, effective May 10, 2004.

Section 3113.30 Definitions

- a) Financial Institution means a Federal or State chartered bank(s) or savings and loan institution(s) which is a member of the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC).
- b) Premium means any amount of money charged to the insured or to be returned to the insured by the insurer for the assumption of liability through the issuance of policies or contracts for insurance.
- e) Premium Fund Trust Account (hereafter referred to as PFTA) means a special fiduciary account established and maintained by a licensee into which all premiums collected are to be deposited.

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- d) Primary Dealer means a financial institution or government securities dealer who reports daily to the Federal Reserve Bank of New York. (A list of primary dealers is made available by the Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045).
- e) Quasi-Resident means a non-resident licensee who has a place of business in Illinois or who produces 50% or more of his or her premium volume on Illinois property or risks. For purposes of this definition, a place of business means any identification, designation or location in Illinois used by a Quasi-Resident for insurance purposes. Such ~~identification~~ identification, designation or location may include but is not ~~be~~ limited to the use of an Illinois telephone number, address, post office box or lock box.

(Source: Amended at 28 Ill. Reg. 7303, effective May 10, 2004)

Section 3113.40 Premium Fund Trust Account

- a) All licensees required to maintain a PFTA, pursuant to ~~subsection (c) 50 Ill. Adm. Code 3113.40(e)~~, shall establish and maintain a PFTA in a financial institution. All resident and quasi-resident licensees required to maintain a PFTA pursuant to this Section shall maintain such PFTA with one or more financial institutions located within the State of Illinois and subject to the jurisdiction of the Illinois courts. Licensees are not required to maintain a separate PFTA for each insurer unless required by an insurer(s).
- b) All licensees required to maintain a PFTA, pursuant to ~~subsection 50 Ill. Adm. Code 3113.40(c)~~, shall certify at each license ~~renewal or reinstatement extension~~ date that premiums are held in a PFTA. The account must be designated as a Premium Fund Trust Account on the bank records and those words shall be displayed on the face of the checks of that account.
- c) A PFTA must be established and maintained if a licensee:
- 1) Holds any premiums for 15 days or more before remitting to an insurer or other licensee.
 - 2) Deposits any collected premiums into a financial institution account or other account or uses the premiums, even though the premiums are remitted within 15 days.

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- d) The absence of a PFTA does not relieve the licensee of the obligation to hold the premiums in a fiduciary capacity, and the premiums shall not be used for ~~other~~ purposes other than those authorized by this Part.
- e) All licensees who maintain or are required to maintain a PFTA must deposit all premiums received into the PFTA.
- f) Non-premium monies received by the licensee for soliciting, negotiating, effecting, procuring, renewing, continuing or binding policies of insurance may be deposited into the PFTA. Examples of non-premium monies are service fees, policy fees, late charges, inspection fees and surplus lines premium taxes.
- g) All monies deposited into the PFTA are considered to be fiduciary funds until lawfully withdrawn.
- h) The following disbursements may be lawfully withdrawn from the PFTA:
 - 1) Net or gross premium remittances due other licensees or insurers. Claims payments or reinsurance premiums when offset at the direction of the insurer may be transferred to another account;
 - 2) Return premiums due insureds;
 - 3) Commissions due the licensee, net of any financial institution fees or service charges, or commissions due another licensee only when the commission withdrawal is matched and identified with premiums previously deposited into the PFTA;
 - 4) Non-premium monies when matched and identified with prior non-premium PFTA deposits;
 - 5) Interest or other revenue which the licensee is authorized to retain.
 - 6) Withdrawals pursuant to ~~subsections~~ Subsections 3113.40(h)(3), (4) and (5) must be made payable to the licensee or another licensee.
- i) The PFTA shall not be used as a general operating account or claim payment account.
- j) The PFTA balance in the financial institution shall at all times be the amount

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deposited less lawful withdrawals. If the balance in the financial institution is less than the amount deposited less lawful withdrawals, the licensee shall be deemed to have misappropriated fiduciary funds and to have acted in a financially irresponsible manner.

- k) All licensees may place PFTA funds in interest bearing or income producing assets and retain the interest or income thereon, provided the licensee obtains the prior written authorization of the insurer on whose behalf the funds are to be held. The written authorization from the insurer shall be on a form the same as Exhibit A or other written form signed and dated by the licensee and the insurer. ~~No investment shall be made which assumes any risk other than the risk that the obliger shall not pay the principal when due.~~ Employing the use of specialized techniques or strategies which incur additional risks to generate higher returns or to extend maturities is not permitted. Such ~~prohibited~~ techniques ~~would~~ include but ~~are~~ not ~~be~~ limited to the ~~use~~ following: ~~Use of financial futures, or options, or other derivatives, swaps, synthetic assets, margin purchases, short sales buying on margins, pledging or other encumbrance of PFTA assets or balances, and when issued trading.~~ Use of financial futures, or options, or other derivatives, swaps, synthetic assets, margin purchases, short sales buying on margins, pledging or other encumbrance of PFTA assets or balances, and when issued trading. In addition to savings and checking accounts in a financial institution, a licensee may invest in the following assets:
- 1) Direct obligations of the United States of America or U.S. Government agency securities with maturities of not more than one year.
 - 2) Certificates of deposit, with a maturity of not more than one year, issued by financial institutions which are members of the FDIC or the FSLIC.
 - 3) Repurchase agreements with financial institutions or government securities dealers recognized as primary dealers by the Federal Reserve System provided that:
 - A) the value of the repurchase agreement is collateralized with direct obligations of the United States of America or U.S. Government agency securities or other assets ~~that~~ which are allowable investments for PFTA funds; and
 - B) the collateral has a market value at the time the repurchase agreement is entered into at least equal to the value of the repurchase agreement; and
 - C) the repurchase agreement does not exceed 30 days.

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- 4) Commercial paper, provided the commercial paper is rated at least P-1 by Moody's Investors Service, Inc. and at least A-1 by Standard & Poor's Corporation.
- 5) Obligations issued by states and possessions of the United States, including Puerto Rico and the District of Columbia, and their political subdivisions, agencies and instrumentalities, or multi-state agencies or authorities, including general obligation bonds, revenue bonds and short term notes, with maturities of not more than one year, and rated at least Aa1, MIG-1/VMIG-1 or Prime-1 by Moody's Investor Service, Inc. or AA, SP-1 or A-1 by Standard and Poor's Corporation. Such obligations must be payable or guaranteed from taxes or revenues of such entities if such entity has not been in default in the payment of principal or interest on any of its direct or guaranteed obligations in the last 5 ~~five~~ years.
- 6) Money Market Mutual Funds registered with the U.S. Securities and Exchange Commission under Rule 2a-7 of The Investment Company Act of 1940, which are rated Aaa by Moody's Investors Service, Inc. or AAAM by Standard & Poor's Rating Services~~Funds, provided that the Money Market Fund invests exclusively in assets which are allowable investments pursuant to Subsections 3-113.40(k)(1) through (5).~~
- l) Each investment transaction authorized pursuant to subsection (k) shall be made in the name of the licensee's PFTA. The licensee shall maintain evidence of any such investments. Each investment transaction shall flow through the licensee's PFTA.

