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RULES OF GOVERNMENTAL AGENCIES

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TABLE OF CONTENTS

June 23, 2006 Volume 30, Issue 25

PROPOSED RULES
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF
Illinois Credit Union Act
38 Ill. Adm. Code 190 10622
Illinois Banking Act
38 Ill. Adm. Code 365 10689
Illinois Savings and Loan Act
38 Ill. Adm. Code 1000 10694
Savings Bank Act
38 Ill. Adm. Code 1075 10772
Insurance Companies Originating Payday Loans
50 Ill. Adm. Code 902 10988
Accident and Health Reserves
50 Ill. Adm. Code 2004 10993
NATURAL RESOURCES, DEPARTMENT OF
Duck, Goose and Coot Hunting
17 Ill. Adm. Code 590 11000
REVENUE, ILLINOIS DEPARTMENT OF
Informal Conference Board
86 Ill. Adm. Code 215 11062
ADOPTED RULES
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF
Real Estate License Act of 2000
68 Ill. Adm. Code 1450 11075
HUMAN SERVICES, DEPARTMENT OF
Child Care
89 Ill. Adm. Code 50 11190
Temporary Assistance for Needy Families
89 Ill. Adm. Code 112 11202
Food Stamps
89 Ill. Adm. Code 121 11236
STATE TOLL HIGHWAY AUTHORITY, ILLINOIS
Americans With Disabilities Act Grievance Procedure
4 Ill. Adm. Code 1750 11253
State Toll Highway Rules (Repealer)
92 Ill. Adm. Code 2520 11261
State Toll Highway Rules
92 Ill. Adm. Code 2520 11264
SECRETARY OF STATE, OFFICE OF THE
Cancellation, Revocation or Suspension of Licenses or Permits
92 Ill. Adm. Code 1040 11299
SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES
Second Notices Received.....11308
REGULATORY AGENDA
AGING, DEPARTMENT ON
Americans With Disabilities Act Grievance Procedure
4 Ill. Adm. Code 1725 11309
STATE UNIVERSITIES CIVIL SERVICE SYSTEM
State Universities Civil Service System
80 Ill. Adm. Code 250 11314
TRANSPORTATION, ILLINOIS DEPARTMENT OF
Minimum Safety Standards for Construction of Type I School Buses
92 Ill. Adm. Code 440 11317
NOTICES OF AGENCY RESPONSES TO JOINT COMMITTEE ON ADMINISTRATIVE RULES OBJECTIONS TO EMERGENCY/PROPOSED RULEMAKINGS
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF
Real Estate License Act of 2000 (Proposed)
68 Ill. Adm. Code 1450 11323
HUMAN SERVICES, DEPARTMENT OF
Crisis Assistance (Emergency)
89 Ill. Adm. Code 116 11324
NOTICE REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER
POLLUTION CONTROL BOARD
Notice of Public Information Pursuant to 415 ILCS 5/7.2(b).....11325
EXECUTIVE ORDERS AND PROCLAMATIONS
PROCLAMATIONS
Cultural Month of Michoacan
2006-210.....11326
The 130th Anniversary of the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine For North America Day
2006-211.....11326
Bethel African Methodist Episcopal Church
2006-212.....11327
National Flag Day
2006-213.....11328
Helen Keller Deaf-Blind Awareness Week
2006-214.....11329
Southern Illinois Bluegrass and BBQ Festival Day
2006-215.....11330
National Clean Beaches Week
2006-216.....11330
Quebec Week
2006-217.....11331
Elzie L. Higginbottom Day
2006-218.....11332

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Credit Union Act

2) Code Citation: 38 Ill. Adm. Code 190

3)

Section Numbers:	Proposed Action:
190.2	Amendment
190.10	Amendment
190.20	Amendment
190.30	Amendment
190.40	Amendment
190.50	Amendment
190.60	Amendment
190.70	Amendment
190.80	Amendment
190.90	Amendment
190.100	Amendment
190.110	Amendment
190.120	Amendment
190.130	Amendment
190.140	Amendment
190.150	Amendment
190.165	Amendment
190.180	Amendment
190.190	Amendment
190.200	Amendment
190.500	Amendment
190.565	Amendment
190.580	Amendment
190.600	New Section
190.605	New Section
190.610	New Section

4) Statutory Authority: Payday Loan Reform Act [815 ILCS 122] and Illinois Credit Union Act [205 ILCS 305]

5) A Complete Description of the Subjects and Issues Involved: The Payday Loan Reform Act requires the Department to promulgate regulatory standards that address a number of business practices concerning payday loans.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

The rulemaking also reflects nonsubstantive changes made as a result of Executive Order 2004-6 that reorganized agencies by transferring functions of the Departments of Financial Institutions, Insurance and Professional Regulation and the Office of Banks & Real Estate into the Department of Financial and Professional Regulation.

6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None

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

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786

217/785-0813

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

13) 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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was inadvertently not included on either of the 2 most recent regulatory agendas because: the Division did not anticipate the need to promulgate regulatory standards to implement the Payday Loan Reform Act.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 190
ILLINOIS CREDIT UNION ACT

SUBPART A: GENERAL PROVISIONS

Section
190.2 Definitions
190.5 Credit Union Service Organizations
190.10 Field of Membership Procedures
190.20 Hearings
190.30 Cease and Desist Procedures
190.40 Removal or Suspension Procedures
190.50 Fees
190.60 General Accounting Procedures
190.70 Loan Loss Accounting Procedures
190.80 Use of Electronic Data Processing
190.90 Fixed Asset Investments
190.100 Classes of Share and Special Purpose Share Accounts
190.110 Share Drafts
190.120 Bond and Insurance Requirements
190.130 Verification of Share and Loan Accounts
190.140 Real Estate Lending
190.150 Reverse Mortgage
190.160 Lending Limits – Consumer Loans
190.165 Business Loans
190.170 Group Purchasing
190.180 Investments
190.190 Liquidation
190.200 Conversion of Charter
190.210 Reimbursement for Financial Records
190.220 Registration of Out of State Credit Unions

SUBPART B: HIGH RISK HOME LOANS

Section
190.500 Definitions
190.505 Applicability of Rule

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

190.510 Good Faith Requirements
190.515 Fraudulent or Deceptive Practices
190.520 Prohibited Refinances
190.525 Negative Amortization
190.530 Negative Equity
190.535 Balloon Payments
190.540 Financing of Certain Points and Fees
190.545 Financing of Single Premium Insurance Products
190.550 Lending Without Due Regard to Ability to Repay
190.555 Verification of Ability to Repay
190.560 Payments to Contractors
190.565 Counseling Prior to Perfecting Foreclosure
190.570 Mortgage Awareness Program
190.575 Offer of Mortgage Awareness Program
190.580 Third Party Review

SUBPART C: PAYDAY LOANS

Section
190.600 Definitions
190.605 Applicability of Rule
190.610 Issuance of Payday Loans by Credit Unions

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

AUTHORITY: Implementing and authorized by the Illinois Credit Union Act [205 ILCS 305].

SOURCE: Adopted at 4 Ill. Reg. 20, p. 17, effective May 7, 1980; amended at 6 Ill. Reg. 11154, effective September 7, 1982; amended and codified at 7 Ill. Reg. 14973, effective October 26, 1983; emergency amendment at 9 Ill. Reg. 14378, effective September 11, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 16231, effective October 10, 1985; amended at 10 Ill. Reg. 14667, effective August 27, 1986; amended at 12 Ill. Reg. 10464, effective June 7, 1988; amended at 12 Ill. Reg. 17383, effective October 24, 1988; amended at 13 Ill. Reg. 3793, effective March 10, 1989; amended at 13 Ill. Reg. 15998, effective October 2, 1989; emergency amendment at 16 Ill. Reg. 12781, effective July 29, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17073, effective October 26, 1992; amended at 19 Ill. Reg. 2826, effective February 24, 1995; amended at 20 Ill. Reg. 5803, effective April 8, 1996; emergency amendment at 20 Ill. Reg. 13093, effective September 27, 1996, for a maximum of 150 days; emergency expired February 17, 1997; amended at 22 Ill. Reg. 17317, effective September 15, 1998;

emergency amendment at 23 Ill. Reg. 3086, effective February 23, 1999, for a maximum of 150 days; emergency expired July 22, 1999; amended at 23 Ill. Reg. 12614, effective October 4, 1999; amended at 23 Ill. Reg. 14031, effective November 12, 1999; amended at 25 Ill. Reg. 6244, effective May 17, 2001; amended at 25 Ill. Reg. 13278, effective October 19, 2001; amended at 26 Ill. Reg. 17999, effective December 9, 2002; amended at 28 Ill. Reg. 11699, effective July 29, 2004; amended at 29 Ill. Reg. 10579, effective July 8, 2005; amended at 30 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 190.2 Definitions

For purposes of the Illinois Credit Union Act and this Part, the words and phrases defined in this Section shall have the meanings ascribed to them unless the context requires otherwise.

"Act" means the Illinois Credit Union Act [205 ILCS 305].

"Credit union" means a credit union chartered under the Illinois Credit Union Act, or, as the context permits, under the Federal Credit Union Act or the laws of any state.

"Department" means the Illinois Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division ~~Illinois Department~~ of Financial Institutions.

"Division" means the Department of Financial and Professional Regulation-Division of Financial Institutions.

"Net worth" means retained earnings, as defined under generally accepted accounting principles (Wiley GAAP, published by John Wiley & Sons, 605 Third Avenue, New York NY 110158-0012, 2002, no later editions or amendments included), and secondary capital.

"Retained earnings" includes undivided earnings, regular reserve, other reserves, and any other appropriations designated by management or regulatory authorities.

"Secondary capital" means a secondary capital account or other form of

non-share account, including without limitation a debt instrument, subject to the following conditions:

The maturity or the account shall not be less than three years and the account shall not be redeemable prior to maturity or the expiration of a minimum withdrawal notice period of three years.

The account shall not be insured by the National Credit Union Share Insurance Fund or any governmental or private entity.

The account holder's claim against the credit union must be subordinate to all other claims, including shareholders, creditors and the National Credit Union Share Insurance Fund.

Funds in the account, including interest accrued and paid into the account, must be available to cover operating losses realized by the credit union that exceed its net available reserves and undivided earnings. In lieu of being paid into the account, interest may be paid directly to the account holder or into a separate account from which the account holder may make withdrawals. Losses shall be distributed pro-rata among all secondary capital accounts held by the credit union at the time losses are realized.

The account may not be pledged or provided by the account holder as security on a loan or obligation with the credit union or any other party.

In the event of liquidation of the credit union, the accounts will, to the extent they are not needed to cover losses at the time of liquidation, be paid out to the account holder.

"Paid-in and unimpaired capital" or "unimpaired capital" means shares as defined in Section 1.1 of the Illinois Credit Union Act.

"Person" or "persons" means individuals and bodies politic and corporate, including without limitation corporations, limited liability companies, general partnerships, limited partnerships and joint ventures; unless, from the context and facts, the intention is plain to apply only to individuals. Persons who reside in or live in a geographical area include non-natural persons located within the geographical area.

"State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any of the several territories and possessions of the United States.

"Surplus" means undivided earnings.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.10 Field of Membership Procedures

a) All requests to amend the field of membership of a credit union must be in writing and provide sufficient detail to establish conformance with a definition of common bond as specified in Section 1.1 of the Illinois Credit Union Act (the ~~The~~ Act) [205 ILCS 305]~~(Ill. Rev. Stat. 1987, ch. 17, par. 4402)~~. At a minimum this detail must include a definition of the common bond, number of individuals and demographics of potential members, and a letter of support from a sponsor organization, association, or employer if applicable.

b) To change field of membership a credit union must amend its by-laws and articles of incorporation on forms provided by the Division~~Department~~. These amendments require the Director's approval prior to becoming effective.

c) The Division~~Department~~, in administering the common bond requirement of the Act, will evaluate changes to existing or establishment of new fields of membership caused by new charters, conversion, or changes in existing by-laws in accordance with the following criteria:

1) Each credit union must have a field of membership consisting of one or more of the following common bonds: association, occupation or community. A central credit union or a corporate credit union may serve only those groups or persons specified in the Act and its by-laws and Statement of Incorporation.

2) The common bond must conform to the Act and include some unifying factor which links and distinguishes a field of membership from the general public. A generalized common belief, philosophy, or agreement, is not in itself a sufficient basis for a common bond.

3) In determining whether a change in a field of membership is appropriate,

the Division ~~Department~~ also shall consider:

A) the specific circumstances which govern each request;

B) the original assumptions and circumstances of the common bond when the charter was granted;

C) the sponsoring organization's knowledge of and support for the request;

D) the credit union's demonstrated ability to fully serve its existing field in a safe and sound manner.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.20 Hearings

a) Upon written request, made within 90 days after any administrative action or regulatory decision made pursuant to the Act, the Director will authorize a formal hearing to review the propriety of administrative actions and regulatory decisions by issuing a notice of hearing.

b) The notice shall be served personally or by certified or registered mail or as otherwise provided by law upon the parties or their agents appointed to receive service of process and shall include the following:

1) A statement of the time, place, and nature of the hearing.

2) A statement of the legal authority and jurisdiction under which the hearing is to be held.

3) A reference to the particular Sections of the substantive and procedural statutes and rules involved.

4) Except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or other reference number.

5) The names and mailing addresses of the hearing officer, all parties, and all other persons to whom the agency gives notice of the hearing, unless

otherwise confidential by law.

c) An opportunity shall be afforded all parties to be represented by legal counsel and to respond and present evidence and argument.

d) Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

e) Hearing Officers.

1) The hearing officer designated by the Director shall be an attorney licensed to practice in Illinois and shall have the authority to:

A) examine or permit examination of any witness under oath;

B) determine the order of appearance of all parties;

C) receive all evidence and testimony and rule on its admissibility as well as require the production of any relevant document or witness;

D) rule on objections to evidence; and

E) make a written report with recommendations to the Director which shall include findings of fact and conclusions of law with respect to the claim. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

2) Petitioner or Respondent may petition the Director to disqualify the appointed hearing officer for bias or conflict of interest by presenting the Director with convincing and compelling evidence of the hearing officer's bias or conflict of interest. An adverse ruling shall not constitute bias or conflict of interest.

f) General Provisions.

1) When a hearing is scheduled pursuant to this Part, the petitioner or his attorney shall be notified by certified or registered mail, return receipt requested, at least ten days prior to the date set for the hearing. Delivery of notice to the United States Postal Service shall constitute delivery.

2) A continuance shall be granted for good cause by the hearing officer. The continuance shall be:

A) in writing, in duplicate and signed by the petitioner or his attorney and shall state the reasons for the request;

B) delivered to the hearing officer at least three days prior to the scheduled hearing.

3) For the purposes of subsection (f)(2), good cause shall require the Petitioner to demonstrate real and compelling need for additional time. It shall include but not be limited to illness, service in the armed forces, etc.

4) Failure to attend a hearing shall result in the dismissal of the party's petition and the assessment of the costs for such a hearing upon the party. A person whose petition has been so dismissed shall not resubmit until the assessed costs have been paid.

5) Any party to a proceeding may order a court reporter to transcribe the proceeding. If the petitioner makes the request, he or she shall pay all costs associated with the transcript. If the court reporter is ordered by the hearing officer, any party may purchase a transcript.

6) The Director shall assess all costs and attorneys' fees against any party who has unreasonably delayed a proceeding or has filed a claim in bad faith. "Unreasonable delay of a proceeding" shall be determined to exist upon a preponderance of evidence indicating that the petitioner is purposely delaying the hearing either actively or through inattention to detail. A determination of "filing a claim in bad faith" requires a preponderance of evidence that the hearing petition was filed merely to stay Division~~Department~~ action with no intent for expeditious resolution of the contested issue.

g) Conduct of Hearings.

1) The hearing officer shall open the hearing by presenting for the record his or her letter of authorization from the Director.

2) The rules of evidence and privilege as applied in civil cases in Illinois~~the~~ Circuit Courts ~~of this State~~ shall be followed. The hearing officer may

admit evidence not admissible under those rules if such evidence could be relevant to the case. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence not admissible under those rules of evidence may be admitted (except where precluded by statute) if it is a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.

3) The hearing officer may on his or her own motion or the motion of one of the parties take notice of matters of which Illinois~~the~~ Circuit Courts ~~of this State~~ may take judicial notice. *Notice may be taken of generally recognized technical or scientific facts within the* Division's~~Department's~~ *specialized knowledge if parties are notified, before or during the hearing, and if afforded an opportunity to contest the material so noticed* [5 ILCS 100/10-40(c)]. The burden of opposing any material admitted upon notice shall be upon the party so opposing.

4) No Division~~Department~~ employee or hearing officer shall, after notice of a hearing, communicate with any party or his attorney in connection with any issue in the hearing except upon notice and opportunity for all parties to participate.

5) The record of any hearing shall include:

A) all pleadings, and evidence received whether admitted or excluded;

B) a statement of all matters officially noticed;

C) all offers of proof, objections and rulings thereon;

D) all proposed findings and exceptions;

E) any decision, opinion, or report by the hearing officer;

F) any communication prohibited by this Part, although the communication shall not form the basis for any finding of fact;

G) any evidence excluded by the hearing officer, even though such

evidence is not used in the determination of the claim;

H) a proceeding transcript recorded by any means that will adequately insure the preservation of the testimony.

6) Within 90 days after the hearing or the receipt of all necessary documents, the hearing officer shall report to the Director, pursuant to 38 Ill. Adm. Code 190.20.

7) Within 30 days after receiving the report of the hearing officer, the Director shall issue a decision, which shall be served on claimant and other parties personally or by registered or certified mail, return receipt requested. Copies of the hearing officer's report to the Director are available upon written request.

h) Petition to Reconsider.

1) Within 30 days after receipt of the Director's decision, any party may petition the Director for reconsideration based upon a verified petition. An affidavit shall accompany the petition stating that the decision was against the manifest weight of the evidence, was contrary to law, or was arbitrary or capricious, and is affected by newly discovered evidence not in existence at the time of the initial hearing or which could not have been discovered using due diligence at that time.

2) The Director shall determine within 15 days whether to reconsider the case. If reconsideration is allowed, a hearing shall be held pursuant to this Part and shall be limited to the issues raised by the petition and affidavit. If reconsideration is denied, the Director's initial decision shall be the final administrative decision of the Division~~Department~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.30 Cease and Desist Procedures

a) *The Director shall issue a cease and desist order to any credit union which either willfully violates or the Director has reasonable cause to believe is about to violate the Act or rules or any condition imposed in writing by the* Division~~Department~~ *or commits random violations which jeopardize the safety and soundness of the credit union.* Such Order shall be sent to the Chairman of

the credit union by certified mail with a copy to each member of the Board of Directors.

b) Within 10 days of the receipt of the Order, the credit union shall respond in writing to request a review of such exceptions. If no response is received, or the Order is agreed to in writing, the credit union shall be deemed to have consented to the issuance of the cease and desist order.

c) If a review of the Order is requested in writing by the credit union and after such review of the circumstances and record by the Director or his designated agent, the Director finds a circumstance described in Section 8(4) of the Illinois Credit Union Act [205 ILCS 305/8(4)]~~(Ill. Rev. Stat. 1981, ch. 17, par. 4409(4))~~, then the Director shall issue or extend as appropriate an order to cease and desist to the credit union from any such practice or violation. Such order shall require the credit union and its directors, officers, committee members, employees and agents to cease and desist from such violations and to take affirmative action to correct the conditions resulting from any such violation. If the credit union has specific grounds for believing that the evidence upon which the order is based is not factual then the credit union may request a formal hearing under 38 Ill. Adm. Code 190.20.

d) A cease and desist order shall become effective upon receipt by the credit union and shall remain effective until it is terminated by action of the Director or a reviewing court. Delivery to the United States Postal Service shall be presumed to constitute delivery to the credit union.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.40 Removal or Suspension Procedures

a) Under circumstances as described in Section 8(5) of the Illinois Credit Union Act [205 ILCS 305/8(5)]~~(Ill. Rev. Stat. 1991, ch. 17, par. 4409(5))~~, the Director or his agent shall issue and serve upon a director, officer or committee member a written Order of Suspension to remove the named persons~~person(s)~~ from office and/or to prohibit their further participation in any manner in the conduct of the affairs of such credit union.

b) Such Order, which shall contain a statement of the facts constituting the grounds therefore, shall be sent by certified mail to the Chairman with a copy to each member of the affected credit union's Board of Directors and the President, if not

a director and shall become effective upon service and, unless stayed by a court, shall remain in effect pending the completion of administrative procedings as outlined herein.

c) Within 15 days of the mailing of the Order, the named persons~~person(s)~~ shall respond in writing to request an Administrative review of the Order. If no response is received or the Order is agreed to in writing, the persons~~person(s)~~ shall be deemed to have consented to the issuance of an Order of Suspension thereby prohibiting the named individuals from further participation in any manner in the conduct of affairs of any credit union chartered under the Act. Such order shall remain effective until it is terminated by action of the Director or reviewing court.

d) Within 10 days of receipt of the conclusions of the administrative review by the Director, if the persons~~person(s)~~ named have specific grounds for believing that the evidence upon which the order is based is not factual then the person(s) may request a formal hearing under 38 Ill. Adm. Code 190.20.

e) In the event that all of the directors of a credit union are suspended or removed, the Director, under authority of Section 61(4) of the Illinois Credit Union Act[205 ILCS 305/61(4)]~~(Ill. Rev. Stat. 1991, ch. 17, par 4462(4))~~, shall appoint a Manager-Trustee to manage the affairs of the credit union until such time as the Director appoints interim successors to the directors to serve until the next annual members meeting.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.50 Fees

The schedule of annual regulatory fees is contained in Section 12 of the Illinois Credit Union Act. In addition, pursuant to Sections 8 and 9 of the Illinois Credit Union Act, the Director prescribes the following fees:

a) Service Fee Charges:

1) Investigation of application for permission to organize a new credit union $250

2) Preparation and/or approval of an amendment to the Articles of Incorporation or to the By-

Laws:

Other than to add or convert to a community common bond:

Credit unions with assets less than $5 million..... $10

Credit unions with assets of $5 million and less than $30 million..... $15

Credit unions with assets of $30 million and greater..... $25

To add or convert to a community common bond (irrespective of credit union asset size) $250

3) Preparation and/or approval of standard revised set of By-Laws..... $50

4) Preparation and/or approval of non-standard revised set of By-Laws (excluding individual or minor revisions)..... $250

5) Photocopy of any documents per page $1

6) Late filing of any report for each day late (excluding 5300 Reports):

Credit unions with assets less than $5 million $15

Credit unions with assets of $5 million and less than $30 million $25

Credit unions with assets of $30 million and greater..... $50

7) Late filing of any 5300 Report for any credit union for each day late:

Credit unions with assets less than $5 million..... $25

Credit unions with assets of $5 million and greater $50

8) Preparation of a list of credit unions by name and address..... $100

9) Credit Union Act, Rules & Regulations and standard By-Laws in hardback binder $200

Credit Union Act (no binder) $50

Rules & Regulations (no binder)..... $50

Standard By-Laws (no binder) $50

Hardback Binder..... $50

b) Mergers, Conversions, Investigations, Hearings and Failure to Maintain Books:

1) Supervision of merger or conversion, including completion of transfer of accounting records of merging credit union to surviving credit union's records (excluding involuntary or unsolicited mergers for which there shall be no fee)..... $250

2) Special investigation or examination of a credit union when the opinion of the Director, there is reasonable cause to believe the credit union is engaged or has engaged, or is about to engage in an unsafe or unsound practice, or is violating or has violated a law, rule or regulation or any condition imposed in writing by the Division~~Department~~, or to enable the Director to determine the safety of a credit union's operation or its solvency.

Charge per examiner per day or part thereof *$190

*Provided that such charges may not exceed the annual regulatory fee provided in Section 12 of the Illinois Credit Union Act for an annual examination.

3) The cost of any formal hearing requested by a credit union in accordance with procedures in 38 Ill. Adm. Code 190.20 will be assessed by the Director.

4) A credit union failing to have its books and records available and currently posted* when contacted by the Division's ~~Department's~~ examiner for examination, resulting in the Division's ~~Department's~~ inability to conduct the examination, will be assessed a fee of:

Credit unions with assets of less than $1 million $50

Credit unions with assets of $1 million and less than $5 million $100

Credit unions with assets of $5 million and less than $10 million $250

Credit unions with assets of $10 million and less than $30 million $500

Credit unions with assets of $30 million and less than $100 million $1,000

Credit unions with assets of $100 million and less than $500 million $2,500

Credit unions with assets of $500 million and greater..... $5,000

*Currently posted means that the accounts are posted by the 15th of the following month.

The fee authorized under this subsection (b)(4) shall not be assessed if an immaterial number of accounts is not posted by the 15th day of the following month, as determined under generally accepted accounting principles (Wiley GAAP, published by John Wiley & Sons, 605 Third

Avenue, New York NY 110158-0012, 2002, no later editions or amendments included), or more frequently than annually.

c) Payment:

1) A credit union shall pay any fee listed in subsections (a) and (b) of this Section no later then 20 days after receipt of an invoice from the Division~~Department~~.

2) Individuals, partnerships or other corporations shall pay in advance any fee to be charged for the preparation of the work requested. The Division~~Department~~, upon request, shall provide an estimated cost of the work requested.

3) Fees shall be waived by the Director for forms and copies supplied to another agency of government or where the fee was not imposed according to the Act or this Part. Fees listed in subsections (a) and (b) of this Section may be waived, in whole or in part, by the Director, upon a showing by the credit union satisfactory to the Director that the imposition of the fee in the particular case would be inequitable or create a hardship for the credit union.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.60 General Accounting Procedures

a) All credit unions will maintain their books and records in accordance with generally accepted accounting principles (Wiley GAAP, published by John Wiley & Son, 605 Third Avenue, New York NY 110158-0112, 2002, no later editions or amendments included), and in such a manner as to provided an accurate report of financial condition, with the exception of the selection of the accounting method to be used or when otherwise directed by statutory requirements. In the event that a credit union is using the modified cash basis of accounting, and the Director determines that such method causes a material misstatement of the financial condition of the credit union, he shall require that the credit union convert to the full accrual method of accounting except where factors such as prohibitive cost or lack of expertise are evident. The Division~~Department~~ shall notify in writing any credit union required to convert to the full accrual method and provide 60 days to review and respond.

b) If the credit union does not concur with the Division's~~Department's~~ requirement, it may request a formal hearing under 38 Ill. Adm. Code 190.20. The order to change accounting procedures is stayed pending the final outcome of the hearing.

c) Regardless of the method of accounting in use, the following items must be accrued or amortized:

1) Dividends on Classes of Shares;

2) Premiums and Discounts on purchased investments;

3) Depreciation of Fixed Assets;

4) Interest on investments when paid less frequently than once a year.

d) If a credit union uses the accrual method to recognize interest income on consumer loans, such accrual must be stopped and income recognized on a cash basis whenever the borrower is three months or more delinquent in contractual payments.

e) Credit unions' charts of accounts must be kept in sufficient detail to allow accurate and full completion of all reports required by Section 9 of the Act [205 ILCS 305/9].

f) Pursuant to the authority granted the Director by Section 60(B) of the Act [205 ILCS 305/60] to decrease the reserve requirement set forth in Section 60(A) of the Act, a credit union is exempt from the reserve requirement of Section 60(A) provided:

1) The credit union's net worth to asset ratio is 7% or greater; or

2) If the credit union's net worth to asset ratio at the end of a calendar quarter is less than 7%, the credit union transfers an amount equal to .1% of the credit union's assets from undivided earnings to regular reserve at the end of the next calendar quarter and quarterly thereafter until the net worth to assets ratio is equal to or greater then 7%.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.70 Loan Loss Accounting Procedures

a) For the purpose of absorbing and reporting loan losses, all credit unions must establish, at a minimum, the following accounts in the general ledger:

1) Allowance for Loan Losses – A portion of the statutory Regular Reserve segregated and reported as a direct reduction of loans.

2) Provision for Loan Losses – An expense account, immediately preceding dividend expense, used to reflect the cost of losses on loans. At a minimum, adjustments to the allowance for loan losses shall be made prior to the distribution or posting of any dividend to the accounts of members so that the valuation allowance for loan losses established fairly presents the value of loans and probable losses for all categories of loans. The allowance for loan losses must encompass:

A) specifically identified substandard doubtful or loss loans;

B) pools of classified loans;

C) pools of unclassified loans (consumer, credit card, mortgage, business, etc.); and

D) a general portion, as needed, for all other loans and credit instruments.

b) The Allowance for Loan Losses (ALL) is initially established by a one-time transfer from the Regular Reserve (RR). The portion of the ALL adjustment that is attributable to the initial adoption of the Individual Classification method may be made through a one time entry to the undivided earnings account and shall only be permitted as a result of a statutory examination. Any subsequent replenishment of the ALL must be expensed using the Provision for Loan Losses (PLL) Account. Except as provided herein no subsequent transfer from the Regular Reserve is permitted after the initial establishment of the Allowance for Loan Losses. The ALL shall be maintained at a level equivalent to an amount computed using both the past five calendar years average loss ratio and an individual classification of probable losses for all consumer and real estate loans. Pursuant to subsection (a)(2)(C), if a pool consists of a large group of smaller balance homogeneous loans, a credit union may utilize an estimated loss percentage on the pool to be determined by collectively evaluating the pool of loans for impairment, as permitted by generally accepted accounting principles

(GAAP) (Miller, Comprehensive GAAP Guide, Harcourt, Brace & Co., 6277 Sea Harbor Dr., Orlando FL 32877, 1997 (no subsequent dates or editions)). The portion of the ALL attributable to the pool of loans may be determined by applying the estimated loss percentage to the total outstanding balance of the loans comprising the pool instead of individually classifying delinquent loans in the pool. An individual loan within a smaller balance homogeneous loan pool shall not exceed a credit union's unsecured lending limits set forth in Section 190.160. Separate ALL's shall be established for loans secured by real estate and for those loans not so secured.

c) Delinquency is defined as the failure to make a required payment on or before the contractual due date. Loans delinquent more than 60 days, bankruptcy and loans that exhibit deficiencies that impair their full collectibility shall be classified as either substandard, doubtful or loss.

1) Substandard Loans – A substandard loan is one that is inadequately protected by the current sound worth and paying capacity of the obligee or of the collateral pledged. Loans classified as substandard have a well defined weakness or weaknesses that jeopardized the liquidation of the debt. They are characterized by the distinct possibility that the credit union will sustain some loss if the deficiencies are not corrected. Loans in this category shall generally be listed in a range from zero to under 50 percent potential loss.

2) Doubtful Loans – A loan classified doubtful has all the weaknesses inherent in a loan classified substandard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions and values, highly questionable and improbable. The possibility of loss is extremely high, but because of certain important and reasonable specific pending factors which may work to the advantage and strengthening of the loan, its classification as an estimated loss is deferred until a more exact status may be determined. Loans in this category shall be listed at a minimum 50 percent potential loss.

3) Loss Loans – Loans classified as loss loans are considered uncollectible and shall be listed at 100 percent potential loss. Loans considered loss loans include, but are not limited to:

A) Any loan 180 days or more delinquent without a payment of at

least 75% of the contractual payment within the last 90 days. Involuntary transfers from shares and proceeds from the sale of collateral and insurance settlement shall not be considered as payments.

B) Any loan that is 180 days or more delinquent and referred to an attorney or a collection agency.

C) Any loan which was previously 180 days or more delinquent, has been refinanced or extended and has subsequently become 90 days or more delinquent. In instances where a delinquent loan is refinanced or extended and does not fully and fairly disclose the delinquency as determined in a statutory examination of the credit union, the loan shall be immediately classified as a loss loan.

D) Any loan with respect to which the borrower has filed a Chapter 7 bankruptcy petition and has been granted a discharge by the court.

E) Any loan with respect to which the borrower has filed a Chapter 13 bankruptcy and the credit union has not received a payment within 180 days or more after the confirmation of the plan, unless the plan stipulates repayment of the loan in full and the credit union has determined from the Trustee that plan payments are being made on a timely basis to the Trustee but have not yet been disbursed to the credit union.

F) Any loan with respect to which the borrower's whereabouts is unknown (a "skip") unless there is a comaker whose whereabouts is known and the loan is less than 180 days delinquent.

G) Any loan where a "deficiency balance" has resulted from the sale of collateral or an insurance settlement unless there is documented evidence of periodic payments on a consistent basis in an amount sufficient to retire the deficiency balance in a reasonable time.

4) Where there is evidence of collectibility of loans meeting the loss loans criteria of subsection (c)(3) of this Section, the credit union's records shall list the loans and classify them as substandard or doubtful and detail the evidence of collectibility used to exclude each loan from the loss loan category. Evidence of collectibility shall be the following collection

activities and remedies:

A) Execution and filing of an enforceable reaffirmation agreement on the loan in a Chapter 7 bankruptcy proceeding prior to completion of the Division's~~Department's~~ loan analysis in any statutory examination of the credit union.

B) Voluntary repayment of the loan pursuant to Section 524(f) of the federal Bankruptcy Code (11 USC 524(f)).

C) Collection of the loan pursuant to repossession of collateral without judicial process, or by replevin, detinue, forcible entry and detainer or mortgage foreclosure proceedings.

D) Collection of the loan pursuant to post-judgment enforcement remedies including wage deduction, garnishment and turnover orders entered in citation to discover assets supplementary proceedings.

E) The entry of a judgment pay plan order providing for repayment of the loan in a judicial proceeding.

F) Documented evidence of repayment of that portion of the loan covered by collateral protection or other insurance policies.

G) Documented evidence of periodic payments on a consistent basis in an amount sufficient to retire the loan balance in a reasonable time.

5) The Five Year Average Loss Ratio is computed by dividing a sum not exceeding the total of the past five year's net loan losses by a sum not exceeding the total of the last five year's December 31 loan balances. The resulting ratio is to be multiplied by the total loans outstanding less the loans that have been classified individually or as pools of smaller balance homogeneous loans. Based upon the asset cycle of the credit union, the credit union, after receiving the written approval from the Director, may adjust the historical time period to more accurately reflect the credit union's loan loss experience. A new credit union not having a Five Year Average Loss Ratio for loss loans will be evaluated using available data.

A) Before every dividend declaration or every closing date, all delinquent and bankrupt loans shall be individually classified as either substandard, doubtful or loss. All loans classified as losses must be charged off to the ALL.

B) In calculating the proportion of net income that shall be transferred to the Regular Reserve, any amounts already taken as PLL during the calendar year shall be subtracted from the statutory reserve transfer. In the event the amount of PLL exceeds the statutory reserve transfer that has been calculated, an amount equivalent to the difference between the two shall be transferred from Regular Reserve to Undivided Earnings.

d) Nothing in this Section shall be applicable to the establishment of an Allowance for Loan Losses account for business loans. Business loans shall be classified pursuant to Section 190.165.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.80 Use of Electronic Data Processing

a) A credit union whose records or accounting system is maintained using electronic data processing (EDP) equipment must have such accounts and EDP programs to enable the credit union to complete in an accurate and timely manner all required reports and to maintain its books, records, all subsidiary accounts and management reports, as appropriate, in accordance with the Illinois Credit Union Act and Rules and Regulations promulgated thereunder. Delinquency listings should be completed in accordance with 38 Ill. Adm. Code 190.70.

b) A credit union must notify the Division~~Department~~ in writing ~~forty-five (~~45~~)~~ days prior to implementation of data processing system or conversion to a different system. This notification must include the name of the system and the date of conversion.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.90 Fixed Asset Investments

a) Definitions

"Fixed assets" means premises and furniture, fixtures and equipment, as those terms are defined in this Section:

"Premises" includes any office, branch office, suboffice, service center, parking lot, other facility, or real estate where the credit union transacts or will transact business.

"Furniture, fixtures and equipment" includes all office furnishings, office machines, computer hardware and software, automated terminals, and heating and cooling equipment.

"Investment in fixed assets" means:

any investment in real property (improved or unimproved) that is being used or is intended to be used as premises, excluding premises leased for five years or less;

any leasehold improvement on premises;

the present value of the aggregate of all capital lease payments pursuant to lease agreements for fixed assets, excluding lease payments for premises leased for five years or less;

any investment in the bonds, stock, debentures, or other obligations of a partnership or corporation or limited liability entity, including a credit union service organization, holding any fixed assets used by the credit union and any loans to such partnership or corporation or limited liability entity; and

any investment in furniture, fixtures and equipment.

"Retained earnings" includes undivided earnings, regular reserve, other reserves, and any other appropriations designated by management or regulatory authorities.

b) Investment in Fixed Assets

1) Credit unions with assets of less than $1,000,000 that choose to invest in premises must apply to the Division~~Department~~ for approval.

2) Credit unions with assets of $1,000,000 or more may invest in fixed

assets, without the prior approval of the Division~~Department~~, subject to the following conditions:

A) the aggregate amount of the investments does not exceed the lesser of 70% of the credit union's retained earnings or 6% of total assets; or

B) the aggregate amount of the investments exceeds the lesser of 70% of the credit union's retained earnings or 6% of total assets, provided the credit union has:

i) a current net worth of 9% or, if applicable, 200 basis points over its risk based net worth level, whichever is higher;

ii) a composite CAMEL rating of 1 or 2 for 2 consecutive examinations; and

iii) a consistency in management evidenced by retention of the same chief management official during the 2-year period preceding the subject fixed asset investment.

c) Whenever a fixed asset investment in premises does not require Division~~Department~~ approval, the credit union shall give the Division~~Department~~ notice of the credit union's intent to make the investment, at least 14 days prior to becoming obligated on the investment in premises. The notice to the Division~~Department~~ shall include the following information:

1) the credit union's calculation of its total fixed asset investment authority;

2) the estimated total cost of the planned fixed asset investment in premises;

3) a general description of the planned fixed asset investment in premises.

Notice under this subsection (c) is effective as of the date the notice is transmitted from the credit union.

d) Credit unions with assets of less than $1,000,000 seeking to invest in premises or credit unions with assets of $1,000,000 or more seeking to invest in fixed assets in an amount that exceeds the lesser of 70% of retained earnings or 6% of total assets and not exempted from obtaining approval by subsection (b)(2)(B) of this

Section must submit to the Division~~Department~~ an application for approval. The application for approval must contain the following minimum supporting documentation:

1) why the purchase and/or lease is necessary to serve the credit union's members;

2) details of the proposed transaction including:

A) location and full description of the fixed asset;

B) if a purchase of premises is involved, current valuation by an independent appraiser;

C) purchase price or lease details;

D) current owners and their relationship to the credit union or to any members of the credit union;

E) how the project will be financed;

F) if a purchase, lease or improvement of premises is involved, a summary of planned due diligence inspections to verify building, building line and use or occupancy restrictions; conditions and covenants on record; zoning laws and ordinances; easements for public utilities; and other matters pertinent to the transaction; and

G) evidence that the increase in operating expenses caused by the project can be supported after accounting for the current level of expenses and dividend commitments;

3) the credit union's latest balance sheet, income statement and loan delinquency report;

4) a certified copy of Board minutes that contain approval for the project.

e) The Division~~Department~~ shall respond to applications for approval of fixed asset investments as follows:

1) The Division~~Department~~ shall inform the credit union applicant, in

writing, of the date the letter of application was received.

2) Approval of applications shall be given in writing once it is determined by the Division~~Department~~ that the proposal will not adversely affect the credit union's financial position. The determination will be based on the past history, current financial condition, projections of the credit union, and whether the increase of operating expenses caused by the project can be supported after accounting for the current level of expense, dividend and reserve commitments.

3) An approval will state a dollar amount or percentage of retained earnings that may be invested in fixed assets by the credit union.

4) The Division~~Department~~ shall provide to credit union applicants written notification of action taken within 45 calendar days after receipt of the complete package of supporting documentation from the credit union. If the credit union does not receive written notification of the action taken within 45 calendar days after the date the complete package of supporting documentation was received by the Division~~Department~~, the credit union may proceed with its proposed investment in fixed assets.

f) A credit union that has received approval for a specific fixed asset transaction from the Division~~Department~~ prior to the date of promulgation of amendments to this Section shall continue to be eligible to consummate the transaction after such date of promulgation, without further Division~~Department~~ approval.

g) In recording all transactions for fixed assets, generally accepted accounting principles will be followed (Wiley GAAP, published by John Wiley & Sons, 605 Third Avenue, New York NY 10158-0012, 2002 edition, no subsequent dates or editions).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.100 Classes of Share and Special Purpose Share Accounts

a) Any account which is not a common share account shall be considered as a class of share or special purpose share account as applicable. Section 38 of the Illinois Credit Union Act [205 ILCS 305/38] ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4439)~~ requires dividends to be declared and distributed ratably among holders of share accounts of the same class. Variable rate dividends can be declared on common

shares with the dividend rates determined by share balance during the dividend period.

b) A credit union may offer class(es) of shares and special purpose share account programs to its members provided that:

1) All specific offerings shall be approved by a resolution of the Board of Directors.

2) Class of share and special purpose share accounts may be issued in the same forms of ownership as common share accounts.

3) The par value of all such classes and special purpose accounts shall be the same as common shares.

4) All such programs are described in writing and prominently displayed in the office(s) of the credit union. Classes shall be designated as Class ONE, TWO etc. All accounts must be made available to members on an equal basis.

5) The terms and conditions of each class or special account must be fully described in writing to the member upon opening an account. Such description shall include how ownership of the share(s) is evidenced, the basis for the calculation and payment of dividends, any applicable penalties, any renewal options and the alternatives for receipt of dividend payments.

6) The credit union's accounting records shall give detailed information on each class, which shall include general ledger accounts for each share account balance, the dividend expense and accrued dividends payable thereon. Consolidation of account detail on classes of shares for reporting on the financial statement is permitted.

7) If a credit union's financial condition prevents payment of dividends on common share accounts, dividends may not be credited or paid on classes or special purpose shares for the same period. In this event, members with class of share accounts may withdraw shares without penalty or loss of dividends which have been paid or credited.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.110 Share Drafts

a) A credit union with total assets of $1 million or less may, upon resolution of the Board of Directors, request ~~Departmental~~ permission of the Division to offer share drafts to their members provided that:

1) the total assets of the credit union are at a sufficient level to support the additional costs of the program;

2) shares are insured by NCUA or other approved insurance programs;

3) the credit union has full time management or is serviced by a center with full time management;

4) has automated record keeping or is serviced by a center with such equipment; and

5) the financial trends of the credit union, including, but not limited to, the loan delinquency, liquidity, reserves, expense and growth ratios, demonstrate the credit union's ability to manage safely a Share Draft Program.

b) The Division ~~Department~~ will respond to all applications within 30 days after~~of~~ receipt. If the application is not approved, the disapproval will identify the financial and/or operation characteristics which must be improved before re-application can be made.

c) A credit union with total assets greater than $1 million may, upon resolution of the Board of Directors, offer share drafts to its members without ~~Departmental~~ permission of the Division.

d) If dividends on the proposed share draft accounts are to be paid at a different rate or calculated on a basis different from existing common share accounts, then in accordance with Section 37 of the Illinois Credit Union Act [205 ILCS 305/37], the share drafts must be established as a class of share.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.120 Bond and Insurance Requirements

a) Bond:

1) The Board of Directors or liquidating agent of each credit union shall provide a fidelity bond in a form determined by the Director to meet the requirements of this Section and issued by a corporate surety authorized to do business in this State. The bond must provide coverage for the fraud and dishonesty of all employees, directors, officers, and committee members (see 205 ILCS 305/20(2), (3) and (4) and 30(13)) ~~(Ill. Rev. Stat. 1983, ch. 17, pars. 4421(2), (3) and (4) and Ill. Rev. Stat. 1984 Supp., ch. 17, par. 4431(13))~~ and for losses caused by persons outside of the credit union due to theft, holdup, vandalism, and other criminal acts. Coverage for the faithful performance of duty is an option the Board of Directors may provide for all or selected employees, directors, officers, and committee members.

2) Each bond shall require the surety to give a minimum of ~~thirty (~~30~~)~~ days written notice to the Credit Union Division of the Division ~~Department~~ prior to cancellation of any or all coverages set out in the bond.

3) Any form of rider or exclusion added to the Bond must have prior approval from the Director, to insure that at least the minimum bond is in effect and not compromised.

4) A copy of the Declaration Page describing the coverage of the Bond and any riders or exclusions are to be forwarded ~~ten (~~10~~)~~ days prior to the anniversary date or a change in coverage to the Division ~~Department~~ by the surety. The Declaration Page must show at least the following: the form number of the Bond, the number of the Bond, the name of the credit union, the rating period, or anniversary date, the term of the Bond and the maximum limits of liability under the insuring clauses.

b) Bond Schedule:

1) The minimum principal amount of such bond shall be based on the total assets of the credit union according to the following schedule:

Total Assets	Minimum Coverage
$0 to $10,000	Coverage equal to the Credit

	Union's assets.
$10,001 to $1,000,000	$10,000 for each $100,000 or fraction thereof.
$1,000,001 to $50,000,000	$100,000 plus $50,000 for each million or fraction thereof over $1,000,000
$50,000,001 to $295,000,000	$2,550,000 plus $10,000 for each million or fraction thereof over $50,000,000
Over $295,000,000	$5,000,000

2) Coverage in amounts in excess of the above minimum requirements may be purchased when the board of directors, in fulfilling their duty to provide adequate fidelity bond coverage, determines the additional coverage is needed. Minimum coverage limits must be extended to cover the additional risk when, aside from events which cannot be expected to recur, the total of cash on premise or in transit exceeds the minimum coverage limits. For purposes of this Section, the term cash shall include currency, coin, share drafts, checks, banknotes, Federal Reserve notes, revenue stamps, postage stamps and food stamps.

3) The board of directors shall review the bond coverage at least once each year to determine that the bond coverage is adequate and at a minimum, is in compliance with the above scheduled requirements. The board of directors may, consistent with the requirements of this Section, elect to purchase bond coverage subject to a deductible.

4) The maximum amount of deductibles allowed shall be based on the total assets of the credit union according to the following:

Assets	Maximum Deductibles
$0 to $100,000	No deductibles allowed
$100,001 to $250,000	$1,000

$250,001 to $1,000,000	$2,000
Over $1,000,000	$2,000 plus $^{1}/_{1000}$ of total assets up to a maximum deductible of $200,000.

5) No deductible shall exceed 10% of a credit union's Regular Reserve unless the credit union creates a segregated Contingency Reserve for the amount of the excess. The Reserve for Loan Losses account may not be considered part of the Regular Reserve when determining the maximum deductible. The deductible shall not exceed the maximum amounts listed in subsection ~~Section 190.120~~(b)(4) unless approved by the Director in accordance with subsection ~~Section 190.120~~(b)(6).

6) A deductible may be applied separately to one or more insuring clauses in a blanket bond. Deductibles in excess of those shown in this Section must have the written approval of the Director at least 20 days prior to the effective date of such deductibles. For purposes of this Section, the Director shall allow an excess deductible if the credit union will not be harmed thereby. In making that determination, the Director shall consider, but is not limited to, the adequacy of reserves, the current financial condition of the credit union, financial trends and the credit union's lending record.

7) The Director will require increased bond requirements for any credit union when the Director determines that current coverage is insufficient. In making that determination, the Director shall consider the factors listed in subsection ~~Section 190.120~~(b)(6). The board of directors of the credit union must obtain additional coverage within 30 days after the date of written notice from the Director.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.130 Verification of Share and Loan Accounts

a) The Supervisory Committee must make or cause to be made at least once each year a reasonable percentage verification of members' share and loan accounts. Except where prior written permission is given by the Division~~Department~~, for good cause shown, the verification results are to be reported in the Supervisory Committee Report filed with the Division~~Department~~. The verification shall be

conducted by the Committee, or by a registered public accountant, under the supervision of the Committee.

b) Verifications conducted by the Supervisory Committee.

1) The Committee must test 100% of the accounts at least once every two years; however, the Committee may submit a modified program using generally accepted auditing standards for approval by the Division~~Department~~. When conducting the verification, the Committee must establish the following controls:

A) The commencement of the verification must be on a surprise basis, including taking possession and control of such books and records or copies thereof as are necessary for the audit.

B) All work is to be done by the Supervisory Committee or its designated agents; all credit union staff, employees, and other directors shall not be involved, other than to explain exceptions.

C) General notice of the verification is to be publicized to the membership in the credit union offices~~office(s)~~ and by other appropriate means.

D) Separate records of members' share and loan account trial balances are to be maintained by the Committee; the Committee must also maintain a separate list of members which is to be updated from the Board minutes for new and terminated members.

E) All responses and communications to the verifications by members must be to the Supervisory Committee or its agents.

F) All records supporting the verification are to be retained by the Supervisory Committee.

2) Verification requests may be of either the positive kind, which requires a direct reply or attestation by the member as to the correctness or the balances, or the negative kind, which require replies only if the information listed is, in the opinion of the member, incorrect. Provided however, that the following accounts must be verified using the positive method:

A) Inactive or dormant accounts – members' accounts which show no member initiated activity for at least ~~three (~~3~~)~~ years.

B) Accounts with recent activity following a period of at least ~~three (~~3~~)~~ years of dormancy.

C) Accounts that show unusually large share withdrawals.

D) Accounts that have delinquent loans.

E) Share and loan accounts closed or charged off since the last verification was conducted.

F) Accounts where negative requests are returned due to an inaccurate address.

G) Any other accounts with unusual or significant activity, or which, in the judgement of the Committee, should be done on a positive basis to verify the integrity of the negative verification requests.

3) All discrepancies reported should be resolved, and if known, the reason for the error reported to the Board, along with the results of the audit.

c) Verification conducted by a CPA firm or individual registered with the State of Illinois to practice as a Public Accountant.

1) When the Supervisory Committee's audit is performed by a CPA or a Registered Public Accountant, either positive or negative verification requests may be used. The extent and nature of all tests is to be decided jointly by the Committee and the CPA or Registered Public Accountant.

2) At the conclusion of the audit, a statement must be given which reflects the work performed and the responsibilities accepted by the firm or individual. This statement shall be signed by the person in charge of the audit, or by the person who accepts responsibility for the firm, and shall be attached to the audit report given to the Board of Directors.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.140 Real Estate Lending

a) A Credit Union with total assets greater than $1 million may, following a resolution of its Board, make loans secured by a lien on real estate, including an assignment of a beneficial interest in a land trust, subject to the following procedures:

Total Assets of a Credit Union	Maximum Amount of Loans Secured by Real Estate	Aggregate of All First Mortgage Loans Secured by Real Estate
Under $1 million	Lending Limits for Consumer Loans	0% of total assets
$1 - 2.5 million	$165,000*	25% of total assets
$2.5 - 5 million	$250,000*	30% of total assets
$5 - 10 million	$330,000	35% of total assets
$10 - 30 million	$580,000	40% of total assets
$30 - 100 million	$825,000	45% of total assets
Over $100 million	$1,000,000	50% of total assets

* The aggregate loans to one member may not exceed the aggregate limit referenced in subsection (e).

b) Credit unions with assets under $1 million may make home equity and second mortgage loans subject to the lending limits for consumer loans set forth in Section~~38 Ill. Adm. Code~~ 190.160. Credit Unions with assets under $1 million shall not make first mortgage real estate loans.

c) Credit unions shall not make first mortgage real estate loans for more than the estimated market value or appraised value of the real estate securing the loans. Real estate loans, other than first mortgage loans, shall be limited to the value of the member-borrower's equity in the real estate securing the loan, provided a credit union may consider as equity any outstanding loan amount secured by the real estate if the outstanding loan will be repaid with the proceeds of the credit union's loan.

d) The maximum individual lending limit and the maximum ratio of first mortgage real estate loans may be increased by obtaining written approval from the Director. Such approval is to be based upon the need of the members and the credit union's real estate lending record.

e) The maximum limit on an individual loan by credit unions with assets greater than $1 million is in addition to the secured and unsecured lending limits of Section 190.160 of this Part; provided, however, in no event shall all loans to any member exceed in the aggregate 10% of the credit union's unimpaired capital and surplus as defined in Section 190.2 of this Part. Loans subject to the requirements for business loans set forth in Section 190.165 of this Part shall be subject to the appraisal requirements of subsection (h), but shall not be subject to the other provisions of this Section.

f) The maximum maturity of a loan secured by a first mortgage shall not exceed 40 years.

g) Procedures

1) All loans secured by a lien on real estate shall be made based upon prudent written lending policies and sound lending practices as documented in each member's loan file. Unless waived by the Director, lending policies shall include, without limitation, acceptable debt-to-income and loan-to-value ratios that will be considered the types of real estate security that will be accepted and any other prudent data considered necessary to determine the appropriateness of a loan request. All applicable Illinois~~State~~ and Federal statutes shall be observed.

2) All accounting for real estate loan transactions shall be in accordance with generally accepted accounting principles.

h) Documentation

1) Any credit union granting loans secured by a lien in real estate must procure and retain the following documentation in its files:

A) A loan application that specifies the purpose of the loan (equity, purchase, construction, refinance, etc.). The application must contain sufficient information to support the approval of the loan. Such information shall include without limitation: the amount of the loan requested; the purchase price (if applicable); a listing of the borrower's assets and liabilities; a statement of the borrower's income; a specific identification of the property; and an explanation of the source of the borrower's down payment. If the loan proceeds will be used for the purchase of the property, a copy

of the real estate sale contract shall be included as an attachment to the application.

B) A legal opinion from the credit union's attorney, or a title insurance policy that identifies the credit union's lien position on the property used to secure the loan. In the case of home equity lines of credit and second mortgages, a title search prepared by a service provider capable of conducting such a search shall be acceptable.

C) For transactions of $250,000 or less, a written estimate of market value of the property securing the loan, performed by an individual having no direct or indirect interest in the property and experienced to perform such estimations of value for the type and amount of credit being considered. For transactions over $250,000, an appraisal by a state certified or licensed appraiser which estimates the market value of the property used as security for the loan.

D) A credit report prepared by the credit union or a credit reporting agency. The report, in conjunction with the information contained in subsection (h)(1)(A), must demonstrate the applicant's past history of repayment and ability to repay the loan in question.

E) A duly executed note and mortgage agreement that outline the borrower's agreement to repay the loan on the terms agreed, and the borrower's agreement to provide the credit union with a valid security interest in the subject property. The mortgage agreement must contain an accurate legal description of the subject property and be duly recorded in the office of the appropriate county recorder of deeds.

F) A settlement statement reflecting all costs of closing and all disbursements of funds at closing for real estate loans that require the use of a settlement statement under the Real Estate Settlement Procedures Act.

G) On any loan where the lesser of the loan-to-value ratio or loan-to-purchase price ratio exceeds 80%, the credit union may require the borrower to obtain private mortgage insurance insuring the excess of the loan above the 80% factor.

H) In the event the subject loan is to be used for the construction of a residential dwelling that is or will be the principal residence of the member-borrower and the loan will be secured by a perfected first lien or first security interest in favor of the credit union, the credit union must obtain satisfactory evidence of the payment in full of the costs of furnishing labor and material in connection with such construction. Such evidence shall include receipt of an owner's statement, under oath, setting forth the names of all parties with whom the owner has contracted for the furnishing of labor and material; a general contractor's sworn statement from each of the parties named in the owner's statement; a subcontractor's sworn statement from each subcontractor named in the general contractor's statement; and partial and final unconditional lien waivers from the general contractor and all subcontractors and materialmen indicating that they have completed their respective portion of the work and been paid in full. The credit union must inspect, or cause to be inspected by a third party, the completion of each phase of the work for which an advance of any portion of the loan proceeds is sought. Any such inspections must be clearly documented in the file as to the date of the inspection and a brief explanation of the work progression. Additionally, the credit union must obtain a borrower payment authorization, in connection with each payment to the general contractor. This subsection (h)(1)(H) shall not apply to a loan to finance the repair, alteration or improvement of a residential dwelling which is the residence of the member-borrower.

2) A loan secured by a lien on real estate is exempt from the requirements of subsections (h)(1)(B), (C) and (G) of this Section if the loan complies with the following criteria:

A) The loan is not used for the purchase or refinancing of the real estate securing the loan.

B) The lien on real estate is taken as collateral solely through an abundance of caution.

C) The terms of the transaction are not more favorable than they would have been in the absence of the lien on real estate.

D) The transaction complies with the lending limits and other requirements for consumer loans set forth in Section 190.160 of this Part.

i) Sale of Real Estate Loans

1) A credit union may sell, in whole or in part, any loan secured by real estate to:

A) Federal National Mortgage Association

B) Government National Mortgage Association

C) Federal Home Loan Mortgage Corporation

D) Federal, Illinois~~State~~ and Local Housing Authorities

E) Federal or Illinois~~State~~ Chartered Credit Unions, Banks, and Savings and Loan Associations

F) Residential mortgage licensees properly registered with and licensed by the Illinois Director of Banks and Real Estate

G) Such other institutions as approved by the Director

2) All such sales shall not be subject to recourse or repurchase that enables the credit union to retain control over the transferred assets. The credit union shall have surrendered control over the transferred assets if:

A) The transferred assets have been put presumptively beyond the reach of the credit union transferring the assets and its creditors;

B) The purchaser has the right to pledge or exchange the assets; and

C) The credit union does not maintain effective control over the transferred assets through an agreement that both entitles and obligates the credit union to repurchase the assets before their maturity.

3) A limited recourse provision in a sale agreement that obligates the credit

union transferring assets to purchase the assets because of breach of warranty or misrepresentation shall be considered a sale.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.150 Reverse Mortgage

a) "Reverse Mortgage" loans shall be granted by credit unions authorized to make real estate loans under Section 46(2) of the Illinois Credit Union Act [205 ILCS 305/46(2)] ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4447(2))~~ and for the purposes stated in Section 46(3) of the Illinois Credit Union Act ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4447(3))~~. Such loans must be on forms and in a manner consistent with all relevant statutory and regulatory authority including Section ~~38 Ill. Adm. Code~~ 190.140.

b) Such loans shall be based upon prudent lending and underwriting standards and procedures.

c) No such loan including any existing liens~~lien(s)~~ shall exceed 80% of the appraised value of the real estate.

d) The total of all such loans may not, without prior approval of the Director, exceed one third of all real estate loans outstanding.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.165 Business Loans

a) The following are definitions applicable in this Section.

1) "Associated Member" means any member with a common ownership, investment or other pecuniary interest in a business or commercial endeavor with the borrower.

2) A "Business Loan" is defined as any loan, line of credit, letter of credit (including any unfunded commitments), to a member of the credit union, for which the proceeds will be used to finance a commercial, corporate, other business investment property or venture, or agricultural purpose, including any interest the credit union obtains in a loan made by another lender to a member or nonmember of the credit union pursuant to Section

51 of the Act if the loan would constitute a business loan if made by the credit union, except that the effect of any interest obtained in nonmember business loans on a credit union's aggregate member business loan limit will be as set forth in subsection (g)(2)(D).

3) "Net Worth" means retained earnings as defined under GAAP. Retained earnings include regular reserves, undivided earnings and any other appropriations designated by management or regulatory authorities or Surplus, excluding the Allowance for Loan Losses Accounts.

4) "Net Member Business Loan Balance" means the outstanding loan balance plus any unfunded commitments, reduced by any portion of the loan that is secured by shares in the credit union, or by shares or deposits in other financial institutions, or by a lien in the member's primary residence, or insured or guaranteed by any agency of the federal government, a state or any political subdivision of such state, or subject to an advance commitment to purchase by any agency of the federal government, a state or any political subdivision of such state, or sold as a participation interest without recourse and qualifying for true sales accounting under generally accepted accounting principles.

5) "Primary Residence" means the address at which one resides.

6) "Immediate Family Member" means a spouse or other family member living in the same household.

b) Nothing in this Section shall be applicable to:

1) loans fully secured by shares in the credit union or deposits in other financial institutions.

2) net member business loan balances in an aggregate amount of $50,000 or less to one member or associated member for which the proceeds may be used for a commercial business or agricultural purpose.

3) loans to credit union service organizations (CUSO) as defined under Section 190.5 of this Part.

4) loans for any one to four family owner-occupied parcel of real estate as long as the borrower/owner maintains the subject property as his primary residence.

5) loans fully secured or fully guaranteed by, or subject to an advance commitment to purchase in full by, an agency of the federal government or of a state or any of its political subdivisions.

6) loans granted by a credit union to another credit union.

c) Prohibited Activities

1) A credit union may not grant a member business loan to the following:

A) Chief executive officer;

B) Any assistant chief executive officers;

C) Chief financial officer;

D) Any associated member or immediate family member of anyone listed in subsections (c)(1)(A) through (c)(1)(C).

2) A credit union may not grant a member business loan to a compensated director unless the board of directors approves granting the loan and the compensated director is recused from the decision making process.

3) Equity agreements/joint ventures. A credit union may not a grant a member business loan if any additional income received by the credit union or senior management employees is tied to the profit or sale of the business or commercial endeavor for which the loan is made.

d) Credit unions with assets greater than $30 million may make business loans in accordance with specific lending policies which shall address, but not be limited to:

1) Types of business loans to be made within a designated trade area.

2) A requirement to analyze and document the ability of the borrower to repay the loan consistent with appropriate underwriting and due diligence

standards, which also addresses the need for periodic financial statements, credit reports, and other data when necessary to analyze future loans and lines of credit, such as, borrower's history and experience, balance sheet, cash flow analysis, income statements, tax data, environmental impact assessment, and comparison with industry averages, depending upon the loan purpose.

3) Expertise Requirement

A) Provisions for ensuring the utilization of services of experienced personnel with at least 2 years of direct experience with the type of business loans the credit union will be making. A credit union may comply with this experience requirement without hiring staff as long as the credit union ensures that the expertise is available. For example, a credit union may use the services of a CUSO, an employee of another credit union, an independent contractor, or other third parties. However, the actual decision to grant a loan must reside with the credit union.

B) Any third party used by a credit union to meet the requirements of subsection (d)(3)(A) must be independent from the transaction and a credit union is prohibited from using a third party to meet the requirements of this subsection (d) if the credit union is purchasing a business loan, or a participating interest in a business loan, from the third party responsible for reviewing the loan, or if the third party has an interest in the collateral securing a business loan which the third party is responsible for reviewing, with the following exceptions:

i) The third party may provide a service to the credit union related to the transaction, such as loan servicing;

ii) The third party may provide the requisite experience to the credit union and purchase a loan or a participation interest in a loan originated by the credit union that the third party reviewed; or

iii) A credit union may use the services of a CUSO that otherwise meets the requirements of subsection (d)(3)(A) even though the CUSO is not independent from the

transaction, provided the credit union has a controlling financial interest in the CUSO as determined under generally accepted accounting principles.

4) The maximum amount of secured and unsecured business loans to any one member or group of associated members, provided it does not exceed the limits as set forth in subsections (f) and (h).

5) The aggregate amount of the credit union assets in relation to net worth that will be invested in business loans, provided credit unions subject to section 107A of the Federal Credit Union Act (12 USC 1757a) may not exceed the limit set forth in subsection (g).

6) The maximum amount of credit union assets in relation to net worth that will be allotted to given types of business loans.

7) Collateral requirements, including, but not limited to:

A) Loan-to-value ratios;

B) Determination of value;

C) Determination of ownership;

D) Steps to secure various types of collateral; and

E) How often the credit union will re-evaluate the value and marketability of collateral.

8) Defined interest rates and defined maturities of business loans.

9) Loan monitoring, servicing, and follow-up procedures, including collection procedures.

10) Identification of those individuals prohibited from receiving member business loans.

e) Business loans shall not be granted by credit unions with assets of $30 million or less unless the Division ~~Department of Financial Institutions~~ has approved a credit union's request for a business loan amendment to its bylaws. The request must be

accompanied with specific lending policies including but not limited to the criteria listed in subsection (d). All approval of requests shall be based upon the history of the credit union, current financial condition and the adequacy of applicable operating policies as documented in the Division's ~~Department's~~ statutory or special examination. Evaluation of the history, current financial condition, and operating policies of the credit union will include, but not be limited to, the credit union's capital adequacy, asset quality, management policies, earnings, and liquidity. These factors must be reflective of a safe and sound financial operation (in accordance with 205 ILCS 305/8, 9, 36 and 61).

f) The net member business loan balances of any one member or group of associated members shall not exceed 15% of the credit union's net worth. Credit unions seeking an exception to this limit must request a waiver in writing. The maximum limit on a member business loan is in addition to the secured and unsecured limits established in Sections 190.160 and 190.140, provided however, in no event shall all loans to any member exceed in the aggregate 10% of the credit union's unimpaired capital and surplus.

g) Aggregate Member Business Loan Limit

1) The aggregate limit on the net member business loan balances of a credit union subject to section 107A of the Federal Credit Union Act (12 USC 1757a), excluding any business loans exempted from the aggregate member business loan limit by section 107A of the Federal Credit Union Act or Part 723 of the National Credit Union Administration Regulations (12 CFR 723, 2004, no subsequent dates or editions), is the greater of:

A) 1.75 times the credit union's net worth or 12.25% of the credit union's assets, whichever is less; or

B) the aggregate member business loan limit authorized by section 107A of the Federal Credit Union Act.

2) Exceptions to the aggregate loan limit for a credit union include:

A) Credit unions that have a low-income designation or participate in the Community Development Financial Institutions program;

B) Credit unions that were chartered for the purpose of making member business loans and can provide documentary evidence

(such evidence includes but is not limited to the original charter, original bylaws, original business plan, original field of membership, board minutes and loan portfolio).

C) Credit unions that have a history of primarily making member business loans, meaning that either member business loans comprise at least 25% of the credit union's outstanding loans (as evidenced in any call report or any equivalent documentation including financial statements) or member business loans comprise the largest portion of the credit union's loan portfolio (as evidenced in any call report or any equivalent documentation including financial statements). For example, if a credit union makes 23% member business loans, 22% first mortgage loans, 22% new automobile loans, 20% credit cards loans, and 13% total other real estate loans, then the credit union meets this exception.

D) If the interest held by a credit union in any loans made by another lender to a nonmember of the credit union would constitute a business loan if made to a member of the credit union, the total of the interest held in such nonmember business loans plus the credit union's net member business loan balances must not exceed the aggregate limit set forth in subsection (g)(1), unless the credit union has requested approval from the Division~~Department~~, by submitting an application that:

i) Includes a current copy of the credit union's member business loan policies;

ii) Confirms that the credit union is in compliance with all other aspects of this Section;

iii) States the credit union's proposed limit on the total amount of nonmember business loan interests that the credit union may acquire if the application is granted; and

iv) Attests that the acquisition of an interest in nonmember business loans is not being used, in conjunction with one or more other credit unions, to have the effect of trading member business loans that would otherwise exceed the aggregate limit.

3) Request for Exception

A) An exception under subsection (g)(2)(A) is effective upon written notice to the Division ~~Department~~ of such designation or participation.

B) An exception under subsection (g)(2)(B) or (g)(2)(C) must be submitted in writing to the Division~~Department~~, including documentation demonstrating that the credit union meets the criteria for the exception.

i) Approval of an exception shall be given in writing to the credit union.

ii) The exception does not expire until revoked for safety and soundness reasons by the Division~~Department~~.

iii) The Division ~~Department~~ shall notify the respective Region of the NCUA of the decision on the request.

h) Collateral

1) Unless the Division~~Department~~ grants a waiver, all member business loans, except those made under subsections (h)(2), (3) and (4), must be secured by collateral. The maximum loan to value (LTV) ratios for all liens shall not exceed 80%, unless the loan amount in excess of 80% is covered through private mortgage or equivalent insurance, or is insured or guaranteed by or subject to an advance commitment to purchase by any agency of the federal government or a state or its political subdivisions, but in no case shall the LTV exceed 95%.

2) Unsecured member business loans may be made if:

A) The credit union has a current net worth of 7% or, if applicable, meets its risk based net worth ratio, whichever is higher;

B) The aggregate of the unsecured outstanding member business loans to any one member or group of associated members does not

exceed the lesser of $100,000 or 2.5% of the credit union's net worth; and

C) The aggregate of all unsecured outstanding member business loans does not exceed 10% of the credit union's net worth.

3) Credit card line of credit programs offered to nonnatural person members, or guaranteed by nonnatural persons, that are limited to routine purposes normally made available under those programs are exempt from the collateral requirement of subsections (h)(1) and (2).

4) Credit unions may make vehicle loans under this Section without complying with the loan-to-value ratios in this Section, provided that the vehicle is a car, van, pick-up truck, or sports utility vehicle and not part of a fleet of vehicles.

i) Construction Loans
Unless the Division~~Department~~ grants a waiver, loans granted for the construction or development of commercial or residential property are subject to the following additional requirements:

1) The aggregate of all construction and development net member business loan balances must not exceed 15% of the credit union's net worth. The following loans may be excluded from the calculation of the aggregate:

A) loans made to finance the construction of a single-family residence if a prospective homeowner has contracted to purchase the property; and

B) a loan to finance the construction of one single-family residence per member-borrower or group of associated member-borrowers, irrespective of the existence of a contractual commitment from a prospective homeowner to purchase the property;

2) The borrower must have a minimum of 25% equity interest in the project being financed, the value of which is determined by the market value of the project at the time the loan is made, except that the loan to value requirements of subsection (h) shall apply in lieu of this equity interest requirement in the case of loans made to finance the construction of a single-family residence if a prospective homeowner has contracted to

purchase the property and in the case of one loan to a member-borrower or group of associated member-borrowers to finance the construction of a single-family residence, irrespective of the existence of a contractual commitment from a prospective homeowner to purchase the property; and

3) The funds may be released only after on-site, written inspections by qualified personnel and according to a preapproved draw schedule and any other conditions as set forth in the loan documentation.

j) Request for Waiver

1) Credit unions may request a waiver for a category of business loans in the following areas:

A) Maximum secured and unsecured loan amounts to one borrower or associated group of borrowers under subsections (f) and (h);

B) Maximum aggregate unsecured member business loan limit under subsection (h)(2);

C) Collateral requirements under subsection (h);

D) The aggregate amount of construction loans and the minimum equity interest in construction loans under subsection (i); and

E) Any appraisal requirements imposed by Part 190 with respect to loans secured by real estate.

2) A request for a waiver must be submitted in writing to the Division~~Department~~. The waiver request must contain the following:

A) A copy of the credit union's business lending policy;

B) The waiver sought;

C) An explanation of the higher limits sought (if applicable);

D) Documentation supporting the credit union's ability to manage this activity; and

E) An analysis of the credit union's prior experience in making member business loans, including the credit union's history of loan losses and delinquency, volume and cyclical or seasonal patterns, diversification, concentrations of credit to one borrower or group of borrowers in excess of 15% of net worth, underwriting standards and practices, types of loans grouped by purpose and collateral, and the qualifications of personnel responsible for underwriting and administering member business loans.

3) The Division~~Department~~ shall consider standard criteria when determining whether to grant a waiver requested by a credit union as provided in subsection (j)(1). The criteria include but are not limited to:

A) The two most recent Division~~Departmental~~ examinations;

B) The credit union's reserve/equity position;

C) The credit union's current delinquency and loan loss trends; and

D) The credit union's Business Lending Policy and Procedures.

4) The Division~~Department~~ shall respond to requests for waivers as follows:

A) The Division~~Department~~ shall inform the credit union in writing of the date the written request for waiver was received.

B) Approval of waivers shall be given in writing within 45 calendar days from receipt of the waiver request and supporting documents listed in subsection (j)(2), if it is determined by the Division~~Department~~ that the waiver will not adversely affect the credit union's financial position.

C) If a waiver approved by the Division~~Department~~ must also be approved by the National Credit Union Administration (NCUA), the Division~~Department~~ shall forward the waiver request and supporting documents to the NCUA Regional Director and provide the credit union with written notice of the date the request was forwarded.

D) If a waiver request does not require NCUA approval, the credit union may assume approval of the waiver request if it does not receive notification within 45 days after the date the request was received by the Division~~Department~~.

k) Recordkeeping Requirements
Business loans must be separately identified in a credit union's records and separately identified in the aggregate on a credit union's financial reports.

l) Allowance for Loan Losses for Business Loans

1) Allowance for Loan Losses for Business Loans will be determined and accounted for by the credit union as follows:

A) Substandard Loans – A substandard loan is one that is inadequately protected by the current sound worth and paying capacity of the obligor or of the collateral pledged. Loans classified substandard have a well-defined weakness or weaknesses that jeopardize the liquidation of the debt. They are characterized by the distinct possibility that the credit union will sustain some loss if the deficiencies are not corrected. Loans listed in this category shall generally be listed in a range from zero to under 50% potential loss.

B) Doubtful Loans – A loan classified doubtful has all the weaknesses inherent in a loan classified substandard, with the added characteristic that the weaknesses make collection or liquidation in full, on the basis of currently existing facts, conditions, and values, highly questionable and improbable. The possibility of loss is extremely high, but because of certain important and reasonable specific pending factors that may work to the advantage and strengthening of the loan, its classification as an estimated loss is deferred until a more exact status may be determined. Pending factors include: proposed merger, acquisition, or liquidation actions; capital injection; perfecting liens on collateral; and refinancing plans. Loans in this category shall be listed at a minimum 50% potential loss.

C) Loss Loans – Loans classified loss are considered uncollectible and of such little value that their continuance as loans on the credit

union balance sheet is not warranted. This classification does not necessarily mean that the loan has absolutely no recovery or salvage value, but rather, it is not practical or desirable to defer writing off the asset even though partial recovery may occur in the future. Loans in this category shall be listed at 100% potential loss.

D) Loans may be excluded from the "loss loans" category and classified as either substandard or doubtful if there is evidence of collectibility. Evidence of collectibility shall include without limitation the following collection activities and remedies:

i) Execution and filing of an enforceable reaffirmation agreement on the loan in a Chapter 7 bankruptcy (11 USC 701 et seq.) proceeding prior to completion of the Division's ~~Department's~~ loan analysis in any statutory examination of the credit union.

ii) Receipt of payments on the loan in a Chapter 13 bankruptcy (11 USC 1301 et seq.) within 180 days after the confirmation of the plan; or, if the plan stipulates repayment of the loan in full but payments have not yet been disbursed to the credit union, the credit union has determined from the Trustee that plan payments are being made on a timely basis to the Trustee.

iii) Receipt of payments on the loan in a Chapter 11 bankruptcy reorganization (11 USC 1101 et seq.) or Chapter 12 bankruptcy family farm reorganization (11 USC 1201 et seq.) within 180 days after the confirmation of the plan.

iv) Voluntary repayment of the loan pursuant to section~~Section~~ 524(f) of the federal Bankruptcy Code (11 USC 524(f)).

v) Collection of the loan pursuant to repossession of collateral without judicial process, or by replevin, detinue, forcible entry and detainer or mortgage foreclosure proceedings.

vi) Collection of the loan pursuant to post-judgment enforcement remedies, including wage deduction, garnishment and turnover orders entered in citation to discover assets supplementary proceedings.

vii) The entry of a judgment pay plan order providing for repayment of the loan in a judicial proceeding.

viii) Documented evidence of repayment of that portion of the loan covered by collateral protection or other insurance policies.

ix) Documentation evidence of periodic payments on a consistent basis in an amount sufficient to retire the loan balance in a reasonable time.

2) Non-delinquent loans may be classified in the above categories by the Division~~Department~~, dependent upon an evaluation of factors, including, but not necessarily limited to, the adequacy of the credit union's analysis and documentation of the loan application, and the credit union's collateral requirements. Subsection (d)(2) contains analysis and documentation requirements.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.180 Investments

The Board of Directors of a credit union shall use the following procedures in managing and investing funds not being used for loans to members.

a) The Board must develop a written investment policy which includes at a minimum:

1) persons~~person(s)~~ authorized to take investment actions and the kinds of investments permitted the designated person or committee;

2) limits by amount and term of the investments;

3) procedure for approval of all broker~~broker(s)~~ or advisor relationships~~advisor(s) relationship~~;

4) procedure for safekeeping of securities.

b) All investments are to be recorded on the books and records in accordance with generally accepted accounting principles and so as to enable the Division ~~Department~~ to readily ascertain the financial condition of the credit union.

c) Investments are limited to the direct purchase of securities listed in Section 59 of the Act ~~(Ill. Rev. Stat. 1987, ch. 17, par. 4460)~~, and common trust or mutual funds whose investment authority is limited solely to securities and investments listed in Section 59 of the Illinois Credit Union Act ~~(Ill. Rev. Stat. 1987, ch. 17, par. 4460)~~.

d) Credit unions may invest in privately issued collateralized mortgage obligations (CMOs) – a CMO is a corporate bond secured by mortgage pass-through certificates of the Government National Mortgage Association or the Federal National Mortgage Association – provided such obligations receive the highest rating (either AAA or AA) by Standard and Poors rating or another comparable rating service.

e) Credit unions are not authorized to engage in speculative investment activities or transactions including but not limited to:

1) short sales of securities;

2) adjusted trades;

3) standby commitments;

4) cash forward agreements in excess of 120 days from the trade date;

5) futures contracts; or

6) the buying and carrying of securities on margin through the use of borrowed funds.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.190 Liquidation

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

A credit union may enter liquidation through actions initiated by its Board of Directors to voluntarily dissolve or by actions initiated by the Director of the Division of Financial Institutions to involuntarily dissolve and be liquidated by a Liquidating Agent of one person or a committee under the following procedures:

a) Voluntary Liquidation:

1) After completing the requirements in Section 62 of the Illinois Credit Union Act ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4463)~~, the Liquidating Agent, must furnish a fidelity bond in compliance with 38 Ill. Adm. Code 190.120.

2) Upon receipt and approval of the fidelity bond, the Director shall issue a Certificate of Voluntary Dissolution attesting to the compliance with Section 62 of the Illinois Credit Union Act ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4463)~~, stating the names~~name(s)~~ of the Liquidation Agent, and authorizing the taking of possession and control of the books, records and assets of the credit union for the purpose of conserving and collecting the assets, paying all indebtedness and distributing the remaining assets to the membership. Certified copies of the Certificate of Voluntary Dissolution shall be furnished to the Liquidating Agent for his use in securing access to the credit union's funds in depositories~~depository(ies)~~, withdrawal of investments or for any other purpose to carry out the liquidation.

b) Involuntary Liquidation:

1) Under the provisions of Section 61 and Section 62 of the Illinois Credit Union Act ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4462-4463)~~, the Director shall issue to the credit union by certified mail, with a copy to each director, an order for Possession and Control for purpose of liquidation.

2) A Liquidating Agent (person or committee) shall be appointed by the Director to carry out liquidation under the direction and control of the Director. Except where the Liquidating Agent is the NCUA or other insuror or agent under the share insurance interest, the procedures listed in subsection ~~Section~~ (c) ~~of this Rule~~ shall be followed.

c) The liquidation, whether voluntary or involuntary, shall be under the direction of the Director and shall proceed in the following manner:

1) The Certificate shall be promptly filed at the County Recorder's office in the County in which the main office of the credit union is located and the recording information shall be forwarded to the Division~~Department~~.

2) An itemized inventory, in duplicate, as of the date of the Certificate listing the following shall be prepared to include:

A) all assets;

B) all known liabilities;

C) a list of all members accounts' by name, address, account numbers, share and loan balances, notes payable on file, and security offered;

D) a balance sheet as of the date of the Certificate;

E) a Statement of Income and Expenses as of the date of the Certificate;

F) the name and address of all depositories~~depository(ies)~~ including the credit union's account numbers~~number(s)~~ and balance.

3) A signed and dated copy of the items listed under subsections (c)(1) and (c)(2) ~~of this Rule~~ shall be forwarded to the Division~~Department~~. One copy of each of the above items is to be retained by the Liquidating Agent.

4) The books and records are to be kept posted currently throughout the liquidation.

5) All funds received shall be promptly deposited in the credit union's depositories~~depository(ies)~~. The Director shall approve a change in depositories~~depository(ies)~~ upon receipt of written request from the agent stating the reason for the change.

6) All disbursement of funds shall have prior approval of the Division ~~Department~~ and be in accordance with the priority established in Section 62(7) of the Illinois Credit Union Act ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4463(7))~~. The Division ~~Department~~ shall approve in writing disbursement of funds during liquidation upon written request from the liquidating

agent. Each request must contain a current financial statement and a total dollar amount to be distributed prorata to the share-holders.

7) Monthly reports, consisting of a balance sheet, statement of income and expense, and an analysis of funds received and expended, shall be prepared on forms furnished by the Division ~~Department~~ as of each month's end and forwarded to the Division ~~Department~~ on or before the 15th of the subsequent month.

8) An initial report on all accounts turned over to an attorney and/or collection agency for collection is to be forwarded to the Division ~~Department~~ with subsequent periodic reports showing collection activity on these accounts.

9) Subject to the prior approval of the Director, the Liquidating Agent may prosecute and defend all suits or intervene and execute all necessary deeds, releases or other instruments necessary to consummate any sale of real estate or personal property, or compromise any debt or claim to same effect as if the instruments were executed by the officers of the credit union. The agent shall request approval, in writing, detailing the specific instances. The Director shall base his approval on maximizing the return of funds and protecting the interests of the shareholders.

10) Compensation paid for the Liquidating Agent's services shall be determined by the Director, so as to maximize the return of shareholder's funds and to provide reasonable compensation for the professional services required.

11) All expenses incurred in the liquidation shall be paid out of the funds of the credit union.

12) Completion of the liquidation shall be in compliance with provisions of Section 62 of the Illinois Credit Union Act ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4463)~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.200 Conversion of Charter

a) Conversion from a State of Illinois chartered credit union to a credit union

chartered by the National Credit Union Administration or by a state regulatory authority of credit unions of another state shall be authorized subject to the following requirements:

1) The proposal for the conversion of charter is approved by resolution of the Board of Directors.

2) Written notification is given of the intent to convert to the Director ~~of Financial Institutions~~ at least 30 days prior to the mailing to the members of the Notice of Meeting at which the question of conversion is to be voted.

3) Evidence is furnished to the Director ~~of Financial Institutions~~ that the National Credit Union Administration or the state regulatory authority for credit unions in the other state is agreeable to the conversion proposal.

4) The conversion proposal is approved by ⅔ of the members present or voting. Notice of the meeting must be given in accordance with Section 19(1) of the Illinois Credit Union Act ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4420(1))~~ and include:

   A) the time, place, and purpose of the meeting;

   B) a brief and accurate statement of the reasons for the against the proposed conversion including any effects it could have on the shareholdings of members and the policies and practices of the credit union;

   C) a ballot and details of how the ballot may be voted.

5) Proxy voting is not permitted. Ballots will be distributed or mailed to the members and the returned ballots shall be counted with those ballots of members present at the meeting. Ballots must be distributed or mailed at least 7 days before the date of the meeting. All ballots postmarked on or before the date of the meeting shall be included in the final vote computation.

6) A notarized report attesting to the accuracy of the voting shall be forwarded to the Director within 10 days after the meeting containing the following information:

A) date of mailing and/or posting notice of meeting;

B) date of members meeting or any adjourned meetings;

C) number of members;

D) number of members present at meeting;

E) number of members voting for the proposal in person at the meeting and the number of members not at the meeting voting for the proposal by ballot.

7) If ⅔ of the voting members approve the proposal, and the appropriate federal or other state regulatory agency approves the conversion, a request to convert the charter shall be sent within 10 days of the members' meeting to the Director. If the credit union is not subject to any formal supervisory restraints or other supervisory proceedings and if the conversion is in the best interests of the members, the Director shall issue a Certificate of Conversion approving the change of chartering authority.

8) The credit union shall return its Illinois charter and Articles of Incorporation to the Director and shall record the Certificate of Conversion in the County Recorder's Office in the Illinois county where the credit union's office is located and forward the recording information to the Director ~~of Financial Institutions~~. The converted credit union shall be merely a continuation of the State of Illinois credit union under a new name and new jurisdiction and such revision of its corporate structure as is necessary for its proper operation under the new jurisdiction. The effective date of the charter conversion will be the date that the Certificate of Conversion is recorded at the County Recorder's Office.

b) Conversion from a federally chartered credit union or from a credit union chartered by another state to a State of Illinois chartered credit union shall be authorized subject to the following requirements:

1) complying with all requirements of the Federal Credit Union Act or the applicable Act of the state under which it is organized;

2) filing with the Director ~~of Financial Institutions~~ evidence of that

compliance which shall include a copy of the most recent examination by the regulatory agency, correspondence on exceptions noted, and a statement that the credit union is not subject to any formal supervisory restraint or proceeding which would be circumvented by the conversion;

3) filing with the Director ~~of Financial Institutions~~, Articles of Incorporation and By-laws as required by Section 2 of the Illinois Credit Union Act ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4403)~~.

4) The Director may require that an examination of the credit union be conducted by the Division ~~Department~~ to verify the financial and operating condition of the credit union. He or she shall base his or her decision on the recency of the last examination, the nature of the exceptions noted, and the scope of the examination. A fee may be assessed for such examination not to exceed the limits as set forth either in Section 12 of the Illinois Credit Union Act ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4413)~~ or Section ~~38 Ill. Adm. Code~~ 190.50 as appropriate.

5) Upon receipt of the above, the Director shall determine if all requirements for conversion of the credit union have been met, and if affirmative, the Director shall issue a Certificate of Approval which must be filed as provided under Section 2(4) of the Illinois Credit Union Act ~~(Ill. Rev. Stat. 1981, ch. 17, par. 4403(4))~~. The effective date of the conversion will be the date, after the Certificate of Approval is recorded, that it ceases to be a federal credit union or a credit union chartered by another state.

6) The converted credit union shall be vested with all of the assets and is responsible for all of the obligations of its predecessor.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART B: HIGH RISK HOME LOANS

Section 190.500 Definitions

"Approved Credit Counselor" means a credit counselor as approved by the Director of the Division ~~Department of Financial Institutions~~.

"Good faith" means honesty in fact in the conduct of the transaction.

"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded transaction, not otherwise included in 12 CFR 226.4.

"Subject loan" is the term used to describe any loan to which this Subpart applies pursuant to Section 190.505.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.565 Counseling Prior to Perfecting Foreclosure

a) In the event that a subject loan becomes delinquent by more than 30 days, the lender shall send a notice advising the borrower of the availability of consumer credit counseling.

b) The notice required under subsection (a) shall, at a minimum, include the following language notice:

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE DIVISION~~DEPARTMENT~~ OF FINANCIAL INSTITUTIONS AT 1-888-298-8089."

c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.

d) If within the 30-day period provided under subsection (c) the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.

1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. The lender or its agent, the approved consumer credit counselor, and the borrower may modify the debt management plan.

2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.

e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.

f) This Section applies only to subject loans as defined by Section 190.500.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 190.580 Third Party Review

In the case of each subject loan, upon approval of the loan application, the lender shall advise the borrower in writing of the opportunity to seek independent review of the loan terms in order to determine affordability of the loan. When and if the General Assembly appropriates adequate funding to the Division ~~Department~~ of Financial Institutions specifically for this program:

a) Every borrower who chooses to participate in the independent review provided in this Subpart shall submit information requested on the worksheets outlined in Appendix A and B.

b) The Division ~~Department~~ shall provide the borrower with a review of the worksheets and inform the borrower of the amount the borrower has available for a monthly mortgage payment based upon the borrower's budget. The Division ~~Department~~ shall also provide a projection of the payments required under the terms of the loan based upon a review of loan information pertaining to balloon payments, adjustable interest rates and other items disclosed by the loan documents affecting the amount of payment.

c) The borrower shall receive a copy of the completed forms and shall sign the forms acknowledging receipt. A copy of the written and signed forms shall be submitted to the lender prior to the closing of the loan and shall become a part of the permanent file for the loan.

If, based upon the review, the borrower determines that the loan is not in his or her best economic interest, the reviewer shall so note this in the completed forms sent to the lender. This determination shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: PAYDAY LOANS

Section 190.600 Definitions

"Payday Loan" or "loan" means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet or telephone, in which:

A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts one or more checks dated subsequent to the date written and agrees to hold them for deposit; or

A lender accepts one or more authorizations to debit a consumer's bank account; or

A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment.

"PLRA" means the Payday Loan Reform Act [815 ILCS 122]. Credit Unions are expressly exempt from the provisions of the PLRA.

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 190.605 Applicability of Rule

This Subpart shall apply only to Payday Loans made by a credit union. Products and services offered by a credit union that are not offered by lenders governed by the PLRA shall not be subject to this Part.

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 190.610 Issuance of Payday Loans by Credit Unions

a) A credit union making a payday loan shall satisfactorily address all safety and soundness considerations identified by the Division in its examination and supervision of the credit union. Safety and soundness considerations include, without limitation:

1) Risk-management practices for payday loan activities, particularly with regard to concentrations of payday loans;

2) Capital adequacy, depending on the level and volatility of risk;

3) Allowance for loan losses to ensure the allowance is adequate to absorb estimated credit losses within the payday loan portfolio;

4) Classification of payday loans, given the unsecured nature of the credit and weakness of repayment capacity inherent in payday loans; and

5) The establishment and maintenance of extension, deferral, renewal and rewrite standards consistent with the PLRA.

b) In the event the Division determines the credit union's management of safety and soundness risks relating to its payday loan portfolio is deficient, the Division may initiate informal or formal corrective enforcement action, pursuant to the applicable administrative enforcement provisions set forth in the Illinois Credit Union Act and this Part.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Illinois Banking Act

2) Code Citation: 38 Ill. Adm. Code 365

3)

Section Numbers:	Proposed Action:
365.10	New Section
365.20	New Section
365.30	New Section
365.40	New Section

4) Statutory Authority: Payday Loan Reform Act [815 ILCS 122] and Illinois Credit Union Act [205 ILCS 305]

5) A Complete Description of the Subjects and Issues Involved: The Payday Loan Reform Act requires the Department to promulgate regulatory standards that address a number of business practices concerning payday loans.

6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None

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

8) Does this rulemaking contain an automatic repeal date? No

9) Does this proposed rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may submit written comments to:

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786

217/785-0813

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

13) 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

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the Division did not anticipate the need to promulgate regulatory standards to implement the Payday Loan Reform Act.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

PART 365
BANKS ENGAGING IN PAYDAY LENDING

Section
365.10 Purpose and Scope
365.20 Definitions
365.30 Applicability of Rule
365.40 Issuance of Payday Loans by Banks

AUTHORITY: Implementing and authorized by Section 48 of the Illinois Banking Act [205 ILCS 5/48].

SOURCE: Adopted at 30 Ill. Reg. _____, effective _____.

Section 365.10 Purpose and Scope

This Part applies to all banks chartered under provisions of the Illinois Banking Act [205 ILCS 5].

Section 365.20 Definitions

"Bank" means a state-chartered bank chartered under the provisions of the Illinois Banking Act [205 ILCS 5].

"Department" means the Illinois Department of Financial and Professional Regulation.

"Division" means the Illinois Department of Financial and Professional Regulation-Division of Banking.

"Payday Loan" or "loan" means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone, in which:

A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts

one or more checks dated subsequent to the date written and agrees to hold them for deposit; or

A lender accepts one or more authorizations to debit a consumer's account; or

A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment.

"PLRA" means the Payday Loan Reform Act [815 ILCS 122]. Banks are expressly exempt from the provisions of the PLRA.

Section 365.30 Applicability of Rule

This Part shall apply only to payday loans made by a bank. Products and services offered by a bank that are not offered by lenders governed by the PLRA shall not be subject to this Part.

Section 365.40 Issuance of Payday Loans by Banks

a) A bank making a payday loan shall satisfactorily address all safety and soundness considerations identified by the Division in its examination and supervision of the bank. Safety and soundness considerations include, without limitation:

1) Risk-management practices for payday loan activities, particularly with regard to concentrations of payday loans;

2) Capital adequacy, depending on the level and volatility of risk;

3) Allowance for loan losses to ensure the allowance is adequate to absorb estimated credit losses within the payday loan portfolio;

4) Classification of payday loans, given the unsecured nature of the credit and weakness of repayment capacity inherent in payday loans; and

5) The establishment and maintenance of extension, deferral, renewal and rewrite standards consistent with the PLRA.

b) In the event the Division determines the bank's management of safety and soundness risks relating to its payday loan portfolio is deficient, the Division

may initiate corrective enforcement action, as authorized under Section 48 of the Illinois Banking Act.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Savings and Loan Act

2) Code Citation: 38 Ill. Adm. Code 1000

3)

Section Numbers:	Proposed Action:
1000.110	Amendment
1000.120	Amendment
1000.130	Amendment
1000.141	Amendment
1000.142	Amendment
1000.150	Amendment
1000.160	Amendment
1000.220	Amendment
1000.410	Amendment
1000.510	Amendment
1000.620	Amendment
1000.630	Amendment
1000.810	Amendment
1000.910	Amendment
1000.1010	Amendment
1000.1020	Amendment
1000.1040	Amendment
1000.1050	Amendment
1000.1080	Amendment
1000.1090	Amendment
1000.1110	Amendment
1000.1120	Amendment
1000.1130	Amendment
1000.1150	Amendment
1000.1160	Amendment
1000.1170	Amendment
1000.1180	Amendment
1000.1200	Amendment
1000.1220	Amendment
1000.1310	Amendment
1000.1320	Amendment
1000.1480	Amendment
1000.1510	Amendment
1000.1520	Amendment
1000.1530	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1000.1540	Amendment
1000.1500	Amendment
1000.1570	Amendment
1000.1590	Amendment
1000.1610	Amendment
1000.1620	Amendment
1000.1630	Amendment
1000.1640	Amendment
1000.1650	Amendment
1000.1670	Amendment
1000.1710	Amendment
1000.1730	Amendment
1000.1740	Amendment
1000.1750	Amendment
1000.1760	Amendment
1000.1770	Amendment
1000.1780	Amendment
1000.1790	Amendment
1000.1800	Amendment
1000.1985	Amendment
1000.2005	Amendment
1000.2010	Amendment
1000.2020	Amendment
1000.2040	Amendment
1000.2050	Amendment
1000.2055	Amendment
1000.2105	Amendment
1000.2110	Amendment
1000.2200	Amendment
1000.2300	Amendment
1000.2310	Amendment
1000.2320	Amendment
1000.2400	Amendment
1000.2410	Amendment
1000.2420	Amendment
1000.2500	Amendment
1000.2510	Amendment
1000.2520	Amendment
1000.2530	Amendment
1000.2540	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1000.3000	Amendment
1000.3150	Amendment
1000.3550	Amendment
1000.3600	Amendment
1000.3650	Amendment
1000.3700	Amendment
1000.3750	Amendment
1000.4010	Amendment
1000.4020	Amendment
1000.4030	Amendment
1000.4040	Amendment
1000.4050	Amendment
1000.4060	Amendment
1000.4070	Amendment
1000.4080	Amendment
1000.5000	New Section
1000.5010	New Section
1000.5020	New Section
1000.5030	New Section

4) Statutory Authority: Payday Loan Reform Act [815 ILCS 122] and Illinois Credit Union Act [205 ILCS 305]

5) A Complete Description of the Subjects and Issues Involved: The Payday Loan Reform Act requires the Department to promulgate regulatory standards that address a number of business practices concerning payday loans.

6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None

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

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

12) Time, Place and Manner in which interested persons may comment on this rulemaking: Interested persons may submit written comments to:

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786

217/785-0813

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

13) 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

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was inadvertently not included on either of the 2 most recent regulatory agendas because: the Division did not anticipate the need to promulgate regulatory standards to implement the Payday Loan Reform Act.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
~~OFFICE OF BANKS AND REAL ESTATE~~

PART 1000
ILLINOIS SAVINGS AND LOAN ACT OF 1985

SUBPART A: FEES

Section
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

Section
1000.205 Introduction
1000.210 Association
1000.220 Director of Banking~~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

Section
1000.310 Contracts (Repealed)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: OPERATIONS

Section
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

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

SUBPART H: NOTICE TO DIRECTOR~~COMMISSIONER~~

Section

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1000.910 Corrective Action

SUBPART I: SERVICE CORPORATIONS

Section
1000.1010 Requirements
1000.1020 Approval by the Director~~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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART L: THIRD-PARTY PAYMENT ACCOUNTS

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
1000.1670 Subpoenas
1000.1680 Conduct of the Hearing
1000.1690 Default
1000.1700 Evidence
1000.1710 Official Notice
1000.1720 Hostile Witnesses
1000.1730 Transcription of Proceedings
1000.1740 Briefs
1000.1750 Hearing Officer's Findings, Opinions and Recommendations

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1000.1760 Order of the Director~~Commissioner~~
1000.1770 Rehearings
1000.1780 Existing Statutory or Division~~Agency~~ Procedures and Practices
1000.1790 Costs of Hearing

SUBPART N: SAVINGS AND LOAN HOLDING COMPANIES

Section
1000.1800 Applicability
1000.1810 Plain Meaning/Strict Interpretation
1000.1905 Affiliate
1000.1910 Assets
1000.1915 Books of Record
1000.1920 Capital Stock
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
1000.1980 Person
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
1000.2070 Investment
1000.2105 Notice Requirement/Corrective Action

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1000.2110 Insider Abuses
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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1000.3600 Mortgage Awareness Program
1000.3650 Report of Default and Foreclosure Rates on Conventional Loans
1000.3700 Director's~~Commissioner's~~ Review and Analysis
1000.3750 Third Party Review of High Risk Home Loans

SUBPART Q: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATION

Section
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

SUBPART R: PAYDAY LOANS

1000.5000 Purpose and Scope
1000.5010 Definitions
1000.5020 Applicability of Subpart
1000.5030 Issuance of Payday Loans

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

AUTHORITY: Implementing and authorized by Section 7-3 of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-3] 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; 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; amended at 30 Ill. Reg. _____, effective _____.

SUBPART A: FEES

Section 1000.110 Filings

Filings pertaining to matters named hereafter shall be subject to the indicated fee pursuant to the Illinois Savings and Loan Act of 1985 (Act) [205 ILCS 105]. The~~Such~~ fee or fees shall be paid

at the ~~Commissioner's~~ office of the Director of the Department of Financial and Professional Regulation-Division of Banking (Division) at the time of filing. Payment shall be by check, draft or money order made payable to the Department of Financial and Professional Regulation ~~Office of Banks and Real Estate~~ (Department).

a) Permit to Organize

(Article 2 of the Act) ..... $ 1,000.00

b) Conversion to Federal Charter

(Article 6, Section 6-12 of the Act) ..... $ One time the last total annual Supervisory Fee calculated and assessed against the Association as set forth in Section 1000.141(a) and (b) of this Part.

c) Merger

(Article 6, Section 6-5 of the Act) ..... $ 1,000.00

d) Bulk Sale of Assets

(Article 6, Section 6-11 of the Act) ..... $ 1,000.00

e) Amendment to Articles of Incorporation providing for the issuance of Permanent Reserve Shares

(Article 4, Section 4-4 of the Act)

(Section 1000.410 of this Part) ..... $ 1,000.00

f) Appeals to the Board of Savings Institutions

(Article 7, Section 7-23 of the Act)

(Article 7, Section 7-24 of the Act)

(Article 7, Section 7-26 of the Act) ..... $ 500.00

Each additional party to an appeal to the Board of Savings Institutions shall pay the sum of $100.00, and shall bear its pro rata share of all expenses incurred in

said appeal except as otherwise provided in the Act

g) Hearing or Oral Argument – each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument

(Article 7, Section 7-27 of the Act)

(Section 1000.1170 of this Part)

(Section 1000.1510 of this Part) ..... $ 500.00

Each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument shall bear its pro rata share of all expenses incurred in said proceedings.

h) Application for Subsidiary Acquisition Fee

(Article 1A-5 of the Act) ..... $ 250.00

i) Photocopies and duplication Fees

1) Photocopies (per page)..... $ .25
2) Savings and Loan Act (bound edition) ..... $ 25.00
3) Rules (bound edition)..... $ 25.00
4) Annual Report (additional copy) ..... $ 25.00
5) Mailing Labels ..... $ 35.00

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.120 Conditions

a) No submission subject to a fee shall be considered complete without the stipulated fee.

b) The fee shall be non-refundable regardless of the subsequent action with respect to the submission.

c) The Director of the Division (Director) ~~Commissioner~~ may waive the payment of

the applicable fee otherwise required by Sections 1000.110 and 1000.120 when:

1) The Director ~~Commissioner~~ determines that the respective Merger or Bulk Sale of Assets or Conversion to Federal Charter avoids the need for the Director ~~Commissioner~~ to take custody of the respective association pursuant to the provisions of Article 7, Section 7-11 of the Act; or

2) The establishment of a Branch Office is at the location of the home office of the association which ceases to exist as the result of a Merger or Bulk Sale of Assets which avoids the need for the Director ~~Commissioner~~ to take custody of the respective association pursuant to the provisions of Article 7, Section 7-11 of the Act; or

3) The Termination of Operation and Closing of a Branch Office pertains to a branch office of an association which ceases to exist as the result of a Merger or Bulk Sale of Assets which avoids the need for the Director ~~Commissioner~~ to take custody of the respective association pursuant to the provisions of Article 7, Section 7-11 of the Act and the closing of the respective branch office is a condition stipulated in the plan of the respective merger or bulk sale of assets.

4) The Director ~~Commissioner~~ determines that the respective conversion to federal charter avoids the need for the Director ~~Commissioner~~ to take custody of the respective association pursuant to the provisions of Section 7-8 of the Act.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.130 Examination Fees

a) Time expended in the conduct of any examination of the affairs of any association or service corporation pursuant to the provisions of Section 7-5(a) of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-5(a)] or applicable service corporation undertakings, respectively, shall be billed by the Director ~~Commissioner~~ at a rate of $70 per examiner hour. Such fee shall be billed within 45 days following completion of the respective examination.

b) When out-of-state travel occurs in the conduct of any examination, the association or service corporation will be billed for expenses incurred in the performance of duties. Billings for such expense shall not exceed amounts authorized pursuant to

the travel regulations of the Department of Central Management Services/Governor's Travel Control Board set forth at 80 Ill. Adm. Code 2800. In the situation where examination procedures are performed at out-of-state locations, the examination fee of $70 per hour plus travel, lodging and per diem shall be assessed. Additionally, travel time shall be billed at the examination rate of $70 per hour.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.141 Supervisory Fees

a) The Director ~~Commissioner~~ shall receive, and there shall be paid to the Director ~~Commissioner~~ by each association and each service corporation operating under the provisions of the Illinois Savings and Loan Act of 1985, a fixed fee of $600, plus a variable fee based on the total assets of each association and each service corporation as shown on the financial report filed with the Director ~~Commissioner~~ for the reporting period of the prior calendar year ended December 31 according to the following schedule:

33.01¢ per $1,000 of the first $2,000,000 of total assets,

29.71¢ per $1,000 of the next $3,000,000 of total assets,

26.41¢ per $1,000 of the next $5,000,000 of total assets,

23.11¢ per $1,000 of the next $15,000,000 of total assets,

19.81¢ per $1,000 of the next $25,000,000 of total assets,

16.51¢ per $1,000 of the next $50,000,000 of total assets,

14.15¢ per $1,000 of the next $400,000,000 of total assets,

9.9¢ per $1,000 of the next $500,000,000 of total assets, and

6.6¢ per $1,000 of all total assets in excess of $1,000,000,000 of such association or service corporation.

In the situation where service corporations and/or finance subsidiaries are owned by the Association, the owned assets may be consolidated with the assets of the

Association for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle (Mortgage Backed Securities, Real Estate Mortgage Income Certificates, and other securitized debt instruments), the Director~~Commissioner~~ shall waive that portion of the fee attributed to the finance subsidiary.

b) The Director~~Commissioner~~ shall receive and there shall be paid to the Director~~Commissioner~~ by each association a fee of $600 for each approved branch office or facility office established under the provisions of Subpart J of this Part. The determination of such fees shall be made annually as of the close of business of the prior calendar year ended December 31.

c) One fourth of the sum of the supervisory fee so determined shall be remitted as billed by the Director~~Commissioner~~. Such fees shall be for the respective current year. Fees payable for the third and fourth calendar quarters of 2003 shall be recalculated using total assets as of December 31, 2002, and the amended fees provided in subsections (a) and (b) of this Section. One fourth of the sum of the supervisory fee determined based on the amended fee schedule shall be remitted as billed for the third and fourth calendar quarters of 2003.

d) Subject to the requirements of subsection (c) of this Section, for the third and fourth quarters of 2003, supervisory fees shall be determined by the Director ~~Commissioner~~ following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any such fees billed at a later date.

e) In the event the state charter is converted or otherwise surrendered during the course of the year, the Director~~Commissioner~~ shall determine the supervisory fee based on the total assets of the Association as of the month-end immediately preceding the cancellation of the state charter, except that the measurement date may be another date at the discretion of the Director ~~Commissioner~~ in the event an Association elects to liquidate. In determining whether to set another measurement date, the Director~~Commissioner~~ shall consider the following elements: whether the association is undergoing a planned liquidation (where an association elects to not continue operations), or, the association has transferred significant assets (more than ½ of 1% of the total assets at the previous measurement date).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1000.142 Adjusted Supervisory Fees

a) The Director ~~Commissioner~~ shall receive and there shall be paid to the Director~~Commissioner~~ an additional fee as an adjustment to the supervisory fee specified in Section 1000.141 of this Subpart, to be based upon the difference between the total assets of each association and each service corporation as shown by its financial report filed with the Director ~~Commissioner~~ for the reporting period of the calendar year ended December 31 on which the supervisory fee was based, and the total assets of each association and each service corporation as shown by its financial report filed with the Director ~~Commissioner~~ for the reporting period of the calendar year ended December 31 in which the quarterly payments referred to in Section 1000.141 of this Subpart are made according to the following schedule:

33.01¢ per $1,000 of the first $2,000,000 of total assets,

29.71¢ per $1,000 of the next $3,000,000 of total assets,

26.41¢ per $1,000 of the next $5,000,000 of total assets,

23.11¢ per $1,000 of the next $15,000,000 of total assets,

19.81¢ per $1,000 of the next $25,000,000 of total assets,

16.51¢ per $1,000 of the next $50,000,000 of total assets,

14.15¢ per $1,000 of the next $400,000,000 of total assets,

9.9¢ per $1,000 of the next $500,000,000 of total assets, and

6.6¢ per $1,000 of all total assets in excess of $1,000,000,000 of such association or service corporation.

In the situation where service corporations and/or finance subsidiaries are owned by the Association, the owned assets may be consolidated with the assets of the Association for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the Director ~~Commissioner~~ shall waive that portion of the fee attributed to the finance subsidiary.

b) Adjusted supervisory fees shall be remitted as billed by the Director~~Commissioner~~. In the event the total assets of each association and each service corporation as reported on the earlier financial report are more than the total assets as reported on the later annual report the Director ~~Commissioner~~ shall credit the next quarterly remittance of the supervisory fee in the same proportion.

c) In the event the state charter is converted or otherwise surrendered during the course of the year, the Director~~Commissioner~~ shall determine the supervisory fee based on the total assets of the Association as of the month-end immediately preceding the cancellation of the state charter, except that the measurement date may be another date at the discretion of the Director~~Commissioner~~ in the event an Association elects to liquidate. In determining whether to set another measurement date, the Director~~Commissioner~~ shall consider the following elements: whether the association is undergoing a planned liquidation (where an association elects to not continue operations), or, the association has transferred significant assets (more than ½ of 1% of the total assets at the previous measurement date).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.150 Manner of Payment

Each invoice for a fee billed by the Director~~Commissioner~~ pursuant to Sections 1000.130, 1000.141 and 440.142 of this Subpart shall be due and payable upon receipt of same by the association or service corporation. Payment shall be by check, draft or money order made payable to the Department of Financial and Professional Regulation ~~Office of Banks and Real Estate~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.160 Withdrawal of Applications or Other Filings

a) Unless otherwise specified in the Savings and Loan Act [205 ILCS 105] or this Part, an application or other filing submitted under the Savings and Loan Act or this Part shall be deemed withdrawn if the person making the filing fails to respond within 120 days after a request by the Director~~Commissioner~~ for additional documents or information related to the filing. All withdrawn applications or other filings shall be terminated and shall be ineffective. The Director~~Commissioner~~ may agree to extend the time in which the application or other filing shall be deemed withdrawn unless the Savings and Loan Act or this

Part requires otherwise.

b) Notwithstanding subsection (a) of this Section, applications or other filings submitted on or before September 15, 2002 shall not be deemed withdrawn unless the person making the filings fails to respond within 120 days after that date to a request by the Director~~Commissioner~~ for additional documents or information related to the filing.

c) Nothing in this Section requires the Director~~Commissioner~~ to reissue requests for additional documents or information made prior to September 15, 2002.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS

Section 1000.220 Director of Banking~~Commissioner~~

"Director~~Commissioner~~" shall mean *the* Director of Banking~~*Commissioner of Banks and Real Estate*~~ *or some person authorized by the* Director ~~*Commissioner*~~ *to act for the* Director~~*Commissioner*~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART D: OPERATIONS

Section 1000.410 Permanent Reserve Shares

a) An association proposing to adopt an amendment to its Articles of Incorporation to provide for the issuance of permanent reserve shares pursuant to Section 4-4 of the ~~Illinois Savings and Loan~~ Act ~~of 1985 (Act)~~ shall comply with the applicable provisions of Sections 3-2, 4-3, and 6-2 of the Act. In addition, the following shall be filed with the Director~~Commissioner~~.