(Source: Amended at 28 Ill. Reg. 7303, effective May 10, 2004)

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- 1) Heading of the Part: Permits
- 2) Code Citation: 35 Ill. Adm. Code 309
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
309.107	Amend
309.108	Amend
309.112	Amend
309.113	Amend
309.114	Amend
309.119	Amend
309.120	Add
309.143	Amend
309.146	Amend
- 4) Statutory Authority: 415 ILCS 5/27
- 5) Effective date of amendments: May 7, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) The adopted amendments, including any material incorporated by reference, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available for public inspection.
- 9) Notice of Proposal published in Illinois Register: September 19, 2003 (27 Ill. Reg. 14765)
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In addition to some minor, nonsubstantive changes to the first notice proposal, the Board made two substantive changes to the first notice proposal in response to public comments. The Board deleted proposed language at Subsection 309.120(a)(4) in response to comments from the Illinois Coal Association (IAC), Illinois Environmental Regulatory Group (IERG), and Illinois Association of Wastewater Agencies (IAWA). The commenters indicated that the proposed language was confusing. The proponents of this rulemaking (the Environmental Law and Policy Center, the Illinois Chapter of the Sierra Club, and the Prairie Rivers Network) agreed that the language should be stricken.

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The Board added additional language from 40 CFR 122.44(d)(1)(i) at 309.143(a) in response to a request from ICA, IAWA, and IERG that the Board include federal language to explain an excursion or violation of a water quality standard.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of amendments: A more complete description of these adopted amendments may be found in the Board's opinion and order of May 6, 2004 in R03-19. The adopted rules clarify standards for issuance of National Pollutant Discharge Elimination System (NPDES) permits by the Illinois Environmental Protection Agency (IEPA) pursuant to the Clean Water Act (33 U.S.C. §1251 *et seq.*), including provisions for public participation. The adopted amendments codify the IEPA's existing practice when reviewing and issuing NPDES permits, requires additional information in NPDES permit fact sheets prepared for the public by IEPA, identifies when the public comment period can be reopened, requires control of pollutants and pollutant parameters that may potentially violate water quality standards, and requires reports adequate to determine compliance with monitoring requirements.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Marie Tipsord
Illinois Pollution Control Board
100 West Randolph, Suite 11-500
Chicago IL 60601
312/814-4925

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to Docket number R03-19 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER I: POLLUTION CONTROL BOARDPART 309
PERMITS

SUBPART A: NPDES PERMITS

Section	
309.101	Preamble
309.102	NPDES Permit Required
309.103	Application – General
309.104	Renewal
309.105	Authority to Deny NPDES Permits
309.106	Access to Facilities and Further Information
309.107	Distribution of Applications
309.108	Tentative Determination and Draft Permit
309.109	Public Notice
309.110	Contents of Public Notice of Application
309.111	Combined Notices
309.112	Agency Action After Comment Period
309.113	Fact Sheets
309.114	Notice to Other Governmental Agencies
309.115	Public Hearings on NPDES Permit Applications
309.116	Notice of Agency Hearing
309.117	Agency Hearing
309.118	Agency Hearing File
309.119	Agency Action After Hearing
309.120	Reopening the Record to Receive Additional Written Comment
309.141	Terms and Conditions of NPDES Permits
309.142	Water Quality Standards and Waste Load Allocation
309.143	Effluent Limitations
309.144	Federal New Source Standards of Performance
309.145	Duration of Permits
309.146	Authority to Establish Recording, Reporting, Monitoring and Sampling Requirements
309.147	Authority to Apply Entry and Inspection Requirements
309.148	Schedules of Compliance
309.149	Authority to Require Notice of Introduction of Pollutants into Publicly Owned

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	Treatment Works
309.150	Authority to Ensure Compliance by Industrial Users with Sections 204(b), 307 and 308 of the Clean Water Act
309.151	Maintenance and Equipment
309.152	Toxic Pollutants
309.153	Deep Well Disposal of Pollutants (Repealed)
309.154	Authorization to Construct
309.155	Sewage Sludge Disposal
309.156	Total Dissolved Solids Reporting and Monitoring
309.157	Permit Limits for Total Metals
309.181	Appeal of Final Agency Action on a Permit Application
309.182	Authority to Modify, Suspend or Revoke Permits
309.183	Revision of Schedule of Compliance
309.184	Permit Modification Pursuant to Variance
309.185	Public Access to Information
309.191	Effective Date

SUBPART B: OTHER PERMITS

Section	
309.201	Preamble
309.202	Construction Permits
309.203	Operating Permits; New or Modified Sources
309.204	Operating Permits; Existing Sources
309.205	Joint Construction and Operating Permits
309.206	Experimental Permits
309.207	Former Permits (Repealed)
309.208	Permits for Sites Receiving Sludge for Land Application
309.221	Applications – Contents
309.222	Applications – Signatures and Authorizations
309.223	Applications – Registered or Certified Mail
309.224	Applications – Time to Apply
309.225	Applications – Filing and Final Action By Agency
309.241	Standards for Issuance
309.242	Duration of Permits Issued Under Subpart B
309.243	Conditions
309.244	Appeals from Conditions in Permits
309.261	Permit No Defense
309.262	Design, Operation and Maintenance Criteria
309.263	Modification of Permits

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309.264	Permit Revocation
309.265	Approval of Federal Permits
309.266	Procedures
309.281	Effective Date
309.282	Severability

309.APPENDIX A References to Previous Rules

AUTHORITY: Implementing Sections 13 and 13.3 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/13, 13.3 and 27].

SOURCE: Adopted in R71-14, at 4 PCB 3, March 7, 1972; amended in R73-11, 12, at 14 PCB 661, December 5, 1974, at 16 PCB 511, April 24, 1975, and at 28 PCB 509, December 20, 1977; amended in R73-11, 12, at 29 PCB 477, at 2 Ill. Reg. 16, p. 20, effective April 20, 1978; amended in R79-13, at 39 PCB 263, at 4 Ill. Reg. 34, p. 159, effective August 7, 1980; amended in R77-12B, at 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R76-21, at 44 PCB 203, at 6 Ill. Reg. 563, effective December 24, 1981; codified at 6 Ill. Reg. 7818; amended in R82-5, 10, at 54 PCB 411, at 8 Ill. Reg. 1612, effective January 18, 1984; amended in R86-44 at 12 Ill. Reg. 2495, effective January 13, 1988; amended in R88-1 at 13 Ill. Reg. 5993, effective April 18, 1989; amended in R88-21(A) at 14 Ill. Reg. 2892, effective February 13, 1990; amended in R91-5 at 16 Ill. Reg. 7339, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5526, effective April 1, 1996; amended in R99-8 at 23 Ill. Reg. 11287, effective August 26, 1999; amended in R02-11 at 27 Ill. Reg. 202, effective December 20, 2002; amended in R03-19 at 28 Ill. Reg. 7310, effective May 7, 2004.