1) One certified copy of the Board of Directors' resolution adopting the proposed amendment to the Articles of Incorporation, which amendment shall incorporate the Plan of Conversion from mutual to permanent reserve status;

2) One copy of all forms, filings and amendments thereto necessary to comply with applicable Federal Savings and Loan Insurance Corporation

regulations (12 CFR 563b) and/or to gain the approval of the Federal Home Loan Bank Board to effect the conversion; and

3) A copy of the Federal Home Loan Bank Board's written notice of approval.

b) Upon receipt of all documents enumerated in subsection ~~paragraph~~ (a) of this Section, the Director~~Commissioner~~ shall issue a Certificate of Approval of Amendment to the Articles of Incorporation.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART E: APPRAISALS

Section 1000.510 Appraisals

a) An association shall not make a loan on the security of real estate nor purchase an installment contract for the sale of real estate, unless such loan or contract purchase is based upon an appraisal made for and at the direction of the association. The association's board of directors shall designate either a qualified fee appraiser or the association's appraisal committee to make such appraisal. Loans guaranteed or insured wholly or in part by the United States or any of its instrumentalities shall be appraised in a manner prescribed by the guarantor or the insurer.

b) For every appraisal that is made, there shall be attached to such appraisal a copy of a letter of direction from the association to the appraiser establishing general specifications of data to be included in the appraisal and a letter of transmittal directed to the association.

c) Every appraisal shall be prepared in a manner consistent with generally accepted appraisal practices established by the American Institute of Real Estate Appraisers or the Society of Real Estate Appraisers. The appraisal shall be kept on file at the association. A copy of the appraisal shall be furnished to the Director~~Commissioner~~ upon request.

d) Before relying upon an appraisal by a qualified fee appraiser, the association shall require the appraiser to file with the association a completed form as prescribed by the Director~~Commissioner~~. Such form shall indicate the experience and qualifications of the appraiser.

e) An association shall not rely upon an appraisal made by a qualified fee appraiser, unless the appraiser has had at least ~~five (~~5~~)~~ years of actual appraisal experience and the association has complied with subsection ~~paragraph~~ (d) of this Section.

f) Each examination of an association may include a review of each appraiser's qualifications. Any adverse findings shall be made known to the association and the appraiser. The Director ~~Commissioner~~ may object to or request the qualifications of any appraiser when:

1) the Director~~Commissioner~~ has verified independent data which raises a question as to the veracity of the appraiser's stated qualifications; or

2) a review of the appraiser's workproduct indicates a pattern of disregard for generally accepted appraisal practices either in form or substance.

g) No association shall knowingly utilize the services of an appraiser who has been declared by the Director~~Commissioner~~ to be unqualified to make appraisals for an Illinois-chartered savings and loan association.

h) The Director~~Commissioner~~ may order an appraisal of real estate when:

1) the association has relied upon an appraisal which is at variance with the requirements of this Subpart; or

2) the association has failed to obtain an appraisal in accordance with this Subpart.

i) Such appraisal shall be made by an appraiser selected by the association from candidates furnished by the Director~~Commissioner~~. The Director ~~Commissioner~~ will also furnish to the association the scope of the appraisal assignment applicable to the property to be appraised. Such appraisal shall be made at the expense of the association and paid when due.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART F: INVESTMENTS

Section 1000.620 Discrimination and Redlining Prohibited

a) It shall be considered discriminatory to refuse to grant loans or to vary the terms of loans or the application procedures for loans because of:

1) in the case of the proposed borrower, said borrower's race, color, religion, national origin, age, sex, or marital status; or

2) in the case of a mortgage loan, the geographic location of the proposed security.

b) A presumption of discrimination shall be attached to any inquiry regarding a loan authorized by the association's board of directors when

1) an association refuses to accept a written application; or

2) a loan application is rejected and not supported by adequate documentation which includes information sufficient to permit an informed non-interested party to reach the same conclusion as the lender concerning the disposition of the application.

c) In cases of an association's non-compliance with this Section, the Director~~Commissioner~~, by written notice, shall require that all inquiries for loans received from proposed borrowers be accepted in writing on application forms that provide information sufficient to make an informed decision concerning the final disposition of the respective loan application. Thereafter, the association shall submit a copy of each rejected application to the Director~~Commissioner~~ with a written statement setting forth the reason for rejecting the application, and a copy of each document supporting the decision.

d) An association shall be required to comply with the Director 's~~Commissioner's~~ directive issued pursuant to subsection ~~paragraph~~ (c) of this Section for a minimum of six months. Should a presumption of discrimination exist at the close of the six-month period, the respective association shall be required to continue such reporting until such later date when the Director~~Commissioner~~, by examination, determines that discriminatory practices have ceased and the association is so notified.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.630 Loans Secured by Real Estate

a) An association may originate, invest in, sell, purchase, service, participate, or otherwise deal in (including brokerage or warehousing) real estate loans or interests in such loans.

b) In determining compliance with the maximum loan-to-value limitations specified at subsection ~~paragraph~~ (c) of this Section, an association shall add to the loan amount the total of all other existing liens or other encumbrances on the security property having priority over the association's lien (including the lien to be established by the association but excluding liens that will be released as the result of payments made from the proceeds of the new loan).

c) At the time of origination, a real estate secured loan granted under the provisions of 205 ILCS 105/5-2 shall not exceed the maximum loan-to-value ratio fixed for a like category by 12 CFR 545 as of February 29, 1984, and the Home Owners' Loan Act of 1933 as amended.

d) The loan-to-value limitations specified at subsection ~~subparagraph~~ (c) of this Section shall not apply to the following:

1) to loans guaranteed or insured wholly or in part by the United States or any of its instrumentalities;

2) to loans or contracts made to finance the purchase of real estate owned which has been acquired by the association through default on a prior investment provided that the minutes of directors' meetings substantiate that such sale is made in compliance with the following:

A) the board of directors approved the specific terms of the loan or contract prior to the association's issuance of a letter of commitment. If no letter of commitment is to be issued, such approval shall be prior to the execution of a note, mortgage, or contract for deed between the purchaser and the association; and

B) the board of directors resolution of approval of the respective sale specifically indicates why the sale is in the best interest of the association and that said approval is given after duly considering the provisions of Section 1000.610 of this Subpart; and

C) the resolution identifies the specific documentation in their possession and utilized in determining that the sale was in the best

interest of the association; and

D) all documentation used in evidencing compliance with this subsection ~~Section 1000.630~~ (d)(2) is retained as a part of the records of the association for so long as the association has a direct or indirect interest in the respective real estate.

3) loans or contracts having additional eligible collateral pledged in an amount equal to that part of the loan or contract which is in excess of the lending limitations specified at subsection ~~paragraph~~ (c) of this Section. Eligible collateral means

A) any investment permissible pursuant to 205 ILCS 105/1-6, 5-2, and 5-3;

B) any savings or time deposit in a commercial bank which deposit is insured by the Federal Deposit Insurance Corporation and not under control of any supervisory authority; or

C) the cash surrender value of a life insurance policy validly assigned to the association.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART G: BONUS PLANS

Section 1000.810 Bonus Plans

a) For the purpose of encouraging thrift and long term investment, bonus plans are herewith established in accordance with the following:

b) Bonus plans may be issued when required, providing for a bonus premium to be paid in accordance with the provisions of such plans, subject to the Director's ~~Commissioner's~~ approval of: the bylaw provision, the form of Member's Bonus Agreement, an appropriate certificate and the terms of each plan.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART H: NOTICE TO DIRECTOR~~COMMISSIONER~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1000.910 Corrective Action

An association shall take no corrective action relative to the affairs of the association at the request or direction of any governmental agency except Banks and Real Estate without prior written notice to the Director ~~Commissioner~~ of Banks and Real Estate.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART I: SERVICE CORPORATIONS

Section 1000.1010 Requirements

a) No association shall invest in or lend to a service corporation as defined at Section 1-10.21 of the Illinois Savings and Loan Act of 1985 unless said service corporation has been approved by the Director~~Commissioner~~.

b) This Subpart shall not apply to investments in single-purpose corporations authorized under provisions of Sections 1-6(j) and 5-9 of the Illinois Savings and Loan Act of 1985.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1020 Approval by the Director ~~Commissioner~~

a) Except as provided in subsection (b), an application for approval of a service corporation shall be approved by the Director ~~Commissioner~~ provided that:

1) its purpose or purposes are reasonably incident to the accomplishment of the express powers conferred upon associations by the Act, or are purposes granted or allowed to service corporations organized or owned by Federal associations; or its sole purpose is to operate as a finance subsidiary of an association to the extent authorized for finance subsidiaries of Federal associations under the provisions of 12 CFR 545.82 as of September 1, 1985; and

2) the application for approval of a service corporation includes: the appropriate fee; a copy of the service corporation's Articles of Incorporation; a list of proposed shareholders~~shareholder(s)~~; the fiscal year-end date; and an undertaking by the service corporation with the continuing conditions specified in Section 1000.1020(c) and in a form

prescribed by the Director~~Commissioner~~.

b) An application for approval of a service corporation shall be denied by the Director~~Commissioner~~ in writing if the Director ~~Commissioner~~ finds that any proposed shareholder is conducting business in an unsafe manner as defined in Section 1000.240.

c) Continuing conditions:

1) A service corporation shall not amend its Articles of Incorporation nor adopt an assumed corporate name without the prior written approval of the Director~~Commissioner~~. A proposed amendment to Articles of Incorporation not involving a name change shall be approved unless it is in non-compliance with Section 1000.1020(a)(1). A proposed name change shall be approved unless such proposed name is either deceptively similar to that of a savings and loan association as specified in Section 2-4(e) of the Act or of a nature which might imply that the entity is a savings and loan association.

2) Each service corporation shall cause its affairs to be audited by a licensed public accountant at least once each fiscal year, and cause said accountant to deliver a copy of said certified statement to the Director~~Commissioner~~ simultaneously with the delivery of the statement to the service corporation;

3) Each service corporation shall be examined in conjunction with the examination of its parent associations~~association(s)~~. The Director~~Commissioner~~ shall require additional reports and/or examinations if the Director~~Commissioner~~, or his staff members engaged in examination of the association's monthly report, determine that more information is needed to determine the viability of the service corporation; and

4) A service corporation shall not acquire any classified items~~item(s)~~ from any association except that a service corporation may acquire real estate owned by any association. The term classified items has the meaning: prescribed in 12 CFR 561.16c (a)-(c) and (e) March, 1989~~,~~ (no subsequent dates or editions).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1000.1040 Investments by Service Corporations

a) A service corporation may invest its assets in any manner not expressly prohibited by law, provided such investments are made in the *exercise of reasonable judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.*

b) If a service corporation has not been approved, or if approval is withdrawn, all loans to or investments in the service corporation shall constitute an unauthorized investment; however, the association shall be granted a reasonable time within which to dispose of said loans or investments.

c) A basis for withdrawal of approval of a service corporation exists if:

1) the service corporation is subject to involuntary dissolution for failure to file annual reports or pay fees pursuant to the~~The~~ Business Corporation Act [805 ILCS 5]~~(Ill. Rev. Stat. 1991, ch. 32, par. 157.1 et seq.)~~; or

2) the service corporation fails to pay, within 60 days after~~of~~ the billing date, supervisory fees or examination fees due the Director~~Commissioner~~; or

3) the service corporation fails to file, when due, those reports required by Sections 1000.1080 and 1000.1090 of this Subpart; or

4) the Director~~Commissioner~~ determines that the service corporation is engaged in activities that are not reasonably incidental to the accomplishment of the express powers conferred upon associations by the Act, or granted or allowed to service corporations organized or owned by Federal associations; or

5) the investment of any parent association in the respective service corporations~~corporation(s)~~ is in excess of the investment limitations set forth at Section 1000.1030(a) of this Subpart; or

6) the Director~~Commissioner~~ determines that the service corporation is conducting business in a fraudulent, illegal, or unsafe manner.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1050 Ownership of Capital Stock of Service Corporation

a) A minimum of ninety percent (90%) of all classes of capital stock of a first-tier service corporation shall be owned by one or more associations. First-tier service corporation means *any corporation which is 90% or more owned by one or more associations, whose purpose or purposes are reasonably incident to the accomplishment of the express powers conferred upon associations by the Act*~~(Ill. Rev. Stat. 1991, ch. 17, par. 3301-10.21)~~ [205 ILCS 105/1-10.21].

b) Subject to approval by the Director~~Commissioner~~, an amount not to exceed ~~ten percent (~~10%~~)~~ of all classes of capital stock of a service corporation may be owned by bona fide officers or employees of the service corporation. The ownership by such individuals shall be approved if the Director~~Commissioner~~ finds:

1) The sale or issuance of stock to such individuals is at the book value of the stock;

2) If no sale is involved, that the stock issuance to the employee or officer is part of the compensation program documented by a written employment contract; and

3) The ownership of such stock is subject to a repurchase agreement which provides that the service corporation will reacquire the stock from the employee or officer or the estate of such employee or officer at book value at the time of death or termination of employment.

c) The book value of the stock shall be determined in accordance with generally accepted accounting principles by the independent auditor of the service corporation.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1080 Reporting Requirements

a) Within 45~~forty-five~~ days after~~of~~ the close of each calendar year, each service corporation shall submit to the Director~~Commissioner~~ S&L Form 557, Service

Corporation Report, setting forth complete and true statements of condition and operations of the service corporation and of every partnership, joint venture or corporation in which the service corporation has a cash and/or equity interest of ~~fifty percent (~~50%~~)~~ or more.

b) All corporate subsidiaries, partnerships and joint ventures in which the service corporation has a cash and/or equity interest of ~~fifty percent (~~50%~~)~~ or more shall, within 15~~fifteen~~ days after the~~of~~ request for same by the Director~~Commissioner~~, submit true and correct copies of all contracts, mortgages, partnership agreements, joint ventures and loan commitments.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1090 Audit Requirements

a) Each service corporation shall cause its books and records to be audited at least once annually by an independent licensed public accountant. Except as provided hereafter, the report of audit shall be separate from the report of audit of any parent association.

b) The report of audit of a wholly-owned service corporation may be consolidated with the report of audit of the parent association provided that such report sets forth:

1) the auditor's opinion that the activity of the service corporation does not materially affect the financial position of the parent association, and

2) all details of consolidation.

c) The auditor shall test compliance with the Act and this Part and determine the effect that the service corporation has on the financial position of the parent associations~~association(s)~~.

d) The auditor shall make a determination and report any facts relating to any direct or indirect self-dealing by any service corporation officer, director, employee or shareholder other than a savings and loan association. The auditor shall also make a determination and report any facts relating to any direct or indirect conflict of interest of any officer, director, employee or permanent reserve shareholder of any savings and loan association holding stock in the service corporation.

e) Any noncompliance with the Act or this Part, self-dealing or conflict of interest which are discovered during the audit shall be set forth in the report of audit delivered to the service corporation's board of directors. The service corporation's board of directors shall promptly report such noncompliance to the Director~~Commissioner~~ and to the board of directors of the parent associations~~association(s)~~.

f) A copy of the audit report shall be filed with the Director ~~Commissioner~~ within ninety days of the audit date, except upon receipt of written notice setting forth the reason delivery of the report of audit is delayed by circumstances beyond control of the service corporation, the Director~~Commissioner~~ may extend the filing date for up to 60~~sixty~~ additional days.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART J: RELOCATIONS AND BRANCHING

Section 1000.1110 General

a) An association with facility offices existing or approved under previous regulations of the Director~~Commissioner~~ and prior to the effective date of this regulation may advertise or refer to such offices as branches without amending its bylaws. A branch office of an association is any office other than its home office, drive-in facility, pedestrian facility, agency office, or a remote service unit.

b) Any business of an association may be transacted at a branch office. When a branch office provides any product it must have all the resources necessary to support that product offering at the branch location.

c) An association shall not establish a branch office nor change the location of its home office unless its respective application has been approved by the Director~~Commissioner~~. An application shall be approved only if the Director~~Commissioner~~ finds that:

1) the office *can be established* at the proposed location *without undue injury to properly conducted existing associations* and savings banks chartered under the Illinois Savings Bank Act [205 ILCS 205];

2) the policies and financial condition of the applicant are not a basis for supervisory objection; and

3) the proposed office will open within twelve months of approval unless occupancy is delayed by circumstances beyond the control of the applicant and, consequently, additional time is allowed by the Director~~Commissioner~~.

d) An association proposing a change of location of its home office or branch office may request a waiver of the otherwise applicable requirements of this Subpart. The request will be approved only if:

1) the Director~~Commissioner~~ is able to make the same findings as those required at subsection (c) of this Section;

2) the applicant demonstrates that the area to be served from the proposed location is essentially the same as that served from the present location;

3) the applicant gives the reasons for the change of location; and

4) the applicant submits the appropriate fee required by Section 1000.110(c) of this Part, along with a request that sets forth information sufficient to allow the making of all determinations required by this subsection (d).

e) If requested by the applicant, the Director~~Commissioner~~ shall approve a temporary location of a home office or a branch office if the temporary location:

1) is in the immediate vicinity of the approved permanent location; and

2) can be established without undue injury to any other properly conducted existing association or any properly conducted existing savings bank chartered under the Illinois Savings Bank Act.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1120 Application

a) An association may apply for a branch office or for a change of location of its home office provided that the applicant obtains the prescribed form of application and form of notice and related instructions from the Director~~Commissioner~~ unless waived pursuant to Section 1000.1110(d).

b) An application is considered complete and a priority filing date is established when the Director~~Commissioner~~ determines that all required information has been submitted on the prescribed form along with the appropriate filing fee required by Section 1000.110(c) or (d) of this Part.

c) Changes to all but material information of the application may be made up to the time approval/denial is determined. For purposes of this section material information is defined as but is not limited to:

1) Association name;

2) Association address;

3) Nature and purpose of application; and

4) Any other information which if changed, would likely cause the approval or denial decision to be reversed.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1130 Request for Preliminary Determination

a) An association which intends to file an application for a branch office or for a change of location of its home office may, prior to the filing of such application, submit to the Director ~~Commissioner~~ written advice of intent to file such an application and request a preliminary determination as to whether supervisory objection will be raised on the basis of the applicant's policies and financial condition. Within 30~~thirty~~ days following receipt of the advice of intent, the applicant shall be advised of the Director's ~~Commissioner's~~ decision, and if applicable, the reason for supervisory objection.

b) If at any time subsequent to preliminary determination the Director~~Commissioner~~ determines that a basis for supervisory objection exists, further processing of the respective application shall be denied.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1150 Public Notice and Inspection

a) After the application is complete, the Director~~Commissioner~~ shall direct the

applicant, in writing, to publish notice within 15~~fifteen~~ calendar days from such date of direction. The applicant shall publish notice in a newspaper printed in the English language having a general circulation in the applicant's home office community and in the community to be served from the proposed location.

b) Within 10~~ten~~ days following the date of publication, the applicant shall furnish the Director~~Commissioner~~ with two copies each of the required notices~~notice(s)~~ and the publisher's affidavits~~affidavit(s)~~ of publication.

c) The Director~~Commissioner~~ shall consider the application and its filing confidential until the applicant is advised to publish notice. After publication, the application shall be available for public inspection at the Division of Banking~~Office of Banks and Real Estate~~, by appointment.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1160 Protest

Protests, answers to protests and other related communications shall be in writing and submitted only as provided in this Section.

a) Within 10~~ten~~ calendar days following the date of publication of notice of application (or 20~~twenty~~ calendar days after the date of publication if extension is requested in writing within such 10~~ten~~-day period) any person may file a communication in favor or protest of the application with the Director~~Commissioner~~. Any person filing such a communication shall simultaneously furnish a copy to the applicant.

b) Within 15~~fifteen~~ calendar days after receipt of a protest, the objector and the applicant shall be advised in writing whether the Director~~Commissioner~~ considers the protest to be substantial.

c) No protest shall be considered "substantial" unless it is in writing, filed on time, and contains at least the following:

1) A summary of the reasons for the protest;

2) The specific matters in the application to which objection is raised and the reasons for each objection;

3) Facts supporting the protest, including relevant economic or financial data; and

4) Adverse effects on the objector which may result from approval of the application.

d) The Director's ~~Commissioner's~~ determination as to whether a protest is "substantial" shall be made on the basis of data showing *undue injury to properly conducted existing association(s)* and/or data disputing the propriety of information set forth in the respective application.

e) Within 20~~twenty (20)~~ calendar days following the date of notice that a protest has been deemed substantial, the applicant may file an answer to such protest with the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1170 Oral Argument

a) Oral argument on the merits of an application shall be heard if:

1) the applicant, or a person who has filed a protest deemed to be substantial, so requests and the request is received by the Director~~Commissioner~~ within 10~~ten~~ calendar days after the time for filing answers to all protests has expired; and

2) the Director~~Commissioner~~, after reviewing the application and other pertinent information, considers oral argument desirable because of protests which dispute the propriety of information set forth in the application.

b) Any such hearing of oral argument shall be subject to the appropriate fee and expenses prescribed in Section 1000.110(m) of this Part. A transcript of any such hearing of oral argument shall be taken and made a part of the record in the matter.

c) The Director~~Commissioner~~ shall mail notice of the date (which shall be at least ten calendar days after such mailing), time and place of oral argument to the applicant and persons~~person(s)~~ who filed protests or other communications. The Director~~Commissioner~~ shall ensure that the time and place of any oral argument

are reasonably convenient to the applicant and the objectors~~objector(s)~~.

d) The Director~~Commissioner~~ or any person designated by the Director~~Commissioner~~ shall hear oral argument and determine all matters relating to the conduct thereof. Arguments shall be made in person or by authorized representatives~~representative(s)~~. A maximum of one hour of oral argument shall be allowed in favor of and against the application. In hearing oral arguments, the person presiding shall determine the order of presentation. The parties may agree on a division of time; otherwise, the person presiding shall make the determination. Arguments may be consolidated. In the event of multiple substantial protests, the person presiding may permit additional time for argument and rebuttal. Arguments shall be based only on the facts and information on file; however, a party may introduce newly discovered matter by giving a written memorandum of same to the person presiding when the hearing commences. Said memorandum shall include an affidavit as to why the matter was not previously known and not previously filed. No party to an oral argument shall be permitted more than one filing of new matter. If the person presiding rules that there is in fact substantive new matter, the party introducing it shall be required to provide copies of the memorandum of such new matter to all parties. If the parties agree to argue on the basis of such new matter, the hearing shall continue.

e) If any party wishes to file a rebuttal, ten calendar days shall be allowed for the submission of such rebuttal, and the person presiding shall adjourn the hearing and set a date, time and place for it to be reconvened. Rebuttal to new matter shall not be considered a filing of new matter.

f) If oral argument is heard by a person other than the Director~~Commissioner~~, that person's findings shall be submitted to the Director~~Commissioner~~, in writing, within 25~~twenty-five~~ calendar days after final adjournment of the hearing. Within ten calendar days following receipt of said findings the parties shall be advised, in writing, of the Director's ~~Commissioner's~~ decision. If the Director ~~Commissioner~~ presides at the hearing, the parties to the hearing shall be advised of the decision within 25~~twenty-five~~ calendar days after final adjournment of the hearing.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1180 Application for and Maintenance of Branch Office after Conversion, Consolidation, Purchase of Assets or Merger

a) With written approval of the Director~~Commissioner~~, an association which

acquires an office or offices through merger, purchase, purchase of all assets or consolidation shall assume the operation of any such acquired offices~~office(s)~~, subject to the provisions of Section 1000.1200 of this Subpart. An existing association which converts to a state-chartered association shall maintain all of its offices, existing or approved prior to the conversion, if such offices are set forth in its bylaws, adopted in accordance with Section 6-13(c) of the ~~Illinois Savings and Loan~~ Act~~ of 1985~~. Offices set forth in its bylaws shall be subject to the provisions of Section 1000.1200 of this Subpart.

b) If the Director~~Commissioner~~ has approved a Plan of Conversion to Federal charter for an association or has evidence of an association's intent to file such Plan of Conversion, he shall deny an application for a branch office.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1200 Termination of Operation and/or Closing of a Branch Office

a) An Association may offer to sell a branch offices~~office(s)~~ to another savings and loan association.

1) Prior to any such sale, a copy of the proposed agreement shall be submitted to the Director~~Commissioner~~. Within 30~~thirty~~ calendar days the Director~~Commissioner~~ shall notify the proposed seller, in writing, as to whether there is supervisory objection to the proposed sale or the Director~~Commissioner~~ may advise the proposed seller of any additional information or further review deemed necessary to make such a determination. The Director~~Commissioner~~ in considering supervisory objection shall review the policies and financial condition of the selling association and the acquiring association.

2) The selling association and, if applicable, the acquiring association shall submit an appropriate bylaw amendment for the Director's ~~Commissioner's~~ approval.

b) An association showing justification for termination of operation and the closing of a branch office~~office(s)~~ may do so with the prior written approval of the Director~~Commissioner~~. Any request for the closing of any office shall be subject to the publication requirements of Section 1000.1150(a) of this Subpart.

c) The filing of a request for termination of operation and the closing of a branch

office~~(s)~~ shall constitute authority for the Director ~~Commissioner~~ to seek a successor association to assume operation of the branch office~~(s)~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1220 Remote Drive-In and/or Remote Pedestrian Facilities

a) An association may, without prior approval of the Director ~~Commissioner~~ other than approval of an appropriate bylaw amendment, establish one Remote Drive-In and/or one Remote Pedestrian facility in conjunction with each association business office. Each such facility may be designed to simultaneously accommodate more than one customer.

b) The term "business office" means the business-office premises including non-remote drive-in and/or non-remote pedestrian facilities which are those facilities within the boundaries of real estate on which a home office or any branch office is located and the areas contiguous thereto which the association has the exclusive right as owner or lessee to use or maintain for ingress or egress or for parking in connection with that business office.

c) Remote drive-in and remote pedestrian facilities are defined as follows:

1) A remote drive-in facility is a facility which is not located on the premises of a business office as defined in subsection ~~paragraph~~ (b) of this Section and at which the customer transacts business from a vehicle.

2) A remote pedestrian facility is a facility which is not located on the premises of a business office as defined in subsection ~~paragraph~~ (b) of this Section and at which the customer need not enter an office but may remain outside the structure and transact business with a teller located inside the structure.

d) Remote drive-in and remote pedestrian facilities shall be initially located within the following limitations.

1) Remote drive-in and/or remote pedestrian facilities must be initially located not more than 1500 feet from a business office of the establishing association, and such initial location must be closer to a business office of the establishing association than to a business office of any other savings and loan association.

2) Such a facility may be placed in a store or location of some other business if the association's quarters are used exclusively for the conduct of the association's business. There will be no objection to a remote pedestrian facility which faces on an enclosed mall and serves pedestrians who remain in the mall while transacting business with the association.

e) Functions which are routinely performed by the establishing association's tellers at its business offices~~office(s)~~ may be performed at a remote drive-in and/or remote pedestrian facility; however, the acceptance of a completed loan application is prohibited.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART K: CAPITAL NOTES AND DEBENTURES

Section 1000.1310 Approval

An association may issue and sell its capital notes or debentures with the prior approval of the Director~~Commissioner~~ and subject to any conditions the Director ~~Commissioner~~ may impose. A permanent reserve association shall also have the prior approval of a majority of the shareholders owning a majority of the issued and outstanding permanent reserve shares of the association to issue convertible capital notes or debentures.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1320 Conversion to Stock

Capital notes or debentures issued by permanent reserves association may be converted into shares in accordance with provisions approved by the Director~~Commissioner~~ and contained in the capital notes or debentures. Convertible capital notes or debentures may be issued without preemptive rights to existing shareholders if provided by the Articles of Incorporation of the association and authorized by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART L: THIRD-PARTY PAYMENT ACCOUNTS

Section 1000.1480 Approval and Authorization

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Prior to offering third-party accounts an association shall obtain the approval of the Director~~Commissioner~~. The following items must be submitted to the Director~~Commissioner~~ before authorization to issue third-party accounts will be given.

a) A fully executed copy of any clearing agreement between the association, its correspondent bank or banks and the Federal Reserve Bank.

b) A board of directors' resolution which authorizes the issuance and maintenance of third-party accounts and which also establishes the rules and regulations under which such accounts shall be administered.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART M: ADMINISTRATIVE HEARING PROCEDURES

Section 1000.1510 Applicability

This Subpart~~regulation~~ shall apply to all hearings conducted under the jurisdiction of the Illinois Director ~~Commissioner~~ of Banking~~Banks and Real Estate~~ under the Savings and Loan Act of 1985.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1520 Definitions

"Act" – Illinois Savings and Loan Act of 1985 [205 ILCS 105/1-1].

~~"Agency" – Office of Banks and Real Estate.~~

"Applicant" – Association or holding company or person whose application pending before the Director~~Commissioner~~ is subject matter of the hearing.

"Association" – Every savings and loan association organized under and governed pursuant to the Illinois Savings and Loan Act of 1985; a State-chartered savings and loan association.

"Director~~Commissioner~~" – Director of the Illinois Department of Financial and Professional Regulation-Division of Banking~~Commissioner of Banks and Real Estate for the State of Illinois~~.

"Company" – Any corporation, partnership, trust, joint-stock company, or similar organization, but does not include the Federal Savings and Loan Insurance Corporation, any Federal home loan bank, or any company the majority of the shares of which is owned by the United States or any State, or by an officer of the United States or any State in his official capacity, or by an instrumentality of the United States or any State.

"Hearing Officer" – The presiding officials~~official(s)~~ designated by the Director~~Commissioner~~ to conduct a hearing or anyone designated by the Director~~Commissioner~~ to hear evidence; means any member of the panel the Director ~~Commissioner~~ appoints to conduct the hearing.

"Holding Company" – Any company as defined in Section 1A-1 of the Act.

"Institution" – A savings and loan association, a savings bank, a Federal savings and loan association, a Federal savings bank, a building and loan, homestead association or a cooperative bank, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and shall include a Federal savings bank, the deposits of which are insured by the Federal Deposit Insurance Corporation, and a savings bank or any other thrift depository institution by whatever name called.

"Mutual" or "Mutually Owned" – is a holding company institution in which ownership is evidenced by membership, as opposed to capital stock, typically determined by the maintenance of a depository relationship with at least one subsidiary depository institution.

"Mutual Thrift Holding Company" – is a holding company which owns one or more savings and loan association, savings bank, building and loan association, homestead, or other institution as defined at Section 1000.1520~~ of these rules and regulations~~, which is owned mutually.

"Notice" – Notice prescribed by the Act or this Part, as applicable.

"Objector" – Entity or person who is on record as objecting to the application pending before the Director ~~Commissioner~~ which is the subject matter of the hearing.

"Party" – Entity or person named in pleading or affected by judgment.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1530 Filing

Documents and requests permitted or required to be filed with the Agency in connection with a hearing shall be addressed to and mailed to or filed with the Division ~~Office~~ of Banks and Real Estate, 500 East Monroe, Suite 800, Springfield, Illinois 62701 or 310 South Michigan Avenue, Suite 2130, Chicago, Illinois 60604, in triplicate. The office of the Division~~Agency~~ is open for filing and inspection and copying of public documents from 8:30 a.m. to 5:00 p.m., Monday through Friday, except on national and State~~state~~ legal holidays.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1540 Form of Documents

a) All documents shall clearly show the title of the proceedings in connection with which they are filed.

b) Except as otherwise provided, ~~three (~~3~~)~~ copies of all documents including notices, motions and petitions, shall be filed with the Division~~Agency~~.

c) All documents shall be typewritten or reproduced from typewritten copy on letter or legal size white paper.

d) One ~~(1)~~ copy of each document filed shall be signed by the party or by the party's authorized representative or attorney.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1550 Computation of Time

Computation of any period of time prescribed by this Subpart~~regulation~~ shall begin with the first business day following the date of filing of the documentation with the Division~~Agency~~ pursuant to Section 1000.1530 of this Subpart, and shall run until the end of the last day, or the next following business day if the last day is a Saturday, Sunday or national or State~~state~~ holiday. Where the period of time is ~~five (~~5~~)~~ days or less, Saturdays, Sundays and national or State~~state~~ holidays shall be excluded in the computation of time. Notice requirements shall be construed to mean notice received, but proof that notice was dispatched by means reasonably calculated to be received by the prescribed date shall be prima facie proof that notice was timely received.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1570 Notice of Hearing

All administrative hearings shall be initiated by the issuance by the Division~~Agency~~ of a written notice of hearing, which shall be served upon all known parties to the hearing.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1590 Motion and Answer

a) Any party receiving a notice of hearing may file an answer not later than ~~five (~~5~~)~~ days prior to the date of hearing. All answers to motions preliminary to a hearing shall be presented to the Division~~Agency~~ and to the hearing officer at least ~~five (~~5~~)~~ days prior to the date of hearing, or on such other date as the hearing officer shall designate and shall be served personally or by registered or certified United States mail.

b) Unless made orally on the record during a hearing, or unless the hearing officer directs otherwise, an answer to a motion shall be in writing and shall be accompanied by any affidavits or other evidence relied upon and, as appropriate, by a proposed order. At least ~~two (~~2~~)~~ copies of all such motions shall be filed with the Division~~Agency~~ (one ~~(1)~~ for the Division~~Agency~~ attorney and one ~~(1)~~ for the hearing officer) and at least one ~~(1)~~ copy served on each additional party, if any, to the hearing.

c) Within ~~five (~~5~~)~~ days after service of a written motion, or such other period as the hearing officer may prescribe, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence. If no response is filed, the parties shall be deemed to have waived objection to the granting of the motion. The moving party shall have no right to reply, except as permitted by the hearing officer.

d) No oral argument will be heard on a motion unless the hearing officer directs otherwise. A written brief may be filed with a motion or an answer to a motion, stating the arguments and authorities relied upon.

e) A written motion will be disposed of by written order and on notice to all parties.

f) The hearing officer shall rule upon all motions, except that the hearing officer

shall have no authority to dismiss or decide a hearing on the merits without granting all parties to the proceeding a right to be heard and to establish a record.

g) Unless otherwise ordered, the filing of an answer or motion shall not stay the proceeding or extend the time for the performance of any act.

h) A party may participate in the proceedings without forfeiting any jurisdictional objection, if that~~such~~ objection is raised at or before the time the party files an answer or motion, or, if no answer to motion is made, before the commencement of the hearing.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1610 Intervention

a) Upon timely written application, the hearing officer may permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when either of the following conditions is met:

1) When the party is so situated that the~~said~~ party may be adversely affected by a final order arising from the hearing; or

2) When a party's circumstances and the hearing proceeding have a question of law or fact in common.

b) Two ~~(2)~~ copies of a petition for intervention shall be filed with the Division~~Agency~~ (one ~~(1)~~ for the Division~~Agency~~ attorney and one ~~(1)~~ for the hearing officer) and one ~~(1)~~ copy served on each party no later than 48 hours prior to the date set for hearing of the matters set forth in the notice of hearing. The hearing officer may permit later intervention when there is good cause for the delay.

c) An intervenor shall have all the rights of an original party, except that the hearing officer may, in his or her order allowing intervention, provide that the applicant and objector shall be bound by orders previously~~theretofore~~ entered or by evidence previously~~theretofore~~ received, that the applicant and objector shall not raise issues that~~which~~ might more properly have been raised at an earlier stage of the proceeding, that the applicant and objector shall not raise new issues or add new parties, or that in other respects the applicant and objector shall not interfere with the control of the hearing, as justice and the avoidance of undue delay may

require.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1620 Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Director ~~Commissioner~~ or the hearing officer upon their own motion or upon motion of a party to the hearing; such motion of the party shall set forth facts attesting that the request for continuance is not for purposes of delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1630 Authority of Hearing Officer

The hearing officer has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order and insure the development of a clear and complete record. The hearing officer shall have all powers necessary to conduct a hearing including the power to:

a) Administer oaths and affirmations;

b) Regulate the course of hearings, set the time and place for continued hearings, fix times for filing of documents, provide for the taking of testimony by deposition if necessary and generally conduct the proceedings according to generally recognized administrative law and this Subpart.

c) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony and set reasonable limits on the amount of time each witness may testify;

d) Rule upon offers of proof and receive relevant evidence;

e) Sign and issue subpoenas that require attendance, giving testimony and the production of books, papers and other documentary evidence;

f) Direct parties to appear and confer for the settlement or simplification of issues, and to otherwise conduct prehearing conferences;

g) Dispose of procedural requests or similar matters;

h) Render findings of fact, opinions and recommendations for an order of the Director~~Commissioner~~;

i) Enter any order that further carries out the purpose of this Subpart; and

j) At the hearing officer's discretion, accept probative, relevant evidence from any entity.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1640 Bias or Disqualification of Hearing Officer

a) Any interested party may file a timely and sufficient affidavit setting forth allegations of personal bias, prejudice or disqualification of a presiding hearing officer. The Director ~~Commissioner~~ shall determine this issue as part of the record of the case. When a hearing officer is disqualified, or it becomes impractical for that hearing officer to continue, another hearing officer may be assigned, unless it is further shown that substantial bias or prejudice will result from that assignment.

b) The hearing officer may at any time voluntarily disqualify the hearing officer.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1650 Prehearing Conferences

a) Upon written notice by the hearing officer in any proceeding, or upon written request by any party, the hearing officer may direct parties or their attorneys to appear at a specified time and place for a conference, prior to or during the course of hearing, for the purpose of formulating issues and considering:

1) The simplification of issues;

2) The necessity or desirability of amending the pleadings for the purpose of clarification, amplification or limitation;

3) The possibility of making admissions of certain averments of fact or

stipulations concerning the use by either or both parties of matters of public record to avoid unnecessary introduction of proof;

4) The limitation of the number of witnesses;

5) The propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and

6) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

b) Opportunity shall be afforded all parties to be represented by legal counsel and to dispose of the case by stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order reached before a final determination by the Division~~Agency~~, shall be submitted in writing to the hearing officer and shall become effective only if approved by the hearing officer and by the Director~~Commissioner~~.

c) Only if all parties to a controversy agree, a record of the prehearing conference shall be kept. It must be certified to by the parties, then filed with the case material in the Division~~Agency~~ files.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1670 Subpoenas

a) Upon application to the hearing officer by any party, the hearing officer may issue a subpoena for attendance at deposition or hearing, which may include a command to produce books, papers, documents or tangible things designated in those materials~~therein~~ and reasonably necessary to resolution of the matter under consideration, subject to the limitations on discovery prescribed by this Subpart.

b) Every subpoena shall state the title of the action and shall command each person to whom it is directed to attend and give testimony at the time and place ~~therein~~ specified in the subpoena.

c) The hearing officer or the Director~~Commissioner~~, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance~~therewith~~, may quash or modify the subpoena if it is unreasonable and oppressive.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1710 Official Notice

Official notice may be taken of all facts of which judicial notice may be taken and of other facts~~,~~ of a technical nature~~,~~ within the specialized knowledge and experience of the Division~~Agency~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1730 Transcription of Proceedings

a) Oral proceedings at which evidence is presented shall be recorded either by a certified court reporter or a mechanical recording device. Any transcription will be retained through and including the time allotted for appeal, revision, rehearing or other manner of review prior to final disposition as provided for by the Division~~Agency~~ or by law.

b) The transcript and the record offered in connection with the hearing shall constitute the official record.

c) The record in an administrative hearing shall include:

1) Prehearing records;

2) All pleadings (including all notices and answers, motions, briefs and rulings);

3) Evidence received;

4) A statement of matters officially noticed;

5) Offers of proof, objections and rulings;

6) Findings, opinions and recommendations of the hearing officer.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1740 Briefs

The parties may submit written briefs to the hearing officer within ~~ten (~~10~~)~~ days after the close of the hearing, or such other reasonable time as the hearing officer shall determine consistent with the Director's ~~Commissioner's~~ responsibility for expeditious decision.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1750 Hearing Officer's Findings, Opinions and Recommendations

a) The hearing officer's findings, opinions and recommendations shall be in writing and shall include findings of fact and conclusions of law, or opinions separately stated when possible. Findings of fact shall be based exclusively on the evidence presented at the hearing or known to all parties, including matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a statement of the underlying supporting facts. If a party submits proposed findings of fact which may control the decision or order, the decision or order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by authority or reasoned opinion. A decision or order shall not be made except upon consideration of the record as a whole or such portion thereof as may be supported by competent material and substantial evidence.

b) The hearing officer shall then submit findings, opinions and recommendations to the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1760 Order of the Director~~Commissioner~~

a) The Director ~~Commissioner~~ shall review the hearing officer's findings, opinions and recommendations and shall issue an order as set forth by applicable statutes or within a reasonable time.

b) The decision in the case will become effective immediately upon the execution of a written order, or as otherwise specified by either the order or applicable statue.

c) Parties shall be immediately notified either personally or by mail, postage prepaid, certified or registered, addressed to the last known address of the person, partnership, association or company involved, of the order. A copy of the order shall be delivered or mailed to each party and to the party's attorney of record.

d) The Director~~Commissioner~~, may, as part of the~~said~~ order, require any party to the

proceeding to pay part or all of the costs of the hearing, including but not limited to: witness fees; court reporter fees; hearing officer fees; and the cost of the transcript.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1770 Rehearings

a) Except as otherwise provided by law, and for good cause shown, the Director ~~Commissioner~~ may in the Director's ~~Commissioner's~~ discretion order a rehearing in a contested case on petition of an interested party.

b) Where the record of testimony made at the hearing is found by the Director ~~Commissioner~~ to be inadequate for purposes of judicial review, the Director ~~Commissioner~~ may order a reopening of the hearing.

c) A motion for rehearing or a motion for the reopening of a hearing shall be filed within ~~ten (~~10~~)~~ days after~~of~~ the date of mailing of the Director's~~Commissioner's~~ order. A rehearing shall be noticed and conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for the Director's ~~Commissioner's~~ reconsideration and for judicial review. A decision or order may be amended or vacated after hearing.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1780 Existing Statutory or Division~~Agency~~ Procedures and Practices

This Subpart shall not be construed to limit or repeal additional requirements imposed by Statute or otherwise, or to change existing Division~~Agency~~ procedures which are equivalent to or exceed the standards or administrative procedure prescribed in this Subpart.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1790 Costs of Hearing

In addition to filing fees set forth in Subpart A, Section 1000.110(m) of this Part, each party to the hearing shall be required to pay its pro rata share of expenses including the hearing officer; transcript and such other incidental cost as may be authorized by the hearing officer or by the Director~~Commissioner~~, unless waived by the Director~~Commissioner~~.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART N: SAVINGS AND LOAN HOLDING COMPANIES

Section 1000.1800 Applicability

a) This Subpart shall apply to all stock holding companies, mutual thrift holding companies or associations that directly or indirectly, own or control or seek to own or control 25% or more of the voting shares or rights of any association in any manner, except where such ownership arises in the regular course of business as set forth in Section 1A-1 of the Act.

b) Except with the permission of the Director~~Commissioner~~, and the Federal Home Loan Bank Board (FHLBB), no company shall become a thrift holding company with the power to hold or vote, directly or indirectly, 25% or more of the voting stock of one or more institution.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.1985 Sale

The term "sale" and "sell" includes every contract to sell or otherwise dispose of a security or interest in a security for value, but such terms do not include an exchange of securities in connection with a merger or acquisition approved by the Director~~Commissioner~~, the FHLBB or the FSLIC.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2005 Liquidation Account and Proxies

a) Each mutual association converting to form a holding company must establish a "liquidation account" for members of the mutual association prior to conversion. The total amount allocated to the liquidation account shall be equivalent to the amount of stock issued to the holding company by the stock subsidiary upon infusion of assets and liabilities to the stock subsidiary.

b) Each member of the liquidation account who maintains an account in the stock subsidiary institutions~~institution(s)~~ shall be entitled, upon liquidation of the mutual holding company, to a fractional share of the value of the mutual holding company. The numerator of the fractional share shall be the amount of qualifying

deposits in the member's account on the record eligibility date, which date shall be set by the board of directors in their plan of conversion and/or application to form a mutual holding company, and/or the supplemental eligibility record date and the denominator of the fractional share shall be the total amount of qualifying deposits of all eligible and supplemental eligible account holders in the converting mutual association on the eligibly record date. Any plan to liquidate the mutual holding company must be approved by the Director ~~Commissioner~~ and must satisfy all claims of creditors, including liquidation account holders. Any remaining value in the mutual holding company shall be transferred to the net worth of the subsidiary stock institutions~~institution(s)~~.

c) All proxies previously executed and assigned by members of the mutual association converting to form a holding company shall remain valid and effective without impairment as long as the member maintains an account in the new stock savings and loan association.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2010 Mutual Holding Company Ceasing to be a Depository Institution

a) Each mutual savings and loan association that~~which~~ converts to holding company status in conjunction with the chartering of a stock subsidiary shall be issued a "restated or amended charter" as a mutual thrift holding company by the Director ~~Commissioner~~ and the directors shall return the original charter, insurance undertakings and certificate of insurance to the issuing authority as evidence of ceasing to be an insured depository institution. These items may be transferred to the stock subsidiary with permission of the Director~~Commissioner~~. The Director's~~Such~~ permission shall be given upon successful completion of an examination to assure conformance with regulatory and statutory requirements.

b) Upon the issuance of the charter as a mutual thrift by the Director~~Commissioner~~, a mutual holding company shall cease to be a savings and loan association, thrift, savings bank, or depository institution of any type.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2020 Directors of a Mutual Holding Company

a) Each new Board of Directors for the holding company shall be selected by vote of members, in a process to be determined by the bylaws of each entity.

b) Each Board of Directors shall have at least ~~five (~~5~~)~~ members.

c) The provisions of Sections~~Section~~ 3303-4, 3303-6, 3303-7, and 3303-10 of the ~~Illinois Savings and Loan~~ Act ~~of 1985~~ shall apply to a mutual holding company with regard to directors' vacancies, directors' attendance at meetings, qualifications to be a director, and similar matters, except that the holding company may file a written request for waiver of compliance with any provision with the Director~~Commissioner~~. Such request must provide detailed discussion of the grounds for such request. In determining whether to grant a waiver of compliance, the Director ~~Commissioner~~ shall consider the following factors, including, but not limited to:

1) Where application of those provisions to holding companies would be inappropriate because the provisions were drafted for savings and loans;

2) Where a holding company and its subsidiary meet or exceed all applicable capital requirements and are not in violation of any statutes, rules or regulations;

3) Where there are not current contested or regulatory matters;

4) Where waiver would work undue hardship or result in undue advantage or risk, prejudicing a situation currently or in the future; and,

5) The Director ~~Commissioner~~ may not waive any provision of Section 3303-10.

d) Upon creation of the stock subsidiary, the Board of Directors of the original mutual institution shall nominate a Board of Directors for the stock subsidiary.

e) A mutual holding company may provide for cumulative voting for directors in its bylaws.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2040 Stock of a Subsidiary of a Mutual Holding Company

a) The stock subsidiary shall issue shares to the holding company only after sufficient assets to match transferred deposit liabilities are transferred to the

subsidiary and after written confirmation of continuation of insurance of accounts is received from the appropriate federal depository insurance corporation or its agent.

b) Stock issuance shall initially be only common stock, but other classes of stock may be issued upon application to and approval by the Director~~Commissioner~~.

c) Each share of common stock shall entitle its owner to one vote.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2050 Stock Subsidiary Formation

In conjunction with the formation of a stock subsidiary of a mutual thrift holding company, the requirements of Article 2 – "Incorporation and Organization" of the Illinois Savings and Loan Act of 1985 shall apply with the following additions.

a) In the case of a change of corporate form, which does not alter the assets and liabilities of the original institution as transferred to the resulting stock subsidiary with regard to their amount or quality, the minimum initial capital...which would be required in order to obtain insurance of accounts by the Federal Savings and Loan Insurance Corporation shall mean the amount of minimum capital which the original institution was required to have to maintain its federal insurance of accounts.

b) The application to organize shall be made by the directors of the original institution. Copies of directors' and officers' affidavits and statements of personal interest from the last ~~five (~~5~~)~~ years' examination reports may be submitted to the Director ~~Commissioner~~ to the extent that they provide business and financial information on affiliations with any other financial institutions. Each applicant shall submit amendments to these materials to provide omitted, but required, information.

c) Exhibits and maps shall display the original and new institution's customer area, and provide quarterly Federal and/or State reports for the four quarters preceding application, as well as the original institution's last ~~two (~~2~~)~~ audited financial statements.

d) The Director ~~Commissioner~~ may require information as to:

1) How stock shall be distributed. Such reports shall be required upon formation of the holding company, prior to issuance or marketing of stock and at any other time necessary to ensure fundamental fairness to stockholders, members, depositors and for reasons related to the safe and sound financial operation of the institution.

2) Whether depositors of the old institution shall continue to hold voting and membership rights in the new institution.

3) The form and manner of expressing ownership.

4) The amount of treasury stock shall be held, planned issuances of capital stock or equity securities, with projected dates and amounts.

e) Once the stock subsidiary is formed, if the original mutual institution no longer retains any deposits, it shall no longer be required to maintain insurance of accounts and therefore shall not be required to meet any regulatory or statutory requirements which apply only to depository institutions such as net worth, loan loss reserves, and investment and lending limits.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2055 Net Worth Maintenance Agreement

a) The Director ~~Commissioner~~ shall require each mutual holding company to execute a "Net Worth Maintenance Agreement" for each subsidiary depository institution it acquires. Under this agreement the holding company shall contractually agree to infuse equity capital as needed to keep net worth or regulatory capital at a predetermined level for each subsidiary depository institution. The Agreement shall:

1) Be for a specified term, in a higher amount to be set by the Director ~~Commissioner~~ taking into account such factors as: capital risk (the risk from normal internal operations of the institution), market volatility (external risk to the institution's operations generated by uncontrolled factors such as: equity and bond markets, money supply, inflation), and stock ownership patterns (such as common, voting common, voting preferred, non-voting preferred, etc.);

2) Explicitly consent to the Director's ~~Commissioner's~~ authority to require

infusion of additional equity capital when he determines the institution fails to meet its regulatory capital or net worth requirements. Such a determination shall be in accordance with Section 4-16 of the Act;

3) Explicitly give the Director ~~Commissioner~~ the right to vote and dispose of the stock of any subsidiary institutions whose net worth or regulatory capital is not restored within ~~five (~~5~~)~~ business days after~~of~~ the Director's ~~Commissioner's~~ determination of the need for additional capital; and

4) Establish procedures to effectuate subsection (a)(3) ~~above~~ including provision of notice to all affected parties and selection of time and place at which the vote and disposition will occur.

b) The Director's ~~Commissioner's~~ right to vote stock shall include all shareholder matters, including the right to remove and replace the Board of Directors, the right to merge the institution and the right to sell the stock.

c) The Director ~~Commissioner~~ shall base determination of a regulatory capital or net worth deficiency upon:

1) Reports from the subsidiary depository institution or the mutual holding company and, or;

2) Audited financial statement of the mutual holding company or the subsidiary depository institution and, or;

3) Examination, including examination by another government regulator, or a federal deposit insurance company, of the mutual holding company or the subsidiary depository institution.

d) In determining adequacy of net worth or regulatory capital, the Director ~~Commissioner~~ shall review and examine the financial condition of entities which are affiliates or subsidiaries of the mutual holding company and of the subsidiary depository institution. If there is a determination by the Director ~~Commissioner~~ that the subsidiary activity of the holding company represents a higher level of risk to the depository institution that existed prior to the application of the holding company formation, a higher net worth amount shall be required and the basis of the Director's ~~Commissioner's~~ decision shall be communicated in writing within ~~thirty (~~30~~)~~ days to the institution.

e) All infusions to net worth or regulatory capital under this Section must be in cash or cash equivalent instruments such as: overnight deposits and federal funds.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2105 Notice Requirement/Corrective Action

A holding company shall give immediate written notice of any corrective action ordered or requested by a governmental agency, relative to the financial affairs of the holding company, except those actions ordered by the Director ~~Commissioner~~ of Banks and Real Estate. A holding company shall give written notice prior to acting upon such orders or requests, except when such order is effective immediately upon receipt. The method of transmittal shall be by messenger mail, private messenger service or telefax transmittal. Any such corrective actions required to be performed immediately shall be reported to the Director ~~Commissioner~~ within 24~~twenty-four (24)~~ hours after~~of~~ receipt.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2110 Insider Abuses

Matters or issues resulting from apparent wrongdoing, including insider abuses, shall be brought to the Director's ~~Commissioner's~~ attention within a reasonable period of time by the appropriate management personnel of the holding company. Copies of any required reports including police and FBI reports shall be included with the notification to the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2200 Determination of the Qualification and Condition of an Out-of-State Acquisition

When requested, the Director ~~Commissioner~~ shall review the laws of any state in order to determine whether the laws of that state expressly authorize an Illinois savings and loan holding company to acquire an association or savings and loan holding company in that state. The Director ~~Commissioner~~ shall issue a finding that such other state law either does or does not provide qualifications and conditions which are unduly restrictive for the acquisition when compared to those imposed by the laws of Illinois.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2300 Disposal of a Subsidiary

Each Savings and Loan Holding Company disposing of a subsidiary shall give not less than ~~thirty (~~30~~)~~ days prior notice of such planned disposition to the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2310 Dividends

The declaration of dividends on capital by a stock savings and loan subsidiary shall be subject to the following restrictions:

a) No dividends may be declared when the total amount of net worth of such subsidiary is less than that required by the Director ~~Commissioner~~ as set forth in Section 1-11 of the Act.

b) Cash dividends may be declared as often as quarterly on shares of stock, after payment or provision has been made for all expenses, losses, required reserves, and dividends on withdrawable capital. A stock dividend may be declared out of undivided profits at any time.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2320 Officers and Directors List

The secretary of each savings and loan holding company shall submit to the Director ~~Commissioner~~ a list of all officers and directors of the savings and loan holding company. This list shall be submitted within ~~ten (~~10~~)~~ days after the election of the savings and loan holding company's Board of Directors, and any changes or additions in the list shall be submitted to the Director ~~Commissioner~~ within ~~ten (~~10~~)~~ days after the occurrence of such change or addition. Along with such list there shall also be submitted an affidavit executed by each officer and director containing a statement that~~which~~ shall set forth details as to the present and, for the ~~five (~~5~~)~~ years preceding the business of every officer and director and the nature of their prior affiliations with any other financial institution, and its subsidiaries, holding company or subsidiary of a financial institution holding company.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2400 Annual Audit Requirements

Every registrant shall cause its books and records to be audited at least once annually by an

independent Certified Public Accountant. The Director ~~Commissioner~~ shall receive a copy of the Certified Public Accountant's annual report, along with all supporting documentation. The report of audit shall be on a consolidated basis unless, in the Certified Public Accountant's opinion, certain subsidiaries or parent entities should be reported on separately. If separate reports are prepared, they should be prepared on the same basis as the report on the savings and loan company. A "registrant" for purposes of this Section shall refer to each savings and loan holding company subject to Section 3301 A-3 of the Act.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2410 Maintenance of Records

Every registrant shall maintain such corporate books and records as may be necessary to facilitate a full and complete examination of the activities of the entity. While the books and records will be primarily of an accounting nature, certain other records such as minutes of meetings shall be required to document review and approval of activities and plans.

a) All accounting records shall be maintained in accordance with Generally Accepted Accounting Practices.

b) All stock entities shall maintain or cause to be maintained on their behalf full and complete lists of stockholders including address, state of residence, Taxpayer Identification Number, amount of stock owned, and any other data considered necessary.

c) All registrants shall prepare and maintain a full and complete Book of Minutes for meetings of the Board of Directors, Executive Management Committees, and other meetings wherein business of a substantial nature is contemplated or transacted. This requirement shall be in effect for all subsidiary entities of the registrants as well.

d) Primary records such as Books of Record and Source Documents shall be maintained by the individual registrant for a period of not less than ~~seven (~~7~~)~~ years, provided that if a longer retention period is prescribed by another regulatory body having jurisdiction over the registrant, that longer period shall be followed.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2420 Notice of Appointment of CPA

a) Notice shall be made to the Director ~~Commissioner~~ of the appointment of the Certified Public Accountant not less than ~~sixty (~~60~~)~~ days prior to the fiscal year-end of the savings and loan holding companies. Any change in the Certified Public Accountants shall be forwarded to the Director ~~Commissioner~~ within ~~sixty (~~60~~)~~ days after~~of~~ such change along with a letter from the replaced accountant stating whether or not the change was the result of a dispute over the accounting treatment of a material matter.

b) Copies of the Annual Audit shall be filed, in triplicate, with the Division ~~Office~~ of Banks and Real Estate within ~~ninety (~~90~~)~~ days after~~of~~ the fiscal year-end of the registrant.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2500 Savings and Loan Company Filing Fees

Filings pertaining to matters named hereafter shall be subject to the indicated fee. The~~Such~~ fee shall be paid at the ~~Division~~Department of Financial and Professional Regulation ~~Office of Banks and Real Estate~~ at the time of filing. Payment shall be by check, draft, or money order made payable to the ~~Division~~Department~~Office of Banks and Real Estate~~.

a) Registration fee

(Section 3301A-3 of the Act)..... $1,000.00

b) Conversion to Federal Charter

(Article 6, Section 6-12 of the Act) 2,500.00

(Although conversion may occur, if a State-chartered association is held, the Holding Company will still have to be licensed by the Division of Banking~~Office of Banks and Real Estate~~.)

c) Appeals to the Board of Savings Institutions

(Article 7, Section 7-20 of the Act)

(Article 7, Section 7-21 of the Act)

(Article 7, Section 7-23 of the Act) $500.00

Each additional party to an appeal to the Board of Savings Institutions shall pay the sum of $100.00, and shall bear its pro rata share of all expenses incurred in said appeal except as otherwise provided in Section 3307-75 of the Act.

d) Hearing or Oral Argument – each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument.

(Article 7, Section 7-24 of the Act) $500.00

Each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument shall bear its pro rata share of all expenses incurred in said proceedings.

e) Application for Subsidiary Acquisition Fee, Illinois Savings and Loan Holding Company.

(Article 1A-5 of the Act) $250.00

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2510 Savings and Loan Holding Company Supervisory Fees

a) Each savings and loan holding company ("SLHC") cooperating under the provisions of the Act as of the close of each calendar year shall pay annually to the Director ~~Commissioner~~ a fee of $5.00 per million dollars of consolidated assets (excluding the assets of any Illinois State-chartered savings and loan association or savings bank) of the SLHC and its subsidiaries. Such fee shall be based on the total assets of each SLHC and each subsidiary as shown by its financial report filed with the Director ~~Commissioner~~ for the reporting period ended December 31. Such fees shall be for the calendar year then ended. Computations shall omit hundreds from the total assets and the fee shall be rounded to the nearest dollar amount.

b) One fourth of the sum of the supervisory fee so determined shall be remitted at the time of each calendar quarter end. A calendar quarter end shall mean March 31, June 30, September 30, and December 31. Such fees shall be for the respective current calendar year.

c) Supervisory fees shall be determined by the Director ~~Commissioner~~ within ~~ninety (~~90~~)~~ days following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any such fees billed at a later date.

d) In the situation where service corporations and/or finance subsidiaries are owned by the Association, the owned assets may be consolidated with the assets of the Association for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the Director ~~Commissioner~~ shall waive that portion of the fee attributed to the finance subsidiary.

e) In the event the State charter is converted or otherwise surrendered during the course of the year, the Director ~~Commissioner~~ shall determine the supervisory fee based on the total assets of the Association as of the month-end immediately preceding the cancellation of the State charter, except that the measurement date may be another date at the discretion of the Director ~~Commissioner~~ in the event an Association elects to liquidate. In determining whether to set another measurement date, the Director ~~Commissioner~~ shall consider the following elements: whether the association is undergoing a planned liquidation (where an association elects to not continue operations), or, the association has transferred significant assets (more than .5~~½ of 1~~% of the total assets at the previous measurement date).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2520 Examination Fees

Time expended in the conduct of any examination of the affairs of any association or service corporation pursuant to the provisions of Section 7-5(a) of the Act or applicable service corporation undertakings, respectively, shall be billed by the Director ~~Commissioner~~ at a rate of $29.00 per examiner hour. Such fee shall be billed within ~~forty-five (~~45~~)~~ days following completion of the respective examination. In the situation where examination procedures are performed at out-of-state locations, the examination fee of $29.00 per hour plus travel, lodging and per diem shall be assessed. Additionally, travel time shall be billed at the examination rate

of $29.00 per hour.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2530 Conditions

a) No submission subject to a fee shall be considered complete without the stipulated fee.

b) The fee shall be non-refundable regardless of the subsequent action with respect to the submission.

c) The Director ~~Commissioner~~ may waive the payment of the applicable fee otherwise required by Sections 1000.2500 and 1000.2510 when;

1) The Director ~~Commissioner~~ determines that the respective Conversion to a Federal Charter avoids the need for the Director ~~Commissioner~~ to take custody of the respective association pursuant to the provisions of Article 7, Section 7-8 of the Act.

2) The Director ~~Commissioner~~ determines that the respective fee is excessive or poses an undue restraint on sound business practice.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.2540 Manner of Payment

Each invoice for a fee billed by the Director ~~Commissioner~~ pursuant to Sections 1000.2500, 1000.2510 and 1000.2520 of this Subpart shall be due and payable upon receipt of same by the association or service corporation. Payment shall be by check, draft or money order made payable to the ~~Division~~Department of Financial and Professional Regulation~~Office of Banks and Real Estate~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART P: HIGH RISK HOME LOANS

Section 1000.3000 Definitions

"Approved Credit Counselor" means a credit counselor as approved by the

Director of the Division ~~Department~~ of Financial Institutions.

"Good faith" means honesty in fact in the conduct of the transaction.

"High risk home loan" means a home equity loan on residential real property in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the fifteenth day of the month immediately preceding the month in which the application for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or $800. The $800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2000, no subsequent amendments or editions are included).

"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not used as purchase money for the residence.

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a tablefunded transaction, not otherwise included in 12 CFR 226.4.

"Servicer" means any entity chartered under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder, or for a licensee's own account, of payments, interest, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.3150 Verification of Ability to Pay Loan

The lender shall verify the borrower's ability to repay the loan in the case of high risk home loans. Such verification shall require, at a minimum, the following:

a) The borrower prepares and submits to the lender a personal income and expense statement in a form prescribed by the Director ~~Commissioner~~ who may permit the use of other forms such as the URLA (Fannie Mae Form 1003 (10/92), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, DC 20016-2892 and Freddie Mac Form 85 (10/92), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions) and Transmittal Summary (Fannie Mae Form 1077 (3/97), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, DC 20016-2892 and Freddie Mac Form 1008 (3/97), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions).

b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.

c) A credit report is obtained regarding the borrower.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.3550 Counseling Prior to Perfecting Foreclosure Proceedings

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

a) In the event that a high risk home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek consumer credit counseling.

b) The notice required in subsection (a) shall, at a minimum, include the following language:

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION-DIVISION OF BANKING~~OFFICE OF BANKS AND REAL ESTATE~~."

c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor and the approved consumer credit counselor advises the lender or its agent that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.

d) If, within the 30-day period provided under subsection (c), the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.

1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. No modification of an approved debt management plan can be made without the mutual agreement of the lender or its agent, the approved consumer credit counselor, and the borrower.

2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.

e) If the borrower fails to comply with the agreed debt management plan, then

nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.

f) This Section applies only to high risk home loans as defined by Section 1000.3000.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.3600 Mortgage Awareness Program

a) The Mortgage Awareness Program is a counseling and educational component that is provided by the Director of the Department of Financial and Professional Regulation-Division of Financial Institutions.

b) The core curriculum of the Mortgage Awareness Program shall include:

1) Explanation of the amount financed;

2) Explanation of the finance charge;

3) Explanation of the annual percentage rate;

4) Explanation of the total payments;

5) Explanation of the loan costs, including broker's fees, finance charges, points, origination fees;

6) Explanation of the right of recession;

7) Explanation of foreclosure procedures;

8) Explanation of the significant debt ratios, including total debt to income, loan debt to income, and loan debt to value of residence;

9) Explanation of adjustable rate mortgage;

10) Explanation of balloon payments;

11) Explanation of credit options;

12) Explanation of each item that appears on a good faith estimate;

13) Explanation of pre-payment penalties.

c) Counseling session attendees must also complete a personal income and expense statement, as well as a balance sheet, on forms provided by the Director~~Commissioner~~.

d) Prior to signing a certificate of completion, counselors shall privately discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or may be contemplating and provide a third party review to establish the affordability of the loan.

e) Counseling session attendees must also be given a brochure that contains information covered by the Mortgage Awareness Program.

f) Any lender, prior to making a high risk home loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.

g) No lender shall offer less favorable loan terms to a borrower due to a borrower's participation in a Mortgage Awareness Program.

h) Except as prohibited elsewhere in this Subpart, the borrower may waive participation in the program, provided that such waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (f) and that the~~such~~ waiver is in writing in a form approved by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.3650 Report of Default and Foreclosure Rates on Conventional Loans

a) On or before October 1 and April 1 of each year, each association that is a servicer of Illinois residential mortgage loans shall report to the Director ~~Commissioner~~ the default and foreclosure data of conventional loans for the 6~~six~~ month periods ending June 30 and December 31, respectively.

b) Each association shall report:

1) The average quarterly dollar amount of conventional 1-4 family mortgage

loans secured by Illinois real estate.

2) The average quarterly number of conventional 1-4 family mortgage loans secured by Illinois real estate.

3) The average quarterly dollar amount of conventional 1-4 family mortgage loans secured by Illinois real estate that are in default over 90 days.

4) The average quarterly number of conventional 1-4 family mortgage loans secured by Illinois real estate that are in default over 90 days.

5) The dollar amount of foreclosures on 1-4 family conventional loans completed during the reporting period.

6) The number of foreclosures on 1-4 family conventional loans completed during the reporting period.

7) Whether any of the loans where a foreclosure was completed were originated less than 18 months before the completed foreclosure.

8) Whether any of the loans where a foreclosure was completed had a note rate greater than 10% for first lien mortgage loans or greater than 12% in the case of a junior lien.

c) An officer of the association shall sign the form.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.3700 Director's ~~Commissioner's~~ Review and Analysis

a) The Director ~~Commissioner~~ shall review and analyze the default and foreclosure rate date reports submitted under Section 1000.3650.

b) The reports and their analyses may be used:

1) In setting the scope of a regularly scheduled examination.

2) In setting the scope of a special examination.

3) In comparing the reported information of an association to other

associations subject to this Act.

4) In comparing the reported information of an association to the reports submitted by associations and charters under other Acts.

c) The Director ~~Commissioner~~ may correspond with an association to seek clarification of information contained in its report and to gather additional data concerning loans in default or loans in foreclosure.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.3750 Third Party Review of High Risk Home Loans

In the case of any high risk home loan, the borrower shall be afforded the opportunity to seek independent review by the Division of Banking ~~Office of Banks and Real Estate~~ of the loan terms, in order to determine affordability of the loan, when and if the General Assembly appropriates adequate funding to the Division ~~Office of Banks and Real Estate~~ specifically for this program.

a) Every borrower who chooses to participate in the independent review provided in this Section shall submit information requested on the worksheets outlined in Appendix A and B.

b) The Division ~~Office of Banks and Real Estate~~ shall provide the borrower with a review of the worksheets and shall also inform the borrower of the amount the borrower has available for a monthly mortgage payment based upon the borrower's budget.

c) In addition, the Division ~~Office of Banks and Real Estate~~ shall review loan information pertaining to balloon payments and adjustable interest rates and other items disclosed by the loan documents affecting amount of payment and shall inform the borrower of such items.

d) The borrower shall receive a copy of the completed forms and shall sign the forms acknowledging receipt. A copy of the written and signed forms shall be submitted to the lender prior to the closing of the loan and shall become a part of the permanent file for the loan.

e) If, based upon the review, the borrower determines that the loan is not in his or her best economic interest, the reviewer shall so note this in the completed forms

sent to the lender. This determination shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART Q: DISCLOSURE OF CONFIDENTIAL SUPERVISORY INFORMATION

Section 1000.4010 Definitions

For purposes of this Subpart:

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

"Director~~Commissioner~~" means the Director of the Department of Financial and Professional Regulation-Division of Banking~~Commissioner of Banks and Real Estate~~, or a person authorized by the Director ~~Commissioner~~ to act in the Director's ~~Commissioner's~~ stead.

"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 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: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1000.4020 Purpose and Scope

a) Purpose. The purpose of this Subpart is to establish the procedures and standards by which the Director ~~Commissioner~~ shall determine whether to disclose confidential supervisory information in response to a request for discovery or disclosure of that~~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 Director ~~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(l)(x) of FOIA;

2) a request made by a party to whom the Director ~~Commissioner~~ may furnish confidential supervisory information as permitted in Section 7-9 of the Act [205 ILCS 105/7-9]; 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 7-9(b) of the Act [205 ILCS 105/7-9].

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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 Director~~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 Division ~~Office of Banks and Real Estate~~ to produce the requested confidential supervisory information.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.4040 Where to Submit a Request

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

Department of Financial and Professional Regulation-Division of Banking~~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: Amended at 30 Ill. Reg. _____, effective _____)

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 Director ~~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 Division~~Office of Banks and Real Estate~~.

b) In determining whether to disclose the requested confidential supervisory information, the Director ~~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 Director ~~Commissioner~~ to Respond. The Director~~Commissioner~~, within 15 days, shall determine whether to disclose the requested confidential supervisory information. The 15-day time period shall not commence until the Director ~~Commissioner~~ receives a complete request. If the request is not complete, the Director ~~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 Director ~~Commissioner~~ may notify the association or Illinois association holding company (SLA foreign associations) office that is the subject of the requested information, unless the Director ~~Commissioner~~ determines that to do so would advantage or prejudice any of the parties in the matter at issue.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.4060 Disclosure of Confidential Supervisory Information

a) Conditions and Limitations. The Director ~~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 Director~~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 Director ~~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 Director~~Commissioner~~, the Director ~~Commissioner~~ may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The Director ~~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 Director ~~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: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.4070 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 Director ~~Commissioner~~ that the disclosed confidential supervisory information covered by the protective order has been destroyed.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1000.4080 Fees for Services

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

1~~a~~) Reproduction costs incurred in making photocopies of documents shall be reimbursed at $.25 per exposure.

2~~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.

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

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART R: PAYDAY LOANS

Section 1000.5000 Purpose and Scope

This Subpart applies to associations chartered or operating under the Illinois Savings and Loan Act of 1985 [205 ILCS 105].

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 1000.5010 Definitions

"Payday Loan" or "loan" means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet or telephone, in which:

A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts

one or more checks dated subsequent to the date written and agrees to hold them for deposit; or

A lender accepts one or more authorizations to debit a consumer's account; or

A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment.

"PLRA" means the Payday Loan Reform Act [815 ILCS 122]. Associations are expressly exempt from the provisions of the PLRA.

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 1000.5020 Applicability of Subpart

This Subpart shall apply only to payday loans made by an association. Products and services offered by an association that are not offered by lenders governed by the PLRA shall not be subject to this Subpart.

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 1000.5030 Issuance of Payday Loans

a) An association making a payday loan shall satisfactorily address all safety and soundness considerations identified by the Division of Banking in its examination and supervision of the association. Safety and soundness considerations include, without limitation:

1) Risk-management practices for payday loan activities, particularly with regard to concentrations of payday loans;

2) Capital adequacy, depending on the level and volatility of risk;

3) Allowance for loan losses to ensure the allowance is adequate to absorb estimated credit losses within the payday loan portfolio;

4) Classification of payday loans, given the unsecured nature of the credit and weakness of repayment capacity inherent in payday loans; and

5) The establishment and maintenance of extension, deferral, renewal and rewrite standards consistent with the PLRA.

b) In the event the Division of Banking determines the association's management of safety and soundness risks relating to its payday loan portfolio is deficient, the Division of Banking may initiate corrective enforcement action, as authorized under the Illinois Savings and Loan Act of 1985.

(Source: Added at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Savings Bank Act

2) Code Citation: 38 Ill. Adm. Code 1075

3)

Section Numbers:	Proposed Action:
1075.100	Amendment
1075.110	Amendment
1075.120	Amendment
1075.130	Amendment
1075.140	Amendment
1075.150	Amendment
1075.200	Amendment
1075.300	Amendment
1075.310	Amendment
1075.410	Amendment
1075.430	Amendment
1075.440	Amendment
1075.450	Amendment
1075.455	Amendment
1075.460	Amendment
1075.465	Amendment
1075.470	Amendment
1075.490	Amendment
1075.510	Amendment
1075.515	Amendment
1075.565	Amendment
1075.570	Amendment
1075.585	Amendment
1075.600	Amendment
1075.610	Amendment
1075.620	Amendment
1075.630	Amendment
1075.640	Amendment
1075.650	Amendment
1075.670	Amendment
1075.680	Amendment
1075.700	Amendment
1075.705	Amendment
1075.710	Amendment
1075.715	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1075.720	Amendment
1075.725	Amendment
1075.730	Amendment
1075.740	Amendment
1075.750	Amendment
1075.800	Amendment
1075.810	Amendment
1075.900	Amendment
1075.905	Amendment
1075.910	Amendment
1075.915	Amendment
1075.920	Amendment
1075.965	Amendment
1075.970	Amendment
1075.975	Amendment
1075.980	Amendment
1075.990	Amendment
1075.1025	Amendment
1075.1030	Amendment
1075.1035	Amendment
1075.1040	Amendment
1075.1045	Amendment
1075.1050	Amendment
1075.1055	Amendment
1075.1100	Amendment
1075.1105	Amendment
1075.1110	Amendment
1075.1111	Amendment
1075.1115	Amendment
1075.1120	Amendment
1075.1210	Amendment
1075.1215	Amendment
1075.1220	Amendment
1075.1225	Amendment
1075.1230	Amendment
1075.1235	Amendment
1075.1245	Amendment
1075.1250	Amendment
1075.1255	Amendment
1075.1260	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1075.1265	Amendment
1075.1270	Amendment
1075.1275	Amendment
1075.1280	Amendment
1075.1285	Amendment
1075.1290	Amendment
1075.1300	Amendment
1075.1310	Amendment
1075.1315	Amendment
1075.1325	Amendment
1075.1330	Amendment
1075.1400	Amendment
1075.1410	Amendment
1075.1415	Amendment
1075.1430	Amendment
1075.1435	Amendment
1075.1450	Amendment
1075.1500	Amendment
1075.1520	Amendment
1075.1530	Amendment
1075.1540	Amendment
1075.1600	Amendment
1075.1610	Amendment
1075.1620	Amendment
1075.1630	Amendment
1075.1640	Amendment
1075.1650	Amendment
1075.1700	Amendment
1075.1710	Amendment
1075.1800	Amendment
1075.1805	Amendment
1075.1815	Amendment
1075.1820	Amendment
1075.1835	Amendment
1075.1840	Amendment
1075.1845	Amendment
1075.1885	Amendment
1075.1860	Amendment
1075.1865	Amendment
1075.1885	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1075.1890	Amendment
1075.1900	Amendment
1075.1910	Amendment
1075.1915	Amendment
1075.1920	Amendment
1075.1925	Amendment
1075.1930	Amendment
1075.1965	Amendment
1075.1970	Amendment
1075.1975	Amendment
1075.1980	Amendment
1075.1990	Amendment
1075.1995	Amendment
1075.2005	Amendment
1075.2010	Amendment
1075.2020	Amendment
1075.2025	Amendment
1075.2035	Amendment
1075.2040	Amendment
1075.2045	Amendment
1075.2050	Amendment
1075.2060	Amendment
1075.2065	Amendment
1075.2070	Amendment
1075.2075	Amendment
1075.2080	Amendment
1075.2105	Amendment
1075.2110	Amendment
1075.2120	Amendment
1075.2125	Amendment
1075.2130	Amendment
1075.2135	Amendment
1075.2150	Amendment
1075.2155	Amendment
1075.2160	Amendment
1075.2165	Amendment
1075.2170	Amendment
1075.2210	Amendment
1075.2220	Amendment
1075.2230	Amendment

1075.2240	Amendment
1075.2300	Amendment
1075.2330	Amendment
1075.2350	Amendment
1075.2360	Amendment
1075.2370	Amendment
1075.2380	Amendment
1075.2400	Amendment
1075.2440	Amendment
1075.2450	Amendment
1075.2460	Amendment
1075.2520	Amendment
1075.2550	Amendment
1075.2560	Amendment
1075.2580	Amendment
1075.3000	Amendment
1075.3150	Amendment
1075.3550	Amendment
1075.3600	Amendment
1075.3700	Amendment
1075.3750	Amendment
1075.4010	Amendment
1075.4020	Amendment
1075.4030	Amendment
1075.4040	Amendment
1075.4050	Amendment
1075.4060	Amendment
1075.4070	Amendment
1075.4080	Amendment
1075.5000	New Section
1075.5010	New Section
1075.5020	New Section
1075.5030	New Section

4) Statutory Authority: Payday Loan Reform Act [815 ILCS 122] and Illinois Credit Union Act [205 ILCS 305]

5) A Complete Description of the Subjects and Issues Involved: The Payday Loan Reform Act requires the Department to promulgate regulatory standards that address a number of business practices concerning payday loans.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

The rulemaking also reflects nonsubstantive changes made as a result of Executive Order 2004-6 that reorganized agencies by transferring functions of the Departments of Financial Institutions, Insurance and Professional Regulation and the Office of Banks & Real Estate into the Department of Financial and Professional Regulation.

6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rules currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, IL 62786

217/785-0813

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

13) 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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was inadvertently not included on either of the 2 most recent agendas because: the Division did not anticipate the need to promulgate regulatory standards to implement the Payday Loan Reform Act.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION~~OFFICE OF BANKS AND REAL ESTATE~~

PART 1075
SAVINGS BANK ACT

SUBPART A: FILINGS

Section
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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1075.460 Bond of Officers, Organization Directors, Employees and Agents
1075.465 Indemnification of Officers, Organization 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 Director~~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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1075.680 Audit Requirements

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 Division~~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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1075.960 Intervention
1075.965 Postponement or Continuance of Hearing
1075.970 Authority of Hearing Officer
1075.975 Bias or Disqualification of Hearing Officer
1075.980 Prehearing Conferences
1075.985 Discovery
1075.990 Subpoenas
1075.995 Conduct of the Hearing
1075.1000 Default
1075.1005 Evidence
1075.1010 Official Notice
1075.1015 Hostile Witnesses
1075.1020 Transcription of Proceedings
1075.1025 Briefs
1075.1030 Hearing Officer's Findings, Opinions and Recommendations
1075.1035 Order of the Director~~Commissioner~~
1075.1040 Rehearings
1075.1045 Existing Statutory or Division~~Agency~~ Procedures and Practices
1075.1050 Costs of Hearing
1075.1055 Emergency Adjudication

SUBPART J: SAVINGS BANK HOLDING COMPANIES

Section
1075.1100 Applicability
1075.1105 Definitions
1075.1110 Mutual Holding Company Reorganizations
1075.1111 Subsidiary Holding Company
1075.1115 Prohibition Against Approval of Certain Applications for Reorganization
1075.1120 Contents of Reorganization Plans
1075.1125 Capital Stock (Repealed)
1075.1130 Charter (Repealed)
1075.1135 Control (Repealed)
1075.1140 Eligible Account Holder (Repealed)
1075.1145 Eligibility Record Date (Repealed)
1075.1150 Employee (Repealed)
1075.1155 Equity Security (Repealed)
1075.1160 Insured Institution (Repealed)
1075.1165 Member (Repealed)
1075.1170 Net Worth (Repealed)

1075.1175 Officer (Repealed)
1075.1180 Person (Repealed)
1075.1185 Qualifying Deposit (Repealed)
1075.1190 Sale (Repealed)
1075.1195 Security (Repealed)
1075.1200 Source Documents (Repealed)
1075.1205 Subsidiary (Repealed)
1075.1210 Liquidation Account and Proxies
1075.1215 Mutual Holding Company Ceasing to be a Depository Institution
1075.1220 Directors of a Mutual Holding Company
1075.1225 Stock Issuance Plan
1075.1230 Stock of a Subsidiary of a Mutual Holding Company
1075.1235 Stock Subsidiary Formation
1075.1240 Net Worth Maintenance Agreement (Repealed)
1075.1245 Members' Rights
1075.1250 Investment
1075.1255 Notice Requirement/Corrective Action
1075.1260 Insider Abuses
1075.1265 Determination of the Qualification and Condition of an Out-of-State Acquisition
1075.1270 Acquisition and Disposal of Subsidiaries
1075.1275 Dividend Limitations and Waivers
1075.1280 Officers and Organization Directors List
1075.1285 Access to Books and Records
1075.1290 Annual Audit Requirements
1075.1295 Maintenance of Records
1075.1300 Notice of Appointment of Independent Accountants
1075.1305 Holding Company Filing Fees (Repealed)
1075.1310 Holding Company Supervisory Fees
1075.1315 Examination Fees
1075.1320 Conditions
1075.1325 Manner of Payment
1075.1330 Conversion of Mutual Holding Companies

SUBPART K: CONVERSION OF AN EXISTING DEPOSITORY INSTITUTION INTO AN ILLINOIS SAVINGS BANK

Section
1075.1400 Scope of Rules
1075.1405 Definitions
1075.1410 General Rules for Conversion Plan

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1075.1415 Adopting and Filing of a Conversion Plan (Repealed)
1075.1420 Conversion Plan Requirements (Repealed)
1075.1425 Vote by Shareholders and Members (Repealed)
1075.1430 Issuance of Certificate of Approval
1075.1435 Final Approval of the Conversion
1075.1440 Powers of Resulting Savings Bank
1075.1445 Obligations of Resulting Savings Bank
1075.1450 Organization Directors of Resulting Savings Bank

SUBPART L: SUPERVISION

Section
1075.1500 Sale of Offices~~,~~ or Facilities ~~and Equipment~~
1075.1510 Purchase of Offices (Repealed)
1075.1520 Bridge Charters
1075.1530 Unsafe and Unsound Practices
1075.1540 Failure to Comply with Report of Examination
1075.1550 Publication

SUBPART M: REMOVALS, SUSPENSIONS AND INDUSTRYWIDE PROHIBITION

Section
1075.1600 Scope
1075.1610 Notice of Intention and Answer
1075.1620 Removal and Prohibition by Order
1075.1630 Suspension by Notice
1075.1640 Industry wide Prohibition
1075.1650 Unauthorized Participation of Convicted Individual

SUBPART N: ACQUISITION OF CONTROL OF A SAVINGS BANK

Section
1075.1700 Acquisition of Control of a Savings Bank
1075.1710 Anti-Takeover Provisions

SUBPART O: CONVERSION OF MUTUAL SAVINGS BANK
TO CAPITAL STOCK SAVINGS BANK

Section
1075.1800 Subpart Exclusive − Prohibition on Conversion Without Approval − Waiver of

Requirements
1075.1805 Forms
1075.1810 Request of Noncompliance Requirements (Repealed)
1075.1815 Definitions
1075.1820 Prohibition on Approval of Certain Applications for Conversion
1075.1825 Requirements of Plan of Conversion
1075.1830 Issuance of Capital Stock − Price
1075.1835 Stock Purchase Subscription Rights − Eligible Account Holders
1075.1840 Stock Purchase Subscription Rights Received by Officers, Directors, and their Associates − Subordination
1075.1845 Supplemental Share Purchase Subscription Rights − Supplemental Eligible Account Holder − Conditions
1075.1850 Voting Members Who Are Not Eligible Account Holders
1075.1855 Sale of Shares Not Sold in Subscription Offering − Methods − Conditions
1075.1860 Uniform Sales Price of Shares Required − Application to Specify Arrangements on Sale of Shares Not Sold in Subscription Offering
1075.1865 Savings Account Holder to Receive Withdrawable Savings Accounts~~Account(s)~~ − Amount
1075.1870 Liquidation Account − Establishment and Maintenance Required
1075.1875 Establishment of Eligibility Record Date Required
1075.1880 Voting Rights
1075.1885 Amendment and Termination of Plan of Conversion
1075.1890 Restriction on Sale of Shares of Stock by Directors and Officers
1075.1895 Conditions on Shares of Stock Subject to Restriction on Sale
1075.1900 Registration of Securities − Marketing of Securities − Listing of Shares on Securities Exchange or NASDAQ Quotation System
1075.1905 Reasonable Expenses Required
1075.1910 Employee Stock Benefit Plan − Priority
1075.1915 Employee Stock Benefit Plan − Contributions
1075.1920 Plan of Conversion – Prohibited Provisions
1075.1925 Optional Provisions in Plan of Conversion
1075.1930 Approval of Other Provisions
1075.1935 Amount of Qualifying Deposit of Eligible Account Holder or Supplemental Eligible Account Holder
1075.1940 Liquidation Account − Establishment Required − Amount − Function
1075.1945 Liquidation Account − Maintenance Required − Subaccounts
1075.1950 Liquidation Account − Distribution Upon Complete Liquidation
1075.1955 Liquidation Account − Determination of Subaccount Balances
1075.1960 Reduction of Subaccount Balance
1075.1965 Converted Savings Bank Prohibited from Repurchasing its Stock Without

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Approval
1075.1970 Limitation on Cash Dividends
1075.1975 Dividends on Preferred Stock
1075.1980 Prohibitions on Offer, Sale, or Purchase of Securities
1075.1985 Acquisitions of Control of a Converted Savings Bank
1075.1990 Articles of Incorporation – Restrictions Permitted
1075.1995 Confidentiality of Consideration to Convert − Remedial Measures for Breach
1075.2000 Public Statement Authorized
1075.2005 Adoption of Plan of Conversion − Notice to and Inspection by Account Holders − Statement and Letter − Press Release Authorized
1075.2010 Statement, Letter and Press Release − Content Permitted
1075.2015 Statement, Letter and Press Release − Contents Prohibited − Inquiries
1075.2020 Notices of Filing of Application − Requests for Subscription Offering Circular
1075.2025 Filing of Notice and Affidavit of Publication Required
1075.2030 Application Available for Public Inspection − Confidential Information
1075.2035 Solicitation of Proxies; Proxy Statements
1075.2040 Vote by Members
1075.2045 Offers and Sales of Securities − Prohibitions
1075.2050 Distribution of Offering Circulars Authorized
1075.2055 Preliminary Offering Circular for Subscription Offering − Estimated Subscription Price Range Required
1075.2060 Review of Price Information by the Director~~Commissioner~~
1075.2065 Underwriting Commission
1075.2070 Consideration of Pricing Information by the Director~~Commissioner~~ − Guidelines
1075.2075 Submission of Information by Applicant
1075.2080 Subscription Offering − Distribution of Order Forms for the Purchase of Shares
1075.2085 Order Forms − Final Offering Circular and Detailed Instructions
1075.2090 Subscription Price
1075.2095 Order Form − Contents
1075.2100 Order Form − Additional Provision Authorized − Payment by Withdrawal
1075.2105 Time Period for Completion of Sale of all Shares of Capital Stock
1075.2110 Continuity of Corporate Existence
1075.2115 Application to Furnish Information
1075.2120 Additional Filing Requirements
1075.2125 Availability for Conferences in Advance of Filing of Application − Refusal of Prefiling Review
1075.2130 Appeal from Refusal to Approve Application
1075.2135 Postconversion Reports
1075.2140 Certain Agreement to Transfer and Transfers of Ownership in Rights or Securities Prohibited

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1075.2145 Certain Offers and Announcements on Securities Prohibited
1075.2150 Certain Offers and Acquisitions Prohibited
1075.2155 Definitions − Certain Transfers, Offers and Acquisitions Prohibited
1075.2160 Amendments to Charter Required in Application − Articles of Incorporation − Filing of Certificate Required − Contents − Issuance and Filing of Authorization Certificate
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
1075.2200 Application − Application Requirements
1075.2210 Application − Filing the Application and Fees
1075.2220 Application − Preparing the Application
1075.2230 Application − Application Contents
1075.2240 Application − Application Exhibits
1075.2300 Proxy Statement − Information Required in Conversion Proxy Statement
1075.2310 Proxy Statement − Notice of Meeting
1075.2320 Proxy Statement − Revocability of Proxy
1075.2330 Proxy Statement − Persons Making the Solicitations
1075.2340 Proxy Statement − Voting Rights and Vote Required for Approval
1075.2350 Proxy Statement − Directors and Executive Officers
1075.2360 Proxy Statement − Management Remuneration
1075.2370 Proxy Statement − Business of the Applicant
1075.2380 Proxy Statement − Description of the Plan of Conversion
1075.2390 Proxy Statement − Description of Capital Stock
1075.2400 Proxy Statement − Capitalization
1075.2410 Proxy Statement − Use of New Capital
1075.2420 Proxy Statement − New Charter, Bylaws, or Other Documents
1075.2430 Proxy Statement − Other Matters
1075.2440 Proxy Statement − Financial Statements
1075.2450 Proxy Statement − Consents of Experts and Reports
1075.2460 Proxy Statement − Attachments
1075.2500 Offering Circular
1075.2510 Offering Circular − Certain Manner of Presentation of Required Information Prohibited
1075.2520 Offering Circular − Certain Named Persons − Filing of Written Consent Required
1075.2530 Offering Circular − Information Required

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1075.2540 Offering Circular − Additional Current Information Required
1075.2550 Offering Circular − Statement Required in Offering Circulars
1075.2560 Offering Circular − Preliminary Offering Circular
1075.2570 Offering Circular − Information with Respect to Exercise of Subscription Rights
1075.2580 Offering Circular − Information with Respect to Public Offering or Direct Community Offering

SUBPART P: HIGH RISK HOME LOANS

Section
1075.3000 Definitions
1075.3100 Ability to Repay
1075.3150 Verification of Ability to Pay Loan
1075.3200 Fraudulent or Deceptive Practices
1075.3225 Prepayment Penalty
1075.3250 Pre-paid Insurance Products and Warranties
1075.3300 Refinancing Prohibited in Certain Cases
1075.3325 Balloon Payments
1075.3350 Financing of Certain Points and Fees
1075.3400 Payments to Contractors
1075.3450 Negative Amortization
1075.3500 Negative Equity
1075.3550 Counseling Prior to Perfecting Foreclosure Proceedings
1075.3600 Mortgage Awareness Program
1075.3650 Report of Default and Foreclosure Rates on Conventional Loans
1075.3700 Director's~~Commissioner's~~ Review and Analysis
1075.3750 Third Party Review of High Risk Home Loans

SUBPART Q: DISCLOSURE OF CONFIDENTIONAL SUPERVISORY INFORMATION

Section
1075.4010 Definitions
1075.4020 Purpose and Scope
1075.4030 Requests for Confidential Supervisory Information
1075.4040 Where to Submit a Request
1075.4050 Consideration of Requests
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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART R: PAYDAY LOANS

Section
1075.5000 Purpose and Scope
1075.5010 Definitions
1075.5020 Applicability of Rule
1075.5030 Issuance of Payday Loans by Savings Banks

1075.APPENDIX A Estimated Monthly Income and Expenses Worksheet
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; amended at 30 Ill. Reg. _____, effective _____.

SUBPART A: FILINGS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1075.100 Filings

Filings pertaining to matters named hereafter shall be subject to the indicated fee pursuant to the Savings Bank Act (~~"~~the Act~~"~~) [205 ILCS 205]. Such fee or fees shall be paid at the Department of Financial and Professional Regulation-Division of Banking~~Office of Banks and Real Estate~~ (Division) at the time of filing. Payment shall be by check, draft or money order made payable to the ~~Division~~Department of Financial and Professional Regulation (Department)~~Office of Banks and Real Estate~~.

a) Permit to Organize
(Section 3001 of the Act)..... $ 1,000

b) Merger
(Section 8005 of the Act)..... $ 1,000

c) Sale of Assets
(Section 8010 of the Act)..... $ 1,000

d) Amendment to Articles of Incorporation
Providing~~providing~~ for the Issuance of Permanent
Reserve Shares
(Section 5004 of the Act) (Section 1075.400 of this Part) ..... $ 1,000

e) Conversion from Savings Bank Charter to any Federal
Charter
(Section 8001 of the Act)..... One ~~(1)~~ times the last total annual Supervisory Fee calculated and assessed against the Savings Bank as set forth in Section 1075.130(a) and (b).

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

f) Hearing or Oral Argument – each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument (Section 9018 of the Act)
(Sections 1075.725 and 1075.900 of this Part)..... $ 500
Each applicant requesting a hearing or oral argument and/or each objector requesting a hearing or oral argument and/or each adversary participating in a hearing or oral argument shall bear its pro rata share of all expense incurred in said proceedings.

g) Application for Subsidiary Acquisition Fee
(Section 2004 of the Act)..... $ 250

h) Conversion from Mutual to Capital Stock Form of Ownership
(Section 5004 of the Act) (Subpart O of this Part)..... $10,000

i) Acquisition of Control of a Savings Bank
(Sections~~Section~~ 5002, 5004 and 5006 of the Act) (Subpart N of this Part)..... $ 500

j) Photocopy and Duplication Fees

1) Photocopies (per page) ..... $ .25

2) Savings Bank Act (bound edition)..... $ 25

3) Rules (bound edition) ..... $ 25

4) Annual Report (additional copies)..... $ 25

5) Mailing Labels $ 35

k) Holding Company Registration Fee
(Section 2002 of the Act)..... $ 1,000

l) Application for Subsidiary Acquisition Fee, Illinois Savings Bank Holding Company (Section 2004 of the Act)..... $ 250

m) The following fees apply to mutual holding company transactions:

1) Mutual Holding Company Reorganization with resulting savings bank stock offered to party other than the mutual holding company (Section 2007 of the Act)..... $10,000

2) Mutual Holding Company Reorganization with no resulting savings bank stock offered to any party except the mutual holding company (Section 2007 of the Act)..... $ 3,000

3) Subsequent Offerings:

A) First offering~~Offering~~ of resulting savings bank~~Savings Bank~~ stock to a party other than the mutual holding company~~Mutual Holding Company~~ after reorganization described in subsection (m)(2) of this Section..... $ 7,000

B) All other offerings~~Offerings~~ to a party other than the mutual holding company~~Mutual Holding Company~~ ..... $ 1,000

4) Conversion of Mutual Holding Company to Stock Holding Company (Section 2007 of the Act)..... $10,000

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.110 Conditions

a) No submission subject to a fee shall be considered complete without the stipulated fee.

b) The fee shall be non-refundable regardless of the subsequent action with respect to the submission.

c) The Director ~~Commissioner~~ may waive the payment of the applicable fee otherwise required by this Section and Section 1075.100 of this Part when:

1) the Director ~~Commissioner~~ determines that the respective merger or bulk sale of assets avoids the need for the Director ~~Commissioner~~ to take custody of the respective savings bank pursuant to Section 10001 of the Act; or

2) the establishment of a branch office is at the location of the home office of the savings bank which ceases to exist as the result of a merger or bulk sale of assets which avoids the need for the Director~~Commissioner~~ to take custody of the respective savings bank pursuant to Section 10001 of the Act; or

3) the termination of operation and closing of a branch office pertains to a branch office of a savings bank which ceases to exist as the result of a merger or bulk sale of assets which avoids the need for the Director ~~Commissioner~~ to take custody of the respective savings bank pursuant to Section 10001 of the Act and the closing of the respective branch office is a condition stipulated in the plan of the respective merger or bulk sale of assets.

d) Should a person desire to submit any information it considers to be of a confidential nature as part of a submission, such information shall be separately bound and labeled in capital letters, "CONFIDENTIAL", and a statement shall be submitted with the bound copy briefly setting forth the grounds on which such information should be treated as confidential. Only general reference need be made of that "CONFIDENTIAL" portion in the portion of the submission that the applicant considers not to be confidential. If any material has been granted confidential treatment under State or federal law or by a government agency or a court, those circumstances should be described. All materials filed are available for inspection, except for portions that are bound and labeled in capital letters, "CONFIDENTIAL", and that the Director~~Commissioner~~ determines to hold from public availability because of their confidential nature. The Director's ~~Commissoner's~~ determination to hold material from public inspection shall be based on considerations of safety and soundness of the applicant, the propriety

nature of the material, privacy of the applicants or their organization directors, officers, employees or customers, or on the treatment of the material by other government agencies or by the courts. The Director~~Commissioner~~ will not permit public inspection or copying of any material that is or would be confidential under State or federal law. The Director~~Commissioner~~ will advise the party filing the submission of any decision to make available to the public information labeled in capital letters, "CONFIDENTIAL". It should be understood that it may be necessary for the Director~~Commissioner~~ to release materials previously given confidential treatment. It should be further understood that even though parts of the submission are considered confidential as far as public inspection is concerned, the Director~~Commissioner~~ may comment on the confidential portions of submissions, without prior notice, in any public statement in connection with the Director's ~~Commissioner's~~ decision on the submission.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.120 Examination Fees

a) Time expended in the conduct of any examination of the affairs of any savings bank or service corporation pursuant to Section 9004 of the~~The~~ Act or applicable service corporation undertakings, respectively, shall be billed by the Director ~~Commissioner~~ at a rate of $70 per examiner hour. The~~Such~~ fee shall be billed within ~~forty-five (~~45~~)~~ days following completion of the respective examination.

b) When out-of-state travel occurs in the conduct of any examination, the savings bank or service corporation will be billed for expenses incurred in the performance of duties. Billings for such expense shall not exceed amounts authorized pursuant to the travel regulations of the Department of Central Management Services/Governor's Travel Control Board (80 Ill. Adm. Code 2800). When~~In the situation where~~ examination procedures are performed at out-of-state locations, the examination fee of $70 per hour plus travel, lodging and per diem shall be assessed. Additionally, travel time shall be billed at the examination rate of $70 per hour.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.130 Supervisory Fees

a) The Director~~Commissioner~~ shall receive, and there shall be paid to the Director~~Commissioner~~ by each savings bank and each service corporation

operating under the Act, a fixed fee of $600, plus a variable fee based on the total assets of each savings bank and each service corporation as shown on the financial report filed with the Director~~Commissioner~~ for the reporting period of the prior calendar year ended December 31, 1999 and every year thereafter according to the following schedule:

28.82¢ per $1,000 of the first $2,000,000 of total assets,

26.2¢ per $1,000 of the next $3,000,000 of total assets,

23.58¢ per $1,000 of the next $5,000,000 of total assets,

19.65¢ per $1,000 of the next $15,000,000 of total assets,

17.03¢ per $1,000 of the next $25,000,000 of total assets,

14.41¢ per $1,000 of the next $50,000,000 of total assets,

11.79¢ per $1,000 of the next $400,000,000 of total assets,

7.86¢ per $1,000 of the next $500,000,000 of total assets, and

5.24¢ per $1,000 of all total assets in excess of $1,000,000,000 of such savings bank or service corporation.

When~~In the situation where~~ service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle (Mortgage Backed Securities, Real Estate Mortgage Income Certificates, and other securitized debt instruments), the Director ~~Commissioner~~ shall waive that portion of the fee attributed to the finance subsidiary.

b) ~~The Commissioner shall receive and there shall be paid to the Commissioner by each~~ Each savings bank shall pay to the Department a fee of $600 for each approved branch office or facility office established under Subpart G of this Part. The determination of such fees shall be made annually as of the close of business of the prior calendar year ended December 31.

c) One fourth of the sum of the supervisory fee so determined shall be remitted as

billed by the Director~~Commissioner~~. Such fees shall be for the respective current year. Fees payable for the third and fourth calendar quarters of 2003 shall be recalculated using total assets as of December 31, 2002, and the amended fees provided in subsections (a) and (b) of this Section. One fourth of the sum of the supervisory fee determinded based on the amended fee schedule shall be remitted as billed for the third and fourth calendar quarters of 2003.

d) Subject to the requirements of subsection (c) of this Section for the third and fourth quarters of 2003, supervisory fees shall be determined by the Director~~Commissioner~~ following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any such fees billed at a later date.

e) In the event the state charter is converted or otherwise surrendered during the year, the Director~~Commissioner~~ shall determine the supervisory fee based on the total assets of the savings bank as of the month-end immediately preceding the cancellation of the state charter, except that the measurement date may be another date at the discretion of the Director~~Commissioner~~ in the event a savings bank elects to liquidate. In determining whether to set another measurement date, the Director~~Commissioner~~ shall consider the following elements: whether the savings bank is undergoing a planned liquidation (where a savings bank elects to not continue operations), or, the savings bank has transferred significant assets (more than .5%~~½ of 1 percent~~ of the total assets at the previous measurement date).

f) The Director~~Commissioner~~ may waive part of the first annual supervisory fee specified under subsection (a)~~ above~~, for a savings and loan association that has paid the fee for conversion to federal charter as required under the rules promulgated pursuant to the Illinois Savings and Loan Act of 1985 (38 Ill. Adm. Code 400.110(b)). Such waiver, if any is granted, shall be in accordance with the following schedule:

1) for conversions that were completed less than twelve months but greater than six months before the issuance of a savings bank charter, 25%~~ percent~~ may be waived; and

2) for conversions that were completed less than six months before the issuance of a savings bank charter, 50%~~ percent~~ may be waived.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1075.140 Adjusted Supervisory Fees

a) ~~The Commissioner shall receive and there~~There shall be paid to the Department~~Commissioner~~ an additional fee as an adjustment to the supervisory fee specified in Section 1075.130 of this Part, to be based upon the difference between the total assets of each savings bank and each service corporation as shown by its financial report filed with the Director~~Commissioner~~ for the reporting period of the calendar year ended December 31 on which the supervisory fee was based, and the total assets of each savings bank and each service corporation as shown by its financial report filed with the Director~~Commissioner~~ for the reporting period of the calendar year ended December 31 in which the quarterly payments referred to in Section 1075.130 of this Part are made according to the following schedule:

28.82¢ per $1,000 of the first $2,000,000 of total assets,

26.2¢ per $1,000 of the next $3,000,000 of total assets,

23.58¢ per $1,000 of the next $5,000,000 of total assets,

19.65¢ per $1,000 of the next $15,000,000 of total assets,

17.03¢ per $1,000 of the next $25,000,000 of total assets,

14.41¢ per $1,000 of the next $50,000,000 of total assets,

11.79¢ per $1,000 of the next $400,000,000 of total assets,

7.86¢ per $1,000 of the next $500,000,000 of total assets, and

5.24¢ per $1,000 of all total assets in excess of $1,000,000,000 of the~~such~~ savings bank or service corporation.

In the situation where service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the Director~~Commissioner~~ shall waive that portion of the fee attributed to the finance subsidiary.

b) Adjusted supervisory fees shall be remitted as billed by the Director~~Commissioner~~. In the event the total assets of each savings bank and each service corporation as reported on the earlier financial report are more than the total assets as reported on the later annual report, the Director~~Commissioner~~ shall credit the next quarterly remittance of the supervisory fee in the same proportion.

c) In the event the State~~state~~ charter is converted or otherwise surrendered during the year, the Director~~Commissioner~~ shall determine the supervisory fee based on the total assets of the savings bank as of the month-end immediately preceding the cancellation of the State~~state~~ charter, except that the measurement date may be another date at the discretion of the Director~~Commissioner~~ in the event a savings bank elects to liquidate. In determining whether to set another measurement date, the Director~~Commissioner~~ shall consider the following elements: whether the savings bank is undergoing a planned liquidation (where a savings bank elects to not continue operations); or, the savings bank has transferred significant assets (more than .5%~~½ of 1 percent~~ of the total assets at the previous measurement date).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.150 Withdrawal of Applications or Other Filings

a) Unless otherwise specified in the Savings Bank Act [205 ILCS 205] or this Part, an application or other filing submitted under the Savings Bank Act or this Part shall be deemed withdrawn if the person making the filing fails to respond within 120 days after a request by the Director ~~Commissioner~~ for additional documents or information related to the filing. All withdrawn applications or other filings shall be terminated and shall be ineffective. The Director~~Commissioner~~ may agree to extend the time in which the application or other filing shall be deemed withdrawn unless the Savings Bank Act or this Part requires otherwise.

b) Notwithstanding subsection (a) of this Section, applications or other filings submitted on or before September 15, 2002 shall not be deemed withdrawn unless the person making the filings fails to respond within 120 days after that date to a request by the Director~~Commissioner~~ for additional documents or information related to the filing.

c) Nothing in this Section requires the Director ~~Commissioner~~ to reissue requests for additional documents or information made prior to September 15, 2002.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS

Section 1075.200 Definitions

Words or terms that are defined in the Act shall retain the same meaning when used in this Part.

"Act~~ACT~~" means the Savings Bank Act [205 ILCS 205].

"Company~~COMPANY~~" means any corporation, partnership, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, but shall not include any corporation the majority of the shares of which are owned by the United States or by any state.

"Controlling Interest~~CONTROLLING INTEREST~~" means a person, or company has a controlling interest in a proposed savings bank, a lender, or a company, if the person, or company:

directly or indirectly or acting through one or more other persons or companies owns, controls, or has power to vote 25%~~ percent~~ or more of any class of voting securities at the proposed savings bank, lender, or company; or

controls in any manner the election of the majority of the directors or trustees of the proposed savings bank, lender, or company; or

the Director~~Commissioner~~ determines, after a hearing, that the company directly or indirectly exercises a controlling influence over the management policies of the proposed savings bank, lender, or company; or

directly or indirectly, or acting through one or more other persons or companies, owns, controls, or has power to vote 25%~~ percent~~ or more of any class of securities that invests the owner, controller, or voter with the right to vote to approve or disapprove of voluntary corporate changes and amendment of the Articles of Incorporation and bylaws.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Banking.

"Division" means the Department of Financial and Professional Regulation-Division of Banking.

"Lender~~LENDER~~" means a secured or unsecured creditor or creditors named as such in the debt obligation and documents~~,~~ creating any security interest.

"Organization Director" means any person defined as a Director by Section 1007.55 of the Act.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART C: REPORTS

Section 1075.300 Contracts

a) Except employment contracts, loans on savings accounts, or contracts with consideration of less than $25,000, a savings bank shall file with the Director~~Commissioner~~, within 10 days after the contract's execution, a copy of any contract with the following:

1) any person owning 10% ~~percent~~ or more of the outstanding shares of stock of the savings bank, if that savings bank issues stock;

2) any organization director, officer, employee, agent, or attorney of the savings bank;

3) any representative, partner or immediate relative of an officer, organization director or 10% ~~percent~~ shareholder of the savings bank or savings bank holding company;

4) any corporation in which any of the ~~above~~ persons listed in this subsection have a 10% ~~percent~~ interest; or

5) any trust in which any of the ~~above~~ persons listed in this subsection has an interest.

b) Any savings bank knowingly entering into a contract with a organization director, officer, or a 10%~~ percent~~ or more shareholder of any other financial institution either directly or with a corporation or trust in which the~~such~~ organization director, officer, or 10%~~ percent~~ or more shareholder owns 10%~~ percent~~ or more of the voting stock of that corporation, or has a beneficial interest in that trust, shall file with the Director ~~Commissioner~~ a copy of the contract within 10 days after its execution.

c) Every contract entered into by a savings bank of a kind or nature stated in subsection (a) or (b) shall be approved by the board of directors of that savings bank, and that approval shall be reflected in the minutes of the meeting of the board of directors and kept on file at the savings bank.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.310 Financial Reports

Each savings bank shall file quarterly financial reports on~~ such~~ forms ~~as are~~ prescribed by the Director~~Commissioner~~. Such reports shall be delivered to the Director ~~Commissioner~~ by the last day of the month following the quarter end for which the report applies. Any savings bank that fails to submit required reports in the time prescribed by this Section shall be subject to fine as provided for in the Act.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART D: OPERATIONS

Section 1075.410 Minimum Capital Requirement

a) The Director~~Commissioner~~ may establish a minimum capital level for a savings bank at such amount or at such ratio of capital-to-assets as the Director~~Commissioner~~ determines to be necessary or appropriate in consideration of the circumstances of the savings bank.

b) For a financial institution applying to convert to a savings bank charter, the Director~~Commissioner~~ may accept as being in full compliance with Section 5001 of the~~The~~ Act a financial institution with less than the minimum capital required in Section 5001~~therein~~ if the financial institution has an approved capital plan under the Financial Institutions Reform, Recovery and Enforcement Act of 1989

(12 USC~~U.S.C.~~ 1464(5)(s)(5)), and the Director~~Commissioner~~ finds that the financial institution is otherwise being operated in a safe and sound manner. The Director's~~Such~~ determination shall be made after review of financial reports and statements, reports of examination and other ~~such~~ information as the Director~~Commissioner~~ shall consider necessary for making a determination that the financial institution is being operated in a safe and sound manner.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.430 Maintenance of Records

To enable the Director~~Commissioner~~ to examine a savings bank, holding company, service corporation or affiliate of a savings bank pursuant to Section 9004 of the Act, each savings bank shall establish and maintain accounting and other records of all business transacted, and the documents, files and other material comprising such records shall at all times be available for examination wherever any of such files, documents or materials may be. At a minimum, a savings bank and service corporations shall establish and maintain the following records.

a) Disbursement Records
A savings bank's funds shall be disbursed in accordance with a resolution adopted by the board of directors and reviewed at least annually. Each disbursement shall be documented to show the date, the amount and the purpose of the disbursement and the names of the person or persons or other entities receiving such disbursements whether paid directly, indirectly or through an escrow.

b) Record Retention

1) Before approving any loan or issuing any commitment, a savings bank shall determine that every person that proposes to become liable to the savings bank has the financial ability to service the proposed debt. The procedure for determining the financial capacity of every person that proposes to become liable to the savings bank shall be in accordance with procedures adopted by the board of directors and reviewed at least annually. Thereafter, a savings bank shall retain the application and other documentation supporting each loan, as well as the complete servicing record, as part of the records of the savings bank throughout the duration of the savings bank's investment in the respective loan.