SUBPART A: NPDES PERMITS

Section 309.107 Distribution of Applications

When the Agency determines that an application for an NPDES Permit is complete, it shall:

- a) Unless otherwise agreed, send a copy of the application to the District Engineer of the appropriate district of the U.S. Corps of Engineers with a letter requesting that the District Engineer provide, within 30 days or as otherwise stated in the Agency's letter, his evaluation of the impact of the discharge on anchorage and navigation. If the District Engineer responds that anchorage and navigation of any of the navigation waters would be substantially impaired by the granting of a permit, the permit will be denied and the Agency shall notify the applicant. If the District Engineer informs the Agency that the imposition of specified conditions upon the NPDES Permit is necessary to avoid any substantial impairment of any

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of the navigable waters, the Agency shall include in the permit those conditions specified by the District Engineer.

- b) Send two copies of the application to the Regional Administrator of the U.S. Environmental Protection Agency with a letter stating that the application is complete.
- c) [Notify the Illinois Department of Natural Resources \(DNR\), subject to any memorandum of agreement between the Agency and the DNR.](#)

(Source: Amended at 28 Ill. Reg. 7310, effective May 7, 2004)

Section 309.108 Tentative Determination and Draft Permit

Following the receipt of a complete application for an NPDES Permit, the Agency shall prepare a tentative determination. Such determination shall include at least the following:

- a) A Statement regarding whether an NPDES Permit is to be issued or denied; and
- b) If the determination is to issue the permit, a draft permit containing:
 - 1) Proposed effluent limitations, consistent with federal and state requirements;
 - 2) A proposed schedule of compliance, if the applicant is not in compliance with applicable requirements, including interim dates and requirements consistent with the CWA and applicable regulations, for meeting the proposed effluent limitations;
 - 3) A brief description of any other proposed special conditions which will have a significant impact upon the discharge.
- c) A [brief description statement](#) of the basis for each of the permit conditions listed in Section 309.108(b), [including a brief description of any mixing zones, how the conditions of the draft permit were derived, and the statutory or regulatory provisions and appropriate supporting references.](#)
- d) Upon tentative determination to issue or deny an NPDES Permit:
 - 1) If the determination is to issue the permit the Agency shall notify the applicant in writing of the content of the tentative determination and draft

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permit and of its intent to circulate public notice of issuance in accordance with Sections 309.108 through 309.112;

- 2) If the determination is to deny the permit, the Agency shall notify the applicant in writing of the tentative determination and of its intent to circulate public notice of denial, in accordance with Sections 309.108 through 309.112. In the case of denial, notice to the applicant shall include a statement of the reasons for denial, as required by Section 39(a) of the Act.

- e) [For the purposes of Title X of the Act \[415 ILCS 5/Title X\], the documents supporting the Agency's tentative decision to issue or deny an NPDES permit under this Section shall be either identified in or made part of the Agency record.](#)

(Source: Amended at 28 Ill. Reg. 7310, effective May 7, 2004)

Section 309.112 Agency Action After Comment Period

[Subject to Section 309.120, if](#), after the comment period provided, no public hearing is held with respect to the permit, the Agency shall, after evaluation of any comments which may have been received, either issue or deny the permit.

(Source: Amended at 28 Ill. Reg. 7310, effective May 7, 2004)

Section 309.113 Fact Sheets

- a) For every discharge which has a total volume of more than 500,000 gallons (1.9 megaliters) on any day of the year, the Agency shall prepare and, following public notice, shall send upon request to any person a fact sheet with respect to the application described in the public notice. The contents of such fact sheets shall include at least the following information:
 - 1) A sketch or detailed description of the location of the discharge described in the application;
 - 2) A quantitative description of the proposed discharge described in the application which includes at least the following:
 - A) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;

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- B) For thermal discharges subject to limitation under the Act, the average monthly temperatures for the discharge;
 - C) The average daily mass discharged and average concentration in milligrams per liter, or other applicable units of measurement, of any contaminants which are present in significant quantities or which are subject to limitations or prohibitions under applicable provisions of the CWA or the Act or regulations adopted thereunder;
- 3) The tentative determinations required under Section 309.108;
 - 4) A brief citation, including an identification of the uses for which the receiving waters have been classified, of the water quality standards and effluent standards and limitations applicable to the proposed discharge;
~~and~~
 - 5) In the case of modified and reissued permits, a summary of changes between the public noticed permit and the previous permit;
 - 6) Summary of the antidegradation analysis, including characterization of the receiving waters and the existing uses of the receiving waters;
 - 7) A more detailed description of the procedures for the formulation of final determinations than that given in the public notice, including:
 - A) The beginning and ending dates of the comment period and address where comments will be received;~~The 30-day comment period;~~
 - B) Procedures for requesting a public hearing and the nature thereof; and
 - C) Any other procedures by which the public may participate in the formulation of the final determination; and.
 - 8) Information on how to obtain the Agency record.
- b) The Agency shall add the name of any person or group, upon request, to a mailing list to receive copies of fact sheets.

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(Source: Amended at 28 Ill. Reg. 7310, effective May 7, 2004)

Section 309.114 Notice to Other Governmental Agencies

At the time of issuance of public notice pursuant to Sections 309.109 through 309.112, the Agency shall:

- a) Send a fact sheet, if one has been prepared, to any other ~~states~~States whose waters may be affected by the issuance of the proposed permit and, upon request, provide such ~~states~~States with a copy of the application and a copy of the draft permit. Each affected State shall be afforded an opportunity to submit written recommendations within a stated number of days to the Agency and to the Regional Administrator of the U.S. Environmental Protection Agency, which the Agency may incorporate into the permit if issued. Should the Agency decline to incorporate any written recommendations thus received, it shall provide to the affected ~~state~~ State or ~~states~~ States (and to the Regional Administrator) a written explanation of its reasons for declining to accept any of the written recommendations.
- b) Following the procedure set forth in subsection (a)~~above~~, notify and receive recommendations from any interstate agency having water quality control authority over waters which may be affected by the permit.
- c) Unless otherwise agreed, in accordance with 40 CFR 124.34(c), send a copy of the fact sheet, if one has been prepared, to the appropriate District Engineer of the Army Corps of Engineers for discharges (other than minor discharges) into ~~navigable~~ navigable waters.
- d) Upon request, send a copy of the public notice and a copy of the fact sheet for NPDES Permit applications to any other Federal, ~~states~~State, or local agency, or any affected country, and provide such agencies an opportunity to respond, comment, or request a public hearing pursuant to Sections 309.115-309.119. Such agencies shall include at least the following:
 - 1) The agency responsible for the preparation of an approved plan pursuant to Section 208(b) of the CWA; and
 - 2) The State or interstate agency responsible for the preparation of a plan pursuant to an approved continuous planning process under Section 303(e) of the CWA.

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- e) Send notice to, and coordinate with, appropriate public health agencies for the purpose of assisting the applicant in integrating the relevant provisions of the CWA with any applicable requirements of such public health agencies.