2) A savings bank shall retain each rejected loan application and the information in support thereof for a period of thirty-six (36) months

following such rejection.

c) The savings bank~~Savings Bank~~ shall:

1) require every borrower that is:

A) a trust to provide a certification by the trustee listing the current beneficiaries of the trust;

B) a corporation to provide a certification by the corporate secretary listing the names and percentage of ownership of all 10% ~~percent~~ or more shareholders; and

C) a partnership to provide a certified list of partners.

2) retain such documents as a part of the savings bank's records and that shall be maintained throughout the duration of the savings bank's investment in the respective loan.

d) Loan Registers

1) A savings bank shall maintain one or more loan registers which shall contain the original entry and be a permanent record, and shall show for every loan the account number, date of the loan, amount of the loan, name of the borrower, nature of security by types, the amount of fees, the amount of the note, including precomputed loans, rate of interest, the term of the loan, and such other information as desired by the savings bank.

2) All loan registers shall be kept numerically by number of loans in order made.

e) Loans Secured by~~By~~ Real Estate

1) An application for the loan, signed by the borrower or its agent, in such form and containing ~~such~~ information as will disclose the purpose for the loan, that is construction, purchase, refinancing, and the identity of any security property.

2) A note evidencing the borrower's debt to repay the amount of the loan, executed by the borrower or its agent.

3) A copy of the deed of trust or mortgage instrument on the real estate or other document customarily used in the jurisdiction in which the real estate security is located, evidencing the creation of a security interest in the real estate for the benefit of the lender, which deed of trust, mortgage instrument, or other document has been signed by the borrower or the borrower's agent; and, if the loan is made to finance the purchase of the real estate security for the loan, a signed statement by the borrower or its agent, as part of or as an attachment to the application for the loan, disclosing the purchase price of such real estate security.

4) One or more written appraisal reports, prepared at the request of the lender or its agent and for the lender's use, and signed before the approval of the~~such~~ application (except in the case of an approval conditioned upon obtaining an appraisal) or, if the~~such~~ loan is an insured loan or a guaranteed loan, a certification of the valuation assigned to real estate security by the appraiser accepted by the insuring or guaranteeing agency and furnished to the lender by the~~such~~ agency. Loans of less than $250,000 may be supported by estimates of value other than an appraisal, such as in-house appraisals and valuations, previous appraisals, tax assessments, tax assessment valuations, and insurance evaluations.

5) Documentation showing the financial ability of the borrower to repay the loan, or a written credit report prepared by the savings bank or by others at the request of the savings bank.

6) Documentation showing when and by whom the~~such~~ loan was approved and any terms of the~~such~~ approval.

7) Documentation showing the date, amount, purpose, the recipient of every disbursement of the proceeds of the~~such~~ loan, and to the best of the lender's knowledge, any actual recipient of any proceeds when the stated recipient is acting as an agent or intermediary for another.

8) An opinion signed by the lender's attorney, a title insurance policy, or other documentary evidence customarily used in the jurisdiction in which the real estate security is located, affirming the quality and validity of the lender's lien on the real estate security for the loan.

9) Documentation showing that the savings bank, upon the closing of the

loan, furnished to the borrower, a loan settlement statement setting forth in detail the charges or fees the borrower has paid or is obligated to pay to such savings bank or to any other concern or person in connection with the loan, which documentation shall include a copy of the loan settlement statement.

10) A record showing the status and current payment of taxes, assessments, insurance premiums, other charges on the security for the loan, and documenting any loss incurred on the loan security, as well as any amounts recovered pursuant to an insurance settlement of the~~such~~ loss.

11) Documentation evidencing any modifications of the original documents by which a security interest for the benefit of the lender was created, showing appropriate approval of each party to the~~such~~ modification.

12) Documentation evidencing any release of any portion of the collateral pledged to secure the loan, showing the portion of the collateral released, the consideration, if any, paid to effect the~~such~~ release, and a record of the appropriate approval of each ~~such~~ release.

f) Loans Not Secured by~~By~~ Real Estate
The records with respect to each unsecured loan or loan not secured by real estate that the savings bank makes shall include the documents referred to in subsection (g) that~~above which~~ are relevant to the loan. If the loan is secured by collateral other than real estate, the lender's records also shall include documents evidencing the creation and perfection of a security interest in the collateral, including any financing statement. In addition, if the loan is made to a business entity, the records shall include documentation showing whether the obligor on the loan can generate sufficient cash flow to meet scheduled interest and debt reduction payments, and if not sufficient, the records shall include documentation demonstrating the anticipated source of the borrower's payments.

g) Transfer of Records
A savings bank shall not transfer the location of any of its general accounting or control records from its home office to a branch or other office, or from a branch or other office to its home office or to another branch or office unless the savings bank has sent prior written notice of the~~such~~ transfer to the Director~~Commissioner~~.

h) Data Processing

1) A savings bank that~~which~~ maintains it records by a data processing service shall, before establishing such service, notify the Director~~Commissioner~~ in writing. The~~Such~~ notice shall be delivered at least 90 days before the date on which the~~such~~ maintenance of records will begin. The~~Such~~ notification shall include identification of the records to be maintained by data processing services and a statement as to the location at which the~~such~~ information will be maintained. Any contract shall expressly provide that the records to be maintained by the~~such~~ services shall at all times be available for examination by the Director~~Commissioner~~.

2) A savings bank's data processing service center shall provide, annually, a copy of the third party audit review, if performed.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.440 Business Plan

a) All savings banks whose operations are considered unsafe or unsound by the Director~~Commissioner~~ pursuant to the Act or who have total capital less than the amount required under Section 5007 of the~~The~~ Act, or any condition that~~which~~ would endanger the ongoing viability of the savings bank, shall develop a business plan and have the same available for review by the examiners. The period covered by the business plan shall not be less than one ~~(1)~~ year, but may be for any greater number of periods that the Director~~Commissioner~~ may require. Each ~~such~~ plan shall contain the following:

1) introduction;

2) mission statement;

3) corporate objectives;

4) corporate strategies; and

5) financial projections for the period covered by the business plan.

b) The savings bank's business plan shall be reviewed to determine its continued viability in accordance with current economic conditions and approved or revised, as determined by the board of directors, at least annually.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.450 Excess Insurance

a) Section 1005 of the~~The~~ Act allows savings banks to secure deposit insurance in excess of the amounts available under federally sponsored programs. The~~Such~~ excess insurance may be obtained only through an entity authorized to do business in this State and which is under the regulation of the Division~~Illinois Department of Insurance~~. Providers of excess insurance must be preapproved by the Director~~Commissioner~~. Each approved insurer shall be found to be financially sound and to employ approved actuarial practices.

b) Before entering into an agreement to obtain excess insurance a savings bank must notify the Director~~Commissioner~~ of its intent. The~~Such~~ notice shall include a copy of the proposed contract and sufficient information regarding the proposed insurer to allow the Director~~Commissioner~~ to determine as to the financial stability of the proposed insurer. The Director~~Commissioner~~ shall have ~~thirty (~~30~~)~~ days in which to notify the savings bank of any objections~~objection(s)~~ that the Director~~Commissioner~~ may have. Any request for additional information that the Director~~Commissioner~~ may make shall be made within ~~twenty (~~20~~)~~ days after~~of~~ receipt of the notice. Failure of the Director~~Commissioner~~ to notify the savings bank within the ~~thirty (~~30~~)~~ days as prescribed in this subsection ~~above~~ shall constitute a finding of no objection.

c) To obtain approval from the Director~~Commissioner~~, any prospective provider of excess insurance shall agree to provide the Director~~Commissioner~~ with any information he or she considers necessary to determine as to the current and continuing financial condition of the proposed insurer. This information shall include but not be limited to the following:

1) quarterly financial reports;

2) report of audit conducted by an independent certified public accountant;

3) copies of minutes of board of directors' meetings; and

4) copies of examination reports made by examiners for any regulatory agency.

d) Any insurer shall agree as a condition of approval to submit to examination by the Director~~Commissioner~~. The cost of any such examination shall be paid by the insurer. The cost of the examination shall be based on the same fee schedule that applies to savings banks.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.455 Vacancies in the Board of Directors

If one ~~(1)~~ or more vacancies occur on a board of directors of a savings bank, the remaining organization directors may continue management of the savings bank, including consenting to any enforcement actions or any other regulatory or supervisory requirements. If the number of organization directors falls below ~~five (~~5~~)~~, the remaining organization directors or the officers of the savings bank shall so inform the Director~~Commissioner~~ within ~~five (~~5~~)~~ business days after~~of~~ the loss of the fifth organization director. The remaining organization directors shall elect temporary organization directors at the next regular or special meeting of the board of directors. Temporary organization directors' terms shall expire at the next regular or special meeting of voting members of the savings bank.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.460 Bond of Officers, Organization Directors, Employees and Agents

Every savings bank shall maintain bond coverage with a bonding company acceptable to the Director~~Commissioner~~ for every officer, organization director, employee and agent of the savings bank or such other persons in positions requiring the receipt, payment, management or use of money belonging to the savings bank or whose duties permit or require access to or custody of a savings bank's assets or require the making of entries on the books and records of the savings bank.

a) Bond Schedule. The minimum amount of ~~such~~ bond shall be based on total consolidated assets of the savings bank and its subsidiaries in accordance with the following schedule:

Total Assets	Minimum Coverage
Less than $1,000,000	$135,000.

$1,000,001 to $10,000,000	$135,000 plus $25,000 for each $1,000,000 or fraction thereof over $1,000,000.
$10,000,001 to $50,000,000	$360,000 plus $50,000 for each $5,000,000 or fraction thereof over $10,000,000.
$50,000,001 to $500,000,000	$760,000 plus $75,000 for each $25,000,000 or fraction thereof over $50,000,000.
Over $500,000,000	$2,110,000 plus $100,000 for each $50,000,000 over $500,000,000.

b) No savings bank shall be required to maintain bond coverage in an amount greater than $3,000,000.

c) Coverage in excess of the above minimum requirements is optional at the discretion of the board of directors of the savings bank.

d) The bond shall not provide for more than one deductible from all losses caused by the same person or caused by the same persons acting in collusion or combination in cases in which the~~such~~ losses result from dishonesty. A deductible shall not exceed an amount determined in accordance with the following schedule:

Total Capital	Permissible Deductible
Less than 4% ~~percent~~ of total assets	10% ~~percent~~ of total capital.
Greater than 4% ~~percent~~ but less than 6% ~~percent~~ of total assets	15% ~~percent~~ of total capital.
Greater than 6% ~~percent~~ of total assets	20% ~~percent~~ of total capital.

e) The bond shall be in the form known as Standard Form No. 22, Standard Form No. 24 or an equivalent as determined by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.465 Indemnification of Officers, Organization Directors, Employees and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Agents

a) No officer, organization director, employee, or agent of a savings bank may be indemnified by a savings bank against any expense incurred, if the officer, organization director, employee or agent:

1) is subject to an Order of Removal, Suspension or Industrywide Prohibition under the Act or this Part~~these rule~~s; or

2) is subject to a final order assessing civil money penalties or requiring affirmative action by an individual or individuals in the form of payments to the savings bank.

b) In accordance with supervisory responsibilities, the Director ~~Commissioner~~ may, in his or her discretion, review the threat to bank safety and soundness posed by any indemnification or proposed indemnification of officers, organization directors, employees, or agents by a savings bank or for the consistency of any such indemnification with the standards adopted by that savings bank in its articles. Based upon this review, the Director~~Commissioner~~ may direct a modification of a specific indemnification by a savings bank through administrative action.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.470 Deceptively Similar Names

a) No savings bank may adopt or use any name deceptively similar to that of another current existing savings bank or financial institution that is located within the area as defined as follows:

1) within the counties of Cook, Lake, DuPage, McHenry, Kane and Will, a radius of one mile of the main office of another savings bank or other financial institution; and

2) within all other counties of the State, excluding those specifically identified in subsection (a)~~ above~~, a radius of 50 miles of a savings bank or other financial institution.

b) For purposes of Subpart D of this Part, the determination of the deceptive similarity of a name shall be made by the Director ~~Commissioner~~ or ~~such~~ other

person or persons as are authorized to act on the Director's ~~Commissioner's~~ behalf.

c) A savings bank chartered under the Act must use the words "Savings Bank" or the initials "SB" in its name.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.490 Procedures for Exercise of Dissenters Rights

Pursuant to Section 4012(c) of the~~The~~ Act, the procedures to be used by savings banks and dissenters in arriving at a value and price for dissenters' shares, as well as how distribution shall be made shall be as follows.

a) Within ~~ten (~~10~~)~~ days after the date on which the action giving rise to the right to dissent is effective or ~~thirty (~~30~~)~~ days after the shareholder delivers to the savings bank the written demand for payment, whichever is later, the savings bank shall send each shareholder who has delivered a written demand for payment a statement setting forth the opinion of the savings bank as to the estimated value of the shares, the savings bank's latest balance sheet as of the end of a fiscal year ending not earlier than ~~sixteen (~~16~~)~~ months before the delivery of the statement, together with the statement of income for that year and the latest available interim financial statements, and either a commitment to pay for the shares of the dissenting shareholder at the estimated value thereof upon transmittal to the savings bank of the certificate or certificates, or other evidence of ownership, with respect to such shares, or instructions to the dissenting shareholder to sell his or her shares within ~~ten (~~10~~)~~ days after delivery of the savings bank's statement to the shareholder. The savings bank may instruct the shareholder to sell only if there is a public market for the shares at which the shares may be readily sold. If the shareholder does not sell within the~~such ten (~~10~~)~~ day period after being so instructed by the savings bank, for purposes of this Section~~,~~ the shareholder shall be deemed to have sold his or her shares at the average closing price of such shares, if listed on a national exchange, or the average of the bid and asked price with respect to such shares quoted by a principal market maker, if not listed on a national exchange, during the 10~~such ten~~ day period.

b) If the shareholder does not agree with the opinion of the savings bank as to the estimated value of the shares, the shareholder, within ~~thirty (~~30~~)~~ days from the delivery of the savings bank's statement of value, shall notify the savings bank in writing of the shareholder's estimate of value and demand payment for the

difference between the shareholder's estimate of value and the amount of the payment by the savings bank or the proceeds of sale by the shareholder, whichever applies because of the procedure for which the savings bank opted pursuant to subsection (a)~~ above~~.

c) If, within ~~sixty (~~60~~)~~ days from delivery to the savings bank of the shareholder notification of estimate of value of the shares, the savings bank and the dissenting shareholder have not agreed in writing upon the value of the shares, the savings bank shall either pay the difference in value demanded by the shareholder or file a petition in the circuit court of the county in which either the registered office or the principal office of the savings bank is located, requesting the court to determine the fair value of the shares. The savings bank shall make all dissenters, whether or not residents of this State, whose demands remain unsettled parties to the proceeding as an action against their shares and all parties should be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law. Failure of the savings bank to commence an action pursuant to this Section shall not limit or affect the right of the dissenting shareholders to otherwise commence an action as permitted by law.

d) The jurisdiction of the court in which the proceeding is commenced under subsection (c) ~~above~~ by a savings bank is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decision on the question of fair value. The appraisers have the power described in the order appointing them, or in any amendment to it.

e) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds that the fair value of his or her share exceeds the amount paid by the savings bank or the proceeds of sale by the shareholder, whichever amount applies. The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all the circumstances, from the date on which the corporate action giving rise to the right to dissent is approved to the date of payment.

f) The court, in an appraisal proceeding commenced under subsection (c)~~ above~~, shall determine all costs of the proceeding, including the reasonable compensation and expenses of the appraisers, if any, and experts employed by any party, but shall exclude the fees and expenses of counsel for any party. If the fair value of the shares as determined by the court materially exceeds the amount ~~which~~ the savings bank offered to pay for those shares, or if no offer was made, then all or any part of the~~such~~ expenses may be assessed against the savings bank. Except as

otherwise provided in this Section, the practice, procedure, judgment and costs shall be governed by the Code of Civil Procedure [735 ILCS 5]~~(Ill. Rev. Stat. 1989, ch. 110, par 1-101 et seq.)~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART E: INVESTMENTS

Section 1075.510 Discrimination and Redlining

a) It shall be considered discriminatory to refuse to grant loans or to vary the terms of loans or the application procedures for loans because of:

1) the proposed borrower's race, color, religion, national origin, age, sex, physical disability or marital status; or

2) the geographic location of the proposed mortgage loan security.

b) A presumption of discrimination shall be attached to any inquiry regarding a loan authorized by the savings bank's board of directors when:

1) a savings bank refused to accept a written application; or

2) a loan application is rejected and not supported by adequate documentation which includes information sufficient to permit an informed non-interested party to reach the same conclusion as the lender concerning the disposition of the application.

c) In cases of a savings bank's non-compliance with ~~Subpart E of~~ this Subpart~~Part~~, the Director~~Commissioner~~, by written notice, shall require that all inquiries for loans received from proposed borrowers be accepted in writing on application forms that provide information sufficient to make an informed decision concerning the final disposition of the respective loan application. Thereafter, the savings bank shall submit a copy of each rejected application to the Director ~~Commissioner~~ with a written statement setting forth the reason for rejecting the application~~,~~ and a copy of each document supporting the decision.

d) A savings bank shall be required to comply with the Director's ~~Commissioner's~~ directive issued pursuant to subsection (c) ~~above~~ for a minimum of 6~~six (6)~~ months. Should a presumption of discrimination exist at the close of the six-

month period, the respective savings bank shall be required to continue ~~such~~ reporting until ~~such later date when~~ the Director~~Commissioner~~, by examination, determines that discriminatory practices have ceased and the savings bank is so notified.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.515 Loans Secured by Real Estate

a) A savings bank may originate, invest in, sell, purchase, service, participate, or otherwise deal in (including brokerage or warehousing) real estate loans or interest in those~~such~~ loans.

b) In determining compliance with the maximum loan-to-value limitations specified in ~~Subpart E of~~ this Subpart~~Part~~, a savings bank shall add to the loan amount the total of all other existing liens or other encumbrances on the security property having priority over the savings bank lien (including the lien to be established by the savings bank but excluding liens that will be released as the result of payments made from the proceeds of the new loan).

c) At the time of origination, a real estate secured loan granted under the provisions shall not exceed the maximum loan-to-value ratio as follows.

1) With respect to home loans originated or refinanced in excess of 90% ~~percent~~ of the appraised value of the security property, that part of the unpaid balance that exceeds 80% ~~percent~~ of the property's value shall be insured or guaranteed by mortgage insurance.

2) With respect to all other loans on the security of real estate originated in excess of 90% ~~percent~~ of the appraised value of the security property, a savings bank's board of directors, or loan comittee, shall approve each ~~such~~ loan before its origination and such approval, or ratification of the loan committee approval, shall be recorded in the minutes of its meeting.

3) In determining compliance with the maximum loan-to-value ratio limitations for real estate loans, at the time of making a loan a savings bank shall add together the unpaid amount, or in the case of a line-of-credit loan the approved credit limit, of all recorded loans secured by prior mortgages, liens or other encumbrances on the security property that would have priority over the savings bank's lien, and shall not make such a

loan unless the total amount of the~~such~~ loans (including the one to be made but excluding loans that will be paid off out of the proceeds of the new loan) does not exceed the applicable maximum loan-to-value ratio limitations prescribed in subsection (c)~~ above~~. In valuing the real estate security, a savings bank may use the current appraised value of the security property, which may include any expected value of improvements to be financed. "Value" for a real estate loan means the market value of the real estate. For loans granted pursuant to Section 6002(3) of the Act, alternative methods of valuation or other procedures that result in an estimate of value may be used.

d) The loan-to-value limitations specified in subsection (c) ~~above~~ shall not apply to the following.

1) To loans guaranteed or insured wholly or in part by the United States or any of its instrumentalities.

2) To loans or contracts made to finance the purchase of real estate owned that~~which~~ has been acquired by the savings bank through default on a prior investment provided that the minutes of organization directors' meetings substantiate that the~~such~~ sale is made in compliance with the following:

A) the board of directors approved the specific terms of the loan or contract before the savings bank's issuance of a letter of commitment. If no letter of commitment is to be issued, such approval shall be before the execution of a note, mortgage, or contract for deed between the purchaser and the savings bank;

B) the board of directors' resolution of approval of the respective sale specifically indicates why the sale is in the best interest of the savings bank and that ~~said~~ approval is given after duly considering the provisions of ~~Subpart E of~~ this Subpart~~Part~~;

C) the resolution identifies the specific documentation they have utilized in determining that the sale was in the best interest of the savings bank; and

D) all documentation used in evidencing compliance with ~~Subpart E of~~ this Subpart~~Part~~ is retained as a part of the records of the

savings bank for so long as the savings bank has a direct or indirect interest in the respective real estate.

3) Loans or contracts having additional eligible collateral pledged in an amount equal to that part of the loan or contract that~~which~~ is in excess of the lending limitations specified in subsection (c)~~ above~~. Eligible collateral means:

A) any investment permissible for savings banks under the Act;

B) any savings or time deposit in a commercial bank that~~which deposit~~ is insured by the Federal Deposit Insurance Corporation and not under control of any supervisory authority; or

C) the cash surrender value of a life insurance policy validly assigned to the savings bank.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.565 Financial Futures

a) Definitions as used in this Section apply unless the context otherwise requires.

"Financial Futures Transaction" means the purchase or sale of a financial futures contract.

"Forward Commitment" means a written commitment to make, purchase or issue mortgage loans or mortgage-related securities at a price and on or before a date specified in the commitment.

"Long Position" means the purchase of a financial futures contract to take delivery of a financial instrument.

"Mortgage-Related Securities" means securities based on and backed by mortgages, including mortgage-backed securities guaranteed by the Government National Mortgage Association ("GNMA's"), Mortgage Participation Certificates of the Federal Home Loan Mortgage Corporation, and similar obligations issued by a private issuer or in which the savings bank shall invest.

"Offset" means to cancel an obligation to make or take delivery of securities

under a financial instrument under a financial futures contract. A futures contract to purchase a financial instrument is offset by a futures contract to sell a financial instrument of the same type for the same delivery month. A futures contract to sell a financial instrument is offset by a futures contract to purchase a financial instrument of the same type for the same delivery month.

"Short Position" means the holding of a financial futures contract to make delivery of a financial instrument.

b) Permitted Transactions – to the extent that it has legal power to do so, a savings bank may engage in interest rate futures transactions to reduce its net interest rate risk exposure as provided in this subsection. For purposes of this Section, net interest rate risk exposure is the volatility in a savings bank's earnings that can arise from the mismatching of the maturities of assets and liabilities. A savings bank may enter into short positions that are appropriate for reducing its net interest-risk exposure. A savings bank may enter into long positions, other than those that offset short positions, only under the following conditions.

1) The futures position must be matched against a firm forward commitment to sell mortgages not yet originated or to issue mortgage-related securities to be based on mortgages not yet originated. For purposes of subsection (b), a firm forward commitment is a written commitment obligating the seller to make delivery, and the buyer to take delivery of mortgage loans not yet originated or mortgage-related securities to be based on mortgages not yet originated, at a price and on or before a date specified in the commitment.

2) The futures position may be entered into and maintained only to the extent that the savings bank's firm forward commitments exceed 10% ~~percent~~ of long-term assets with fixed interest rates. For purposes of this Section, long-term assets are those having remaining terms to maturity in excess of 5 ~~five (5)~~ years.

c) Authorized Contracts – savings banks may engage in interest rate futures transactions using any interest rate futures contracts designated by the Commodity Futures Trading Commission (CFTC) and based upon a financial instrument in which the savings bank has authority to invest ~~in~~ or to issue.

d) Board of Directors' Authorization – before engaging in interest rate futures transactions, a savings bank's board of directors must authorize such activity. In

authorizing futures trading, the board of directors shall consider any plan to engage in financial futures transactions, shall endorse specific written policies, and shall require the establishment of internal control procedures. Policy objectives must be specific enough to outline permissible contract strategies, taking into account price and yield correlations between assets or liabilities and the financial futures contracts with which they are matched; the relationship of the strategies to the savings bank's operations; and how such strategies reduce the savings bank's net interest rate risk exposure. Internal control procedures shall include, at a minimum, periodic reports to management, segregation of duties and internal review procedures. In addition, the minutes of the meeting of the board of directors shall set forth limits applicable to futures transactions, identify personnel authorized to engage in futures transactions, and set forth the duties, responsibilities and limits of authority of such personnel. The board of directors shall review the position limit, all outstanding positions, and the unrelated gains or losses on those positions at each regular meeting of the board.

e) Notification – a savings bank engaging in financial futures transactions shall notify the Director ~~Commissioner~~ that it is engaging in those~~such~~ transactions. The savings bank shall report its gross outstanding long and short financial futures positions on its monthly report.

f) Record Keeping Requirements – a savings bank engaging in financial futures transactions shall maintain records of those~~such~~ transactions sufficient to document how the transactions reduce the net interest rate risk exposure of the savings bank in accordance with the following requirements.

1) Contract Register – the savings bank shall maintain a contract register adequate to identify and control all financial futures contracts and including, at a minimum, the type and amount of each contract, the maturity date of each contract, the cost of each contract, the dollar amount and description of the asset or liability with which the futures contract is matched, and the date and manner in which a contract is closed out. The~~Such~~ register shall be prepared in a manner sufficient to indicate at any time the savings bank's total outstanding long and short financial futures positions.

2) Other Documentation – the savings bank shall maintain, as part of the documentation of its financial futures strategy, a schedule of the assets and the liabilities for which net interest rate risk exposure is being reduced and the purpose of each contract entered~~ into~~.

3) Maintenance of Records – the records designated in this subsection (f) ~~above~~ shall be maintained for all futures transactions closed-out during the preceding 2~~two (2)~~ years.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.570 Financial Options

a) Definitions as used in this Section apply unless the context otherwise requires.

1) "Call" means an option which gives the holder the right to purchase a financial instrument at a price and on or before the expiration date specified in the option contract.

2) "Deliverable Instrument" means a financial instrument whose terms satisfy the requirements for fulfilling delivery obligations of an option.

3) "Effective Exercise Price" means the yield equivalent price of an instrument whose coupon rate differs from the standard instrument specified in the option,

4) "Financial Options Contract" means an agreement (other than an optional delivery forward commitment contract to purchase and sell mortgages or mortgage-backed securities when used as part of the mortgage loan origination process) to make or take delivery of a financial instrument upon demand by the holder of the contract at any time before the expiration date specified in the agreement, under terms established either by:

A) a board of trade designated as a contract market for the trading of option contracts by the CFTC or a national securities exchange registered with the Securities Exchange Commission (SEC); or

B) the savings bank and a "permissible counterparty," as defined in subsection (a)(10), that are counterparties in an over-the-counter option transaction (other than an over-the-counter commodity optional transaction subject to the jurisdiction of the CFTC that is not otherwise authorized under the Commodity Exchange Act (7 USC~~U.S.C.~~ 1) and the regulations under that Act~~thereunder~~).

5) "Financial Options Transaction" means the purchase or sale of a financial options contract.

6) "Immediate Exercise Value" means the market value gained by exercising an option with the lowest cost deliverable instrument at its effective exercise price compared to purchasing (or selling) an identical instrument with the same coupon rate in the cash market.

7) "Long Position" means the holding of a financial options contract with the option to make or take delivery of a financial instrument.

8) "Option Commitment Fee" means the option premium minus the immediate exercise value of the option.

9) "Option Premium" means the price paid or received for establishing an option position.

10) "Permissible Counterparty" means any entity that is:

A) a primary dealer as defined in subsection (a)(11) of this Section;

B) a bank subject to the regulation and supervision of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Board of Governors of the Federal Reserve System and that is in compliance with applicable regulatory capital requirements;

C) a savings bank that is subject to the regulation and supervision of the Division ~~Office of Banks and Real Estate~~ and is in compliance with applicable regulatory capital requirements or subject to the regulation and supervision of the Division~~Office of Banks and Real Estate~~;

D) a broker or dealer registered with the Securities and Exchange Commission (~~"~~SEC~~"~~) and subject to regulation and supervision by a Registered Securities Association (registered pursuant to section~~Section~~ 15A of the Securities and Exchange Act of 1934 (15 USC ~~U.S.C.~~ 78(o)) (~~"~~Exchange Act~~"~~) or a National Securities Exchange (registered pursuant to sections~~Sections~~ 6 and 19(a) of the Exchange Act) and that is in compliance with applicable capital

requirements;

E) a government securities broker or dealer registered with the SEC that is subject to examination and supervision by a Registered Securities Association (registered pursuant to section~~Section~~ 15A of the Exchange Act) or National Securities Exchange (registered pursuant to sections~~Sections~~ 6 and 19(a) of the Exchange Act) and that is in compliance with applicable capital requirements;

F) a futures commission merchant registered with the CFTC and that is in compliance with applicable capital requirements;

G) the Federal Home Loan Banks;

H) the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Mortgage Association~~,~~ or the Government National Mortgage Association; or

I) any other entity that the Director ~~Commissioner~~, upon application, determines to be adequately regulated, capitalized, and audited or examined such that acting as a counterparty in an over-the-counter options transaction with a savings bank would not entail substantial credit risks for the savings bank. The Division ~~Office of Banks and Real Estate~~ delegates the authority to consider and approve such applications to the director of supervision, with the concurrence of the general counsel, or their respective designees.

11) "Primary Dealer in Government Securities" means any member of the Association of Primary Dealers in United States Government Securities and any parent, subsidiary, or affiliated entity of such primary dealer: provided, that the member guarantees (to the satisfaction of the Division ~~Office of Banks and Real Estate~~) the over-the-counter financial options transactions between its parent, subsidiary, or affiliated entity with a savings bank, and provided further~~,~~ that the parent, subsidiary, or affiliated entity is substantially engaged in similar activities.

12) "Put" means an option that~~which~~ gives the holder the right to sell a financial instrument at a price on or before the expiration date specified in the financial options contract.

13) "Short Position" means a commitment through a financial options contract to stand ready during the term of the contract to make or take delivery of a financial instrument.

b) Permitted Transactions – to the extent that it has legal power to do so, a savings bank may engage in financial options transactions as follows:

1) Long Positions – a savings bank may enter into long positions without numerical limit.

2) Short Positions – a savings bank may enter into short call positions without numerical limit. If a savings bank meets its capital requirement, it may enter into short put options to the extent that the aggregate amount of its short put options and forward commitments to purchase securities does not exceed 15%~~ percent~~ of total assets. If capital requirements are not met, the savings bank may enter into short put options only with prior written approval from the Director~~Commissioner~~. Permission shall be granted if the Director ~~Commissioner~~ finds the~~such~~ investment is not for speculative purposes and that the~~such~~ investment is made in accordance with a well-defined hedging program adopted by the savings bank board of directors.

c) Authorized Contracts – a savings bank may engage in financial options transactions using any financial options contracts either:

1) designated by the CFTC or approved by the SEC; or

2) entered into with a "permissible counter-party", as defined in subsection (a)(10)~~ above~~, and based upon a financial instrument that the savings bank has authority to invest in or to issue.

d) Board of Directors' Authorization – before engaging in financial options transactions, a savings bank's board of directors must authorize such activity. In authorizing options, the board of directors shall consider any plan to engage in writing or purchasing financial options contracts, shall endorse specific written policies, and shall require the establishment of internal control procedures. For options positions that will be matched with cash or forward market positions, policy objectives must be specific enough to outline permissible options contract strategies, taking into account price and yield correlations between assets or liabilities and the financial options contracts; the relationship of the strategies to

the savings bank's operations; the rationale for the ratio of the value of options positions to the value of the matched cash market positions; and how the options strategy reduces the savings bank's interest rate risk exposure. For unmatched option positions, policy objectives must specify the relationship of the strategy to the savings bank's operations. Prudent business judgment shall be exercised by participating savings banks engaging in financial options transactions to maintain a safe and sound financial position. Internal control procedures shall include, at a minimum, periodic reports to management, segregation of duties and internal review procedures. In addition, the minutes of the meeting of the board of directors shall set forth limits applicable to financial options transactions, identify personnel authorized to engage in financial options transactions, and set forth the duties, responsibilities and limits of authority of such personnel. The board of directors shall review the position limit, all outstanding options contract positions, and the unrealized gains or losses on those positions at each regular meeting of the board.

e) Notification, Reporting, and Approval

1) A savings bank shall notify the Director ~~Commissioner~~ immediately following authorization of its board of directors to engage in financial options transactions. The savings bank shall report its outstanding positions, together with the total unrealized gain or loss from those~~such~~ positions to the Director~~Commissioner~~ monthly.

2) A savings bank shall not engage in over-the-counter financial option transactions with any permissible counterparty unless the~~such~~ counterparty agrees to notify the Director~~Commissioner~~. A savings bank shall not continue to engage in over-the-counter financial option transactions with any permissible counterparty that has failed to so notify the Director~~Commissioner~~ with respect to previous over-the-counter financial option transactions with that savings bank. Notwithstanding the foregoing, no savings bank shall engage in a long over-the-counter financial option transaction with a specific permissible counterparty, without obtaining the prior approval of the Director~~Commissioner~~, whenever the aggregate exercise value of all long over-the-counter financial option positions with the counterparty exceeds the limitations contained in Section 6013 of the Act. The Director~~Commissioner~~ may approve any financial option transaction whenever it determines that such transaction does not subject the savings bank to undue risk. In making such determinations, the Director~~Commissioner~~ shall consider:

A) the credit worthiness of the specific counterparty;

B) the savings bank's experience with the~~such~~ counterparty and with transacting in financial option and futures contracts generally;

C) the nature of the subject contracts (e.g., matched or unmatched); and

D) any other circumstances considered relevant by the Director~~Commissioner~~. An application to enter into a financial option transaction under this Section shall be considered approved if the Director~~Commissioner~~ does not deny the~~such~~ application within ~~ten (~~10~~)~~ calendar days from the date the application was filed.

f) Record Keeping Requirements – a savings bank engaging in financial options transactions shall maintain records of those~~such~~ transactions in accordance with the following requirements.

1) Contract Register – the savings bank shall maintain a contract register adequate to identify and control all financial options contracts and sufficient to indicate at any time the amounts of financial options contracts required to be reported on its monthly report. At a minimum, the register shall list the type, amount, expiration date and the cost of income from each contract.

2) Other Documentation – the savings bank shall maintain as part of the documentation of its financial options strategy a schedule of any cash market or forward commitment position with which the option is matched and the purpose of each contract.

3) Maintenance of Records – the records designated in this Section shall be maintained for all financial options closed out during the preceding 2~~two (2)~~ years.

g) Accounting

1) Purchase or Sale – upon initial purchase or sale of a financial options contract, a memorandum entry of the information specified in this Section

shall be made and appropriate margin accounts shall be established.

2) Option Commitment Fee

A) The option commitment fee paid for a long position or received from the sale of a short put option shall be amortized to income or expense over the term of the option, except as provided in this Section.

B) The option commitment fee received from the sale of a matched short call option shall be deferred until the option position is terminated. The option commitment fee received from the sale of an unmatched short call option shall be amortized to income over the term of the option.

3) Options Contracts

A) Gains or losses on options contracts that are matched with assets or liabilities carried at the lower of cost or market value, or carried at market value shall be considered in determining the market value of the asset or liability.

B) Options positions that are matched with assets or liabilities carried at cost or to be carried at cost shall be accounted for as follows.

i) If a commitment fee will be or has been received with respect to the matched asset, the option commitment fee shall be treated as an adjustment of such fee. The adjusted commitment fee shall then be treated as a fee paid or received in connection with the matched asset.

ii) If a commitment fee has not been received with respect to a matched asset, the option commitment fee (except if received for the sale of a short call option) shall be amortized to income or expense over the commitment period by the straight line method.

iii) Any resulting gain or loss from an option position (except from a short call option) shall be treated as a discount or premium on the matched asset or liability.

iv) Any resulting gain or loss from a short call option position shall be recognized as income or expense upon termination of the option position.

v) If an option position is not matched with a cash-market or forward-commitment position or the cash-market or forward-commitment position with which an option is matched is sold or will not occur, the option shall be marked to market.

C) The immediate exercise value of short puts and other unmatched option positions shall be carried at their current market value.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.585 Asset Reserves

a) Scope
The classification system described in this Section applies to all assets or portions of assets~~thereof~~ held by a savings bank.

b) Classifications

1) Substandard – assets classified substandard are inadequately protected by the current paying capacity of the obligor or of the collateral pledged, if any. Assets so classified must have a well-defined weakness or weaknesses. They are characterized by the distinct possibility that the savings bank will sustain some loss if the deficiencies are not corrected.

2) Doubtful – assets classified doubtful have all the weaknesses inherent in those classified Substandard with the added characteristic that collection of the asset in full, on the basis of currently existing facts, conditions, and values, is highly questionable and improbable.

3) Loss – assets classified loss are considered uncollectible and of such little value that their continuance as assets without establishment of a reserve is not warranted. This classification does not mean that an asset has absolutely no recovery or salvage value, but, rather, that it is not practical or desirable to defer writing off a basically worthless asset even though

partial recovery may be effected in the future.

c) Implementation of Classification System

1) In connection with examinations of a savings bank or its affiliates, the examiner shall have authority to identify problem assets and, if appropriate, classify them.

2) Each savings bank shall classify its own assets on a regular basis. In addition to any other remedies available to the Division ~~Office of Banks and Real Estate~~ under applicable statutes and regulations, a savings bank's failure to set aside prudent valuation allowances, or to monitor portfolio risk with an effective self-classification procedure, will be considered by the examiner in determining the amount of valuation allowances to be established by the~~such~~ savings bank.

3) In its reports to the Division ~~Office of Banks and Real Estate~~, each savings bank shall include aggregate totals of assets that the savings bank has classified in each of the 3~~three~~ asset classification categories, and the aggregate general and specific valuation allowances established. To the extent a savings bank's specific valuation allowances have decreased from the previous reporting period, the~~such~~ savings bank shall identify the amount of the decrease attributable to a savings bank's between examination upgrading of classifications.

d) Effect of Classification

1) When, pursuant to this Section, a savings bank has classified one or more assets, or portions of assets~~thereof~~, substandard or doubtful, the savings bank shall establish prudent general allowances for loan losses. When, pursuant to this Section, an examiner has classified one or more assets or portions of assets~~thereof~~ substandard or doubtful and has determined that the existing valuation allowances are inadequate, the savings bank shall establish general allowances for loan losses in an appropriate amount as determined by the examiner, subject to approval of the Director~~Commissioner~~.

2) When, pursuant to this Section, either a savings bank or an examiner has classified one or more assets or portions of assets~~thereof~~ loss, the savings bank shall either establish allowances for losses in the amount of 100%

~~percent~~ of the portion of the assets~~asset(s)~~ classified loss, or charge off that~~such~~ amount against current income.

3) Adequate valuation allowances consistent with generally accepted accounting principles shall be established for classified assets. Asset evaluations (and the corresponding allowances) that are consistent with the practice of the federal banking agencies may be used for supervisory purposes.

e) Assets Deserving "Special Mention"
Assets that do not currently expose a savings bank to a sufficient degree of risk to warrant classification under this Section but do have credit deficiencies or potential weaknesses deserving management's close attention shall be designated "special mention" by either the savings bank or the examiner. Special mention assets have a potential weakness or pose an unwarranted financial risk that, if not corrected, could weaken the asset and increase risk in the future.

f) Delegations and Interpretations

1) The Director~~Commissioner~~ or designee may approve, disapprove, or modify any classifications of assets made pursuant to this Section and any amounts of allowances for loan losses established by a savings bank or required by examiners pursuant to this Section.

2) When an appraisal is required or made in connection with any reevaluation of assets, the Director~~Commissioner~~ may approve or reject the appraisal and any valuation related to it.

3) The Division ~~Office of Banks and Real Estate~~ shall, from time to time, issue supervisory interpretations and other informational material regarding classification of assets.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART F: SERVICE CORPORATION AND OPERATING SUBSIDIARIES

Section 1075.600 Requirements

a) No savings bank shall invest in or lend to a service corporation, as defined in Section 1007.105 of the Act, unless the service corporation has been approved by

the Director~~Commissioner~~.

b) Subpart F of this Part shall not apply to investments in single purpose corporations authorized under Sections 1008(9) and 6009 of the Act.

c) Savings banks may designate a service corporation or other subsidiary as an operating subsidiary as follows:

1) Upon approval of the Director~~Commissioner~~, a subsidiary of a savings bank that is majority owned and controlled by the savings bank may be designated as an operating subsidiary provided that the subsidiary engages solely in activities that are permitted for a depository institution or an operating subsidiary of a depository association.

2) An operating subsidiary shall be subject to the provisions of this Subpart except that a savings bank's total investment, including equity and debt securities and loans, in its first-tier operating subsidiary is not limited by this Subpart. Loans made by the savings bank to its operating subsidiary shall not be subject to Section 6013 of the Act.

3) Upon approval of the Director~~Commissioner~~, a subsidiary of a first-tier operating subsidiary may be designated as an operating subsidiary; provided that the lower tier subsidiary is wholly-owned and controlled by the first-tier operating subsidiary and engages solely in activities that are permitted for a depository institution or an operating subsidiary of a depository association. The total investment, including equity and debt securities and loans, by the savings bank or its first-tier operating subsidiary in the wholly-owned and controlled lower-tier operating subsidiary is not limited by this Subpart or Section 6013 of the Act.

4) The total investment, including equity and debt securities and loans, by the savings bank and its first-tier operating subsidiary in a service corporation or an operating subsidiary that is not wholly-owned and controlled by the savings bank's first-tier operating subsidiary is subject to the same limitations under this Subpart that apply to the savings bank's investment in a service corporation that is not an operating subsidiary.

5) As used in this subsection (c):

"Subsidiary" means a corporation, limited liability company,

partnership, business trust, joint venture, pool, syndicate or other similar business organization.

"Majority-owned" means the savings bank owns more than 50% of the voting interest or equivalent ownership interest of the subsidiary.

"Control" means effective operating control.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.610 Approval by the Director~~Commissioner~~

a) Except as provided in subsection (b) of this Section, an application for approval of a service corporation shall be approved by the Director ~~Commissioner~~ provided that:

1) its purpose or purposes are reasonably incident to the accomplishment of the powers conferred upon savings banks by the~~The~~ Act, or are purposes granted or allowed to service corporations organized or owned by savings and loan associations; or its sole purpose is to operate as a finance subsidiary of a savings bank to the extent authorized for finance subsidiaries of savings and loan associations under the Illinois Savings and Loan Act of 1985 [205 ILCS 105]~~(Ill. Rev. Stat. 1989, ch. 17, par. 3301 et seq.)~~; and

2) the application for approval of a service corporation includes: the appropriate fee; a copy of the service corporation's Articles of Incorporation; a list of proposed shareholders~~shareholder(s)~~; the fiscal year-end date; and an undertaking by the service corporation with the continuing conditions specified in subsection (c) of this Section and in a form prescribed by the Director~~Commissioner~~.

b) An application for approval of a service corporation shall be denied by the Director~~Commissioner~~ in writing if the Director ~~Commissioner~~ finds that any proposed shareholder is conducting business in an unsafe manner.

c) Continuing Conditions

1) A service corporation shall not amend its Articles of Incorporation nor

adopt an assumed corporate name without the prior written approval of the Director~~Commissioner~~. A proposed amendment to Articles of Incorporation not involving a name change shall be approved unless it is in non-compliance with subsection (a)(1)~~ above~~. A proposed name change shall be approved unless such proposed name is either deceptively similar to that of a savings bank as specified in Section 3005(b)(3) of the Act or of a nature which might imply that the entity is a savings bank.

2) Each service corporation shall cause its affairs to be audited by a licensed public accountant at least once each fiscal year, and cause the~~said~~ accountant to deliver a copy of the~~said~~ certified statement to the Director~~Commissioner~~ simultaneously with the delivery of the statement to the service corporation.

3) Each service corporation shall be examined in conjunction with the examination of its parent savings banks~~bank(s)~~. The Director~~Commissioner~~ shall require additional reports and/or examinations if the Director~~Commissioner~~, or his or her staff members engaged in examination of the savings bank's monthly report, determine that more information is needed to determine the viability of the service corporation.

4) A service corporation shall not acquire any classified items~~item(s)~~ as defined in Section 1075.585(b) from any financial institution, except that a service corporation may acquire real estate owned by any savings bank.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.620 Investment Limitations

a) A savings bank may make investments in capital stock of service corporations that~~which~~ are 90%~~ percent~~ or more owned by one or more savings banks in an amount that~~which~~ shall not exceed 10%~~ percent~~ of the savings bank's total assets. A savings bank that has met and maintained the capital levels~~level(s)~~ required for a savings bank, the deposit accounts of which are insured by the Federal Deposit Insurance Corporation, may invest an additional 50%~~ percent~~ of the excess capital provided that in no event shall a savings bank's maximum investment in service corporations exceed 20%~~ percent~~ of its total assets.

b) A savings bank may make investments in capital stock of service corporations

that~~which~~ are at least 51%~~ percent~~ but less than 90%~~ percent~~ owned by one or more savings banks, in an amount not to exceed 1%~~ percent~~ of the savings bank's total assets.

c) All loans to service corporations shall be subject to all lending limitations contained in the Act and this Part, except that:

1) a savings bank may make loans to a wholly owned service corporation in an amount equal to the savings bank's total capital or in an amount that exceeds the savings bank's total capital if the~~such~~ excess amount is fully secured by collateral, of a type upon which the savings bank itself could lend, of a value determined in accordance with the Act and with rules promulgated by the Director~~Commissioner~~; and

2) loans shall not be subject to the percentage of asset limitations of Section 6002(8) of the Act.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.630 Investments by Service Corporations

a) A service corporation may invest its assets in any manner not expressly prohibited by law, provided the~~such~~ investments are made in the exercise of reasonable judgment and care under the circumstances then prevailing that~~which~~ persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

b) If a service corporation has not been approved, or if approval is withdrawn, all loans to or investments in the service corporation shall constitute an unauthorized investment. However, the savings bank shall be granted a reasonable time within which to dispose of the~~said~~ loans or investments.

c) A basis for withdrawal of approval of a service corporation exists if:

1) the service corporation is subject to involuntary dissolution for failure to file annual reports or pay fees pursuant to the Business Corporation Act [805 ILCS 5]~~(Ill. Rev. Stat. 1989, ch. 32, par. 1.01 et seq.)~~; or

2) the service corporation fails to pay, within ~~sixty (~~60~~)~~ days after~~of~~ the billing date, supervisory fees or examination fees due the Director~~Commissioner~~;

3) the service corporation fails to file, when due, those reports required by Sections 1075.670 and 1075.680 of this Part;

4) the Director~~Commissioner~~ determines that the service corporation is engaged in activities that are not reasonably incidental to the accomplishment of the powers conferred upon savings banks by the Act;

5) the investment of any parent savings bank in the respective service corporations~~corporation(s)~~ is in excess of the investment limitations set forth at Section 1075.620 of this Part; or

6) the Director~~Commissioner~~ determines that the service corporation is conducting business in a fraudulent, illegal, or unsafe manner.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.640 Ownership of Capital Stock of Service Corporation

a) A minimum of 51%~~ percent~~ of all classes of capital stock of a first-tier service corporation shall be owned by one or more savings banks, bank, or savings and loan associations. First-tier service corporation means any corporation which is 51%~~ percent~~ or more owned by one or more savings banks, bank, or savings and loan associations whose purpose or purposes are reasonably incident to the accomplishment of the powers conferred upon savings banks by the~~The~~ Act.

b) Subject to approval by the Director~~Commissioner~~, an amount not to exceed 49%~~ percent~~ of all classes of capital stock of a service corporation may be owned by a person or persons other than a savings bank. The ownership ~~by such person or persons~~ shall be approved if the Director~~Commissioner~~ finds:

1) the sale or issuance of stock is at no less than the book value of the stock;

2) if no sale is involved, that the stock issuance to employees or officers is part of the compensation program documented by a written employment contract; and

3) the ownership of the~~such~~ stock is subject to a repurchase agreement that~~which~~ provides that the service corporation has the right of first refusal to reacquire the stock from the person or persons or the estate of the~~such~~ person or persons at book value at the time of death or termination of employment.

c) The book value of the stock shall be determined in accordance with generally accepted accounting principles by the independent auditor of the service corporation.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.650 Prohibited Transactions

a) Without prior approval of the Director~~Commissioner~~, no service corporation shall enter into any contract (except an employment contract), grant any loan, directly or indirectly, to any officer, organization director, individual stockholder or employee of the service corporation or of its parent savings banks~~bank(s)~~ except upon real estate occupied as a homestead or on the security of a personal automobile. A service corporation may, without prior approval, enter into a contract for the sale of real estate to be occupied by any of the foregoing persons as their bona fide homestead.

b) A service corporation may enter into a contract to purchase an insurance agency or brokerage in which any of the foregoing persons have an interest.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.670 Reporting Requirements

a) Within ~~forty-five (~~45~~)~~ days after~~of~~ the close of each calendar year, each service corporation shall submit to the Director~~Commissioner~~ a report, in such form as the Director~~Commissioner~~ shall prescribe, setting forth complete and true statements of condition and operations of the service corporation and of every partnership, joint venture or corporation in which the service corporation has a cash and/or equity interest of 50%~~ percent~~ or more.

b) All corporate subsidiaries, partnerships and joint ventures in which the service corporation has a cash and/or equity interest of 50%~~ percent~~ or more shall, within ~~fifteen (~~15~~)~~ days after a~~of~~ request ~~for same~~ by the Director~~Commissioner~~, submit

true and correct copies of all contracts, mortgages, partnership agreements, joint ventures and loan commitments.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.680 Audit Requirements

a) Each service corporation shall cause its books and records to be audited at least once annually by an independent licensed public accountant. Except as provided after this, the report of audit shall be separate from the report of audit of any parent savings bank.

b) The report of audit of a wholly-owned service corporation may be consolidated with the report of audit of the parent savings bank provided that the~~such~~ report sets forth:

1) the auditor's opinion that the activity of the service corporation does not materially affect the financial position of the parent savings bank; and

2) all details of consolidation.

c) The auditor shall test compliance with the Act and this Part and determine the effect that the service corporation has on the financial position of the parent savings banks~~bank(s)~~.

d) The auditor shall determine and report any facts relating to any direct or indirect self-dealing by any service corporation officer, organization director, employee or shareholder other than a savings bank. The auditor shall also determine and report any facts relating to any direct or indirect conflict of interest of any officer, organization director, employee or shareholder of a savings bank holding stock in the service corporation.

e) Any noncompliance with the Act or this Part, self-dealing or conflict of interest which are discovered during the audit shall be set forth in the report of audit delivered to the service corporation's board of directors. The service corporation's board of directors shall promptly report the~~such~~ noncompliance to the Director~~Commissioner~~ and to the board of directors of the parent savings banks~~bank(s)~~.

f) A copy of the audit report shall be filed with the Director~~Commissioner~~ within

~~ninety (~~90~~)~~ days after~~of~~ the audit date, except upon receipt of written notice setting forth the reason delivery of the report of audit is delayed by circumstances beyond the control of the service corporation, the Director~~Commissioner~~ may extend the filing date for up to ~~sixty (~~60~~)~~ additional days.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART G: RELOCATIONS AND BRANCHING

Section 1075.700 General

a) A branch office of a savings bank is any office other than its home office, drive-in facility, pedestrian facility, agency office, or a remote service unit.

b) Any business of a savings bank may be transacted at a branch office. When a branch office provides any product, it must have all the resources necessary to support that product offering at the branch location.

c) A savings bank shall not establish a branch office nor change the location of its home office unless its respective application has been approved by the Director~~Commissioner~~. An application shall be approved only if the Director~~Commissioner~~ finds that:

1) the office can be established at the proposed location without undue injury to properly conducted existing savings banks;

2) the policies and financial condition of the applicant are not a basis for supervisory objection; and

3) the proposed office will open within 12 months of approval unless occupancy is delayed by circumstances beyond the control of the applicant and, consequently, additional time is allowed by the Director~~Commissioner~~.

d) A savings bank proposing a change of location of its home office or branch office may request a waiver of the otherwise applicable requirements of this Subpart G ~~of this Part~~. The request will be approved only if:

1) the Director~~Commissioner~~ can make the same findings as those required at subsection (c)~~ above~~;

2) the applicant demonstrates that the area to be served from the proposed location is essentially the same as that served from the present location;

3) the applicant gives the reasons~~reason(s)~~ for the change of location; and

4) the applicant submits a request that~~which~~ sets forth information sufficient to allow the making of all determinations required by subsection (d) ~~above~~.

e) If requested by the applicant, the Director ~~Commissioner~~ shall approve a temporary location of a home office or a branch office if the temporary location is:

1) in the immediate vicinity of the approved permanent location; and

2) not more competitive to any other properly conducted existing savings bank than the approved permanent location.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.705 Application

a) A savings bank may apply for a branch office or for a change of location of its home office provided that the applicant obtains the prescribed form of application and form of notice and related instructions from the Director~~Commissioner~~ unless waived pursuant to Section 1075.700(d) of this Part.

b) An application is considered complete and a priority filing date is established when the Director ~~Commissioner~~ determines that all required information has been submitted.

c) Changes to all but material information of the application may be made up to the time the approval/denial is determined. For purposes of this Section, material information is defined as but is not limited to:

1) savings bank name;

2) savings bank address;

3) nature and purpose of application; and

4) any other information which if changed, would likely cause the approval or denial decision to be reversed.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.710 Request for Preliminary Determination

a) A savings bank that~~which~~ intends to file an application for a branch office or for a change of location of its home office may, before the filing of the~~such~~ application, submit to the Director ~~Commissioner~~ written advice of intent to file the~~such an~~ application and request a preliminary determination as to whether supervisory objection will be raised on the basis of the applicant's policies and financial condition. Within ~~thirty (~~30~~)~~ days following receipt of the advice of intent, the applicant shall be advised of the Director's ~~Commissioner's~~ decision, and if applicable, the reason for supervisory objection.

b) If at any time subsequent to preliminary determination the Director ~~Commissioner~~ determines that a basis for supervisory objection exists, further processing of the respective application shall be denied.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.715 Public Notice and Inspection

a) At the time of the filing of the application, the applicant shall publish notice of intent to relocate or establish a branch office. The notice shall be in form and content as prescribed by the Director~~Commissioner~~. The applicant shall publish notice in a newspaper printed in the English language having a general circulation in the applicant's home office community and in the community to be served from the proposed location.

b) Within 10 days following the date of publication, the applicant shall furnish the Director~~Commissioner~~ with one copy each of the required notices and the publisher's affidavits of publication.

c) Subject to Section 1075.110(d) of this Part, the application shall be available for public inspection at the Division~~Office of Banks and Real Estate~~, by appointment.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.720 Protest

Protests, answers to protests and other related communications shall be in writing and submitted only as provided in this Section.

a) Within 10 calendar days following the date of publication of Notice of Application (or 20 calendar days after the date of publication if extension is requested in writing within the~~such~~ 10 day period) any person may file a communication in favor or protest of the application with the Director~~Commissioner~~. Any person filing ~~such~~ a communication shall simultaneously furnish a copy to the applicant.

b) Within 15 calendar days after receipt of a protest, the objector and the applicant shall be advised in writing whether the Director~~Commissioner~~ considers the protest to be substantial.

c) No protest shall be considered "substantial" unless it is in writing, filed on time, and contains at least the following:

1) a summary of the reasons for the protest;

2) the specific matters in the application to which objection is raised and the reasons for each objection;

3) facts supporting the protest, including relevant economic or financial data; and

4) adverse effects on the objector that~~which~~ may result from approval of the application.

d) The Director's ~~Commissioner's~~ determination as to whether a protest is "substantial" shall be made on the basis of data showing undue injury to properly conducted existing savings banks~~bank(s)~~ and/or data disputing the propriety of information set forth in the respective application.

e) Within 20 calendar days following the date of notice that a protest has been considered substantial, the applicant may file an answer to the~~such~~ protest with the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.725 Oral Argument

a) Oral argument on the merits of an application shall be heard if:

1) the applicant, or a person who has filed a protest considered to be substantial, so requests and the request is received by the Director ~~Commissioner~~ within ~~ten (~~10~~)~~ calendar days after the time for filing answers to all protests has expired; and

2) the Director~~Commissioner~~, after reviewing the application and other pertinent information, considers oral argument desirable because of protests that~~which~~ dispute the propriety of information set forth in the application.

b) Any ~~such~~ hearing of oral argument shall be subject to the appropriate fee and expenses prescribed in Section 1075.100 of this Part. A transcript of any ~~such~~ hearing of oral argument shall be taken and made a part of the record in the matter.

c) The Director~~Commissioner~~ shall mail notice of the date (which shall be at least ~~ten (~~10~~)~~ calendar days after the~~such~~ mailing), time and place of oral argument to the applicant and persons~~person(s)~~ who filed protests or other communications. The Director~~Commissioner~~ shall ensure that the time and place of any oral argument are reasonably convenient to the applicant and the objectors~~objector(s)~~.

d) The Director~~Commissioner~~ or any person designated by the Director~~Commissioner~~ shall hear oral argument and determine all matters relating to the conduct of the hearing~~thereof~~. Arguments shall be made in person or by authorized representatives~~representative(s)~~. A maximum of one hour of oral argument shall be allowed in favor of and against the application. In hearing oral arguments, the person presiding shall determine the order of presentation. The parties may agree on a division of time; otherwise, the person presiding shall make the determination. Arguments may be consolidated. In the event of multiple substantial protests, the person presiding may permit additional time for argument and rebuttal. Arguments shall be based only on the facts and information on file; however, a party may introduce newly discovered matter by giving a written memorandum of same to the person presiding when the hearing commences.

The~~Said~~ memorandum shall include an affidavit as to why the matter was not previously known and not previously filed. No party to an oral argument shall be permitted more than one filing of new matter. If the person presiding rules that there is in fact substantive new matter, the party introducing it shall be required to provide copies of the memorandum of the~~such~~ new matter to all parties. If the parties agree to argue on the basis of the~~such~~ new matter, the hearing shall continue.

e) If any party wishes to file a rebuttal, ~~ten (~~10~~)~~ calendar days shall be allowed for the submission of the~~such~~ rebuttal, and the person presiding shall adjourn the hearing and set a date, time and place for it to be reconvened. Rebuttal to new matter shall not be considered a filing of new matter.

f) If oral argument is heard by a person other than the Director~~Commissioner~~, that person's findings shall be submitted to the Director~~Commissioner~~, in writing, within ~~twenty-five (~~25~~)~~ calendar days after final adjournment of the hearing. Within ~~ten (~~10~~)~~ calendar days following receipt of the~~said~~ findings the parties shall be advised, in writing, of the Director's ~~Commissioner's~~ decision. If the Director ~~Commissioner~~ presides at the hearing, the parties to the hearing shall be advised of the decision within ~~twenty-five (~~25~~)~~ calendar days after the final adjournment of the hearing.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.730 Application for the Maintenance of Branch Office after Conversion, Consolidation, Purchase of Assets or Merger

a) With written approval of the Director~~Commissioner~~, a savings bank that acquires an office or offices through merger, purchase, purchase of all assets or consolidation shall assume the operation of any acquired offices. An existing depository institution that converts to a savings bank shall maintain all of its offices existing or approved before the conversion.

b) If the Director ~~Commissioner~~ has approved a Plan of Conversion from a savings bank charter for a savings bank or has evidence of a savings bank's intent to file a Plan of Conversion, he or she shall deny an application for a branch office.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.740 Termination of Operation and/or Closing of a Branch Office

a) A savings bank may offer to sell branch offices to another savings bank or other depository institution.

1) Before any such sale, a copy of the proposed agreement shall be submitted to the Director~~Commissioner~~. Within 30 calendar days the Director ~~Commissioner~~ shall notify the proposed seller, in writing, as to whether there is supervisory objection to the proposed sale, or the Director~~Commissioner~~ may advise the proposed seller of any additional information or further review considered necessary to make such a determination. The Director ~~Commissioner~~ in considering supervisory objection shall review the policies and financial condition of the selling savings bank and the acquiring financial institution.

2) The selling savings bank and, if applicable, the acquiring financial institution shall submit an appropriate bylaw amendment for the Director's ~~Commissioner's~~ approval.

b) A savings bank showing justification for termination of operation and the closing of branch offices may do so with the prior written approval of the Director~~Commissioner~~. Any request for the closing of any office shall be subject to the publication requirements of Section 1075.715(a) of this Part.

c) The filing of a request for termination of operation and the closing of branch offices shall constitute authority for the Director ~~Commissioner~~ to seek a successor to assume operation of the branch offices.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.750 Remote Drive-In and/or Remote Pedestrian Facilities

a) A savings bank may, without prior approval of the Director~~Commissioner~~, establish a remote drive-in and/or remote pedestrian facility in conjunction with each savings bank business office. Each ~~such~~ facility may be designed to simultaneously accommodate more than one customer.

b) The term "business office" means the business office premises, including non-remote drive-in and/or non-remote pedestrian facilities that~~which~~ are those facilities within the boundaries of real estate on which a home office or any branch office is located and the areas contiguous to the facility, that~~thereto which~~

the savings bank has the exclusive right as owner or lessee to use or maintain for ingress or egress or for parking in connection with that business office.

c) Remote drive-in and remote pedestrian facilities are defined as follows:

1) A remote drive-in facility is a facility that~~which~~ is not located on the premises of a business office as defined in subsection (b) ~~above~~ and at which the customer transacts business from a vehicle.

2) A remote pedestrian facility is a facility that~~which~~ is not located on the premises of a business office as defined in subsection (b) ~~above~~ and at which the customer need not enter an office but may remain outside the structure and transact business with a teller located inside the structure.

d) Remote drive-in and remote pedestrian facilities may be placed in a store or location of some other business if the savings bank's quarters are used exclusively for the conduct of the savings bank's business. There will be no objection to a remote pedestrian facility that~~which~~ faces on an enclosed mall and serves pedestrians who remain in the mall while transacting business with the savings bank.

e) Functions that~~which~~ are routinely performed by the establishing savings bank's tellers at its business offices~~office(s)~~ may be performed at a remote drive-in and/or remote pedestrian facility.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART H: CAPITAL NOTES AND DEBENTURES

Section 1075.800 Approval

No savings bank may issue and sell its capital notes or debentures without the prior written approval of the Director, ~~Commissioner and~~ subject to any conditions the Director ~~Commissioner~~ may impose with regard to safety and soundness and maintenance of adequate financial condition, especially in areas of preservation of capital, quality of earnings and adequacy of reserves. A stock savings bank shall also have the prior approval of a majority of the shareholders owning a majority of the issued and outstanding shares of the savings bank to issue convertible capital notes or debentures.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1075.810 Conversion to Stock

Capital notes or debentures issued by a stock savings bank may be converted into shares in accordance with provisions approved by the Director ~~Commissioner~~ and contained in the capital notes or debentures. Convertible capital notes or debentures may be issued without preemptive rights to existing shareholders if provided by the Articles of Incorporation of the savings bank and authorized by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART I: ADMINISTRATIVE HEARING PROCEDURES

Section 1075.900 Applicability

This Subpart~~regulation~~ shall apply to all hearings conducted under the jurisdiction of the Director~~Commissioner of Banks and Real Estate~~ under the Savings Bank Act.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.905 Definitions

Words or terms that are defined in the Act shall retain the same meaning when used in this Part.

"Act~~ACT~~" – Savings Bank Act [205 ILCS 205].

~~"AGENCY" – Office of Banks and Real Estate.~~

"Applicant~~APPLICANT~~" – Savings bank or holding company or person whose application pending before the Director ~~Commissioner~~ is the subject matter of the hearing.

"Association~~ASSOCIATION~~" – Every savings bank organized under and governed pursuant to the Illinois Savings Bank Act; a State~~state~~ chartered savings bank.

"Department" – The Illinois Department of Financial and Professional Regulation.

"Director~~COMMISSIONER~~" – Director of the Division~~Commissioner of Banks and Real Estate for the State of Illinois~~.

"Division" – The Department of Financial and Professional Regulation-Division of Banking.

"Hearing Officer~~HEARING OFFICER~~" – The presiding officials~~official(s)~~ designated by the Director~~Commissioner~~ to conduct a hearing or anyone designated by the Director~~Commissioner~~ to hear evidence; means any member of the panel the Director~~Commissioner~~ appoints to conduct the hearing.

"Holding Company~~HOLDING COMPANY~~" – Any company as defined in Article 2 of the Act.

"Notice~~NOTICE~~" – Notice prescribed by the Act or this Part, as applicable.

"Objector~~OBJECTOR~~" – Entity or person who is on record as objecting to the application pending before the Director that~~Commissioner which~~ is the subject matter of the hearing.

"Party~~PARTY~~" – Entity or person named in pleading or affected by judgment.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.910 Early Neutral Evaluation

a) Upon timely request for a hearing on an Order of the Director~~Commissioner~~, the Director~~Commissioner~~ shall as quickly as feasible designate a hearing examiner.

b) Twenty ~~(20)~~ days after filing the request for a hearing, the respondent shall file with the hearing officer a position statement and the Director~~Commissioner~~ shall file a copy of his or her Order. The Position Statement shall be a full, complete response to the Order and charges and findings made in the Order~~therein~~, including all relevant facts and copies of any records or documents relevant to the charge, and the Director ~~Commissioner~~'s Order shall include a copy of the Order and charges and findings in the Order~~therein~~, including all relevant facts and copies of any records or documents in support of the Order.

c) Within ~~ten (~~10~~)~~ days after~~of~~ receipt of the Position Statement and the Order, the hearing officer upon review of the Position Statement and the Order shall determine whether the matter shall be heard in a conference adjudicative hearing or a formal hearing. Notice of hearing shall be made pursuant to Sections

1075.940 and 1075.945 of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.915 Conference Adjudicative Hearing

Applicability – a conference adjudicative hearing may be used if the matter is entirely within one of the following categories:

a) a matter in which there is no disputed issue of material fact; or

b) a matter in which there is a disputed issue of material fact, if that matter involves only:

1) a monetary amount of not more than $25,000;

2) suspension of an organization ~~a~~ director, officer, employee or affiliated person of a savings bank;

3) imposition of a limitation on operations;

4) noncompliance with the examination requirements of the Act and this Part~~the rules promulgated thereunder~~; and

5) violation of an Order of the Director ~~Commissioner~~ made pursuant to Section 1075.910 of this Part or Section 9009 of the Act.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.920 Filing

Documents and requests permitted or required to be filed with the Division~~Agency~~ in connection with a hearing shall be addressed to and mailed to or filed with the Division of Banking~~Office of Banks and Real Estate~~, Department of Financial and Professional Regulation, 500 East Monroe, Suite 900, Springfield, Illinois 62701 or 310 South Michigan Avenue, Suite 2130, Chicago, Illinois 60604, in triplicate. The Division's~~Agency's~~ Office is open for filing, inspection and copying of public documents from 8:30 a.m. to 5.00 p.m., Monday through Friday, except on national and State~~state~~ legal holidays.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1075.965 Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Director ~~Commissioner~~ or the hearing officer upon his or her~~their~~ own motion or upon motion of a party to the hearing; the~~such~~ motion of the party shall set forth facts attesting that the request for continuance is not for purposes of delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.970 Authority of Hearing Officer

The hearing officer has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order and ensure the development of a clear and complete record. The hearing officer shall have all powers necessary to conduct a hearing including the power to:

a) administer oaths and affirmations;

b) regulate the course of hearings, set the time and place for continued hearings, fix times for filing of documents and provide for the taking of testimony by deposition;

c) examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony and set reasonable limits on the amount of time each witness may testify;

d) rule upon offers of proof and receive relevant evidence;

e) sign and issue subpoenas that require attendance, giving testimony and the production of books, papers and other documentary evidence;

f) direct parties to appear and confer for the settlement or simplification of issues, and to otherwise conduct prehearing conferences;

g) dispose of procedural requests or similar matters;

h) render findings of fact, opinions and recommendations for an order of the Director~~Commissioner~~;

i) enter any order that further carries out the purpose of this Subpart I~~ of this Part~~; and

j) at the hearing officer's discretion, accept probative, relevant evidence from any entity.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.975 Bias or Disqualification of Hearing Officer

a) Any interested party may file a timely and sufficient affidavit setting forth allegations of personal bias, prejudice or disqualification of a presiding hearing officer. The Director ~~Commissioner~~ shall determine this issue as part of the record of the case. When a hearing officer is disqualified, or it becomes impractical for that hearing officer to continue, another hearing officer may be assigned, unless it is further shown that substantial bias or prejudice will result from that assignment.

b) The hearing officer may at any time voluntarily disqualify the hearing officer.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.980 Prehearing Conferences

a) Upon written notice by the hearing officer in any proceeding, or upon written request by any party, the hearing officer may direct parties or their attorneys to appear at a specified time and place for a conference, before or during the hearing, to formulate issues and consider:

1) the simplification of issues;

2) the necessity or desirability of amending the pleadings for clarification, amplification or limitation;

3) the possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record to avoid unnecessary introduction of proof;

4) the limitation of the number of witnesses;

5) the propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and

6) ~~such~~ other matters as may aid in the simplification of the evidence and disposition of the proceeding.

b) Opportunity shall be afforded all parties to be represented by legal counsel and to dispose of the case by stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order reached before a final determination by the Division~~Agency~~, shall be submitted in writing to the hearing officer and shall become effective only if approved by the hearing officer and by the Director~~Commissioner~~.

c) Only if all parties to a controversy agree, a record of the prehearing conferences shall be kept. It must be certified to by the parties, then filed with the case material in the Division~~Agency~~ files.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.990 Subpoenas

a) Upon application to the hearing officer by any party, the hearing officer may issue a subpoena for attendance at deposition or hearing, which may include a command to produce books, papers, documents or tangible things designated in those materials~~therein~~ and reasonably necessary to the resolution of the matter under consideration, subject to the limitations on discovery prescribed by this Subpart I~~ of this Part~~.

b) Every subpoena shall state the title of the action and shall command each person to whom it is directed to attend and give testimony at the time and place ~~therein~~ specified in the subpoena.

c) The hearing officer or the Director~~Commissioner~~, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance ~~therewith~~, may quash or modify the subpoena if it is unreasonable and oppressive.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1075.1025 Briefs

The parties may submit written briefs to the hearing officer within ~~ten (~~10~~)~~ days after the close of the hearing, or such other reasonable time as the hearing officer shall determine consistent with the Director's ~~Commissioner's~~ responsibility for expeditious decision.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1030 Hearing Officer's Findings, Opinions and Recommendations

a) The hearing officer's findings, opinions and recommendations shall be in writing and shall include findings of fact and conclusions of law, or opinions separately stated when possible. Findings of fact shall be based exclusively on the evidence presented at the hearing or known to all parties, including matters officially noticed. Findings of fact, if set forth in statutory language, shall be with a statement of the underlying supporting facts. If a party submits proposed findings of fact that~~which~~ may control the decision or order, the decision or order shall include a ruling upon each proposed finding. Each conclusion of law shall be supported by authority or reasoned opinion. A decision or order shall not be made except upon consideration of the record as a whole or a~~such~~ portion of the record~~thereof~~ as may be supported by competent material and substantial evidence.

b) The hearing officer shall then submit findings, opinions and recommendations to the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1035 Order of the Director~~Commissioner~~

a) The Director ~~Commissioner~~ shall review the hearing officer's findings, opinions and recommendations and shall issue an order as set forth by applicable statutes or within a reasonable time.

b) The decision in the case will become effective immediately upon the execution of a written order, or as otherwise specified by either the order or applicable statute.

c) Parties shall be immediately notified of the order, either personally or by mail, postage prepaid, certified or registered, addressed to the last known address of the person, partnership, association or company involved~~, of the order~~. A copy of the

order shall be delivered or mailed to each party and to the party's attorney of record.

d) The Director ~~Commissioner~~ may require, in keeping with Section 1075.100(f) of this Part and as part of the~~said~~ order, any party to the proceeding to pay part or all the costs of the hearing, including but not limited to: witness fees; court reporter fees; hearing officer fees; and the cost of the transcript.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1040 Rehearings

a) Except as otherwise provided by law, and for good cause shown, the Director ~~Commissioner~~ may in the Director's ~~Commissioner's~~ discretion order a rehearing in a contested case on petition of an interested party.

b) Where the record of testimony made at the hearing is found by the Director ~~Commissioner~~ to be inadequate for purposes of judicial review, the Director~~Commissioner~~ may order a reopening of the hearing.

c) A motion for rehearing or a motion for the reopening of a hearing shall be filed within ~~ten (~~10~~)~~ days after~~of~~ the date of mailing of the Director's ~~Commissioner's~~ order. A rehearing shall be noticed and conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for the Director s ~~Commissioner's~~ reconsideration and for judicial review. A decision or order may be amended or vacated after hearing.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1045 Existing Statutory or Division~~Agency~~ Procedures and Practices

This Subpart I ~~of this Part~~ shall not be construed to limit or repeal additional requirements imposed by statute~~Statute~~ or otherwise, or to change existing Division~~Agency~~ procedures that~~which~~ are equivalent to or exceed the standards or administrative procedure prescribed in this Subpart I ~~of this Part~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1050 Costs of Hearing

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

In addition to filing fees set forth in Section 1075.100 of this Part, each party to the hearing shall be required to pay its pro rata share of expenses, including the hearing officer,~~;~~ transcript and such other incidental cost as may be authorized by the hearing officer or by the Director~~Commissioner~~, unless waived by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1055 Emergency Adjudication

a) The Director ~~Commissioner~~ may use emergency adjudication proceedings in a situation involving an immediate danger to the public or welfare requiring immediate Division~~Agency~~ action.

b) The Director ~~Commissioner~~ may take only such action as is necessary to prevent or avoid the immediate danger to the public interest or welfare that justifies use of emergency adjudication.

c) The Director ~~Commissioner~~ shall render an Order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision if it is an exercise of the Director's ~~Commissioner's~~ discretion, to justify the determination of an immediate danger and the Director's ~~Commissioner's~~ decision to take the specific action.

d) The Division~~Agency~~ shall give such notice as is practicable to persons who are required to comply with the Order. The Order is effective when rendered.

e) After issuing an Order pursuant to this Section, the Division~~Agency~~ shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

f) The Division's ~~Commissioner's~~ record consists of any documents regarding the matter that were considered or prepared by the Division~~Agency~~. The Division ~~Commissioner~~ shall maintain these documents as its official records.

g) Unless otherwise required by a provision of law, the Division's ~~Commissioner's~~ record need not constitute the exclusive basis for the Director's ~~Commissioner's~~ action in emergency adjudication or for judicial review ~~thereof~~. Under this Section, the Director ~~Commissioner~~ may act on the basis of nonrecord information and may render his or her Order orally, if necessary, to cope with the emergency.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART J: SAVINGS BANK HOLDING COMPANIES

Section 1075.1100 Applicability

a) Subpart J of this Part shall apply to stock holding companies or savings banks that directly or indirectly own or control or seek to own or control 25%~~ percent~~ or more of the voting shares or rights of any insured institution in any manner and to mutual holding companies and mutual savings banks reorganizing as mutual holding companies. This Subpart does not apply when the~~such~~ ownership arises in the regular course of business as set forth in Section 2001.05 of the Act.

b) Except with the permission of the Director~~Commissioner~~, no company shall become a savings bank holding company.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1105 Definitions

"Acquiree savings bank" means any subsidiary savings bank, other than a resulting savings bank, that is acquired by a mutual holding company as part of, and concurrently with, a mutual holding company reorganization and is in mutual form immediately prior to such acquisition.

"Affiliate" means any company that controls, is controlled by, or is under common control with a person.

"Assets" means the total assets of the savings bank minus goodwill and any other intangible assets, including but not limited to, purchased deposit base and branch network, and leasehold improvements net of accumulated depreciation.

"Capital stock" includes permanent stock, guaranty stock, permanent reserve stock, any similar certificate evidencing non-withdrawable capital, preferred stock, or convertible preferred stock of a savings bank created or acquired under this Subpart or of a subsidiary, institution or holding company.

"Charter" includes articles of incorporation, articles of reincorporation, or any similar instrument, as amended, effecting (either with or without filing with any

government agency) the organization or creation of an incorporated or unincorporated person.

"Company" means a corporation or partnership, a savings bank, a joint stock company, a trust or an unincorporated organization.

"Control" is defined as it is in Section 1007.35 of the Act.

"Eligible account holder" means any person holding a qualifying deposit as of a given date.

"Eligibility record date" shall mean the record date for determining eligible account holders of an institution.

"Employee" does not include an organization ~~a~~ director or an officer.

"Equity security" means any stock or similar security or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase a~~such~~ security, or any ~~such~~ warrant or right.

"Member" means any person qualifying as a member of an insured institution pursuant to its charter or bylaws.

"Mutual savings bank" means a mutual savings bank organized and operating under the Act.

"Net worth" means the aggregate of capital stock accounts, capital surplus and retained earnings accounts and all other reserve accounts except valuation reserves and specific reserves that~~which~~ are in the nature of valuation reserves.

"Person" means an individual, a company, or a government or political subdivision ~~thereof~~.

"Pre-existing depository institution" means a subsidiary depository institution that is not an acquiree savings bank, a resulting savings bank or a savings bank in mutual form when acquired.

"Purchase" or~~and~~ "Buy" includes~~include~~ every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

"Qualifying deposit" means a deposit determined pursuant to Section 1075.1935 of this Part.

"Reorganizing savings bank" means a mutual savings bank that proposes to reorganize to become a mutual holding company pursuant to this Subpart.

"Resulting savings bank" means a savings bank in stock form that is organized as a subsidiary of a reorganizing savings bank to receive the substantial portion of the assets, all the insured deposits, and part or all of the other liabilities of the reorganizing savings bank.

"Sale" or~~and~~ "Sell" includes~~include~~ every contract to sell or otherwise dispose of a security or interest in a security for value; but these terms do not include an exchange of securities in connection with a merger or acquisition approved by the Director~~Commissioner~~.

"Security" includes any stock, note, treasury stock, bond, debenture, transferrable share, investment contract, voting trust certificate, or, in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant, or right to subscribe to or purchase any of the foregoing.

"Stock" means common or preferred stock, or any other type of equity, security, including (without limitation) warrants or options to acquire common or preferred stock, or other securities that are convertible into common or preferred stock.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1110 Mutual Holding Company Reorganizations

A mutual savings bank may reorganize to become a mutual holding company, or join in a mutual holding company reorganization or thereafter as an acquiree savings bank or a pre-existing depository institution, only upon satisfaction of the following conditions:

a) A Reorganization Plan is approved by a majority of the board of directors of the reorganizing savings bank and any acquiree savings bank or pre-existing depository institution.

b) A Reorganization Notice is filed with the Director ~~Commissioner~~ and the Director ~~Commissioner~~ has given written notice of its approval of the proposed

reorganization as being in accordance with applicable law.

c) The Reorganization Plan is submitted to the members of the reorganizing savings bank and any acquiree pursuant to a proxy statement cleared in advance by the Director~~Commissioner~~ and the~~such~~ Reorganization Plan is approved by a majority of the total votes of the members of each savings bank eligible to be cast at a meeting held at the call of each savings bank's directors in accordance with the procedures prescribed by each savings bank's charter and bylaws. When the Reorganization Plan involves acquiring a pre-existing depository institution, the Plan is submitted to the stockholders of the pre-existing depository institution and is approved by the majority of the total votes of the shareholders eligible to be cast at a meeting held at the call of the institution's directors in accordance with the institution's charter and bylaws.

d) All necessary regulatory approvals have been obtained and all requirements of this Subpart are met.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1111 Subsidiary Holding Company

As part of a mutual holding company reorganization or thereafter, a mutual holding company may establish a subsidiary stock holding company which shall wholly own and control the resulting savings bank and any acquiree savings banks. A subsidiary holding company shall be subject to Sections 1075.1225 and 1075.1330 as if it were a resulting savings bank. The subsidiary holding company shall be subject to Section 1075.1275(c) as if it were the mutual holding company and the mutual holding company shall remain subject to Section 1075.1275(c). The Director ~~Commissioner~~ may impose other requirements to ensure that the members of the resulting savings bank and any acquiree savings bank have the same rights, opportunities, and protection as if no subsidiary stock holding company been established.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1115 Prohibition Against Approval of Certain Applications for Reorganization

No application for reorganization may be approved by the Director ~~Commissioner~~ if:

a) The plan of reorganization adopted by the applicant's board of directors is not in accordance with this Subpart;

b) The reorganization reasonably could be expected to result in a resulting or acquiree savings bank or pre-existing depository institution with capital below requirements established by the Director~~Commissioner~~ and by Federal law;

c) The reorganization results in a taxable reorganization under the United States Internal Revenue Code of 1986 (26 USC ~~U.S.C.~~ 1 et seq.) and the Director~~Commissioner~~ upon a written finding determines that the reorganization will endanger the safety and soundness of a resulting or acquiree or pre-existing savings bank; or

d) A resulting savings bank does not secure insurance of its deposit accounts backed by the full faith and credit of the United States government before reorganization.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1120 Contents of Reorganization Plans

Each Reorganization Plan shall contain a complete description of all the significant terms of the proposed reorganization, shall attach and incorporate any Stock Issuance Plan proposed in connection with the Reorganization Plan, and shall:

a) Provide for amendment of the charter and bylaws of the reorganizing savings bank in accordance with this Subpart and attach and incorporate the~~such~~ charter and bylaws;

b) Provide for the incorporation and organization of the resulting savings bank in accordance with this Subpart and attach and incorporate all required material;

c) Provide for amendment of the charter and bylaws of any acquiree savings bank to read in the form of the charter and bylaws of a stock savings bank and attach and incorporate the~~such~~ charter and bylaws;

d) Provide for the transfer of assets and liabilities pursuant to Section 2007(a)(2) of the Act and this Subpart from the reorganizing savings bank to the resulting savings bank;

e) Provide that all assets, rights, obligations, and liabilities of whatever nature of the reorganizing savings bank that are not expressly retained by the mutual holding

company shall be deemed transferred to the resulting savings bank;

f) Provide that each depositor in the reorganizing savings bank, any acquiree savings bank, or any pre-existing depository institution immediately prior to the reorganization shall upon consummation of the reorganization receive without payment, an identical account in the resulting savings bank or the acquiree savings bank, as the case may be (appropriate modifications shall be made to this provision if a merger is a part of the reorganization);

g) Provide that the Reorganization Plan as adopted by the boards of directors of the reorganizing savings bank, any acquiree savings bank and any pre-existing depository institution may be substantively amended by those boards of directors as a result of comments from regulatory authorities or otherwise prior to the solicitation of proxies from the members of the reorganizing savings bank and any acquiree savings bank or stockholders of any pre-existing depository institution to vote on the Reorganization Plan and at any time thereafter with the concurrence of the Director~~Commissioner~~; and that the reorganization may be terminated by the board of directors of the reorganizing savings bank, any acquiree savings bank or any pre-existing depository institution at any time prior to the meeting of the members or stockholders called to consider the Reorganization Plan and at any time thereafter with the concurrence of the Director~~Commissioner~~; the Director ~~Commissioner~~ shall concur with an amendment or termination under this Section unless he or she finds that to do so would be inequitable to members or injurious to a savings bank;

h) Provide that the Reorganization Plan shall be terminated if not completed within a specified period of time. The time period shall not be more than 24 months from the date upon which the members of the reorganizing savings bank or the date upon which the members of any acquiree savings bank, or stockholder of any pre-existing depository institution, whichever is earlier, approve the Reorganization Plan and may not be extended by the reorganizing or acquiree savings bank or the pre-existing depository institution; and

i) Provide that the expenses incurred in connection with the reorganization shall be reasonable.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1210 Liquidation Account and Proxies

a) Each mutual savings bank converting to form a holding company must establish a "liquidation account" for members of the mutual savings bank before conversion. The liquidation account may be maintained at a holding company level or by the savings bank. The total amount allocated to the liquidation account shall be equivalent to the amount of stock issued to the holding company by the stock subsidiary upon infusion of assets and liabilities to the stock subsidiary.

b) Each member of the liquidation account who maintains an account in the stock subsidiary savings banks~~bank(s)~~ shall be entitled, upon liquidation of the mutual holding company, to a fractional share of the value of the mutual holding company. The numerator of the fractional share shall be the amount of qualifying deposits in the member's account on the record eligibility date, which date shall be set by the board of directors in their Plan of Conversion and/or application to form a mutual holding company, and/or the supplemental eligibility record date and the denominator of the fractional share shall be the total amount of qualifying deposits of all eligible and supplemental eligible account holders in the converting mutual savings bank on the eligibility record date. Any plan to liquidate the mutual holding company must be approved by the Director ~~Commissioner~~ and must satisfy all claims of creditors, including liquidation account holders. Any remaining value in the mutual holding company shall be transferred to the capital accounts of the subsidiary stock savings banks~~bank(s)~~.

c) All proxies previously executed and assigned by members of the mutual savings bank converting to form a holding company shall remain valid and effective without impairment as long as the member maintains an account in the new stock savings bank.

d) A liquidation account need not be established under this Section if one is established under Section 1075.1225 and Subpart O of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1215 Mutual Holding Company Ceasing to be a Depository Institution

a) Each mutual savings bank that~~which~~ converts to holding company status in conjunction with the chartering of a stock subsidiary shall be issued a "restated or amended charter" as a mutual holding company by the Director~~Commissioner~~ and the organization directors shall either return the original charter, insurance undertakings and certificate of insurance to the issuing authority, as evidence of ceasing to be an insured depository institution or may transfer them to the stock

subsidiary with permission of the Director~~Commissioner~~. The Director's~~Such~~ permission shall be given upon successful completion of an examination to assure conformance with regulatory and statutory requirements.

b) Upon the issuance of the charter of a stock savings bank by the Director~~Commissioner~~, a mutual holding company shall cease to be a savings bank.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1220 Directors of a Mutual Holding Company

a) Each new board of directors for the mutual holding company shall be selected by vote of members, in a process to be determined by the bylaws of each entity.

b) Each board of directors shall have at least five members.

c) Sections 4008, 4009, 4010, and Article 11 of the Act shall apply to a mutual holding company with regard to organization directors' vacancies, organization directors' attendance at meetings, qualifications to be an ~~a~~ organization director, enforcement powers, and similar matters, except that the mutual holding company may file a written request for waiver of compliance with any provision with the Director~~Commissioner~~. The~~Such~~ request must provide detailed discussion of the grounds for the~~such~~ request. In determining whether to grant a waiver of compliance, the Director~~Commissioner~~ shall consider the following factors, including, but not limited to:

1) whether applications of those provision to mutual holding companies would be inappropriate because the provisions are drafted for savings banks;

2) whether a mutual holding company and its subsidiary meet or exceed all applicable capital requirements and are not in violation of any statutes or rules;

3) whether there are pending contested regulatory matters; and

4) whether waiver would work undue hardship or result in undue advantage or risk, prejudicing a situation currently or in the future.

d) Upon creation of the resulting savings bank, the board of directors of the reorganizing savings bank shall nominate a board of directors for the resulting savings bank.

e) A mutual holding company may provide for cumulative voting for organization directors in its bylaws.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1225 Stock Issuance Plan

If the reorganizing savings bank offers~~shall offer~~ stock to any party other than the mutual holding company, it shall submit a stock issuance plan that meets~~which shall meet~~ the following conditions:

a) At all times, a mutual holding company shall own and control more than 50% of each class of common stock and more than 50% of the capital stock in the aggregate, issued by the resulting savings bank, any acquiree savings bank, or any savings bank, in the mutual form when acquired. The foregoing restriction shall not apply to an acquisition by a mutual holding company of a pre-existing depository institution.

b) Any capital stock issued and offered for sale by a subsidiary savings bank as described in subsection (a) of this Section, to persons other than the mutual holding company, shall be offered in accordance with Subpart O of this Part, but subject to subsection (d) of this Part except that:

1) the words "mutual savings bank" shall refer to resulting savings banks or acquiree savings banks;

2) references to conversion from mutual to stock form shall refer to mutual holding company reorganization;

3) the words "plan of conversion" shall refer to the Reorganization Plan;

4) the words "total offering', and "offering" shall refer to the minority portion of the capital stock issuance that may be offered and purchased by persons other than the mutual holding company;

5) Sections 1075.1990 and 1075.2170 of this Part shall not apply;

6) At Section 1075.2110 of this Part, the reference to Section 1075.2160 of this Part shall not apply and the words "converted savings bank" shall refer to the resulting stock savings bank;

7) Nothing in Section 1075.2150 of this Part shall interfere with the requirements of subsection (a) of this Section; and

8) At Section 1075.1950 of this Part, receipt of a liquidation distribution from the liquidation account shall be in the event of a complete liquidation of the mutual holding company rather than the converted savings bank.

c) To the extent the pricing materials submitted pursuant to Subpart O of this Part include any discount due to the minority status of the stock to be offered, the materials must indicate the amount of the discount and how that amount was determined. Furthermore, if the plan calls for a waiver of dividends for the shares owned by the mutual holding company, the materials should indicate whether this waiver results in an ability to pay higher dividends to minority shareholders and, if so, why the discount is nonetheless warranted.

d) The Director ~~Commissioner~~ may waive a requirement of Subpart O of this Part upon a finding that the~~such~~ waiver would not work an injury on the mutual holding company or its subsidiaries, that it would be inequitable to members and eligible account holders, that the reorganization, if the waiver is granted, provides protections and opportunities equivalent to those that would exist if no waiver were granted, and that no other course of action that fully complies with Subpart O of this Part and this Subpart exists.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1230 Stock of a Subsidiary of a Mutual Holding Company

a) A resulting savings bank shall issue shares to the holding company only after sufficient assets to match transferred deposit liabilities are transferred to the resulting savings bank and, if applicable, an acquiree savings bank and after written confirmation of continuation of insurance of accounts is received from the deposit insurance corporation.

b) Stock issuance shall initially be only common stock, but other classes of stock may be issued upon application to and approval by the Director~~Commissioner~~.

c) Each share of common stock shall entitle its owner to one vote.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1235 Stock Subsidiary Formation

In conjunction with the formation of a resulting savings bank of a mutual holding company, the requirements of Article 3, Incorporation and Organization, of the~~The~~ Act shall apply with the following additions.

a) In the case of a change of corporate form, which does not alter the assets and liabilities of the reorganizing savings bank, or any acquiree savings bank, as transferred to the resulting savings bank with regard to their amount or quality, the "minimum initial capital...which would be required to obtain insurance of accounts by the Federal Deposit Insurance Corporation" shall mean the amount of minimum capital which the reorganizing savings bank, or any acquiree savings bank, was required to have to maintain its federal insurance of accounts.

b) The application to organize shall be made by the organization directors of the reorganizing savings bank. Copies of organization directors' and officers' affidavits and statements of personal interest from the last ~~five (~~5~~)~~ years' examination reports may be submitted to the Director~~Commissioner~~ to the extent that they provide business and financial information on affiliations with any other financial institutions. Each applicant shall submit amendments to these materials to provide omitted, but required, information.

c) Exhibits and maps shall display the original and new savings bank's customer area, and provide quarterly Federal and/or State reports for the four quarters preceding application, as well as the reorganizing savings bank's last ~~two (~~2~~)~~ audited financial statements.

d) The Director~~Commissioner~~ may require information as to:

1) how stock shall be distributed. Such reports shall be required upon formation of the holding company, before issuance or marketing of stock and at any other time necessary to ensure fundamental fairness to stockholders, members, depositors and for reasons related to the safe and sound financial operation of any resulting savings bank, acquiree savings bank, or pre-existing depository institution;

2) the form and manner of expressing ownership; and

3) the amount of treasury stock that~~which~~ shall be held~~;~~ and any planned issuances of capital stock or equity securities, with projected dates and amounts.

e) Once the resulting savings bank is formed, if the reorganizing savings bank no longer retains any deposits, it shall no longer be required to maintain insurance of accounts.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1245 Members' Rights

Rights of members of the resulting savings bank, acquiree savings bank, any savings banks in the mutual form when acquired shall be transferred to the mutual holding company, except that a savings bank may eliminate borrowers' rights in the process of forming the holding company by incorporating a new definition of membership in the holding company's and subsidiaries' Articles of Incorporation. Each depositor in the resulting savings bank, an acquiree savings bank, and any savings banks in the mutual form when acquired shall be a member of the mutual holding company and shall have one vote for each $100 of value of each account; notwithstanding the foregoing restriction, a mutual holding company may upon giving notice to the Director~~Commissioner~~ limit the number of votes cast by any persons to 1000 votes unless the Director~~Commissioner~~ finds upon review of relevant law and facts, the limitation is inequitable to depositors.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1250 Investment

A mutual holding company may invest in the stock of or other forms of equity ownership of any company or entity which the board of directors determines to be in the best interests of stock owners and depositors, and such investment shall be documented in the holding company's minutes with reference to items such as price/earnings rates, future prospects, sources of income, level of risk, compatibility with the overall business plan of the holding company and complete disclosure of any organization directors', officers', employees' or 5%~~ percent~~ or more stockholders' interests in the entity.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1075.1255 Notice Requirement/Corrective Action

A holding company shall give immediate written notice to the Director~~Commissioner~~ of any corrective action ordered or requested by a governmental agency, relative to the financial affairs of the holding company, except those actions ordered by the Director~~Commissioner of Banks and Real Estate~~. A holding company shall give written notice before acting upon such orders or requests, except when such order is effective immediately upon receipt. The method of transmittal shall be by messenger mail, private messenger service or telefax transmittal. Any such corrective actions required to be performed immediately shall be reported to the Director~~Commissioner~~ within ~~twenty-four (~~24~~)~~ hours after~~of~~ receipt.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1260 Insider Abuses

Matters or issues resulting from apparent wrongdoing, including insider abuses, shall be brought to the Director's ~~Commissioner's~~ attention within ~~ten (~~10~~)~~ business days after discovery, by the appropriate management personnel of the holding company. Copies of any required reports, including police and Federal Bureau of Investigation reports, shall be included with the notification to the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1265 Determination of the Qualification and Condition of an Out-of-State Acquisition

When requested, the Director ~~Commissioner~~ shall review the laws of any state to determine whether the laws of that state expressly authorize an Illinois savings bank holding company to acquire a savings bank or savings bank holding company in that state. The Director ~~Commissioner~~ shall issue a finding that such other state law either does or does not provide qualifications and conditions that~~which~~ are unduly restrictive for the acquisition when compared to those imposed by the laws of Illinois.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1270 Acquisition and Disposal of Subsidiaries

a) As permitted by the Act, this Part~~the rules promulgated thereunder~~, and applicable federal law, a mutual holding company, with approval of its board of directors,

the Director~~Commissioner~~, and its members, may:

1) acquire control of, or make non-controlling investments in the stock of, a stock depository institution or stock depository institution holding company;

2) acquire a mutual savings bank, upon approval of acquiree's board of directors and members, pursuant to a merger into the resulting savings bank, into an acquiree savings bank, or into another savings bank that was in the mutual form when acquired or with a bridge charter;

3) acquire a mutual savings bank or savings bank holding company, upon approval of the acquiree's board of directors and members, by merging with the mutual savings bank holding company;

4) acquire control of, or make non-controlling investments in the stock of, other corporations.

b) A stock holding company may make acquisitions or investments or enter into mergers as permitted by the Act, this Part~~the rules promulgated thereunder~~, and applicable federal law with approval of its board of directors, the Director~~Commissioner~~ and its stockholders.

c) Each holding company disposing of a subsidiary shall give not less than 30 days prior notice of the~~such~~ planned disposition to the Director~~Commissioner~~. Disposal of a subsidiary must be approved by the Director~~Commissioner~~.

d) The Director~~Commissioner~~ shall approve a transaction contemplated by this Section upon finding that the transaction complies with applicable law, has received necessary approvals under federal law, and is not inequitable to members or injurious to a savings bank.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1275 Dividend Limitations and Waivers

a) No subsidiary savings bank may declare or pay a cash dividend on or repurchase any of its capital stock unless the declaration or payment of the dividend or repurchase would be in accordance with the requirements of Section 5008 of the Act and would not reduce the capital of the converted savings bank below the

greatest of:

1) the amount required for the liquidation account;

2) the amount required by the Director~~Commissioner~~; or

3) the amount required by federal law.

b) A converted mutual savings bank may pay dividends on preferred stock at the rate or rates agreed in connection with the issuance of preferred stock, if such issuance has been approved by the Director~~Commissioner~~. However, the Director~~Commissioner~~ shall approve no issuance or payment that would reduce the capital of the converted savings bank below the greatest of:

1) the amount required for the liquidation account;

2) the amount required by the Director~~Commissioner~~; or

3) the amount required by federal law.

c) No mutual holding company may waive its right to receive any dividend declared by a subsidiary unless:

1) No insider of the mutual holding company, associate of an insider, or tax-qualified or non-tax-qualified employee stock benefit plan of the mutual holding company holds any share of stock in the class of stock to which the waiver would apply; or

2) The mutual holding company provides the Director~~Commissioner~~ with written notice of its intent to waive its right to receive dividends 30 days prior to the proposed date of payment of the dividend and the Director~~Commissioner~~ does not object. The Director ~~Commissioner~~ shall not object to a notice of intent to waive dividends if:

A) the waiver would not be detrimental to the safe and sound operation of the savings bank; and

B) the board of directors of the mutual holding company expressly determines that waiver of the dividend by the mutual holding company is consistent with the organization directors' fiduciary

duties to the mutual members of the~~such~~ company. A dividend waiver notice shall include a copy of the resolution of the board of directors of the mutual holding company, in form and substance satisfactory to the Director~~Commissioner~~, together with any supporting materials relied upon by the board, concluding that the proposed dividend waiver is consistent with the board's fiduciary duties to the mutual members of the mutual holding company.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1280 Officers and Organization Directors List

The secretary of each holding company shall submit to the Director ~~Commissioner~~ a list of all officers and organization directors of the holding company. This list shall be submitted within 10 days after the election of the holding company's board of directors, and any changes or additions in the list shall be submitted to the Director~~Commissioner~~ within 10 days after the occurrence of the~~such~~ change or addition. Along with the~~such~~ list there shall also be submitted an affidavit executed by each officer and organization director containing a statement that~~which~~ shall set forth details as to the present and, for the 5 years preceding, the business of every officer and organization director and the nature of their prior affiliations with any financial institution and its subsidiaries, holding company or subsidiary of a financial institution holding company.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1285 Access to Books and Records

The Director ~~Commissioner~~ shall have access to subsidiaries' and holding companies' books and records.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1290 Annual Audit Requirements

Every holding company shall cause its books and records to be audited at least once annually by an independent licensed public accountant. The Director ~~Commissioner~~ shall receive a copy of the licensed public accountant's annual audit report, along with all supporting documentation. The report of audit shall be on a consolidated basis unless, in the auditor's opinion, certain subsidiaries or parent entities should be reported on separately. If separate reports are prepared, they should be prepared on the same basis as the report on the holding company.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1300 Notice of Appointment of Independent Accountants

a) Notice shall be made to the Director ~~Commissioner~~ of the appointment of the licensed public accountant not less than ~~sixty (~~60~~)~~ days before the fiscal year-end of the holding companies. Any change in the licensed public accountants shall be forwarded to the Director~~Commissioner~~ within ~~sixty (~~60~~)~~ days after the~~of such~~ change along with a letter from the replaced accountant stating whether the change, was the result of a dispute over the accounting treatment of a material matter.

b) Copies of the Annual Audit shall be filed, in triplicate, with the Division ~~Office~~ of Banks and Real Estate within ~~ninety (~~90~~)~~ days after~~of~~ the fiscal year-end of the registrant.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1310 Holding Company Supervisory Fees

a) Each savings bank holding company operating under the Act as of the close of each calendar year shall pay annually to the Director~~Commissioner~~ a fee of $5.00 per million dollars of consolidated assets (excluding the assets of any Illinois State-chartered savings bank or savings and loan association) of the savings bank holding company and its subsidiaries. The~~Such~~ fee shall be based on the total assets of each savings bank holding company and each subsidiary as shown by its financial report filed with the Director~~Commissioner~~ for the reporting period ended December 31. The~~Such~~ fees shall be for the calendar year then ended. Computations shall omit hundreds from the total assets and the fee shall be rounded to the nearest thousand dollar amount.

b) One fourth of the sum of the supervisory fee so determined shall be remitted at the time of each calendar quarter end. A calendar quarter end shall mean March 31, June 30, September 30, and December 31. The~~Such~~ fees shall be for the respective current calendar year.

c) Supervisory fees shall be determined by the Director~~Commissioner~~ within ~~ninety (~~90~~)~~ days following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any ~~such~~ fees billed at a later date.

d) When~~In the situation where~~ service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the Director~~Commissioner~~ shall waive that portion of the fee attributed to the finance subsidiary.

e) In the event the State~~state~~ charter is converted or otherwise surrendered during the year, the Director~~Commissioner~~ shall determine the supervisory fee based on the total assets of the savings bank holding company as of the month-end immediately preceding the cancellation of the State~~state~~ charter, except that the measurement date may be another date at the discretion of the Director~~Commissioner~~ in the event a savings bank holding company elects to liquidate. In determining whether to set another measurement date, the Director~~Commissioner~~ shall consider the following elements: whether the savings bank is undergoing a planned liquidation (where a savings bank elects to not continue operations)~~,~~ or the savings bank has transferred significant assets (more than .5% ~~½ of 1 percent~~ of the total assets at the previous measurement date).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1315 Examination Fees

Time expended in the conduct of any examination of the affairs of any savings bank or service corporation pursuant to Section 9004 of the Act or applicable service corporation undertakings, respectively, shall be billed by the Director ~~Commissioner~~ at a rate of $55.00 per examiner hour. The~~Such~~ fee shall be billed within ~~forty-five (~~45~~)~~ days following completion of the respective examination. In the situation where examination procedures are performed at out-of-state locations, the examination fee of $55.00 per hour plus travel, lodging and per diem shall be assessed. Additionally, travel time shall be billed at the examination rate of $55.00 per hour.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1325 Manner of Payment

Each invoice for a fee billed by the Director~~Commissioner~~ pursuant to Sections~~Section~~ 1075.1305, 1075.1310 and 1075.1315 of this Part shall be due and payable upon receipt of the invoice~~same~~ by the savings bank or service corporation. Payment shall be by check, draft or

money order made payable to the ~~Division~~Department of Financial and Professional Regulation~~Office of Banks and Real Estate~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1330 Conversion of Mutual Holding Companies

With approval of the Director~~Commissioner~~, upon a finding by the Director~~Commissioner~~ that the conversion complies with applicable law, has received necessary approvals under federal law, and is not inequitable to members or injurious to a savings bank, a mutual holding company may convert to a capital stock holding company. Any capital stock issued and offered for sale by a converting holding company shall be offered in accordance with Subpart O of this Part except that:

a) The words "mutual savings bank" shall refer to mutual holding company.

b) Section 1075.2170 of this Part shall not apply unless a subsidiary depository institution does not meet applicable capital requirement and the mutual holding company is unable to meet the requirements of the applicable net worth agreement entered into under Section 1075.1240 of this Part.

c) Requirements in Subpart O of this Part for filing presentation or disclosure of financial, regulatory operations or management information shall apply to either the mutual holding company or its subsidiaries, or both, whichever filing, presentation or disclosure provides, as determined by the Director~~Commissioner~~, the most complete description of the mutual holding company and its subsidiaries.

d) Stock issued pursuant to Section 1075.1225 of this Subpart may be exchanged for stock issued by the mutual holding company in a conversion of the mutual holding company to stock form under this Section if the mutual holding company demonstrates that the exchange is equitable to the subsidiary depository institution and the mutual holding company members.

e) The Director~~Commissioner~~ may waive a requirement of Subpart O of this Part upon a finding that the~~such~~ waiver is not injurious or inequitable to the mutual holding company or its subsidiaries, that it is not inequitable to members or eligible account holders, that the conversion, if the waiver is granted, provides the equivalent protections and opportunities as a conversion that fully complies with Subpart O of this Part and this Section, and that no other course of action that fully complies with Subpart O of this Part and this Section exists.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART K: CONVERSION OF AN EXISTING DEPOSITORY INSTITUTION INTO AN ILLINOIS SAVINGS BANK

Section 1075.1400 Scope of Rules

No existing depository institution shall convert to an Illinois savings bank without the written approval of the Director ~~Commissioner~~ pursuant to this Subpart~~these rules~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1410 General Rules for Conversion Plan

a) An application for conversion shall be approved only if the Director~~Commissioner~~ finds that:

1) the conversion plan adopted by the applicant's board of directors or trustees (~~hereinafter "~~board~~"~~), and all documentation submitted in support of the application for conversion complies with the provisions of this Part~~these regulations~~, the Act, and other applicable provisions of law;

2) the resulting savings bank will operate in a safe, sound and prudent manner;

3) the conversion plan will result in a savings bank that has adequate capital, and satisfactory management and earnings prospects as prescribed in the Act;

4) the owners and organization directors of the converting depository institution and of the resulting savings bank are qualified by character and financial responsibility to legally and properly control and operate the proposed savings bank to be formed as a result of the conversion plan;

5) the converting depository institution has taken steps to obtain insurance of accounts from the deposit insurance corporation;

6) the conversion plan is equitable to account holders, borrowers, creditors, employees or stockholders and is in the public interest; and

7) the converting institution has paid all outstanding bills for supervisory fees, examination fees, and penalties associated with its original charter.

b) The experience and the performance record of the persons to be in control or in key management positions shall be evaluated by the Director~~Commissioner~~ as to the probability of sound operation of the resulting savings bank.

c) The Director~~Commissioner~~ shall make the same investigation and determine the same questions as would be required by law to make and determine in the case of the submission to the Director~~Commissioner~~ of an Articles of Incorporation for a proposed new Illinois savings bank.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1415 Adopting and Filing of a Conversion Plan

a) The board of directors of an existing depository institution desiring to convert in accordance with this Part~~these regulations~~ shall adopt a conversion plan at a meeting of the~~such~~ board of directors.

b) Upon the adoption of the conversion plan as provided in subsection (a)~~ above~~, an existing depository institution shall file with the Director 3~~Commissioner three~~ copies of the application for approval of a Plan of Conversion, which shall include the conversion plan and each document required to be part of the conversion plan. The application shall be in the form required by the Director~~Commissioner~~.

c) An application for approval of a conversion plan shall be on forms prescribed by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1430 Issuance of Certificate of Approval

The Director~~Commissioner~~, upon approving a conversion plan, shall issue a certificate of approval of the conversion plan which shall authorize the applicant to proceed with its conversion plan. The Director ~~Commissioner~~ may add such conditions to the certificate of approval as he or she considers necessary.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1075.1435 Final Approval of the Conversion

a) Upon a determination by the Director ~~Commissioner~~ that all applicable requirements of law have been met, including the surrender of the original charter, the Director ~~Commissioner~~ shall issue to the applicant a Certificate of Authority to Operate. The savings bank shall then file its amended charter and Articles of Incorporation as an Illinois savings bank with the County Recorder in the county in which the savings bank is headquartered.

b) Upon ~~such~~ filing, the applicant shall be an Illinois savings bank under sole supervision of the Director ~~Commissioner~~ and of the Federal Deposit Insurance Corporation.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1450 Organization Directors of Resulting Savings Bank

The persons named as organization directors in the Plan of Conversion shall be the organization directors of the resulting savings bank until the first election of organization directors thereafter, or until the expiration of their terms as organization directors, and shall have the power to take all necessary measures and to adopt regulations concerning the business and management of the resulting converted savings bank.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART L: SUPERVISION

Section 1075.1500 Sale of Offices~~,~~ or Facilities ~~and Equipment~~

~~Offices and Facilities~~

a) Except the sale of a branch office under Section 1075.740 of this Part, a savings bank contemplating sale of any office or facility must provide 90 days notice to the Director~~Commissioner~~ of its intent to do so. A copy of a signed letter of intent to purchase must be received by the Director~~Commissioner~~ at least 30 days before the closing date of the contemplated sale.

b) Notice to the Director~~Commissioner~~ shall include:

1) addresses of the facilities and offices to be sold;

2) analyses of the accounts, loans and obligations of the facilities' and offices' business;

3) a draft of notifications to be sent to all parties who would be affected by the sale, including depositors, creditors, account holders, and borrowers;