(Source: Amended at 28 Ill. Reg. 7310, effective May 7, 2004)

Section 309.119 Agency Action After Hearing

Subject to Section 309.120, following~~Following~~ the public hearing, the Agency may make such modifications in the terms and conditions of proposed permits as may be appropriate and shall transmit to the Regional Administrator for his approval a copy of the permit proposed to be issued unless the Regional Administrator has waived his right to receive and review permits of its class. The Agency shall provide a notice of such transmission to the applicant, to any person who participates in the public hearing, to any person who requested a public hearing, and to appropriate persons on the mailing list established under Sections 309.109 through 309.112. Such notice shall briefly indicate any significant changes which were made from terms and conditions set forth in the draft permit. All permits become effective when issued unless a different date is specified in the permit.

(Source: Amended at 28 Ill. Reg. 7310, effective May 7, 2004)

Section 309.120 Reopening the Record to Receive Additional Written Comment

- a) The Agency shall order the public comment period reopened to receive additional written comments where the Agency significantly modifies the draft permit and the final permit is not a logical outgrowth of the proposed draft permit. In determining if the final permit is a logical outgrowth of the draft permit, the Agency shall consider the following:
- 1) Whether the interested parties could not have reasonably anticipated the final permit from the draft permit;
 - 2) Whether a new round of notice and comment would provide interested parties the first opportunity to offer comments on the issue; or
 - 3) Whether the provisions in the final permit deviate sharply from the concepts included in the draft permit or suggested by the commenters.
- b) The public notice of any comment period extended under this Section shall identify the issues as to which the public comment period is being reopened.

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Comments filed during the reopened period shall be limited to the substantial new issues that caused its reopening.

- c) For purposes of the notification required by subsection (b), the Agency shall follow the public notice requirements of Section 309.109.

(Source: Added at 28 Ill. Reg. 7310, effective May 7, 2004)

Section 309.143 Effluent Limitations

- a) Effluent limitations must control all pollutant or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Agency determines are, or may be, discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standard, including State narrative criteria for water quality. When determining whether a discharge causes, has the reasonable potential to cause or contributes to an in-stream excursion above a narrative or numeric criteria within a State water quality standard, the Agency shall use procedures which account for existing controls on point and nonpoint sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity), and, where appropriate, the dilution of the effluent in the receiving water.
- b) In the application of effluent standards and limitations, water quality standards and other applicable requirements, the Agency shall, for each permit, specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight (except pH, temperature, radiation, and any other pollutants not appropriately expressed by weight, and except for discharges whose constituents cannot be appropriately expressed by weight). The Agency may, in its discretion, in addition to specification of daily quantitative limitations by weight, specify other limitations, such as average or maximum concentration limits, for the level of pollutants in the authorized discharge. Effluent limitations for multiproduct operations shall provide for appropriate waste variations from such plants. Where a schedule of compliance is included as a condition in a permit, effluent limitations shall be included for the interim period as well as for the period following the final compliance date.

(Source: Amended at 28 Ill. Reg. 7310, effective May 7, 2004)

Section 309.146 Authority to Establish Recording, Reporting, Monitoring and Sampling Requirements

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- a) The Agency shall require every holder of an NPDES Permit, as a condition of the NPDES Permit issued to the holder, to:
- 1) Establish, maintain and retain records;
 - 2) Make reports [adequate to determine the compliance or lack of compliance with all effluent limits and special conditions in the permit](#);
 - 3) Install, calibrate, use and maintain monitoring equipment or methods (including where appropriate biological monitoring methods);
 - 4) Take samples of effluents (in accordance with such methods, at such locations, at such intervals, and in such a manner as may be prescribed);
and
 - 5) Provide such other information as may reasonably be required.
- b) The Agency may require every holder of an NPDES Permit for a publicly owned and publicly regulated treatment works, as a condition of the NPDES Permit, to require industrial users of such a treatment works to:
- 1) Establish, maintain and retain records;
 - 2) Make reports;
 - 3) Install, calibrate, use and maintain monitoring equipment or methods (including where appropriate biological monitoring methods);
 - 4) Take samples of effluents (in accordance with such methods, at such locations, at such intervals, and in such a manner as may be prescribed);
and
 - 5) Provide such other information as may reasonably be required.
- c) All such requirements shall be included as conditions of the NPDES Permit issued to the discharger, and shall be at least as stringent as those required by applicable federal regulations when these become effective.
- d) [All permits shall specify requirements concerning the proper use, maintenance,](#)

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and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods, when appropriate); required monitoring including type, interval, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.

(Source: Amended at 28 Ill. Reg. 7310, effective May 7, 2004)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3)

<u>Section Numbers:</u>	<u>Peremptory Action:</u>
310.210	Amend
310.Appendix A, Table AB	Repeal
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking: With the approval by the Civil Service Commission on April 15, 2004, the Memorandum of Understanding between the Department of Central Management Services and the International Union of Operating Engineers, Local 399, abolishes the Plant Maintenance Engineer I and II, and establishes Stationary Engineer - Assistant Chief and Stationary Engineer - Chief. Effective May 1, 2004, incumbents will be reclassified into the respective new class title and receive the corresponding prevailing rate.
- 5) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 20 ILCS 415/8a].
- 6) Effective Date: May 10, 2004
- 7) A Complete Description of the Subjects and Issues Involved: Section 310.210 Prevailing Rate is amended to include Stationary Engineer - Assistant Chief and Stationary Engineer – Chief with their establishment. Effective May 1, 2004, incumbents will be reclassified into the respective new class title and receive the corresponding prevailing rate.

Section 310.Appendix A Table AB VR-007 (Plant Maintenance Engineers, Operating Engineers) is repealed with the abolishment of the Plant Maintenance Engineer I and II.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date filed with the Index Department: Upon receipt of the signed certificate, this notice will be filed with the Index Department.
- 10) A copy of the peremptory amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

This and other Pay Plan amendments are available in the Division of Technical Services of the Bureau of Personnel.
- 11) This is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Yes

- 12) Are there any other amendments pending on this Part?

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
310.450	Amend	28 Ill. Reg. 2896, February 20, 2004
310.Appendix A Table I	Amend	28 Ill. Reg. 2896, February 20, 2004
310.Appendix A Table L	Amend	28 Ill. Reg. 2896, February 20, 2004
310.Appendix A Table W	Amend	28 Ill. Reg. 2896, February 20, 2004
310.280	Amend	28 Ill. Reg.6950, May 14, 2004

- 13) Statement of Statewide Policy Objective: These amendments to the Pay Plan affect only the employees subject to the Personnel Code and do not set out any guidelines that affect local or other jurisdictions in the State.

- 14) Information and questions regarding this preemptory amendment shall be directed to:

Ms. Dawn DeFraties
Deputy Director
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The full text of the Preemptory Amendments begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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PAY PLAN

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310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
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310.80	Increases in Pay
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- 310.300 Educator Schedule for RC-063 and HR-010
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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;

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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 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 at 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,

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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 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

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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 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

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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. 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 August 31, 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,

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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, 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; preemptory 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. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; preemptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; preemptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; preemptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2680, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; preemptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004.

SUBPART B: SCHEDULE OF RATES

Section 310.210 Prevailing Rate

The rate of pay for each class and locality certified as being correct by the Director of Labor and approved by the Director of Central Management Services; or as established under "An Act regulating wages for laborers, mechanics, and other workmen employed in any public work by the state, county or city or any public body or any political subdivision or by anyone under contract for public works", approved June 26, 1941, as amended [820 ILCS 130]. The following are prevailing rate classes:

Baker	Plumber
Barber	Roofer
Beautician	Sewage Plant Operator
Brickmason	Sign Hanger
Carpenter	Sign Hanger Foreman
Carpenter Foreman	Sign Painter
Cement Finisher	Sign Painter Helper

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Electrician	Stationary Engineer
Highway Construction Equipment Operator	Stationary Engineer – Assistant Chief
Laborer	Stationary Engineer – Chief
Laborer (Building)	Stationary Fireman
Machinist	Steamfitter
Maintenance Worker (Power Plant)	Teacher of Barbering
Motion Picture Operator	Tinsmith
Painter	Water Plant Operator
Plasterer	

(Source: Peremptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004)

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Section 310. TABLE AB VR-007 (Plant Maintenance Engineers, Operating Engineers)
(Repealed)

~~Effective July 1, 2003~~

Title	Standard Rate
Plant Maintenance Engineer I	5959.50
Plant Maintenance Engineer II	6243.12

~~NOTE: All Plant Maintenance Engineers that are not on the standard rate will receive a 4% increase.~~

(Source: Repealed by peremptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Public Use of State Parks and Other Properties of the Department of Natural Resources
- 2) Code Citation: 17 Ill. Adm. Code 110
- 3) The Notice of Proposed Amendments being corrected appeared at: 28 Ill. Reg. 7061; May 14, 2004
- 4) Since 1st Notice, language referencing rental cabins at Eldon Hazlet State Park was stricken. Questions #11 is clarified as follows:
 - “11) Differences between proposal and final version: In Section 110.40, subsections (d) and (e) were deleted and subsection (f) was relabeled as (d).”

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF AGENCY RESPONSE TO MEET JOINT COMMITTEE OBJECTION TO
PROPOSED RULEMAKING

- 1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 300
- 3) Section Numbers: 300.120 Proposed Action: Amendment
- 4) Date Notice of Proposed Amendments Published in the Register: August 29, 2003; 27 Ill. Reg. 14162
- 5) Date JCAR Statement of Objection Published in the Register: April 9, 2004; 28 Ill. Reg. 5923
- 6) Agency Response to Specific Joint Committee Objections: The Department respectfully disagrees with the Joint Committee's interpretation and refuses to modify or withdraw the proposed amendments to the Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300) in response to the Joint Committee's Objection. The Objection states that the Committee believes that the rulemaking contravenes the intent of the General Assembly that the license fee for facilities with more than 100 beds should be \$1000 plus \$10 per bed for all beds over 100. Public Act 93-0032, as passed by both the House of Representatives and the Senate and as signed into law by Governor, amended Section 3-103 of the Nursing Home Care Act [210 ILCS 45/3-103] to establish a fee "for any facility with 100 or more licensed beds of \$1000, plus \$10 per licensed bed." The Public Act does not include any qualification on the \$10 fee per licensed bed for only those beds "over 100". The Department believes that its obligation in this situation is to implement the statutory language as written, not as it may have been intended to be written. Further, the Supreme Court of Illinois has long held under the canons of statutory construction and as recently stated that "where clear and unambiguous, statutory language must be enforced as enacted, and a court may not depart from its plain language by reading into it exceptions, limitations, or conditions not expressed by the legislature." People v. \$30,700.00 U.S. Currency et al., 199 Ill. 2d 142, 150, 151, 766 N.E. 2d 1084, 1089, 262 Ill. Dec. 781, 786 (2002). The Department has also reviewed the legislative transcripts for debate of Senate Bill 1903 (which became Public Act 93-0032) and in so doing has found no mention of legislative intent to limit the fee to only those beds "over 100".

Therefore, the Department refuses to modify or withdraw the rulemaking in response to the Joint Committee's objection.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF AGENCY RESPONSE TO MEET JOINT COMMITTEE OBJECTION TO
PROPOSED RULEMAKING

- 1) Heading of the Part: Sheltered Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 330
- 3) Section Number: 330.120 Proposed Action: Amendment
- 4) Date Notice of Proposed Amendments Published in the Register: August 29, 2003; 27 Ill. Reg. 14164
- 5) Date JCAR Statement of Objection Published in the Register: April 9, 2004; 28 Ill. Reg. 5924
- 6) Agency Response to Specific Joint Committee Objections: The Department respectfully disagrees with the Joint Committee's interpretation and refuses to modify or withdraw the proposed amendments to the Sheltered Care Facilities Code (77 Ill. Adm. Code 330) in response to the Joint Committee's Objection. The Objection states that the Committee believes that the rulemaking contravenes the intent of the General Assembly that the license fee for facilities with more than 100 beds should be \$1000 plus \$10 per bed for all beds over 100. Public Act 93-0032, as passed by both the House of Representatives and the Senate and as signed into law by the Governor, amended Section 3-103 of the Nursing Home Care Act [210 ILCS 45/3-103] to establish a fee "for any facility with 100 or more licensed beds of \$1000, plus \$10 per licensed bed." The Public Act does not include any qualification on the \$10 fee per licensed bed for only those beds "over 100". The Department believes that its obligation in this situation is to implement the statutory language as written, not as it may have been intended to be written. Further, the Supreme Court of Illinois has long held under the canons of statutory construction and as recently stated that "where clear and unambiguous, statutory language must be enforced as enacted, and a court may not depart from its plain language by reading into it exceptions, limitations, or conditions not expressed by the legislature." People v. \$30,700.00 U.S. Currency et al., 199 Ill. 2d 142, 150, 151, 766 N.E. 2d 1084, 1089, 262 Ill. Dec. 781, 786 (2002). The Department has also reviewed the legislative transcripts for debate of Senate Bill 1903 (which became Public Act 93-0032) and in so doing has found no mention of legislative intent to limit the fee to only those beds "over 100".

Therefore, the Department refuses to modify or withdraw the rulemaking in response to the Joint Committee's objection.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF AGENCY RESPONSE TO MEET JOINT COMMITTEE OBJECTION TO
PROPOSED RULEMAKING

- 1) Heading of the Part: Illinois Veterans' Homes Code
- 2) Code Citation: 77 Ill. Adm. Code 340
- 3) Section Numbers: 340.1120 Proposed Action: Amendment
- 4) Date Notice of Proposed Amendments Published in the Register: August 29, 2003; 27 Ill. Reg. 14166
- 5) Date JCAR Statement of Objection Published in the Register: April 9, 2004; 28 Ill. Reg. 5925
- 6) Agency Response to Specific Joint Committee Objections: The Department respectfully disagrees with the Joint Committee's interpretation and refuses to modify or withdraw the proposed amendments to the Illinois Veterans' Homes Code (77 Ill. Adm. Code 340) in response to the Joint Committee's Objection. The Objection states that the Committee believes that the rulemaking contravenes the intent of the General Assembly that the license fee for facilities with more than 100 beds should be \$1000 plus \$10 per bed for all beds over 100. Public Act 93-0032, as passed by both the House of Representatives and the Senate and as signed into law by the Governor, amended Section 3-103 of the Nursing Home Care Act [210 ILCS 45/3-103] to establish a fee "for any facility with 100 or more licensed beds of \$1000, plus \$10 per licensed bed." The Public Act does not include any qualification on the \$10 fee per licensed bed for only those beds "over 100". The Department believes that its obligation in this situation is to implement the statutory language as written, not as it may have been intended to be written. Further, the Supreme Court of Illinois has long held under the canons of statutory construction and as recently stated that "where clear and unambiguous, statutory language must be enforced as enacted, and a court may not depart from its plain language by reading into it exceptions, limitations, or conditions not expressed by the legislature." People v. \$30,700.00 U.S. Currency et al., 199 Ill. 2d 142, 150, 151, 766 N.E. 2d 1084, 1089, 262 Ill. Dec. 781, 786 (2002). The Department has also reviewed the legislative transcripts for debate of Senate Bill 1903 (which became Public Act 93-0032) and in so doing has found no mention of legislative intent to limit the fee to only those beds "over 100".