4) notifications must detail names and addresses of the seller and buyer, what business will be transferred to the buyer, if anything shall remain with the seller, when business remaining with the seller will be administered;

5) all final notifications under this Section must be registered mail, certified mail, or personally delivered. A time schedule for notifications must be included; and

6) an analysis of the effect on the selling savings bank's financial condition, including discussion of any accounting issues, and pro forma financial statements for before and after the transaction. Specific discussion must be included about the manner of payment and deviation of pricing.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1520 Bridge Charters

a) A savings bank may apply to the Director~~Commissioner~~ for authority to form a "bridge charter" to facilitate a corporate restructuring or voluntary change, only on condition that an additional savings bank is not created. Organization of a bridge charter shall not be subject to the requirements of Article 3 of the Act.

b) The Director~~Commissioner~~ may only authorize the formation of an interim savings bank charter under this Section. An applicant desiring another type of financial institution charter shall apply for same to the regulator appropriate to that charter.

c) Each application shall specify the purpose of the interim charter, the required end result, the ownership size, capital business plan, management structure, and duration of the initial, interim and final savings bank.

d) An applicant for an interim charter under this Section shall inform the

DirectorCommissioner of any transaction contemplating use of an interim charterCharter at least 90 days before the closing date of the transaction.

e) Except to the extent established by the original savings bank, no interim charter may do retail business with the public; advertiseadvertising; make purchases; or pay salaries, bonuses, or fees, or obligate to hire, or contract.

f) An interim charter may exist for no more than 3three days, which may not be business days. On a normal business day, an interim charter may not be in existence for more than the time required to sign or otherwise finalize documents.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1530 Unsafe and Unsound Practices

If the DirectorCommissioner receives notice of failure to renew or of cancellation of the bond required by Section 4009(a) of the Act, or if such bond is determined, from examination or from reports made by the savings bank, to be inadequate when compared:a) with the amounts of thesuch bond carried by savings banks of comparable capital size, pursuing similar investment policies and similar management capabilities,; b) or with amounts required by its federal insurer of accounts, he or she shall immediately pursue one of the remedies enumerated in Articles 9 and 10 of the Act.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1540 Failure to Comply with Report of Examination

If the DirectorCommissioner determines that a savings bank has failed to comply with recommendations made in or as the result of a report of examination within forty-five (45) days after the date the report is transmitted, then he or she may poll the savings bank's officers and board of directors personally concerning his or her recommendations, and, absent convincing or compelling changes of information, market conditions or financial condition of the savings bank, he or she shall summarily issue a temporary suspension in writing to officers and organization directors who refused or prevented taking the recommended steps. TheSuch suspension shall bar the specified individual until the Order is modified or vacated by the DirectorCommissioner.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART M: REMOVALS, SUSPENSIONS AND INDUSTRY WIDE PROHIBITION

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1075.1600 Scope

The Director~~Commissioner~~, in accordance with the Act and this Part~~these rules~~, may remove or suspend any officer, organization director, employee or agent of a savings bank operating under the Act or prohibit an individual from further participation in any manner in the affairs at any savings bank operating under the Act.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1610 Notice of Intention and Answer

a) Subject to Section 1075.1630 of this Part, proceedings to remove or suspend an officer, organization director, employee or agent of a savings bank operating under the Act or to prohibit an individual from further participation in any manner in the affairs of any savings bank operating and regulated under the Act shall commence upon service of Notice of Intention to Remove, Suspend or Prohibit.

b) The notice shall:

1) state the grounds for the action;

2) recite the statutory basis for the action;

3) be signed by the Director~~Commissioner~~;

4) be with a notice of hearing on the matter that sets a hearing date within ~~thirty (~~30~~)~~ days after~~of~~ service of the notice of intention and names a hearing officer who shall conduct the hearing; and

5) include a copy of the Director's ~~Commissioner's~~ rules pertaining to hearings.

c) Hearing shall be pursuant to this Part~~these rules~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1620 Removal and Prohibition by Order

In the event of consent, or, if upon the record submitted by the presiding hearing officer pursuant to this Part~~these rules~~, and subject to Section 1075.1630 of this Part, the Director~~Commissioner~~

finds that any of the charges have been established, the Director~~Commissioner~~ may issue an Order of removal or suspension from office or of prohibition from participation in any manner in the affairs of a savings bank operating under the Act. The~~Such an~~ Order is effective upon service (except in the case of an Order issued upon consent that~~, which~~ is effective at the time specified in the Order~~therein~~) and shall remain effective and enforceable unless stayed, modified, terminated or set aside by action of the Director~~Commissioner~~ or a reviewing court.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1630 Suspension by Notice

a) Upon determination that suspension~~such action~~ is necessary for the protection of a savings bank operating under the Act or for depositors and in accordance with the Act and this Part~~these rules~~, the Director~~Commissioner~~ may by notice suspend an officer, organization director, employee or agent of a savings bank operating under the Act and suspend the~~an~~ individual from participation in any manner in the affairs of any savings bank operating under the Act.

b) A suspension Order by the Director~~Commissioner~~ issued pursuant to this Section shall be in effect and enforceable upon service and, unless stayed by a reviewing court, shall remain in effect until the charges are dismissed and the administrative proceedings are completed, or until the effective date of any final Order of removal, suspension or prohibition that is issued by the Director~~Commissioner~~.

c) A suspension Order by the Director~~Commissioner~~ issued pursuant to this Section shall:

1) contain findings of fact sufficient to support imposition of a suspension by notice;

2) recite the statutory basis for the Order;

3) appoint a hearing officer;

4) impose an immediate suspension of participation in any manner in the affairs of any savings bank operating under the Act;

5) be signed by the Director~~Commissioner~~ or by a person authorized to act in her or his stead; and

6) be with a notice of suspension that:

A) sets a hearing date within ~~thirty (~~30~~)~~ days after~~of~~ the date on which the Order takes effect;

B) names the hearing officer who shall conduct the hearing; and

C) includes a copy of the Director's ~~Commissioner's~~ rules pertaining to hearings.

d) Subject to this Subpart M ~~of this Part~~, hearing shall be pursuant to Subpart I of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1640 Industrywide Prohibition

a) Any person subject to an Order of removal or suspension or prohibited from participation in any manner in the affairs of a savings bank operating under the~~The~~ Act upon an Order of the Director~~Commissioner~~, without hearing on the matter, shall be prohibited from participation in any manner in the conduct of affairs of a savings bank regulated by the State of Illinois, another insured depository institution regulated by the State of Illinois, or any other financial services entity regulated by the State of Illinois.

b) An Order for industrywide prohibition shall:

1) state the grounds for the industrywide prohibition;

2) recite the statutory basis for the action;

3) include the Order of removal, suspension or prohibition to which the party is subject; and

4) be signed by the Director~~Commissioner~~.

c) Notwithstanding subsection (a) ~~above~~, a prohibition from participation shall cease to apply to the party, but only to the extent that consent is granted, if, on or after the date an Order is issued under this Section a party receives the written consent of:

1) the Director~~Commissioner~~; and

2) all other regulatory bodies of the insured depository institution or financial services entity to which the party proposes to participate in the conduct of affairs.

d) Request for consent of the Director ~~Commissioner~~ shall be made in writing to the Director~~Commissioner~~. The decision of the Director~~Commissioner~~ is not reviewable. The request shall include:

1) a written statement of the consent that is requested;

2) a written statement of the proposed participation in the conduct of affairs of an insured depository institution financial or financial services entity; and

3) a written statement, supported by all relevant documentation, of the reasons why the party believes consent should be granted.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1650 Unauthorized Participation of Convicted Individual

a) Upon a finding by the Director~~Commissioner~~, without hearing on the matter, that a current or proposed officer, organization director, agent or employee of a savings bank operating under the Act has been convicted of any criminal offense involving dishonesty or a breach of trust, the Director~~Commissioner~~ shall Order that such person shall not participate in any manner, at the conduct of affairs at a savings bank operating under the Act.

b) The Order of the Director~~Commissioner~~ shall:

1) state the grounds for the Order;

2) recite the statutory basis for the Order;

3) include true copy of the final judgment of the conviction of the individual; and

4) be signed by the Director~~Commissioner~~.

c) Notwithstanding subsection (a)~~ above~~, the Director~~Commissioner~~, upon prior request, may grant written consent to participate in a savings bank operated under the Act. A request must be made in writing to the Director~~Commissioner~~. The decision of the Director~~Commissioner~~ is not reviewable.

d) Request for consent of the Director~~Commissioner~~ shall be made in writing to the Director~~Commissioner~~. The request shall include:

1) a written statement of the consent that is requested;

2) a written statement of proposed participation in the conduct of affairs of an insured depository institution or financial services entity; and

3) a written statement, supported by all relevant documentation, of the reasons why the party believes consent should be granted.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART N: ACQUISITION OF CONTROL OF SAVINGS BANK

Section 1075.1700 Acquisition of Control of Savings Bank

a) As used in this Section, the following definitions apply:

1) "Affiliate" means any company that controls, is controlled by, or is under common control with a person.

2) "Company" means a corporation, a partnership, an association, a joint stock company, a trust or an unincorporated organization.

3) "Control" means the ability of any person, entity, persons, or entities acting alone or in concert with one or more persons or entities, to own, hold, or direct with power to vote, or to hold proxies representing, 10% or more of the voting shares or rights of a savings bank, savings bank subsidiary, savings bank affiliate, or savings bank holding company,~~;~~ or the ability to achieve in any manner the election or appointment of a majority of the directors of a savings bank. This definition shall not apply to the voting of proxies obtained from depositors if the proxies are voted

as directed by a majority of the board of directors of the savings bank or of a committee of organization directors when the committee's composition and powers may be revoked by a majority vote of the board of directors.

4) "Person" means an individual, a company or a group acting in concert.

5) "Associate", when used to indicate relationship with any person, means:

A) any corporation or organization (other than the applicant or a wholly owned subsidiary of the applicant) of which the~~such~~ person is an officer or partner or is, directly or indirectly, either alone or together with one or more members of his or her immediate family, the beneficial owner of 10% or more of any class of securities;

B) any trust or other estate in which the person has a substantial beneficial interest or as to which the~~such~~ person serves as trustee or in a similar fiduciary capacity;

C) any relative or spouse of the~~such~~ person or any relative of the~~such~~ spouse, who has the same home as the~~such~~ person or who is an organization~~a~~ director or officer of the savings bank or a related entity; or

D) anyone who has an agreement, arrangement, or understanding, with the~~such~~ person, the purpose or effect of which is to enable the person to enter into and consummate any transaction described in subsection (m) on terms more advantageous than had the transaction been entered into or consummated by a person who was not a party to the~~such~~ agreement, arrangement, or understanding.

6) "Savings Bank Holding Company" means any company defined by Section 2001.35 of the Act.

b) It is unlawful for any person to acquire control of a savings bank or related entity unless acquired pursuant to this Section. Any acquisition of control in violation of this Section shall be ineffective and void.

c) Application to acquire control of a savings bank shall be made to the Director~~Commissioner~~. The application shall be under oath or affirmation, and

shall contain substantially all the following information, plus any additional information that the Director~~Commissioner~~ may prescribe as necessary or appropriate to protect depositors, borrowers, stockholders, creditors, or the public interest.

1) The identity and banking and business experience of each person by whom or on whose behalf the acquisition is to be made, including, but not limited to, his or her business activities and affiliations during the past 10 years, and a description of any pending legal or administrative proceedings in which he or she is a party and any criminal indictment or any conviction of such person by any state or federal court.

2) If not entirely described in subsection (c)(1), for each person by whom or on whose behalf the acquisition is to be made, any past (for the past 10 years), present or proposed affiliation with an insured depository institution, including, but not limited to, any past, present or proposed employment and all affiliation or connection of the kind described under the definition of "affiliated person of a savings bank or insured institution" as defined in this Section.

3) Financial Statements

A) A statement of the assets and liabilities, including contingent liabilities, of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the 5 years immediately preceding the date of the notice,~~;~~ including statements of income~~,~~ and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied.~~; and~~

B) An~~an~~ interim statement of the assets and liabilities, including contingent liabilities, for each ~~such~~ person by whom or on whose behalf the acquisition is to be made, including related statements of income~~,~~ and source and application of funds, as of a date not more than 90 days before the date of the filing of the notice.

4) The terms of the proposed acquisition and the manner in which the acquisition is to be made.

5) The identity, source and amount of the funds or other consideration used, or to be used, in making the acquisition. If any part of these funds or other consideration has been or is to be borrowed or otherwise obtained to make the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with those parties~~such persons~~.

6) Any plans or proposals that~~which~~ any acquiring party may have to liquidate the bank, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.

7) The identity of any person employed, retained, or to be compensated by the acquiring party, or by any person on his or her behalf, to make solicitations or recommendations to stockholders to assist in the acquisition, and a brief description of the terms of the~~such~~ employment, retainer, or arrangement for compensation.

8) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

9) In lieu of the application and information required by subsections~~subsection~~ (c)(1) through (8), the Director~~Commissioner~~ may accept a certified true and accurate copy of notice or application filed with the federal depository institution regulator for the purpose of gaining approval of the proposed change in control or acquisition transaction; provided that the federal application or notice is filed in compliance with the 60 day notice period prescribed by Section 8015 of the Act. Nothing in this subsection (c)(9) precludes the Director~~Commissioner~~ from requiring the applicant to file additional information as permitted by this Section.

d) When a person, other than an individual or corporation, is required to file an application under this Section, the Director~~Commissioner~~ may require that the information required by subsections (c)(1), (2), (3), and (7) be given with respect to each person, as defined in subsection (a)(3), who has an interest in or controls a person filing an application under this Section~~subsection~~.

e) When a corporation is required to file an application under this Section, the Director~~Commissioner~~ may require that information required by subsections

(c)(1), (2), (3), and (7) be given for the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of 25%~~ percent~~ or more of the outstanding voting securities of the corporation.

f) If any tender offer, request, or invitation for tenders or other agreements to acquire control is proposed to be made by a registration statement under the Securities Act of 1933 (15 USC 77a et seq.), or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934 (15 USC 78a et seq.), the registration statement or application may be filed with the Director~~Commissioner~~ instead of the requirements of this Section.

g) Any acquiring party shall deliver a copy of any notice or application required by this Section to the savings bank proposed to be acquired within 2~~two~~ days after the~~such~~ notice or application is filed with the Director~~Commissioner~~.

h) Any person who willfully or intentionally violates this Section is subject to Section 11006(1) of the Act. Each day's violation shall be considered a separate violation. This subsection in no way limits investigation, examination, prosecution, conviction, levying of fines, or any other legal action or remedy carried out pursuant to any other applicable state~~states~~ or federal law.

i) The Director~~Commissioner~~ may disapprove the acquisition of a savings bank after the filing of a complete application if:

1) The poor financial condition of any acquiring party may adversely affect the financial stability of the savings bank or may adversely affect the interest of depositors, borrowers, creditors, or stockholders;

2) The plan or proposal of the acquiring party to liquidate the savings bank, to sell its assets, to merge it with any person, or to make any other major change in its business, corporate structure, or management may adversely affect the financial stability of the savings bank, is not fair and reasonable to its depositors, borrowers, creditors, or stockholders or is not otherwise in the public interest;

3) Insufficient banking and business experience or a lack of competence or integrity of any acquiring party may adversely affect the savings bank or the savings bank's depositors, borrowers, creditors, or stockholders;

4) The information provided by the application is insufficient for the

DirectorCommissioner to determine whether the acquisition should be approved or the DirectorCommissioner is unable to verify the information provided or to examine the qualifications of the acquiring party; or

5) The acquisition is not otherwise in the public interest.

j) The DirectorCommissioner shall set forth the basis for disapproval of any proposed acquisition in writing and shall provide a copy of the findings and order to the applicants and to the bank involved. The findings and order shall not be disclosed to any other party and shall not be subject to public disclosure unless the findings or order are appealed and subject to hearing.

k) Whenever a change in control occurs, each party to the transaction shall report promptly to the DirectorCommissioner any changes or replacement of its chief executive officer or of any organization director occurring in the next 12 month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officers or organization directors.

l) For a period of 10 years following the acquisition of control by any person, neither the acquiring party nor any associate or affiliate of the acquiring party or the acquired savings bank shall receive any loan or the use of any of the funds of, nor purchase, lease, or otherwise receive any property from, nor receive any consideration from the sale, lease, or any other conveyance of property to, any savings bank in which the acquiring party has control; except that:

1) the provisions of this subsection (l) shall not apply to transactions permitted under sectionsSections 22(g), 22(h), 23A or 23B of the Federal Reserve Act (12 USC 375a, 375b, 371c and 371c-1), or transactions with any person (including such person's affiliates and associates) after the person ceases to be in control of the savings bank, or ceases to be an affiliate or associate of a person in control of a savings bank; and

2) upon application by any acquiring party or associate or affiliate or affiliated person of a savings bank or insured institution subject to this subsection (l), the DirectorCommissioner may approve a transaction between a savings bank and the acquiring party, person, or associate or affiliate or affiliated person of a savings bank or insured institution, upon finding that the terms of the transaction are at least as advantageous to the savings bank as the savings bank would obtain in a comparable transaction

with any person that is not an acquiring party or an associate or affiliate of the acquiring party.

m) To enable any person to purchase any or all shares of its capital stock, no savings bank shall make a loan to, pledge or otherwise transfer any of its assets as security for a loan to such person or to any associate or affiliate or affiliated person of a savings bank or insured institution, or except as otherwise permitted in this subsection, pay any dividends to any such person or associate or affiliate or affiliated person of a savings bank or insured institution except upon a finding by the Director~~Commissioner~~ that such transactions are fair to stockholders, depositors, borrowers, and creditors and does not otherwise violate any provision of the Act. Nothing in this Section shall prohibit a dividend among shareholders in proportion to their shareholdings.

n) The accuracy and completeness of any information submitted by the applicants may be determined by the Director~~Commissioner~~ pursuant to the Director's ~~Commissioner's~~ examination authority.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1710 Anti-Takeover Provisions

a) With approval of the Director~~Commissioner~~, a savings bank may amend its articles of incorporation with regard to the acquisition by any person or persons of its equity securities. The savings bank shall file with its application for approval an opinion, acceptable to the Director~~Commissioner~~, of counsel independent from the savings bank that the proposed amendments~~amendment(s)~~ would be permitted to be adopted by a corporation chartered by Illinois pursuant to the Business Corporation Act of 1983~~,~~ [~~(~~805 ILCS 5]~~ 1.01 et seq.)~~.

b) No amendments of a savings bank's articles of incorporation pursuant to subsection (a) ~~above~~ may be made or approved by the Director~~Commissioner~~ if the savings bank's capital is below requirements established by the Director~~Commissioner~~ or by federal law or if the savings bank's most recent composite rating (CAMEL) is composite 4 or composite 5. This subsection shall not be construed to grant automatic approval of applications that do not fall within the restrictions of this subsection.

c) Other than specified in subsections (a) and (b)~~ above~~, a savings bank shall amend its articles of incorporation in accordance with Section 7308-2 of the Act.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART O: CONVERSION OF MUTUAL SAVINGS BANK
TO CAPITAL STOCK SAVINGS BANK

Section 1075.1800 Subpart Exclusive – Prohibition on Conversion Without Approval – Waiver of Requirements

This Subpart shall exclusively govern the conversion of mutual savings banks to capital stock savings banks. No mutual savings bank may convert to the capital stock form of organization without the prior written approval of the Director~~Commissioner~~ pursuant to this Subpart. Notwithstanding any provision of this Subpart, the Director~~Commissioner~~ may waive a requirement of this Subpart if:

a) waiver~~wavier~~ is required by applicable federal law or regulation;

b) waiver avoids, ameliorates, or corrects a condition enumerated in Section 10001 of the Act or serves a purpose enumerated in Section 10002 of the Act;

c) waiver is due to unforeseen circumstances that~~which~~ leave no other reasonable course of action that~~which~~ complies with the requirement and waiver is not injurious to the converting savings bank and not inequitable to its members; or

d) waiver permits the converting savings bank to convert to stock form under terms or conditions available to a state or federal savings association or under terms or conditions permitted by the deposit insurance corporation.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1805 Forms

The Director~~Commissioner~~ may prescribe under this Subpart forms for use by a mutual savings bank seeking to convert to a capital stock savings bank pursuant to this Subpart.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1815 Definitions

Terms defined in other Subparts of this Part, when used in this Subpart, shall have the meanings

given in those definitions, to the extent those definitions are not inconsistent with the definitions contained in this Subpart unless the context otherwise requires. As used in this Subpart, the following definitions apply, unless the context otherwise requires:

"Acting in Concert" means knowing participation in a joint activity or interdependent conscious parallel action toward a common goal whether pursuant to an express agreement, or a combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangement, whether written or otherwise; a person or company that~~which~~ acts in concert with another person or company (~~"~~other party~~"~~) shall also be considered to be acting in concert with any person or company who is also acting in concert with that other party, except that any employee stock benefit plan as defined in this Section will not be considered to be acting in concert with its trustee or a person who serves in a similar capacity solely to determine whether stock held by the trustee and stock held by the plan will be aggregated.

"Affiliate" means any company that controls, is controlled by, or is under common control with a person.

"Amount", when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares of common or preferred stock, and the number of units if relating to any other kind of security.

"Applicant" is a mutual savings bank that~~which~~ has applied to convert pursuant to this Subpart~~chapter~~.

"Broker" means any person engaged in the business of effecting transactions in securities for the account of others.

"Capital Stock" includes permanent stock, guaranty stock, permanent reserve stock, any similar certificate evidencing nonwithdrawable capital, preferred stock, or convertible preferred stock of a savings bank converted under this Subpart or of a subsidiary, institution or holding company.

"Charter" includes articles of incorporation, articles of reincorporation, and certificates of incorporation, as amended, effecting (either with or without filing with any governmental agency) the organization or creation of an incorporated person.

~~"Commissioner" means the Commissioner of Banks and Real Estate.~~

"Company" means a corporation, a partnership, an association, a joint stock company, a trust or an unincorporated organization.

"Control" is defined as it is defined in Section 1007.35 of the~~The~~ Act.

"Dealer" means any person who engages either for all or part of his or her time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

"Department" means the Department of Financial and Professional Regulation.

"Deposit Accounts" means any account defined as a deposit account at Section 7001 of the ~~The~~ Act.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Banking.

"Division" means the Department of Financial and Professional Regulation-Division of Banking.

"Eligibility Record Date" means the record date for determining eligible account holders of a converting mutual savings bank.

"Eligible Account Holder" means any person holding a qualifying deposit as determined in accordance with Section 1075.1935.

"Employee" does not include an organization ~~a~~ director or officer.

"Employee Stock Benefit Plan" means any defined benefit plan or defined contribution plan, such as an employee stock ownership plan, employee stock purchase plan, stock bonus plan, profit-sharing plan or other plan and its related trust.

"Equity Security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

"Market Maker" means a dealer who, with respect to a particular security:

regularly publishes bona fide, competitive bid and offer quotations in a recognized interdealer quotation system; or furnishes bona fide competitive bid and offer quotations on request; and

is ready, willing, and able to effect a transaction in reasonable quantities at his or her quoted prices with other brokers or dealers.

"Mutual Savings Bank~~savings bank~~" means a mutual savings bank organized and operating under the~~The~~ Act.

"Offer of Sale~~sale~~" shall include "offer", "offer to sell", or "offer of sale" and shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. These terms shall not include preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are or are to be in privity of contract with an applicant.

"Officer", for purposes of the purchase of stock in a conversion under this Subpart or the sale of this stock, means the chairman of the board, president, vice president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other person performing similar functions with respect to any organization, whether incorporated or unincorporated.

"Organization Director" means any person ~~is~~ defined as a director by ~~it is defined in~~ Section 1007.55 of the ~~The~~ Act.

"Person" means an individual, a company, or a government or political subdivision ~~thereof~~.

"Principal Underwriter" means an underwriter, as defined in this Section, in privity of contract with the applicant or other issuer of securities as to which that person is the underwriter.

"Proxy" includes every form of authorization by which a person is or may be designated to act for a stockholder in the exercise of his or her voting rights in the affairs of an institution. The~~Such an~~ authorization may take the form of failure to dissent or object.

"Purchase" or~~and~~ "Buy" includes~~include~~ every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

"Sale" or~~and~~ "Sell" includes~~include~~ every contract to sell or otherwise dispose of a security or interest in a security for value; but these terms do not include an exchange of securities in connection with a merger or acquisition approved by the Director~~Commissioner~~.

"Security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-trust certificate, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase any of the foregoing.

~~A~~ "Subsidiary" of a specified person is a company controlled by the person, directly or indirectly through one or more intermediaries.

"Supplemental Eligibility Record Date" means the supplemental record date for determining supplemental eligible account holders of a converting savings bank required by Section 1075.1845. The date shall be the last day of the calendar quarter preceding Director~~Commissioner~~ approval of the application for conversion.

"Supplemental Eligible Account Holder" means any person holding a qualifying deposit, as of the supplemental eligibility record date, excluding officers, organization directors and their associates, except as provided in Section 1075.1845.

"Underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for the applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking; but the term does not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributor's~~distributors'~~ or seller's~~sellers'~~ commission.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1820 Prohibition on Approval of Certain Applications for Conversion

No application for conversion may be approved by the Director~~Commissioner~~ if:

a) The plan of conversion adopted by the applicant's board of directors is not in accordance with this Subpart;

b) The conversion reasonably could be expected to result in a reduction of the applicant's capital below requirements established by the Director~~Commissioner~~ and by Federal law;

c) The conversion may result in a taxable reorganization of the applicant under the United States Internal Revenue Code of 1986 (26 USC ~~U.S.C.~~ 1 et seq.), and the Director~~Commissioner~~ upon a written finding determines that the reorganization will endanger the safety and soundness of the converting savings bank;

d) The converted savings bank does not secure insurance of its deposit accounts backed by the full faith and credit of the United States government before commencing business; or

e) Where a holding company is contemplated, the holding company will not be either a bank holding company registered with the Federal Reserve Board under the Bank Holding Company Act (12 USC ~~U.S.C. Section~~ 1841 et seq.) or a savings and loan holding company registered with the Office of Thrift Supervision under the Home Owners' Loan Act (12 USC ~~U.S.C. Section~~ 1461 et seq.).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1835 Stock Purchase Subscription Rights – Eligible Account Holders

a) Each eligible account holder shall receive, without payment, nontransferable subscription rights to purchase capital stock in an amount ranging from .1%~~one-tenth of one percent~~ to 5%~~five percent~~ of the total offering, with each receiving subscription rights to the same percentage of capital stock,~~;~~ or in an amount that reflects a proportioned amount that is based on the amount of the eligible account holder's qualifying deposit relative to the total amount of qualifying deposits. The allocation of subscription rights to purchase shares of capital stock under this subsection shall not give the organization directors in the aggregate subscriptions equal to more than ~~20~~ 20%~~percent~~ of the total offering.

b) When a conversion plan is effected pursuant to Section 1075.2170, the total number of shares refers to that number of shares not sold to the acquiror or acquirors designated in the plan.

c) Allotment

1) If the allotment made in this Section results in an oversubscription, the plan of conversion may provide that shares be allocated first to organization directors, officers and employees who have been account holders for the entire 5 years before the conversion. However, the Director~~Commissioner~~ may waive the 5~~five~~ year requirement for an individual upon a written finding that the individual who has not been a 5~~five~~ year account holder participated in and greatly contributed to rehabilitating the savings bank or that the waiver is necessary to maintain the savings bank's independent ownership. Any shares not allocated to the~~such~~ organization directors, officers and employees shall be allocated among other subscribing eligible account holders on an~~such~~ equitable basis, related to the amounts of their qualifying deposits, as may be provided in the plan of conversion.

2) For the purposes of shares allocated pursuant to subsection (c)(1)~~the immediately preceding sentence~~, organization directors may be allocated additional shares in the same manner as other eligible account holders.

d) If the allotment in this Section results in an undersubscription, the plan of conversion may provide that the directors, officers and employees of the savings bank who are eligible account holders receive, without payment, nontransferable subscription rights to purchase unallocated shares of capital stock. The subscription rights shall be allocated among organization directors, officers and employees on an equitable basis such as by giving weight to period of service, compensation, or position.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1840 Stock Purchase Subscription Rights – Received by Officers, Organization Directors, and their Associates – Subordination

Nontransferable subscription rights to purchase capital stock received by officers and organization directors and affiliated persons of the converting savings bank based on their increased deposits in the converting savings bank in the one-year period preceding the eligibility

record date shall be subordinated to all other subscriptions involving the exercise of nontransferable subscription rights to purchase shares pursuant to Section 1075.1835.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1845 Supplemental Share Purchase Subscription Rights – Supplemental Eligible Account Holder – Conditions

a) In plans with an eligibility record date that is more than 15 months before the date of the latest amendment to the application for conversion filed before the Director's ~~Commissioner's~~ approval, a supplemental eligibility record date shall be determined in which~~whereby~~ each supplemental eligible account holder of the converting savings bank shall receive, without payment, nontransferable subscription rights to purchase shares in an amount ranging from .1%~~one-tenth of one percent~~ to 5%~~five percent~~ of the total offering, with each receiving subscription rights to the same percentage of capital stock, or in an amount that is based on a proportioned amount that is based on the amount of the eligible account holder's qualifying deposit relative to the total amount of qualifying deposits in the converting savings bank on the supplemental eligibility record date. When a conversion plan is effected pursuant to Section 1075.2170, the total number of shares refers to that number of shares not sold to the acquiror or acquirors designated in the plan.

b) Subscription rights received pursuant to this Section shall be subordinated to all rights received by eligible account holders to purchase shares pursuant to Sections 1075.1835 and 1075.1840.

c) Any nontransferable subscription rights to purchase shares received by an eligible account holder in accordance with Sections 1075.1835 and 1075.1840 shall be applied in partial satisfaction of the subscription rights to be distributed pursuant to this Section.

d) In the event of an oversubscription for supplemental shares pursuant to this Section, shares shall be allocated among the subscribing supplemental eligible account holders on such equitable basis, related to the amounts of their respective qualifying deposits, as may be provided in the plan of conversion.

e) An organization ~~A~~ director or officer of the converting savings bank shall be entitled to subscription rights as a supplemental eligible account holder only if:

1) the~~such~~ person is not also an eligible account holder entitled to subscription rights under Section 1075.1835; and

2) the~~such~~ person became a director or officer of the converting savings bank after the eligibility record date established under Section 1075.1875.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1855 Sale of Shares Not Sold in Subscription Offering – Methods – Conditions

Any shares of the converting savings bank not sold in the subscription offering shall either be sold in a public offering through an underwriter or directly by the converting savings bank in a direct community marketing, subject to the applicant demonstrating to the Director~~Commissioner~~ the feasibility of the method of sale and to such conditions as may be provided in the plan of conversion. The conditions shall include, but not be limited to, the following.

a) A condition that any direct community offering by the converting savings bank shall give a preference to natural persons residing in the counties in which the savings bank has an office. The methods by which preference shall be given shall be approved by the Director~~Commissioner~~.

b) A condition requiring the stock to be offered and sold in the public offering or the direct community offering, to be offered and sold in a manner that will achieve the widest distribution of the stock.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1860 Uniform Sales Price of Shares Required – Application to Specify Arrangements on Sale of Shares Not Sold in Subscription Offering

a) The sales price of the shares of capital stock to be sold in the conversion shall be a uniform price determined in accordance with Sections 1075.2055, 1075.2070, and 1075.2090. The applicant shall specify in its conversion application the underwriting and other marketing arrangements to be made to assure the sale of all shares not sold in the subscription offering.

b) In a conversion of a mutual savings bank that is in the process of acquisition by a depository institution holding company or in the process of merger or

consolidation with a depository institution, the pricing requirements of subsection (a) ~~above~~ may be waived by the Director~~Commissioner~~ with respect to sales of shares of capital stock during the subscription offering to persons entitled to subscription rights under Sections 1075.1835, 1075.1845, 1075,1850, 1075.1910 and 1075.1925(b) and (c)~~ of this Subpart~~. Waiver shall be granted only upon a written finding by the Director~~Commissioner~~ that the provision is not inequitable to members and would not injure the converting savings bank and, in the case of a waiver for sales to employee stock benefit plans or management recognition plans under Section 1075.1910, only if employees of the converting savings bank are, or upon consummation of the acquisition, merger or consolidation, will be, eligible to participate in those plans~~therein~~. The finding of the Director~~Commissioner~~ shall include grounds as to why the provision is not inequitable or injurious.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1865 Savings Account Holder to Receive Withdrawable Savings Accounts~~Account(s)~~ – Amount

Each deposit account holder of the converting savings bank shall receive, without payment, a deposit account or accounts in the converted savings bank equal in amount, rate of return and general terms, to the withdrawable account holder's deposit account or accounts in the pre-conversion mutual savings bank.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1885 Amendment and Termination of Plan of Conversion

The plan of conversion adopted by the applicant's board of directors may be amended or withdrawn by the board of directors at any time before final approval of the Director~~Commissioner~~ and solicitation of proxies from the applicant's members to vote on the plan, provided that no such amendment or withdrawal shall be effective unless the Director~~Commissioner~~ is notified of the amendment or withdrawal and the Director~~Commissioner~~ acknowledges receipt of notification. The plan of conversion adopted by the applicant's board of directors may be amended or withdrawn by the board of directors after final approval of the Director~~Commissioner~~ and solicitation of proxies from the applicant's members to vote on the plan only with the approval of the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1075.1890 Restriction on Sale of Shares of Stock by Organization Directors and Officers

a) All shares of capital stock purchased by organization directors on original issue in the conversion either directly from the savings bank (by subscription or otherwise) or from an underwriter of the shares shall be subject to the restriction that the shares shall not be sold for a period ranging from one year to 5~~five~~ years following the date of purchase, except in the event of death of the organization director. Within the one-to-5~~five~~ year range, the length of the restriction shall be determined by the savings bank.

b) Notwithstanding the sales restriction of subsection (a)~~ above~~, after an organization ~~a~~ director has owned such capital stock purchased on original issuance for a period of not less than one year from the date of purchase, an ~~a~~ organization director may request the Director's ~~Commissioner's~~ permission to sell the stock. The Director ~~Commissioner~~ may grant permission to sell the stock upon a written finding that:

1) the sale would substantially contribute to averting otherwise unavoidable injury to the savings bank; or

2) due to a change in the organization director's financial or personal circumstances that was unforeseen at the time of purchase of the stock, disallowing the sale would result in substantial, imminent and otherwise unavoidable hardship.

c) All shares of capital stock purchased by officers on original issue in the conversion either directly from the savings bank (by subscription or otherwise) or from an underwriter of the shares shall be subject to the restriction that the shares shall not be sold for a period of not less than one year following the date of purchase, except in the event of death of the officer.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1900 Registration of Securities – Marketing of Securities – Listing of Shares on Securities Exchange or NASDAQ Quotation System

A converted savings bank or savings bank holding company shall:

a) promptly register securities issued in its conversion pursuant to the Securities and

Exchange Act of 1934 (15 USC ~~U.S.C.~~ 78a et seq.) and undertake not to deregister the securities for a period of 3~~three~~ years thereafter;

b) use its best efforts to encourage and assist a market maker to establish and maintain a market for the securities issued in connection with the conversion; and

c) use its best efforts to list those shares issued in connection with the conversion on a national or regional securities exchange or on the National Association of Securities Dealers Automated Quotations (~~"~~NASDAQ~~"~~) system.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1910 Employee Stock Benefit Plan – Priority.

a) Employee stock benefit plans in the aggregate have priority to purchase up to 15 percent of the total offering of shares of capital stock before eligible and supplemental eligible account holders and voting members who have subscription rights.

b) In addition to the subscription rights of employee stock benefit plans under subsection (a)~~ above~~, management recognition plans and benefit income plans in the aggregate have priority to purchase up to 5%~~ percent~~ of the total offering of shares of capital stock before eligible and supplemental eligible account holders and voting members who have subscription rights.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1915 Employee Stock Benefit Plan – Contributions

Scheduled discretionary contributions to an ~~a~~ employee stock benefit plan may be made if the contributions do not cause the savings bank to fail to meet capital requirements established by the Director~~Commissioner~~ or by federal law.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1920 Plan of Conversion – Prohibited Provisions

a) The plan of conversion shall contain no provision that~~which~~ the Director~~Commissioner~~ determines to be inequitable or detrimental to the applicant, its account holders, or other savings banks or to be contrary to the

public interest.

b) Except for loans to eligible account holders and supplemental eligible account holders that are fully secured by certificates of deposit with the converting savings bank of the~~such~~ account holders, the plan of conversion shall contain no provision that~~which~~ permits or requires the applicant to extend credit of any kind in any way or to distribute assets of any kind in any way to any person or entity to purchase the applicant's capital stock before or during the conversion.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1925 Optional Provisions in Plan of Conversion

The plan of conversion may provide any or all the following:

a) That the converting savings bank may begin the direct community offering or the public offering, or both, concurrently with or at any time during the subscription offering. The subscription offering may begin concurrently with or at any time after the mailing to savings bank members, pursuant to Section 1075.2040(b), of the proxy statement authorized for use by the Director~~Commissioner~~. The subscription offering may be closed before the meeting of the savings bank members held to vote on the plan of conversion only if the offer and the sale of the capital stock shall be conditioned upon the approval of the plan of conversion by the savings bank members as provided in Section 1075.2040.

b) That the directors, officers and employees of the converting savings bank shall receive, without payment, non-transferable subscription rights to purchase shares of capital stock that are available after satisfying the subscriptions provided for under Sections 1075.1835, 1075.1845, 1075.1855 and 1075.1910, subject to such conditions as may be provided in the plan of conversion. In the event of an oversubscription by organization directors, officers and employees, the shares available shall be allocated among the subscribing organization directors, officers and employees on an equitable basis, such as by giving weight to period of service, compensation or position.

c) That any account holder receiving rights to purchase stock in the subscription offering shall also receive, without payment, non-transferable subscription rights to purchase up to 1%~~one percent~~ of the total offering of shares of capital stock, to the extent that the~~such~~ shares are available after satisfying the subscriptions provided for under subsection (b) ~~above~~ and Sections 1075.1835, 1075.1845,

1075.1850 and 1075.1910, subject to such conditions as may be provided in the plan of conversion. In the event of an oversubscription~~over-subscription~~ for ~~such~~ additional shares, the shares available shall be allocated among the subscribing eligible account holders, supplemental eligible account holders and voting members on an~~such~~ equitable basis, related to the amounts of their respective subscriptions, as may be provided in the plan of conversion.

d) That the converting savings bank may require savings bank members to return by a reasonable date certain a postage-paid written communication provided by the converting savings bank requesting receipt of a subscription offering circular, or a preliminary or final offering circular in an offering pursuant to subsection (h) ~~below~~, in order to be entitled to receive an offering circular from the converting savings bank. The subscription offering or the offering pursuant to subsection (h) ~~below~~ shall not be closed until the expiration of 30 days after the mailing by the converting savings bank to bank members of the postage-paid written communication. If the subscription offering or the offering pursuant to subsection (h) ~~below~~ is not started within 45 days after the meeting of savings bank members, the converting savings bank that has adopted this optional provision shall transmit no more than 30 days before the start of the subscription offering or the offering pursuant to subsection (h) ~~below~~ to each savings bank member who has been furnished with proxy soliciting materials, written notice of the start of the offering, which notice shall state that the converting savings bank is not required to furnish an offering circular to a savings bank member unless the savings bank member returns by a reasonable date certain the postage-paid written communication provided by the converting savings bank requesting receipt of an offering circular.

e) That the converting savings bank may require eligible account holders and supplemental eligible account holders who are not voting members to return by a reasonable date certain a postage-paid written communication provided by the converting savings bank requesting the receipt of a subscription offering circular, or a preliminary or final offering circular in an offering pursuant to subsection (i) ~~below~~, in order to be entitled to receive an offering circular from the converting savings bank. The subscription offering or the offering pursuant to subsection (i) ~~below~~ shall not be closed until the expiration of 30 days after the mailing by the converting savings bank to the non-voting eligible account holders and supplemental eligible account holders of the postage-paid written communication. If the subscription offering or the offering pursuant to subsection (i) ~~below~~ is not started within 45 days after the meeting of savings bank members, the converting savings bank that has adopted this optional provision shall transmit no more than

30 days before the start of the subscription offering or the offering pursuant to subsection (i) ~~below~~ written notice of the start of the offering, which notice shall state that the converting savings bank is not required to furnish an offering circular to a non-voting eligible account holder or supplemental eligible account holder unless the eligible account holder or supplemental eligible account holder returns by a reasonable date certain the postage-paid~~post-paid~~ written communications provided by the converting savings bank requesting receipt of an offering circular.

f) That any shares of the converting savings bank not sold in the subscription offering or in a public offering referred to in Section 1075.1855 may be sold in another~~such other~~ manner ~~as~~ provided in the plan with the Director's ~~Commissioner's~~ approval.

g) That the converted savings bank shall issue and sell, instead of shares of its capital stock, units of securities consisting of capital stock and warrants or other equity securities, in which event any reference in this Subpart to capital stock shall apply to the~~such~~ units of equity securities unless the context otherwise requires.

h) That, instead of a separate subscription offering, all subscription rights issued in connection with the conversion shall be exercisable by delivery of properly completed and executed order form to the underwriters or selling group for the public offering or pursuant to any other procedure, subject to the applicant demonstrating to the Director~~Commissioner~~ the feasibility of the method of exercising those~~such~~ rights and to ~~such~~ conditions ~~as shall be~~ provided in the plan of conversion. The~~Such~~ conditions shall include, but not be limited to, ~~a condition~~ requiring that orders for stock in the public offering or direct community offering shall first be filled, in the order of priority set forth in this Subpart by orders of persons exercising subscription rights.

i) Any person exercising subscription rights to purchase capital stock may be required to purchase a minimum number of shares to the extent the shares are available, but the aggregate price for any minimum share purchase requirement shall not exceed $500~~five hundred dollars~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1930 Approval of Other Provisions

The Director~~Commissioner~~ may approve other provisions upon a written finding that the provision is not inequitable to members and will not injure the converting savings bank. The written findings shall include grounds as to why the provision is not inequitable or injurious.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1965 Converted Savings Bank Prohibited from Repurchasing its Stock Without Approval

A converted savings bank shall not, for a period of one year from the date of the completion of the conversion, repurchase any of its capital stock, except that capital stock repurchases of no greater than 5% of the capital stock issued in the conversion may be repurchased during this one-year period if the Director~~Commissioner~~ finds that:

a) the repurchase would not adversely affect the financial condition of the savings bank;

b) the repurchase would not reduce the savings bank's capital below requirements established by the Director~~Commissioner~~ or federal law;

c) the repurchase would be equitable to shareholders;

d) the repurchase would be undertaken for legitimate business reason; and

e) the information submitted by the savings bank is sufficient upon which to base the findings required by this Section.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1970 Limitation on Cash Dividends

No converted savings bank may declare or pay a cash dividend on, or repurchase any of, its capital stock unless the declaration or payment repurchase dividend or repurchase would be in accordance with the requirements of Section 5001(c) of the Act and would not reduce the capital of the converted savings bank below the greatest of:

a) the amount required for the liquidation account;

b) the amount required by the Director~~Commissioner~~; or

c) the amount required by federal law.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1975 Dividends on Preferred Stock

A converted mutual savings bank may pay dividends on preferred stock at the rate or rates agreed in connection with the issuance of preferred stock, if such issuance has been approved by the Director~~Commissioner~~. However, the Director ~~Commissioner~~ shall approve no issuance or payment that would reduce the capital of the converted savings bank below the greatest of:

a) the amount required for the liquidation account,

b) the amount required by the Director~~Commissioner~~, or

c) the amount required by federal law.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1980 Prohibitions on Offer, Sale, or Purchase of Securities

a) In the offer, sale, or purchase of securities issued incident to its conversion, no savings bank or any organization director, officer, attorney, agent, or employee thereof may:

1) employ any device, scheme or artifice to defraud;

2) obtain money or property by any untrue statement of a material fact or any omission to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; or

3) engage in any act, transaction, practice, or course of business that~~which~~ operates or would operate as a fraud or deceit upon a purchaser or seller.

b) In addition, any act that the U.S. Securities Exchange Commission finds violates section~~Section~~ 10 of the Securities Exchange Act of 1934 (15 USC~~U.S.C.~~ 78j) or Rule 10b-5, as promulgated by the U.S. Securities Exchange Act of 1934 (17 CFR 240.10b-5) shall be considered a violation of this Section. A violation found by the Securities Exchange Commission includes, regardless of pending of appeal,

any violation found by the Commission, any violation admitted within a plea agreement or in a plea of nolo contendere, any violation proved or admitted with respect to an unindicted co-conspirator, any conviction for violation of the Securities Exchange Act of 1934 (15 USC ~~U.S.C.~~ 78j) or Rule (17 CFR 240.10b-5), as promulgated by the U.S. Securities Exchange Commission, and any violation found by any body of competent jurisdiction of the Securities Exchange Act of 1934 (15 USC ~~U.S.C.~~ 78); or Rule (17 CFR 240.10b-5), as promulgated by the U.S. Securities Exchange Commission.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1990 Articles of Incorporation – Restrictions Permitted

a) A converting savings bank's articles of incorporation may include the following provision:

1) Certain Provisions Applicable for 5~~Five~~ Years. Notwithstanding anything contained in the savings bank's charter article, articles of incorporation, or bylaws to the contrary, for a period of (~~[~~specify number of years up to 5)~~five]~~ years from the date of completion of the conversion of the savings~~Savings~~ bank from mutual to stock form, the following provisions shall apply:

A) Beneficial Ownership Limitation. Except for sales of stock required by the federal insurer of accounts or the Director ~~Commissioner of Banks and Real Estate~~, no person shall directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10%~~percent~~ of any class of an equity security of the savings bank. This limitation shall not apply to a transaction in which the savings bank forms a holding company without change in the respective beneficial ownership interests of its stockholders other than pursuant to the exercise of any dissenter and appraisal rights, the purchase of shares by underwriters in connection with a public offering, or the purchase of shares by a employee stock benefit plan. In the event shares are acquired in violation of this Section, all shares beneficially owned by any person in excess of 10% shall be considered "excess shares" and shall not be counted as shares entitled to vote and shall not be voted by any person or counted as voting shares in connection with any matters submitted to the stockholders for a vote. For purposes of this provision, the

following definitions apply: the term "person" includes an individual, a group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization or similar company, a syndicate or any other group formed to acquire, hold or dispose of the equity securities of the savings bank; the term "offer" includes every offer to buy or otherwise acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of, a security or interest in a security for value; the term "acquire" includes every type of acquisition, whether effected by purchase, exchange, operation of law or otherwise; and the term "acting in concert" means knowing participation in a joint activity or conscious parallel action towards a common goal whether pursuant to an express agreement, or a combination or pooling of voting or other interests in the securities of an issuer for a common purpose pursuant to any contract, understanding, relationship, agreement or other arrangements, whether written or otherwise.

B) Cumulative Voting Limitation. Stockholders shall not be permitted to cumulate their votes for election of organization directors.

C) Call for Special Meetings. Special meetings of stockholders relating to changes in control of the association or amendments to its charter shall be called only upon direction of the board of directors.

2) If the savings bank chooses to include the provisions allowed pursuant to this subsection (a), the language in subsection (a)(1) ~~above~~ constitutes the exact language that shall be used in the savings bank's articles of incorporation, except that in the subsection (a)(1) ~~above~~, a number of years, up to 5 years, shall be substituted for the language, "(~~[~~specify number of years up to 5)~~five]~~".

b) There may also be included in the articles of incorporation any provision that could be approved as an amendment pursuant to Section 1075.1710. Such provisions must be approved by the Director~~Commissioner~~. Application for such approval must include independent counsel's opinion that the proposed provision would be permitted to be adopted in a corporation chartered by Illinois pursuant to the Business Corporation Act of 1983.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.1995 Confidentiality of Consideration to Convert – Remedial Measures for Breach

A savings bank that~~which~~ is considering converting pursuant to this Subpart and its organization directors, officers, and employees shall keep this consideration in the strictest confidence and shall only discuss the potential conversion as would be consistent with the need to prepare information for filing an application for conversion. Should this confidence be breached, the Director~~Commissioner~~ may require remedial measures including:

a) a public statement by the savings bank that its board of directors is currently considering converting pursuant to this Subpart;

b) providing for an eligibility record date that~~which~~ shall be ~~as of such~~ a date before the adoption of the plan by the converting savings bank's board of directors as to assure that the conversion is equitable;

c) limitation of the subscription rights of any person violating or aiding the violation of this Section; and

d) any other actions the Director ~~Commissioner~~ may consider appropriate and necessary to assure the fairness and equitability of the conversion.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2005 Adoption of Plan of Conversion – Notice to and Inspection by Account Holders – Statement and Letter – Press Release Authorized

a) Promptly after the adoption of a plan of conversion by not less than two-thirds of its board of directors, the savings bank shall:

1) Notify, its account holders of the action by publishing a statement in a newspaper having general circulation in each community in which an office of the savings bank is located or by mailing a letter to each of its account holders; and

2) Have copies of the adopted plan of conversion available for inspection by its account holders at each office of the savings bank.

b) The savings bank may also issue a press release with respect to the action. Copies of the proposed statement, letter, and press release are not required to be filed with the Director ~~Commissioner~~ but may be submitted to the Director~~Commissioner~~ for comment. Copies of the definitive statement, letter, and press release shall be filed with the Director~~Commissioner~~ as part of the application for conversion.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2010 Statement, Letter and Press Release – Content Permitted

The statement, letter, and press release of the applicant issued pursuant to Section 1075.2005, unless otherwise authorized by the Director~~Commissioner~~, shall contain only (but need not contain all of) the following:

a) A statement that the board of directors has adopted a plan to convert the savings bank from a mutual savings bank to a capital stock savings bank;

b) A statement that the plan of conversion is subject to approval by the Director~~Commissioner~~ and by the appropriate federal regulatory authority or authorities (naming such an authority or authorities) before the plan can become effective and that account holders of the applicant will have an opportunity to file written comments including objections and materials supporting the objections with the Director~~Commissioner~~;

c) A statement that the plan of conversion is contingent upon obtaining favorable tax rulings from the Internal Revenue Service or an appropriate tax opinion;

d) A statement that there is no assurance that the approval of the Director~~Commissioner~~ or the approval of any appropriate federal authority or authorities will be obtained, and also no assurance that the favorable tax rulings or tax opinion will be received;

e) The proposed record date for determining the eligible account holders entitled to receive nontransferable subscription rights to purchase capital stock of the applicant;

f) A brief statement describing the circumstances that would require supplemental eligible account holders to receive nontransferable subscription rights to purchase capital stock of the applicant;

g) A brief description of the plan of conversion;

h) The par value and approximate number of shares of capital stock to be issued and sold under the plan of conversion;

i) A brief statement as to the extent to which organization directors, officers, and employees will participate in the conversion;

j) A statement that savings account holders will continue to hold accounts in the converted savings bank identical as to dollar amount, rate of return, and general terms and that their accounts will continue to be insured by the Federal Deposit Insurance Corporation;

k) A statement that borrowers' loans will be unaffected by conversion and that the amount, rate, maturity, security, and other conditions will remain contractually fixed as they existed before conversion;

l) A statement that the normal business of the savings bank in accepting savings and making loans will continue without interruption; that the converted savings bank will continue after conversion to conduct its present services to savings account holders and borrowers under current policies to be carried on in existing offices and by the present management and staff;

m) A statement that the plan of conversion may be substantively amended or ended by the board of directors with the concurrence of the Director~~Commissioner~~; and

n) A statement that questions of account holders may be answered by telephoning or writing to the savings bank.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2020 Notices of Filing of Application – Requests for Subscription Offering Circular

a) Upon determination that an application for conversion is properly executed and is not materially incomplete, the Director~~Commissioner~~ shall advise the applicant, in writing, to publish notices of the filing of the application. Promptly after receipt of the advice, the applicant shall prominently post the notice in each of its offices and publish a notice of the filing in a newspaper printed in the English

language and having general circulation in each community in which an office of the applicant is located.

b) The first notice shall be entitled: "Notice of Filing of an Application for Approval to Convert to a Stock Savings Bank".

c) The first paragraph under the title shall read as follows:

"Notice is hereby given that, pursuant to 38 Ill. Adm. Code 1075.2020, (fill in name of applicant), has filed an application with the Director of Banking~~Commissioner of Banks and Real Estate~~ for approval to convert to the stock form of organization. Copies of the application have been delivered to the Division of Banking~~Office of Banks and Real Estate~~ in Chicago and Springfield, Illinois."

d) The second paragraph under the title shall read as follows:

"Written comments, including objections to the plan of conversion and materials supporting the objections, from any account holder of the applicant or aggrieved person, will be considered by the Director~~Commissioner~~ if filed within 20~~twenty~~ business days after the date of this notice. Failure to make written comments in objection may preclude the pursuit of any administrative or judicial remedies. Three copies of the comments should be sent to the aforementioned. The proposed plan of conversion and any comments thereon will be available for inspection by any account holder of the applicant at the Division of Banking~~Office of Banks and Real Estate~~ in Chicago and Springfield, Illinois. A copy of the plan may also be inspected at each office of the applicant.

e) If a significant number of the applicant's account holders speak a language other than English and a newspaper in that language is published in the area served by the applicant, an appropriate translation of the notice shall also be published in that newspaper. A copy of the notice may be sent by mail to the converting savings bank's depositors with a statement that the converting institution will not mail a subscription offering circular to an eligible account holder or a supplemental eligible account holder unless the eligible account holder or the supplemental eligible account holder, before the beginning of the subscription offering, requests the subscription offering circular by returning a postcard. The issuer of stock in the conversion shall pay the postage of this postcard and shall

inform the eligible account holder or supplemental eligible holder that the postage is paid.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2025 Filing of Notice and Affidavit of Publication Required

Promptly after publication of the notices prescribed in Section 1075.2020 in this Part, the applicant shall file with the Director ~~Commissioner~~ the notice and affidavit of publication from each newspaper publisher in the manner the Director~~Commissioner~~ shall require.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2035 Solicitation of Proxies; Proxy Statements

a) Solicitations to which this Section applies – this Section applies to every solicitation of a proxy from a member of a savings bank for the meeting at which a plan of conversion will be voted upon, except the following:

1) any solicitation made otherwise than on behalf of the management of the savings bank where the total number of persons solicited is not more than 50;

2) any solicitation through the medium of a newspaper advertisement which informs members, following approval of the plan of conversion, of a source from which they may obtain copies of a proxy statement, form of proxy, or any other solicitation material and does no more than;

A) name the savings bank,

B) state the reason for the advertisement,

C) identify the proposal or proposals to be acted upon by members, and

D) urge members to vote at the meeting.

b) Use of Proxy Soliciting Material To Be Authorized – no proxy solicitation material required to be filed with the Director ~~Commissioner~~ before use shall be furnished to members or otherwise released for distribution until the use of

that~~such~~ material has been authorized in writing by the Director~~Commissioner~~. Proxy material authorized for use by the Director~~Commissioner~~ shall be mailed to the members within 10 days after~~of~~ such authorization unless extended by the Director~~Commissioner~~ in writing upon a showing that adherence to the 10~~ten~~ day rule would work a hardship upon the savings bank and that the delay, if approved, would not be disadvantageous to any interested party.

c) Information To Be Furnished Members – no solicitation shall be made unless each person solicited is concurrently furnished, or has previously been furnished, a written proxy statement the use of which has been authorized in writing by the Director~~Commissioner~~.

d) Requirements As To Proxy:

1) The form of proxy shall:

A) indicate in bold face type whether the proxy is solicited on behalf of management;~~:~~

B) provide specifically designated blank spaces for dating and signing the proxy;

C) identify clearly and impartially each matter or group of related matters intended to be acted upon;

D) be clearly labeled "Revocable Proxy" in bold face type of at least 18 point;

E) describe any charter or state law requirement restricting or conditioning voting by proxy;

F) contain an acknowledgement by the person giving the proxy that the person has received a proxy statement before signing the form of proxy;

G) contain the date, time, and place of meeting, if practicable;

H) provide, by a box or otherwise, a means whereby the person solicited is afforded an opportunity to specify by ballot a choice between approval or disapproval of each matter intended to be

acted upon; and

I) indicate in bold face type how the proxy shall be voted on each such matter if no choice is specified.