Therefore, the Department refuses to modify or withdraw the rulemaking in response to the Joint Committee's objection.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF AGENCY RESPONSE TO MEET JOINT COMMITTEE OBJECTION TO
PROPOSED RULEMAKING

- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3) Section Number: 350.120 Proposed Action: Amendment
- 4) Date Notice of Proposed Amendments Published in the Register: August 29, 2003; 27 Ill. Reg. 14168
- 5) Date JCAR Statement of Objection Published in the Register: April 9, 2004; 28 Ill. Reg. 5926
- 6) Agency Response to Specific Joint Committee Objections: The Department respectfully disagrees with the Joint Committee's interpretation and refuses to modify or withdraw the proposed amendments to the Intermediate Care for the Developmentally Disabled Facilities (77 Ill. Adm. Code 350) in response to the Joint Committee's Objection. The Objection states that the Committee believes that the rulemaking contravenes the intent of the General Assembly that the license fee for facilities with more than 100 beds should be \$1000 plus \$10 per bed for all beds over 100. Public Act 93-0032, as passed by both the House of Representatives and the Senate and as signed into law by the Governor, amended Section 3-103 of the Nursing Home Care Act [210 ILCS 45/3-103] to establish a fee "for any facility with 100 or more licensed beds of \$1000, plus \$10 per licensed bed." The Public Act does not include any qualification on the \$10 fee per licensed bed for only those beds "over 100". The Department believes that its obligation in this situation is to implement the statutory language as written, not as it may have been intended to be written. Further, the Supreme Court of Illinois has long held under the canons of statutory construction and as recently stated that "where clear and unambiguous, statutory language must be enforced as enacted, and a court may not depart from its plain language by reading into it exceptions, limitations, or conditions not expressed by the legislature." People v. \$30,700.00 U.S. Currency et al., 199 Ill. 2d 142, 150, 151, 766 N.E.2d 1084, 1089, 262 Ill. Dec. 781, 786 (2002). The Department has also reviewed the legislative transcripts for debate of Senate Bill 1903 (which became Public Act 93-0032) and in so doing has found no mention of legislative intent to limit the fee to only those beds "over 100".

Therefore, the Department refuses to modify or withdraw the rulemaking in response to the Joint Committee's objection.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF AGENCY RESPONSE TO MEET JOINT COMMITTEE OBJECTION TO
PROPOSED RULEMAKING

- 1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 390
- 3) Section Numbers: 390.120 Proposed Action: Amendment
- 4) Date Notice of Proposed Amendments Published in the Register: August 29, 2003; 27 Ill. Reg. 14170
- 5) Date JCAR Statement of Objection Published in the Register: April 9, 2004; 28 Ill. Reg. 5927
- 6) Agency Response to Specific Joint Committee Objections: The Department respectfully disagrees with the Joint Committee's interpretation and refuses to modify or withdraw the proposed amendments to the Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390) in response to the Joint Committee's Objection. The Objection states that the Committee believes that the rulemaking contravenes the intent of the General Assembly that the license fee for facilities with more than 100 beds should be \$1000 plus \$10 per bed for all beds over 100. Public Act 93-0032, as passed by both the House of Representatives and the Senate and as signed into law by the Governor, amended Section 3-103 of the Nursing Home Care Act [210 ILCS 45/3-103] to establish a fee "for any facility with 100 or more licensed beds of \$1000, plus \$10 per licensed bed." The Public Act does not include any qualification on the \$10 fee per licensed bed for only those beds "over 100". The Department believes that its obligation in this situation is to implement the statutory language as written, not as it may have been intended to be written. Further, the Supreme Court of Illinois has long held under the canons of statutory construction and as recently stated that "where clear and unambiguous, statutory language must be enforced as enacted, and a court may not depart from its plain language by reading into it exceptions, limitations, or conditions not expressed by the legislature." People v. \$30,700.00 U.S. Currency et al., 199 Ill. 2d 142, 150, 151, 766 N.E. 2d 1084, 1089, 262 Ill. Dec. 781, 786 (2002). The Department has also reviewed the legislative transcripts for debate of Senate Bill 1903 (which became Public Act 93-0032) and in so doing has found no mention of legislative intent to limit the fee to only those beds "over 100".

Therefore, the Department refuses to modify or withdraw the rulemaking in response to the Joint Committee's objection.

POLLUTION CONTROL BOARD

NOTICE OF WITHDRAWAL OF PROPOSED RULES

- 1) Heading of the Part: Sound Emission Standards And Limitations For Property Line-Noise-Sources
- 2) Code Citation: 35 Ill. Adm. Code 901
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
901.101	Amend
901.102	Amend
901.103	Amend
901.104	Amend
901.105	Amend
901.106	Amend
901.107	Amend
901.108	Amend
901.109	Amend
901.110	Amend
901.111	Amend
901.113	Amend
901.Appendix B	Amend
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: July 25, 2003; 27 Ill. Reg. 11908
- 5) Reason for the Withdrawal: The Board determined that additional hearings should be held in the noise rulemakings in order to address issues that have been raised in public comments. The Board also found that some of the site-specific rules contained in the existing noise regulations should be reviewed and may require changes. Because these Sections were not included in the Board's original first notice publication, the Board is withdrawing this first notice proposal. The Board will hold an additional hearing on the noise regulations before proceeding to first notice with a new proposal.

Questions regarding this matter may be referred to Marie Tipsord at 312/814-4925.

POLLUTION CONTROL BOARD

NOTICE OF WITHDRAWAL OF PROPOSED RULES

- 1) Heading of the Part: Measurement Procedures for the Enforcement of 35 Ill. Adm. Code 900 & 901
- 2) Code Citation: 35 Ill. Adm. Code 910
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
910.100	New Section
910.102	New Section
910.103	New Section
910.104	New Section
910.105	New Section
910.106	New Section
910.107	New Section
910.Appendix A	
Table A	New Section
Table B	New Section
Table C	New Section
Table D	New Section
- 4) Date Notice of Proposed Amendments Published in the Illinois Register: July 25, 2003; 27 Ill. Reg. 11989
- 5) Reason for the Withdrawal: The Board determined that additional hearings should be held in the noise rulemakings in order to address issues that have been raised in public comments. The Board also found that some of the site-specific rules contained in the existing noise regulations should be reviewed and may require changes. Because these Sections were not included in the Board's original first notice publication, the Board is withdrawing this first notice proposal. The Board will hold an additional hearing on the noise regulations before proceeding to first notice with a new proposal.

Questions regarding this matter may be referred to Marie Tipsord at 312/814-4925.

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 May 3, 2004 through May 10, 2004 and have been scheduled for review by the Committee at its June 15, 2004 meeting in Springfield. 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 Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
6/16/04	<u>Illinois Commerce Commission</u> , Certification Requirements and Standards of Service for Meter Service Providers (83 Ill. Adm. Code 460)	11/14/03 27 Ill. Reg. 17159	6/15/04
6/16/04	<u>Illinois Commerce Commission</u> , Standards of Service for Electric Utilities and Alternative Retail Electric Suppliers (83 Ill. Adm. Code 410)	11/14/03 27 Ill. Reg. 17153	6/15/04
6/17/04	<u>Department of Natural Resources</u> , Public Use of Dedicated Nature Preserves (17 Ill. Adm. Code 4015)	3/12/04 28 Ill. Reg. 4476	6/16/04
6/17/04	<u>Department of Natural Resources</u> , Regulation of Public Use of Illinois Dedicated Nature Preserves (Repealer) (17 Ill. Adm. Code 1510)	3/12/04 28 Ill. Reg. 4449	6/15/04
6/17/04	<u>Department of Natural Resources</u> , Department Revocation Procedures (17 Ill. Adm. Code 2530)	3/12/04 28 Ill. Reg. 4455	6/15/04
6/17/04	<u>Department of Human Services</u> , Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)	2/13/04 28 Ill. Reg. 2560	6/15/04
6/18/04	<u>Department of Insurance</u> , Improper Claims	3/12/04	6/15/04

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

Practice (50 Ill. Adm. Code 919) 28 Ill. Reg.
4440

6/18/04 Department of Professional Regulation, Illinois 3/19/04 6/15/04
Controlled Substances Act (77 Ill. Adm. Code
3100) 28 Ill. Reg.
4846

PROCLAMATIONS

2004-123**Emergency Medical Services For Children Day**

WHEREAS, emergency medical services for children (EMSC) focuses on the specific attention that children need in medical and traumatic emergencies; and

WHEREAS, EMSC supports a specialized approach to pediatric care; and

WHEREAS, EMSC endorses the high-level emergency care given by emergency medical services providers, with pediatric emergency skills, who are prepared to respond, and restore, sick or injured children to an optimum level of health; and

WHEREAS, EMSC espouses the tenets and practices of family-centered and culturally competent care for children and their families; and

WHEREAS, EMSC assists in training with advanced technical equipment and services in preparation to save the life of a child; and

WHEREAS, EMSC works with physicians, nurses, social workers, psychologists, emergency medical technicians, paramedics, firefighters, educators, administrators and others to identify and address issues surrounding pediatric care; and

WHEREAS, EMSC assists in the development of training programs and guidelines for emergency care providers, so that children with special health care needs get timely, appropriate care; and

WHEREAS, the dedicated men and women of EMSC deserve our admiration and praise, for they have been aiding and saving the lives of Illinois' children for 10 years:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 19, 2004 as EMERGENCY MEDICAL SERVICES FOR CHILDREN DAY in Illinois, and encourage all citizens to commend those that use their advanced training and talents to help children in times of crisis.

Issued by the Governor May 4, 2004.

Filed by the Secretary of State May 5, 2004.

2004-124**Emergency Medical Services Week**

WHEREAS, the members of emergency medical services teams devote their time and energy to providing lifesaving care to those in need 24 hours a day, seven days a week; and

WHEREAS, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

WHEREAS, emergency medical services teams consist of emergency physicians, emergency medical technicians, paramedics, firefighters, educators, administrators and others; and

WHEREAS, approximately two-thirds of all emergency medical services providers are volunteers; and

PROCLAMATIONS

WHEREAS, the members of emergency medical services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 16 – 22, 2004 as EMERGENCY MEDICAL SERVICES WEEK in Illinois, and encourage all citizens to recognize the dedication and lifesaving work that the men and women of emergency medical services teams provide to the communities of this State.

Issued by the Governor May 4, 2004.

Filed by the Secretary of State May 5, 2004.

2004-125**Save A Life Week**

WHEREAS, when disaster strikes, volunteers become a vital component to the job of aiding those in need; and

WHEREAS, the Save A Life Foundation's (SALF) mission is to train and develop volunteers, equipped with life supporting first aid skills, to aid in emergency situations; and

WHEREAS, the SALF heightens public awareness of possible environmental dangers, and trains people, especially children, in life supporting skills. These skills are essential in maintaining the life of an injured or ill person, in a man-made or natural emergency, until emergency medical service (EMS) arrives; and

WHEREAS, the SALF, in conjunction with emergency medical services professionals, increases awareness of emergency response by instituting the training of Basic Life Saving First Aid techniques to school age children and adults, teaching skills such as Cardiopulmonary-Resuscitation (CPR), the Heimlich maneuver, and the use of an Automatic External Defibrillation (AED), all of which are essential in maintaining life prior to EMS arrival; and

WHEREAS, the SALF will assist organizations and councils with providing citizen training, especially for children, in emergency preparedness and life supporting first aid, including Community Emergency Response Team (CERT) training; and

WHEREAS, the SALF is an affiliate of the U. S. Homeland Security's Citizen Corps; and

WHEREAS, in today's society, the teachings of the SALF, and other emergency training organizations, are crucial to the well being of our communities. If a catastrophic event should ever occur, it will be the first-aid skills of highly trained volunteers that help to minimize serious injury and death to the American people:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 16 – 22, 2004 as SAVE A LIFE WEEK in Illinois, and encourage all citizens to become cognizant of life saving techniques, in order to better prepare themselves for emergency situations.

Issued by the Governor May 4, 2004.

Filed by the Secretary of State May 5, 2004.

PROCLAMATIONS

2004-126***The Greek Star Day***

WHEREAS, *The Greek Star* newspaper is the oldest published Greek-American newspaper in the United States; and

WHEREAS, for 100 years, *The Greek Star* has been a valuable resource to the Greek-American communities in Illinois; and

WHEREAS, *The Greek Star* has shown a strong commitment to its readers, through its accurate reporting, and its life-affecting news stories; and

WHEREAS, the State of Illinois recognizes the Greek-American population, and celebrates their ever-present contributions to the State's rich cultural diversity, and

WHEREAS, *The Greek Star* newspaper is certainly deserving of a commendation for its great achievements in community service and longevity:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 16, 2004 as *THE GREEK STAR DAY* in Illinois, and encourage all citizens to join in celebrating *The Greek Star* newspaper's 100th Anniversary.

Issued by the Governor May 4, 2004.

Filed by the Secretary of State May 5, 2004.

2004-127**Tinnitus Awareness Week**

WHEREAS, tinnitus is the perception of sound in one or both ears, or in the head, when no external sound is present; and

WHEREAS, often referred to as "ringing in the ears", tinnitus can vary in frequency, tone, and volume from person to person; and

WHEREAS, the cause of tinnitus is not known, however, there are several likely sources, all of which are known to trigger or worsen the disorder; and

WHEREAS, one possible source of tinnitus is noise-induced hearing loss. Millions of Americans have hearing loss due to noise exposure, and up to 90 percent of all tinnitus patients have some level of noise-induced hearing loss; and

WHEREAS, other possible sources include: wax build-up in the ear canal, medications which are ototoxic (toxic to the ear) or medications that may cause tinnitus as a side effect, ear or sinus infections, jaw misalignment, cardiovascular disease, certain types of tumors, or head and neck trauma; and

WHEREAS, the American Tinnitus Association (ATA) estimates that over 50 million Americans experience tinnitus to some degree. Of these, about 12 million have tinnitus severe enough that they seek medical attention and about two million patients are so seriously debilitated that they can't function on a normal, day-to-day basis; and

WHEREAS, in many cases, limited exposure to high levels of noise would do a great deal to protect people from any type of damage to their hearing:

PROCLAMATIONS

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 15 – 22, 2004 as TINNITUS AWARENESS WEEK in Illinois, and encourage all citizens to support the efforts of ATA as they strive to educate, enhance public awareness, and support research of tinnitus.

Issued by the Governor May 4, 2004.

Filed by the Secretary of State May 5, 2004.

2004-128**Multiple Chemical Sensitivity/Toxic Injury Awareness And Education Month**

WHEREAS, toxic injury, also known as multiple chemical sensitivity or MCS, is a chronic debilitating condition for which there is no known cure; and

WHEREAS, this condition is characterized by heightened sensitivity to very small amounts of air pollution, petrochemicals and other toxins found in the environments of our homes, schools, and work places; and

WHEREAS, symptoms of toxic injury vary, but may include: flu like symptoms, severe headaches, chronic fatigue, a metallic taste in the mouth, or difficulty breathing and concentrating. Once sensitized, our bodies react more easily to a greater number of substances; and

WHEREAS, getting rid of all aerosol products, disposing of all scented products, eliminating permanent press sheets and clothing, and drinking, eating and storing food items in glass, ceramic, or stainless steel, are steps that can be taken to better protect toxic injury sufferers; and

WHEREAS, the “MCS” Beacon of Hope Foundation was established in July 2000 to raise awareness and educate the public on this growing health issue:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2004 as MULTIPLE CHEMICAL SENSITIVITY/TOXIC INJURY AWARENESS AND EDUCATION MONTH in Illinois, and encourage all citizens to become conscientious of the toxic hazards that plague our environment.

Issued by the Governor May 4, 2004.

Filed by the Secretary of State May 5, 2004.

2004-129**Food Allergy Awareness Week**

WHEREAS, there are eight types of foods that account for ninety percent of allergic reactions, such as: peanuts, tree nuts (walnuts, pecans, brazil nuts, etc.) fish, shellfish, eggs, milk, soy, and wheat. The leading cause of severe allergic reactions, however, is peanuts; and

WHEREAS, approximately 11 million Americans suffer from food allergies, and it is estimated that as many as 150-200 people die from food allergy reactions each year; and

PROCLAMATIONS

WHEREAS, the Food Allergy and Anaphylaxis Network (FAAN) has a membership of more than 26,000 people worldwide. Established in 1991, the mission of FAAN is to raise public awareness, educate, and advance research on the issue of food allergies and anaphylaxis; and

WHEREAS, a food allergy occurs when the immune system mistakenly believes that a food is harmful, therefore, may cause a person to have a severe allergic reaction or an anaphylaxis; and

WHEREAS, food intolerance is different than a food allergy in that a food intolerance is a metabolic disorder, not involving the immune system. Lactose intolerance is a common example; and

WHEREAS, swelling of the tongue and throat, vomiting, difficulty breathing, or the presence of a rash, are some symptoms of food allergy and anaphylaxis, and typically appear within minutes to two hours after a person has eaten the food he or she is allergic to; and

WHEREAS, currently, there is no cure for food allergies and the only way to avoid a reaction is for an individual to avoid the food that is causing the reaction:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 10 – 16, 2004 as FOOD ALLERGY AWARENESS WEEK in Illinois, and encourage citizens with known food allergies to make others aware of their history to reduce the chance of a severe reaction.

Issued by the Governor May 4, 2004.

Filed by the Secretary of State May 5, 2004.

2004-130**Norwegian Constitution Day**

WHEREAS, this year commemorates the 189th Anniversary of the signing of the Norwegian Constitution on May 17, 1814; and

WHEREAS, on this day, Norway established its own constitution under a joint monarchy with Sweden, ending centuries of discontentment as a dependent country; and

WHEREAS, known as Norway's national day or day of liberation, May 17th has been celebrated since the 1820s; and

WHEREAS, the Norwegian National League (NNL) will sponsor this year's Norwegian Constitution Day celebration and parade; and

WHEREAS, former prime minister and parliamentary leader of the committee of foreign affairs, Torbjorn Jagland, will be the Honorary Grand Marshal at the parade in Park Ridge, just one of the many activities being held to celebrate this event; and

WHEREAS, founded in 1899, NNL is the umbrella organization for all Norwegian groups in the Chicagoland area:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 17, 2004 as NORWEGIAN CONSTITUTION DAY in Illinois, and join the Norwegian-American community in honoring this day of community pride and unity.

Issued by the Governor May 4, 2004.

PROCLAMATIONS

Filed by the Secretary of State May 5, 2004.

2004-131**Boat Smart. Boat Safe. Wear It Week**

WHEREAS, the North American Safe Boating Campaign, sponsored by the National Safe Boating Council, the United States Coast Guard, and several other American and Canadian organizations, educates recreational boaters on the rules and procedures of safe boating; and

WHEREAS, National Safe Boating Week traditionally marks the start of the campaign and “highlights the need for boaters to take command of their safety by wearing a life jacket at all times while on the water;” and

WHEREAS, drowning remains the number one cause of death among victims of fatal boating accidents. In 2002, there were 5,705 boating accidents in the United States and its territories, of these, 750 were fatal, according to the most recent statistics issued by the United States Coast Guard; and

WHEREAS, in Illinois alone, there were 134 accidents and 24 fatalities, ranking the State among the top ten for boating fatalities in 2002; and

WHEREAS, the vast majority of boating accidents are caused by operator controllable factors like capsizing or falling overboard. In fact, of the 750 fatality cases reported, 591 people were not wearing a life jacket; and

WHEREAS, there are five tips for boating safely: wear your life jacket, stay sober, take a safe boating course, get your boat checked (the Coast Guard Auxiliary offers a free vessel safety check), and be aware of carbon monoxide, a poisonous gas that is odorless, colorless, and can be lethal:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 22 – 28, 2004 as BOAT SMART. BOAT SAFE. WEAR IT WEEK in Illinois and encourage all citizens to help reduce fatalities on our waterways by practicing safe boating habits.

Issued by the Governor May 6, 2004.

Filed by the Secretary of State May 7, 2004.

ILLINOIS ADMINISTRATIVE CODE

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