2) No proxy obtained pursuant to the conversion shall confer authority to vote at any meeting other than the meeting, or any adjournment of the meeting~~thereof~~, to vote on the plan of conversion. A proxy may be considered to confer authority to vote with respect to matters incident to the conduct of the~~such~~ meeting. If the plan of conversion is considered at an annual meeting, existing proxies may be voted with respect to matters not related to the plan of conversion or in accordance with subsection (d)(4)~~ below~~.

3) The proxy statement or form of proxy shall provide that the votes represented by the proxy will be voted. Where the person solicited specifies by a ballot provided pursuant to subsection (d)(1)(H) ~~above~~ a choice with respect to any matter to be acted upon, the votes will be voted in accordance with the specifications. If no choice is specified, the votes will be cast as indicated in bold face type on the form of proxy.

4) Notwithstanding any other provisions of this subsection, the proxy may be in a form previously obtained from a voting member and conferring general authority to vote on all matters at any meeting of the members or other authority to vote on matters to be presented at the special meeting if the voting member has been furnished a proxy statement conforming with Sections 1075.2300 through 1075.2460 and has been notified that a previously obtained proxy will be exercised if the voting member does not grant a later-dated proxy to vote at the meeting to consider the plan of conversion or attend the meeting and vote in person.

e) Material Required To Be Filed:

1) Applicants shall file a preliminary copy of the proxy materials required by Sections 1075.2300 through 1075.2460.

2) A preliminary copy of any additional solicitation material including press release and radio or television scripts, to be used or furnished to members subsequent to furnishing the proxy statement, shall be filed with the Director~~Commissioner~~ at least 5 business days before the date on which

the Director~~Commissioner~~ is requested to authorize the use of the~~such~~ material. Speeches may, but need not, be filed with the Commissioner before use.

3) A copy of the proxy statement and a copy of the form of proxy and all other solicitation material, in the form in which the~~such~~ material is furnished to members, shall be filed with or mailed for filing to the Director~~Commissioner~~ not later than the date the~~such~~ material is first sent or given to members. All materials filed pursuant to this subsection (e)(3) shall be with a statement of the date on which copies of the~~such~~ materials are to be released to members.

4) If the solicitation is to be made in whole or in part by personal solicitation, a preliminary copy of all written instructions or other material that~~which~~ discusses or reviews, or comments upon the merits of, any matter to be acted upon and that~~which~~ is to be furnished to the individuals making the actual solicitation for their use directly or indirectly in connection with the solicitation shall be filed with the Director~~Commissioner~~ at least 5 business days before the date on which the Director~~Commissioner~~ is requested to authorize the use of the~~such~~ material.

5) All preliminary copies of material filed pursuant to subsections (e)(1), (2), and (4) ~~above~~ shall be clearly marked on the cover page "Preliminary Copy~~.~~". The~~Such~~ preliminary copies shall be for the information of the Director~~Commissioner~~ only and shall not be available for public inspection except that the~~such~~ material may be disclosed to any department or agency of the United States, this State, or any other state~~,~~ that has concurrent jurisdiction over the applicant. The Director~~Commissioner~~ may make ~~such~~ inquiries or investigations~~investigation~~ in regard to the material as may be necessary for an adequate review.

6) Unless requested by the Director~~Commissioner~~, copies of replies to inquiries from members and copies of communications that~~which~~ do no more than request that forms of proxy previously~~theretofore~~ solicited be signed and returned need not be filed pursuant to this subsection (e).

7) When~~Where~~ any proxy statement, form of proxy or other material filed pursuant to this subsection (e) is amended or revised, a copy of the~~such~~ amended or revised material filed with the Director~~Commissioner~~ shall be

marked to indicate clearly and precisely the changes effected subsequent to the previous filing.

f) Mailing Communications for~~For~~ Member – If~~if~~ the applicant has adopted a plan of conversion, the applicant shall perform such of the following acts as may be duly requested in writing with respect to a matter to be considered at the meeting to vote on the plan of conversion by any member who will defray the reasonable expenses to be incurred by the applicant in the performance of the act or acts requested:

1) The applicant shall mail or otherwise furnish to the~~such~~ member the following information as promptly as practicable after the receipt of the~~such~~ request:

A) a statement of the approximate number of members who have been or are to be solicited on behalf of management, or any group of members ~~which~~ the member shall designate;

B) an estimate of the cost of mailing a specified proxy statement, form of proxy, or the communication to the~~such~~ members.

2) Copies of any proxy statement, form of proxy, or other communication furnished by the member and as approved by the Director~~Commissioner~~ shall be mailed by the applicant to any~~such~~ of the members specified in subsection (f)(1)(A) ~~above~~ as the member may designate.

3) Any ~~such~~ material that~~which~~ is furnished by the member shall be mailed with reasonable promptness by the applicant after receipt of the material to be mailed, including envelopes or other containers, and the appropriate postage or payment for postage.

4) Neither management nor the applicant shall be responsible for the~~such~~ proxy statement, form of proxy, or other communication.

g) False and~~And~~ Misleading Statements:

1) No solicitation of a proxy by the applicant, its management, or any other person for the meeting to vote on the plan of conversion shall be made by any proxy statement, form of proxy, notice of meeting, or other communication, written or oral, containing any statement that~~which~~, at the

time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or that~~which~~ omits any material fact necessary in order to make the statements in the communication~~therein~~ not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the meeting that~~which~~ has become false or misleading.

2) The fact that a proxy statement, form of proxy, or other solicitation material has been filed with or examined by the Director~~Commissioner~~ and authorized for use shall not be considered a finding by the Director ~~Commissioner~~ that the~~such~~ material is accurate or complete or not false or misleading, or that the Director ~~Commissioner~~ has passed upon the merits of or approved any proposal contained in the material~~therein~~. No representation to the contrary shall be made by any person.

3) If a solicitation by management violates any provision of this Section, the Director~~Commissioner~~ may require remedial measures including:

A) correction of any ~~such~~ violation by a retraction and new solicitation;~~,~~

B) rescheduling of the meeting for a vote on the plan of conversion;~~,~~ and

C) any other actions the Director~~Commissioner~~ finds appropriate under the circumstances in order to ensure a fair vote.

h) Prohibition of~~Of~~ Certain Solicitations – No~~no~~ person soliciting a proxy from a member for the meeting to vote on the plan of conversion shall solicit:

1) any undated or post-dated proxy; or

2) any proxy that~~which~~ provides that it shall be dated as of any date subsequent to the date on which it is signed by the members; or

3) any proxy that~~which~~ is not revocable at will by the member giving it; or

4) any proxy that~~which~~ is part of any other document or instrument, such as an account card.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2040 Vote by Members

a) Following approval of the plan of conversion by the Director~~Commissioner~~, the plan of conversion shall be submitted for consideration to an annual or special meeting of members.

b) Notice of the meeting to consider a plan of conversion shall be given by the proxy statement authorized for use by the Director~~Commissioner~~. For the purposes of this subsection (b), the proxy statement may be in summary form, provided:

1) A statement is made in bold-face type on the notice to members required under this subsection (b) that a more detailed description of the proposed transaction may be obtained by returning an attached postage-paid postcard or other written communication requesting a supplemental information statement that~~which~~, together with the summary proxy statement, complies with the requirements of this Subpart;

2) The last date on which the summary proxy statement is mailed to members will be considered the date on which notice is given for the purposes of this subsection (b). Without prior approval by the Director~~Commissioner~~, the special meeting of members shall not be held fewer than 20 days after the last date on which the supplemental information statement is mailed to requesting members;

3) The supplemental information statement required to be furnished to members may be combined with any form prescribed under Sections 1075.2500 through 1075.2580, if the subscription offering is started concurrently with or during the proxy solicitation period pursuant to Section 1075.1925(a);

4) The summary proxy statement shall be prepared in accordance with the following requirements:

A) All the requirements of Sections 1075.2300 through 1075.2460, except:

i) Section 1075.2360;

ii) Section 1075.2370(c) through (m) and (o);

iii) Section 1075.2440; and

iv) Section 1075.2450(b).

B) The disclosure requirements of Sections 1075.2380(j), 1075.2390 and 1075.2430 may be prepared in summary form.

C) The disclosure requirements of Section 1075.2350 may be met through disclosure of the names, ages, and present occupations of all organization directors and executive officers.

D) The plan of conversion shall not be required to be attached to the summary proxy statement under Section 1075.2460.

c) The plan of conversion shall be approved by a vote of at least a majority of the total outstanding votes.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2045 Offers and Sales of Securities – Prohibitions

No offer to sell securities of an applicant pursuant to a plan of conversion may be made before approval by the Director~~Commissioner~~ of the application for conversion and before any approval necessary to maintain federal deposit insurance. No sale of these securities in the subscription offering may be made except by the final offering circular for the subscription offering. No sale of unsubscribed securities may be made except by the final offering circular for the public offering or direct community marketing. The offering of shares in the direct community marketing may begin during the subscription offering upon the declaration of effectiveness by the Director~~Commissioner~~ of the offering circular proposed for the community offering. This Section shall not apply to preliminary negotiations or agreements between an applicant and any underwriter or among underwriters who are to be in privity of contract with the applicant.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2050 Distribution of Offering Circulars Authorized

Any preliminary offering circular for the subscription offering, the public offering, or the direct community marketing which has been filed with the Director ~~Commissioner~~ may be distributed

to eligible account holders or supplemental eligible account holders and to others in connection with the offering after the Director ~~Commissioner~~ has advised the applicant in writing that the application is properly executed and is not materially incomplete under Section 1075.2020. No final offering circular may be distributed until the offering circular has been declared effective by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2060 Review of Price Information by the Director~~Commissioner~~

The Director~~Commissioner~~ shall review the price information required under Section 1075.2055 in determining whether to give approval to an application for conversion. No representations may be made in any manner that the price information has been approved by the Director~~Commissioner~~ or that the shares of capital stock sold pursuant to the plan of conversion have been approved or disapproved by the Director ~~Commissioner~~ or that the Director ~~Commissioner~~ has passed upon the accuracy or adequacy of an offering circular covering the shares.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2065 Underwriting Commission

Underwriting commissions shall not exceed an amount or percentage per share accepted as reasonable by the Director~~Commissioner~~. No underwriting commission may be allowed or paid with respect to shares of capital stock sold in the subscription offering; however, an underwriter may be reimbursed for accountable expenses in connection with the subscription offering. In the case in which no public offering occurs, an underwriter may be paid a consulting fee reasonable under the circumstances as the Director~~Commissioner~~ shall accept. The term "underwriting commissions" includes underwriting discounts.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2070 Consideration of Pricing Information by the Director ~~Commissioner~~ – Guidelines

In considering the pricing information required under Section 1075.2055, the Director ~~Commissioner~~ shall apply the following guidelines.

a) The materials shall be prepared by persons independent of the applicant, experienced and expert in the area of corporate appraisal, and acceptable to the

DirectorCommissioner.

b) The materials shall contain data which are sufficient to support the conclusions reached in the materialstherein.

c) The materials shall contain a complete and detailed description of the appraisal methodology employed.

d) To the extent that the appraisal is based on a capitalization of the pro forma income of the converted savings bank, the materials shall indicate the basis for determination of the income to be derived from the proceeds of the sale of stock and demonstrate the appropriateness of the earnings multiple used, including assumptions made as to future earnings growth. To the extent that the appraisal is based on comparison of the capital stock of the applicant with outstanding capital stock of existing stock savings banks or stock savings and loan associations, the materials shall demonstrate the appropriate comparability of the form and substance of the outstanding capital stock and of the existing stock savings banks and stock savings and loan associations in terms of such factors as size, market area, competitive conditions, profit history, and expected future earnings.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2075 Submission of Information by Applicant

a) In addition to the information required in Section 1075.2070, the applicant shall submit information demonstrating to the satisfaction of the DirectorCommissioner the independence and expertise of any person preparing materials under Section 1075.2070. However, a person will not be considered as lacking independence because the person will participate in effecting the sale of capital stock under the plan of conversion or will receive a fee from the applicant for services given in connection with the appraisal only if the person provides full and accurate disclosure of the fact of participation and receipt of fee to the DirectorCommissioner and in the offering circular. The DirectorCommissioner shall find no disclosure full and adequate unless the following information is clearly and prominently stated:

1) the extent to which the person is directly or indirectly involved in preparing material required by Section 1075.2070 and in effecting the sale of capital stock under the conversion plan; and

2) an itemized statement of fees received for preparing information required by Section 1075.2070 and for all other services given.

b) The Director~~Commissioner~~ may require additional disclosures where necessary to ensure the integrity and accuracy of the information presented pursuant to Section 1075.2070.

c) No information provided pursuant to Section 1075.2070 shall be approved by the Director~~Commissioner~~ unless the Director~~Commissioner~~ finds that full and adequate disclosure required by this Section has been made.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2080 Subscription Offering – Distribution of Order Forms for the Purchase of Shares

Promptly after the Director ~~Commissioner~~ has declared the offering circular for the subscription offering effective, the applicant shall distribute order forms for the purchase of shares of capital stock, in the subscription offering to all eligible account holders, supplemental eligible account holders (if applicable), and other persons who may subscribe for the shares under the plan of conversion.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2105 Time Period for Completion of Sale of all Shares of Capital Stock

The sale of all shares of capital stock of the converting savings bank to be made under the plan of conversion, including any sale in public offering or direct community marketing, shall be completed as promptly as possible and within 45~~forty-five~~ calendar days after the last date of the subscription period, unless extended by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2110 Continuity of Corporate Existence

Upon the filing of the articles of incorporation of a converted savings bank with the Director~~Commissioner~~ in accordance with Section 1075.2160, the corporate existence of the mutual savings bank converting to a stock savings bank pursuant to this Subpart shall not discontinue, but the converted savings bank shall be a continuation of the entity of the mutual savings bank so converted and shall have the same rights and obligations as it had before the

conversion.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2120 Additional Filing Requirements

An applicant whose plan of conversion has been approved by the Director~~Commissioner~~ shall fulfill the following requirements.

a) The applicant shall file with the Director~~Commissioner~~ promptly after the meeting of members called to consider the plan of conversion a certified copy of each resolution adopted at the~~such~~ meeting relating to the plan of conversion, together with the following statements:

1) The total number of votes eligible to be cast;

2) The total number of votes represented in person or by proxy at the meeting;

3) The total number of votes cast in favor of and against each ~~such~~ matter (the compilation of the votes cast at the meeting may be prepared for the savings bank by an independent public accountant, or by an independent transfer agent); and

4) The percentage of votes necessary to approve each ~~such~~ matter.

b) The applicant shall file with the Director~~Commissioner~~ promptly after the meeting of savings bank members called to consider the plan of conversion an opinion of counsel to the effect that:

1) The meeting of members was duly held in accordance with all requirements of applicable law and this Part~~regulation~~;

2) All requirements of State law applicable to the conversion have been complied with; and

3) If the savings bank has used proxies executed before the proxy solicitation required by Section 1075.2035, the authority conferred by the~~such~~ proxies includes authority to vote on the plan of conversion.

c) Each offering circular for the offering shall be prepared in compliance with this Subpart. The applicant shall file with the Director 5~~Commissioner five~~ copies of each preliminary offering circular and 10~~ten~~ copies of each final offering circular.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2125 Availability for Conferences in Advance of Filing of Application – Refusal of Prefiling Review

a) The Division ~~Office of Banks and Real Estate~~ shall be available for conferences with prospective applicants or their representatives in advance of filing an application to convert. These conferences may be held to discuss generally the problems confronting an applicant in effective conversion or to resolve specific problems of an unusual nature.

b) Prefiling review of an application may be refused by the staff of the Director~~Commissioner~~ if the review would delay the examination and processing of material that~~which~~ has already been filed or would favor certain applicants at the expense of others.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2130 Appeal from Refusal to Approve Application

From the Director's ~~Commissioner's~~ refusal to approve an application for conversion, the applicant may, within 30~~thirty~~ days after~~from~~ the date of the mailing by the Director ~~Commissioner~~ of notice of refusal to approve, appeal pursuant to Subpart I of this Part and the Illinois Administrative Procedure Act [5 ILCS 100]~~(5 ILCS 100/1-1 et seq.)~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2135 Postconversion Reports

The applicant shall file ~~such~~ postconversion reports concerning its conversion as the Director~~Commissioner~~ may require.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2150 Certain Offers and Acquisitions Prohibited

a) Except as required by the federal insurer of accounts or the Director~~Commissioner~~, for 3~~three~~ years following the date of the conversion, no person may directly or indirectly offer to acquire or acquire the beneficial ownership of more than 10%~~ten percent~~ of any class of an equity security of any savings bank converted in accordance with this Subpart without the prior written approval of the board of directors and of the Director~~Commissioner~~. Where any person, directly or indirectly, acquires beneficial ownership of more than 10%~~ten percent~~ of any class of any equity security of a savings bank converted in accordance with this Subpart, without prior written approval of the Director~~Commissioner~~ as required by this Section, the securities beneficially owned by such person in excess of 10%~~ten percent~~ shall not be counted as shares entitled to vote and shall not be voted by any person or counted as voting shares in connection with any matter submitted to the stockholders for a vote. For the purposes of this Section, a person shall be considered to have acquired beneficial ownership of more than 10%~~ten percent~~ of a class of equity security of a savings bank where the person holds any combination of stock or revocable or irrevocable proxies of the savings bank. In obtaining prior written approval of the Director~~Commissioner~~ under this Section, the criteria for approval under subsection (d) ~~below~~ may be addressed, if applicable, by the filing required by Section 1075.1700 of this Part~~these Rules~~. Notwithstanding the immediately preceding sentence, acquisitions under this Section require approval of both the board of directors of the converting savings bank and of the Director~~Commissioner~~.

b) A conversion shall be complete on the date all the converting savings bank's conversion stock was sold.

c) An acquisition of shares shall be presumed to have been made if the acquiror entered into a binding written agreement for the transfer of shares. An offer shall be considered made when communicated.

d) The Director~~Commissioner~~ shall not approve an application involving an offer for, an announcement ~~thereof~~, or an acquisition of any security of a converted savings bank if the Director~~Commissioner~~ finds that the offer frustrates the purposes of this Subpart, is manipulative or deceptive, subverts the fairness of the conversion, is likely to result in injury to the savings bank, is not consistent with the Act, is otherwise violative of law or regulation, or would not contribute to the prudent deployment of the savings bank's conversion proceeds.

e) Subsection (a) ~~above~~ shall not apply to any offer with a view toward public resale

made exclusively to the savings bank or to the underwriters or a selling group acting on its behalf.

f) Unless made applicable by the Director ~~Commissioner~~ by prior advice in writing, the restriction contained in subsection (a) ~~above~~ shall not apply to any offer or announcement of an offer which if consummated would result in the acquisition by a person, together with all other acquisitions by the person of the same class of securities during the preceding 12-month period, of not more than 1%~~one percent~~ of the class of securities.

g) Subsection (a) ~~above~~ shall not apply to the acquisition of securities of a savings bank or holding company of a savings bank~~thereof~~ by any one or more employee stock benefit plans of such savings bank or holding company if the plan or plans do not have beneficial ownership in the aggregate of more than ~~twenty-five percent (~~25%~~)~~ of any class of equity security of the converted savings bank or holding company.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2155 Definitions – Certain Transfers, Offers and Acquisitions Prohibited

For Sections 1075.2140, 1075.2145 and 1075.2150, the following definitions apply:

a) The term "person" includes an individual, a group acting in concert, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization or similar company, a syndicate or any other group formed to acquire, hold or dispose of securities of a savings bank.

b) The term "offer" includes every offer to buy or acquire, solicitation of an offer to sell, tender offer for, or request or invitation for tenders of, a security or interest in a security for value except that the term "offer" shall not include:

1) Inquiries directed solely to the management of a savings bank and not intended to be communicated to stockholders, designed to elicit an indication of management's receptivity to the basic structure of a potential acquisition with respect to the amount of securities, manner of acquisition and formula for determining price, or

2) Non-binding expressions of understanding or letters of intent with the management of a savings bank regarding the basic structure of a potential

acquisition with respect to the amount of securities, manner of acquisition, and formula for determining price.

c) The term "acquire" includes every type of acquisition, whether effected by purchase, exchange, operation of law or otherwise.

d) The term "security" includes nontransferable subscription rights issued pursuant to a plan of conversion as well as a "security" as defined in the Securities Exchange Act of 1934 (15 USC ~~U.S.C.~~ 78c(a)(10)).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2160 Amendments to Charter Required in Application – Articles of Incorporation – Filing of Certificate Required – Contents – Issuance and Filing of Authorization Certificate

a) An application for conversion under this Subpart shall include amendments to the articles of incorporation of the converting savings bank.

b) When all the stock of a converting savings bank has been subscribed for in accordance with the plan and any amendments to the plan~~thereto~~, the board of directors shall ~~there upon~~ issue the stock and shall cause to be filed with the Director~~Commissioner~~, in triplicate, a certificate subscribed and acknowledged by the persons who are to be directors of the converted savings bank, stating:

1) That all the stock of the converted savings bank has been issued;

2) That the attached articles of incorporation have been executed by all the persons who are to be directors of the converted savings bank;

3) The place where the bank is to be located and its business transacted, naming the city, or town and county, which city or town shall be the same as that where the principal place of business of the predecessor mutual savings bank has been located;

4) The name, occupation, residence, and post office address of each signer of the certificate;

5) The amount of the assets of the predecessor mutual savings bank, the amount of its liabilities and undivided profits as of the first day of the

current calendar month; and

6) A declaration that each signer will accept the responsibilities and faithful discharge the duties of a director of the converted savings bank and is free from all the disqualifications specified in the laws applicable to converted savings banks.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 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 Organization Directors and Officers

a) In a conversion of a mutual savings bank that is in the process of acquisition by a depository institution holding company, or in the process of merger or consolidation with another depository institution, the restrictions imposed by Section 1075.1890 on resale of stock apply to shares of the holding company purchased on original issue by any director or officer of the converting savings bank that is in the process of acquisition, merger, or consolidation, and the restrictions imposed by this Subpart apply to the ownership of capital stock in the depository institution holding company or other depository institution with the same force and effect as they would apply to the ownership of capital stock of the unconverted mutual savings bank, if shares of this savings bank were offered to depositors or the public pursuant to this Subpart.

b) The tender of shares by directors and officers of a converted savings bank in exchange for shares of another converted savings bank, or for shares of a holding company, do not constitute a sale for purposes of Section 1075.1890. However, the shares received in such an exchange shall not be sold for a period of one year following the date of such purchase on original issue, except that the Director ~~Commissioner~~ may waive this restriction upon a finding that allowing a sale would substantially contribute to averting otherwise unavoidable injury to a savings bank.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2170 Sale of Control in Connection with the Conversion of a Mutual Savings Bank to Capital Stock Savings Bank − Undercapitalized Mutual Savings Bank

a) A mutual savings bank not meeting an applicable capital requirement as of the

end of the most recent period for which the savings bank has prepared audited financial statements, may seek approval to convert to stock form pursuant to a plan of conversion that provides for the sale of its capital stock directly to acquirors, who may be a person, company, depository institution, holding company, who will be in control of the~~such~~ savings bank upon the purchase of the~~such~~ capital stock. If in accordance with applicable laws and regulations, the conversion may result in the converting savings bank being merged into or consolidated with an existing or newly created depository institution.

b) The provisions of this Section shall govern a conversion authorized by subsection (a). All other Sections of this Subpart shall not apply to the conversion unless provided in the plan of conversion adopted by the board of directors of the converting savings bank or required by the Director~~Commissioner~~.

c) A majority of the converting savings bank board of directors must adopt a plan of conversion that complies with this Section. The members of the association have no rights or approval or participation in a conversion under this Section or to the continuance of any legal or beneficial ownership interests in the converted savings bank, unless otherwise provided by the Director~~Commissioner~~. The members shall have an interest in a liquidation account established pursuant to Section 1075.1940 of this Subpart if one is established pursuant to subsection (h).

d) In connection with approval under this Section, the Director~~Commissioner~~ may impose conditions and restrictions on the converting or resulting institution, the acquiror, and controlling parties, organization directors and officers of either, to prevent unsafe and unsound practices, to protect the deposit insurance fund and the public interest, and to prevent potential injury or detriment to the converting or resulting institution.

e) The Director~~Commissioner~~ may deny a savings bank's conversion if ~~she or~~ he or she determines that the converting or resulting institution, the acquiror, or controlling parties or organization directors or officers of either, have engaged in unsafe or unsound practices in connection with the conversion, or that the conversion is detrimental to or would cause potential injury to the converting or resulting institution, deposit insurance funds, or is contrary to the public interest.

f) For 3 years following the date of completion of a conversion under this Section, neither any controlling shareholder nor the resulting institution may acquire shares from minority shareholders without prior approval of the Director~~Commissioner~~.

g) An application for conversion under this Section shall, at a minimum, include:

1) A plan of conversion adopted by a majority of the directors of the savings bank, which shall contain at a minimum the name and address of the savings bank; the names, addresses, dates and places of birth, and social security numbers of the proposed purchasers of conversion stock and their relationship to the savings bank; the title, per-unit par value, number, and per-unit and aggregate offering price of shares of conversion stock to be authorized and issued; the number and percentage of shares of conversion stock to be purchased by each investor, the aggregate number and percentage of shares of conversion stock to be purchased by organization directors, officers and their affiliates and associates; a description of the liquidation account, if required under subsection (h), or if otherwise established; and certified copies of all resolutions of the board of directors relating to the plan of conversion;

2) A copy of any agreements between the savings bank and the proposed conversion stock purchasers;

3) An opinion of qualified, independent counsel or an independent, certified public accountant regarding the tax consequences to the savings bank arising from the conversion;

4) A business plan, which shall contain a description of the proposed operating policies of the savings bank or the resulting savings bank following the conversion, including a statement as to how the conversion proceeds will be used, and a projection of the savings bank's results of operations for the 3 year period following completion of the conversion. The projections should show the continuing ability of the converted savings bank to meet applicable capital requirements. The savings bank shall specify the assumptions on which its projections are based;

5) An application under Section 1075.1700 of Subpart N of this Part;

6) The proposed charter and bylaws of the converted savings bank;

7) The proposed stock certificate form;

8) A description of all existing and proposed employment contracts, if

applicable;

9) All findings required under the securities offering rules of this Subpart;

10) Applications for permission to organize a stock savings bank and for approval of a merger, if applicable, and FDIC insurance of accounts, if applicable;

11) Information to support the value of any non-cash assets to be contributed to the savings bank in connection with the conversion, if applicable. Appraisals submitted in this connection must be acceptable to the Director~~Commissioner~~;

12) A description of the estimated expenses of the conversion to the savings bank;

13) The savings bank's most recent audited financial statements with an appropriate explanation to support the determination that the savings bank's current capital levels qualify it to undertake a supervisory conversion;

14) "Pro forma" financial statements to reflect the effects of the transaction. These pro forma financial statements should be supplemented to identify the converting or resulting capital levels and show the appropriate adjustments necessary to compute such capital levels;

15) A specific description of any of the features of the savings bank's application that do not conform to the requirements of this Subpart;

16) A specific description of and detailed justification for any waivers or supervisory forbearances that are requested as part of the conversion;

17) A statement of all other applications required pursuant to federal law for all transactions related to the savings bank's conversion, copies of all decisions, orders, opinions, and other similar dispositive documents issued by regulatory authorities relating to such applications, and, if requested, copies of such applications and related documents; and

18) Opinion of financial advisor:

A) The savings bank shall be required to retain a reputable financial advisor with expertise in valuing depository institutions to advise it as to the fairness or the consideration to be paid by the proposed acquiror. The financial advisor shall furnish a written opinion specifically informing the converting savings bank as to the fairness from a financial point of view to the converting savings bank of the proposed consideration.

B) The~~Such~~ written opinion shall specifically disclose in reasonable detail:

i) the professional standards employed by the financial advisor in arriving at its conclusions; and

ii) the factual basis upon which the~~such~~ conclusions were reached.

C) The opinion shall specifically state whether the financial advisor, in arriving at his or her conclusions as to the fairness of the proposed consideration, has made efforts to determine whether, in his or her judgment~~judgement~~, there is the reasonable significant probability that financially able purchasers of the character generally capable of securing regulatory approval other than the proposed acquiror, given an opportunity, might have made good faith offers to purchase control of the converting savings bank for a consideration materially greater than that proposed to be paid by the proposed acquiror, and has compared the consideration to be paid by the proposed acquiror with the consideration paid in the purchase of other savings banks or savings and loan associations of comparable size, market area, profit history, competitive conditions and projected future earnings.

D) If the financial advisor has made any such efforts or ~~any such~~ comparisons, the nature and scope of the~~such~~ efforts and comparisons shall be discussed in detail. The written opinion shall state whether and on what basis the financial advisor believes that the consideration to be paid by the proposed acquiror exceeds the aggregate amount of net proceeds which the converting savings bank could have realized if the capital stock to be sold to the proposed acquiror had been sold in a subscription offering

followed by an underwritten public offering. The written opinion shall be delivered to the Director~~Commissioner~~ before any approval of the application for conversion will be granted by the Director~~Commissioner~~.

h) A liquidation account must be established in accordance with Section 1075.1940 of this~~the~~ Subpart; however, the Director~~Commissioner~~ may waive this requirement upon a written finding that the savings bank's net worth is zero or less than zero, or for other good cause upon a written finding that specifies the existence of ~~such~~ good cause.

i) No solicitation of proxies in connection with a conversion pursuant to this Section shall be made unless the person so solicited is concurrently furnished with or has been previously furnished with a proxy statement or a short-form proxy statement complying with this Subpart. If the persons to whom capital stock is offered or sold pursuant to a conversion effected in compliance with this Section shall exceed 20 in number, each of the~~such~~ persons shall be furnished with an offering circular complying with this Subpart before the consummation of any ~~such~~ sale.

j) Upon the Director's ~~Commissioner's~~ approval of the plan of conversion, the mutual savings bank charter shall be surrendered to the Director~~Commissioner~~ and a stock charter issued by the Director~~Commissioner~~.

k) The corporate existence of a mutual savings bank converting to stock savings bank shall not terminate and shall be considered to be a continuation of the savings bank so converted.

l) The Director's ~~Commissioner's~~ approval of a conversion under this Section shall be conditioned upon the following:

1) Completion of the sale of conversion stock within 3 months after the Director~~Commissioner~~ approves the application, or within an~~such~~ additional period as the Director~~Commissioner~~ may for good cause grant;

2) Compliance with all filing requirements of this Subpart, subject to subsection (b); and

3) Satisfaction of any other requirements or conditions the Director~~Commissioner~~ may impose.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2210 Application – Filing the Application and Fees

a) An application shall be prepared by a mutual savings bank that proposes to convert to a stock owned savings bank. The application must demonstrate that the applicant complies with the Act and this Part~~rules promulgated thereunder~~. Not including copies filed pursuant to Section 1075.2020, 3~~three~~ completed manually signed copies with all exhibits, with an application fee of $10,000~~ten thousand dollars~~, shall be filed with the Director~~Commissioner~~, Division of Banking~~Office of Banks and Real Estate~~, Department of Financial and Professional Regulation, 310 South Michigan Avenue, Suite 2130, Chicago, Illinois 60604-4278. The date a document is actually received by the Director ~~Commissioner~~ shall be the date of filing ~~thereof~~.

b) Any application for approval that is improperly executed, or that does not contain copies of a plan of conversion, amendments to the charter of the applicant in the form of new articles of incorporation, proxy materials, and preliminary offering circulars for the subscription offering and for the public offering or direct community marketing, shall not be accepted for filing and shall be returned to the applicant. Any application for approval containing a materially incomplete plan of conversion, offering circular, or proxy statement shall be returned by the Director ~~Commissioner~~ to the applicant. Applicants for conversions~~Conversions~~ effected pursuant to Section 1075.2170 need not file documents or information to the extent that Section 1075.2170(d) allows.

c) Signature page:

1) Every application and every amendment to an application~~thereto~~ filed shall include a signature page that~~which~~ shall be manually signed by:

A) A duly authorized representative of the applicant on its behalf;

B) Its principal executive officer;

C) Its principal financial officer;

D) Its principal accounting officer; and

E) At least two-thirds of its organization directors.

2) Those signing the application shall attest on the signature page as follows:

A) In submitting an application, the applicant understands and agrees that if further examinations, investigations, or appraisals are required by the Director~~Commissioner~~, they will be conducted by, or as approved by, the Director~~Commissioner~~ at the expense of the applicant and applicant will pay the costs thereof as computed by the Director~~Commissioner~~.

B) The application has been approved by at least two-thirds of the board of directors of the applicant. In accordance with the Act and this Part~~the rules promulgated thereunder~~ by the filing of this application, the applicant by its duly authorized representative, the undersigned officers and each member of the applicant's board of directors severally represent:

i) that each ~~such~~ person has read this application; and

ii) that in the opinion of each ~~such~~ person, he or she has made such examination and investigation as is necessary to enable him or her to express an informed opinion that this application complies to the best of his or her knowledge and belief with the application requirements of the Act and this Part.

3) If any name is signed to an application or any amendment to an application~~thereto~~ pursuant to a power of attorney, a manually signed copy of the power of attorney shall be filed with each copy of the application.

d) Except as provided in subsection (e)~~ below~~, the filing of any application or amendment to any application~~thereto~~ under this Subpart~~chapter~~ shall constitute a representation of the applicant by its duly authorized representative, the applicant's principal executive officer, the applicant's principal financial officer, and the applicant's principal accounting officer, and each member of the applicant's board of directors (whether the organization director has signed the application or any amendment to an application~~thereto~~) severally that:

1) he or she has read the application or amendment,

2) in the opinion of each ~~such~~ person he or she has made such examination and investigation as is necessary to enable him or her to express an informed opinion that the~~such~~ application or amendment complies to the best of his or her knowledge and belief with the applicable requirements of this Subpart, and

3) each ~~such~~ person holds this informed opinion.

e) The representations specified in subsection (d) ~~above~~ shall not be considered to have been made by any organization director of the applicant who did not sign the application or any amendment to the application~~thereto~~, if, and only to the extent that, the organization director files with the Director~~Commissioner~~ within 10~~ten~~ business days after the filing of the application or amendment a statement describing those portions of the filing as to which he or she does not so represent.

f) If applicable, the applicant shall furnish information in accordance with Subpart N of this Part.

g) Consent of experts:

1) If any accountant, attorney, investment banker, appraiser, financial advisor, or other person whose profession gives authority to a statement made in any application under this Subpart is named as having prepared, reviewed, passed upon, or certified any part of the application, or any report or valuation for use in connection with the application, the written consent of the person shall be filed with the application. If any portion of an expert's report is quoted or summarized as such in any filing under this Subpart, the written consent of the expert shall expressly state that the expert consents to this quotation or summarization.

2) All written consents filed pursuant to this Section shall be dated and signed manually. A list of the consents shall be filed with the application. Where the consent of the expert is contained in the expert's report, the list shall state that the report contains the consent.

h) After the Division ~~Office of Banks and Real Estate~~ has reviewed the filed materials, the applicant may be required to furnish additional information as an amendment to the application. Further, the applicant may amend the application at its discretion. All amendments shall be clearly identified as such, numbered consecutively, and shall comply with all pertinent requirements of the application,

including signature.

i) Whenever the Director~~Commissioner~~ prohibits by order or otherwise the use of any filing under this Part, the form and contents of any filing used after the prohibition~~thereafter~~ shall conform to the requirements of the~~such~~ order and the applicable regulations in effect at the time the~~such~~ prohibition is no longer effective.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2220 Application – Preparing the Application

a) Requirements as to paper and printing:

1) Applications shall be filed on good quality, unglazed, white paper approximately 8½ by 12 or 8½ by 11 inches in size, ~~insofar~~ as is practicable. However, tables, charts, maps and financial statements may be on larger paper if folded to those~~such~~ sizes, and the plan of conversion, proxy statement and offering circular may be on a smaller paper if the applicant so desires.

2) Applications~~,~~ and, ~~insofar~~ as is practicable, all papers and documents filed as a part those applications~~thereof~~, shall be printed, lithographed, mimeographed or typewritten. However, applications or any portion of the applications~~thereof~~ may be prepared by any similar process that~~which~~, in the opinion of the Director~~Commissioner~~, produces copies suitable for a permanent record. Irrespective of the process used, all copies of the~~any such~~ material shall be clear, easily readable and suitable for repeated photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable ~~as such~~ on photocopies.

b) Every application shall include a cross reference sheet showing the location in the proxy statement and offering circular of the response to the appropriate Section of this Part. If any ~~such~~ item is inapplicable, or the answer ~~thereto~~ is in the negative and is omitted, a statement to that effect shall be made in the cross reference sheet.

c) The body of all printed plans of conversion, proxy statements, and offering circulars, including all notes to financial statements and other tabular data

included in the statements~~therein~~, shall be in Roman type at least as large and as legible as 10-point modern type. However, to the extent necessary for convenient presentation, financial statements and other tabular data, including tabular data in notes, may be in Roman type at least as large and as legible as 8-point modern type. All the~~such~~ type shall be leaded at least 2 points.

d) Interpretation of requirements:

1) Unless the context indicates otherwise, the information required is only as to the applicant.

2) Whenever words relate to the future, they have reference solely to present intention.

3) Any words indicating the holder of a position or office include persons, by whatever titles designated, whose duties are those ordinarily performed by holders of those~~such~~ positions or offices.

e) Incorporation of certain information by reference:

1) Where an item in an application calls for information not required to be included in the proxy statement or offering circular, matter contained in any other part of the application, including exhibits, may be incorporated by reference in answer, or partial answer, to the~~such~~ items.

2) No information may be incorporated by reference in a proxy statement or offering circular, unless the document containing that~~such~~ information is attached to the statement or circular~~thereto~~ or is summarized or outlined as provided in subsection (f)~~ below~~. However, an offering circular may incorporate by reference the information contained in a proxy statement previously delivered, without need of summary or outline.

3) Material incorporated by reference shall be clearly identified in the reference. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the application where the information is required. Material~~Matter~~ shall not be incorporated by reference in any case where the~~such~~ incorporation would make the statement incomplete, unclear or confusing.

f) Where a summary or outline of the provisions of any document is required, only a

brief statement shall be made, in succinct and condensed form, as to the most important provisions of the document. In addition to the~~such~~ statement, the summary or outline may incorporate by reference particular items, sections or paragraphs of any exhibit and may be included in its entirety by the~~such~~ reference.

g) Presentation of information:

1) The information required in a proxy statement or offering circular need not follow the order of its~~their~~ presentation or other requirements in the appropriate sections. The~~Such~~ information shall not, however, be set forth in a~~such~~ fashion as to obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading. Where a section requires information to be given in tabular form it shall be given in substantially the tabular form specified in the section.

2) All information contained in a plan of conversion, proxy statement or offering circular shall be set forth under appropriate captions or headings reasonably indicative of the principal subject matter set forth in the plan, statement or circular~~thereunder~~. Except as to financial statements and other tabular data, all information set forth in any form under this Subpart shall be divided into reasonably short paragraphs or sections.

3) Every proxy statement and offering circular shall include in its~~the~~ forepart ~~thereof~~ a reasonably detailed table of contents showing the subject matter of its various sections or subdivisions and the page number on which each ~~such~~ section or subdivision begins.

4) All information required to be included in a proxy statement or offering circular shall be clearly understandable without the necessity of referring to the particular Section of this Subpart. Except as to financial statements and information required in tabular form, the information set forth in a proxy statement or offering circular may be expressed in condensed or summarized form.

5) Financial statements are to be set forth in comparative form~~,~~ and shall include any~~the~~ notes ~~thereto~~ and the accountants' certificate or certificates.

h) All amendments to an application under this Subpart shall be filed under cover of

an appropriate facing sheet, shall be numbered consecutively in the order in which filed, and shall conform to all pertinent requirements of this Subpart.

i) Information required needs to be given only insofar as it is known or reasonably available to the applicant. The applicant may not omit information that is in fact known regardless of whether the~~such~~ information was reasonably available. If any required information is unknown and not reasonably available to the applicant, either because the obtaining thereof would involve unreasonable effort or expense or because it rests peculiarly within the knowledge of another person not affiliated with the applicant, the information may be omitted, subject to the following conditions:

1) The applicant shall give any~~such~~ information on the subject as it has or can acquire without unreasonable effort or expense, together with the sources of the information~~thereof~~; and

2) The applicant shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and stating the result of a request made to the person for the information.

j) The information provided should be presented in such a manner that the reader does not have to refer to the applicable Section of this Subpart to understand what is being conveyed. It is not necessary that the applicant restate the text of any section, but the applicant should structure responses in such a manner as to clearly indicate to which Section~~section~~ the response applies. The nonapplicability of any item should be affirmatively noted. The following shall be also applicable:

1) Include an index of Sections~~sections~~ and subsections.

2) Exhibits and inserts are permissible if referenced under the appropriate Section~~section~~, with identification tabs attached.

3) If required information is not reasonably or economically available to the applicant, explanation for its omission should be included.

4) Material available for public inspection may be incorporated by reference in response to any Section~~section~~, but specified, including item, page, and paragraph number, if applicable.

k) Should the applicant desire to submit any information it considers to be of a confidential nature regarding the response to any part of an application, the~~such~~ information shall be separately bound and labeled in capital letters, "CONFIDENTIAL~~Confidential~~" and a statement shall be submitted therewith briefly setting forth the grounds on which such information should be treated as confidential. Only general reference ~~thereto~~ need be made of that "confidential" portion in the portion of the application which the applicant considers not to be confidential. If any material has been granted confidential treatment under State or federal law, or by a government agency, or the New York Stock Exchange, the~~such~~ circumstances should be described. All materials filed as part of this application are available for inspection, except for portions that~~which~~ are bound and labeled in capital letters, "CONFIDENTIAL~~Confidential~~" and that~~which~~ the Director ~~Commissioner~~ determines to hold from public availability because of their confidential nature. The Director~~Commissioner~~ will not permit public inspection or copying of any material that is or would be confidential under State law. The Director ~~Commissioner~~ will advise the applicant of any decision to make available to the public information labeled in capital letters, "CONFIDENTIAL~~Confidential~~". It should be understood that it may be necessary for the Director ~~Commissioner~~ to release materials heretofore given confidential treatment. It should be further understood that even though parts of the application are considered "confidential" as far as public inspection ~~thereof~~ is concerned, the Director ~~Commissioner~~ may comment on the confidential submissions in any public statement in connection with the Director's ~~Commissioner's~~ decision on the application without prior notice to the applicant.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2230 Application – Application Contents

The application shall include:

a) The complete formal written plan adopted by the board of directors for conversion of the applicant to the stock form of organization. The terms of the plan submitted pursuant to this subsection will be a basis for the Director's ~~Commissioner's~~ approval, and the plan as approved will be distributed as an attachment to the proxy statement and the offering circular;

b) Preliminary copies of the proxy statement and offering circular. The proxy statement and offering circular should be prepared in accordance with Sections 1075.2300, et seq. and 1025.2500 et seq. respectively, that~~which~~ are attached to

the application;

c) Preliminary copies of the form of proxy to be distributed to members by management of the applicant;

d) The expected chronological order of the events connected with the plan of conversion beginning with the filing of this application through completion of the sale of all the capital stock under the Conversion Plan (Indicate the expected timing of any requisite approvals by other regulatory authorities. Indicate the proposed timing of all aspects of the subscription offering. If there will be an underwritten public or direct community marketing of the applicant's securities as part of the Conversion Plan, indicate the proposed timing of all aspects of the~~such~~ offering.);

e) If the applicant's Conversion Plan contains an eligibility record date substantially earlier than 90 days before the date of adoption of the Conversion Plan by the board of directors, state the reason for the selection of the~~such~~ earlier date. Indicate the circumstances that will require the use of a supplemental eligibility record date;

f) In substantially the tabular form indicated below, the estimated expense of the conversion to the applicant:

Legal	.....
Postage and Mailing	.....
Printing	.....
Escrow or Agent Fees	.....
Underwriting Fees	.....
Appraisal Fees	.....
Transfer Agent Fees	.....
Auditing and Accounting	.....
Proxy Solicitation Fees	.....
Advertising	.....
Other Expenses	.....
Total	.....

1) The applicant may exclude costs represented by salaries and wages of regular employees and officers if a statement to that effect is made. The

cost of solicitation by specially engaged employees or paid solicitors~~solicitor~~ under Section 1075.2330(b) shall be stated under "Proxy Solicitation Fees". ~~."~~

2) If the applicant has any category of expenses exceeding $10,000 that~~which~~ is not specified in this Section, the~~such~~ expense shall be itemized rather than including it under the category "Other Expenses".

3) If the solicitation is conducted other than by management of the applicant, the information required in this Section shall be provided with respect to the cost of such solicitation, and

g) A statement of the general effect of any charter provision, bylaw, contract, arrangement, statute, or regulation to be in effect during or after the conversion under which any underwriter, appraiser, lawyer, accountant or expert, or organization director or officer of the applicant will be insured or indemnified in any manner against any liability that~~which~~ he or she may incur in his or her capacity as such.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2240 Application – Application Exhibits

The following exhibits shall be attached to the application:

a) The following documents, contracts and agreements:

1) Proposed certificates for capital stock and any other securities to be issued;

2) Proposed order forms with respect to the subscription rights;

3) Any proposed stock option plan and form of stock option agreement;

4) Any proposed management employment contracts;

5) Any contract described in complying with Section 1075.2360;

6) Contracts or agreements with paid solicitors described in complying with Section 1075.2330(b);

7) Any material loan agreements relating to borrowing by the applicant other than from a Federal Home Loan Bank and other than subordinated debt securities approved by the Director~~Commissioner~~;

8) Any appraisal agreement or proposed agreement, underwriting contracts or agreements among underwriters;

9) Any proposed contracts or agreements among members of a group regarding the purchase of unsubscribed shares;

10) Any required undertaking or affidavits by officers or organization directors purchasing shares in the conversion that they are acting independently;

11) Any documents referred to in complying with Section 1075.2230(g);

12) Any trustee agreements or indentures;

13) Any agreements for the making of markets or the listing on exchanges of the stock of the converted savings bank. Documents, contracts and agreements that~~which~~ are furnished in proposed form under this exhibit shall be furnished in final form immediately after the meeting of members to consider the plan of conversion, except for documents that~~which~~ by their nature cannot be practically expected until a later time required by subsections (a)(8) and (9) ~~above~~ in which case they shall be furnished in substantially final form; and

14) Any documents referred to in complying with Section 1075.2230(g).

b) An opinion of counsel for the applicant regarding each of the following matters:

1) The legal sufficiency of the applicant's proposed certificate and order forms for capital stock and any other securities;

2) Whether State and, if applicable, federal law, requirements will be fulfilled by the Conversion Plan;

3) The legal sufficiency of the applicant's proposed charter and bylaws;

4) The continuation of insurance of the applicant's accounts by the Federal Deposit Insurance Corporation after conversion; and

5) The type and extent of each class of voting rights in the applicant after conversion;

c) An opinion of:

1) the applicant's tax advisor or an Internal Revenue ruling as to the federal~~Federal~~ income tax consequences of the Conversion Plan to the applicant and to the various account holders who receive nontransferable subscription rights to purchase capital stock; and

2) the applicant's tax advisor or, if applicable, a ruling from the appropriate State taxing authority as to any tax consequences of the Conversion Plan under ~~the laws of this~~ State law. The~~Such~~ opinion should relate to the applicant and to eligible account holders;

d) Any materials required to be filed by Section 1075.2105 regarding the valuation of the applicant's capital stock. An applicant is not required to file these~~such~~ materials if the offering of capital stock will not begin before the meeting of members to vote on the Conversion Plan;

e) The notices to the applicant's members required by Sections 1075.2005 through 1075.2020;

f) Additional exhibits:

1) If information required pursuant to a relevant Section of this Part is not given for the reasons specified in Section 1075.2220(i), the statement required for each such omission;

2) All consents required to be filed by Sections 1075.2210(g) and 1075.2520;

3) If applicable, the statement required by Section 1075.2350 regarding events which occurred within the last 10~~ten~~ years to organization directors of the applicant;

4) Any powers of attorney employed pursuant to Section 1075.2210(c); and

5) The~~Furnish the~~ cross-reference sheet referred to in Section 1075.2220(b).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2300 Proxy Statement – Information Required in Conversion Proxy Statement

a) The conversion proxy statement shall conform to the requirements of this Section 1075.2300 through Section 1075.2460.

b) Except as otherwise specifically provided, where any Section calls for information for a specified period in regard to organization directors, officers or other persons holding specified positions or relationships, the information shall be given in regard to any person who held any of the specified positions or relationships at any time during the period. However, information need not be included for any portion of the period during which the~~such~~ person did not hold any such position or relationship provided a statement to that effect is made.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2330 Proxy Statement – Persons Making the Solicitations

a) State whether the solicitation is made by the management of the applicant. Give the name of any organization director or the applicant who has informed the management in writing that he or she intends to oppose any action intended to be taken by the management and indicate the action which he or she intends to oppose.

b) If the solicitation is to be made otherwise than by the use of the mails, describe the methods to be employed. If the solicitation is to be made by specially engaged employees or paid solicitors, state the material features of any contract or arrangement for such solicitation and identify the parties.

c) If the solicitation is made otherwise than by the management of the applicant, so state and give the names of the persons by whom and on whose behalf it is made. The~~Any such~~ solicitation normally need not respond to Sections 1075.2330 through 1075.2460, but must include such information as to make such solicitation comply with Section 1075.2035(d)(3).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1075.2350 Proxy Statement – Organization Directors and Executive Officers

a) Furnish the information regarding organization directors and executive officers and certain relationships and related transactions required to be disclosed in a registration or proxy statement filed under the Securities Exchange Act of 1934 (15 USC ~~U.S.C.~~ 78a et seq.), as amended to July 1, 1991. In particular, see Items 401 and 404 of the "General Rules Regarding Disclosures: Regulations S-K – Standard Instructions for Filing Forms under Securities Act of 1933 and the Securities Exchange Act of 1934" (17 CFR 229.401 and 404, November, 1992, no subsequent dates or editions), and Item 6 of Regulation 14A of the "Rules and Regulations Under Securities Exchange Act of 1934 (17 CFR 240.14a-101, October, 1992, no subsequent dates or editions). Unless the context otherwise requires, the words "registrant" and "issuer" in those regulations shall refer to the applicant and the word "Commission" shall refer to the Director~~Commissioner~~.

b) State whether control of the applicant has been exercised through the use of proxies and the nature of the~~such~~ control.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2360 Proxy Statement – Management Remuneration

Furnish the information regarding management remuneration required to be disclosed in a registration or proxy statement filed under the Securities Exchange Act of 1934. In particular, see Item 402 of the "General Rules Regarding Disclosures: Regulations S-K - Standard Instructions for Filing Forms under Securities Act of 1933", no subsequent dates or editions, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549, as of the effective date of this Section 1075.2360, and the Securities Exchange Act of 1934" (17 CFR 229.402 and 404, 1992, no subsequent dates or editions), and Item 7 of Regulation 14A of the "Rules and Regulations Under Securities Exchange Act of 1934 (17 CFR 240.14a-101) as of the effective date of this Section 1075.2360, no subsequent dates or editions. Unless the context otherwise requires, the words "registrant" and "Commission" in those regulations shall refer to the applicant and to the Director~~Commissioner~~, respectively.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2370 Proxy Statement – Business of the Applicant

a) Narrative description of business.

1) Discuss briefly the organizational history of the applicant, including the year of organization, the identity of the chartering authority, and any charter conversions.

2) Describe the business conducted and intended to be conducted by the applicant and its subsidiaries. This should include a description of the general development of the business of the applicant and any predecessors~~predecessor(s)~~ during the past 5~~five~~ years, or a~~such~~ shorter period as the applicant may have been engaged in business. Information shall be disclosed for earlier periods if material to an understanding of the general development of the business. Any material changes in the mode of conducting the business should be discussed.

3) Consideration should be given to inclusion of a description of the applicant's historical practices, including the average remaining term to maturity of its portfolio of mortgage loans, and present intention regarding the making of loans, whether real estate or other, the nature of security received, the terms of loans, whether carrying fixed or variable interest rates, and the retention of loans or their resale in secondary mortgage markets. Historical description might require a general identification of the magnitude of various activities.

4) Explain~~Also explain~~ any significant impact to the institution as a result of any material acquisitions.

b) Selected financial data – Furnish in comparative columnar form a summary of selected financial data for the applicant for:

1) each of the last 5~~five~~ fiscal years of the applicant (or for the life of the applicant and its predecessors, if less); and

2) any additional fiscal years necessary to keep the summary from being misleading.

3) In furnishing the information required by this subsection, the following shall apply:

A) The purpose of the summary of selected financial data shall be to supply in convenient and readable format selected data that~~which~~

highlight significant trends in the applicant's financial condition and results of operations.

B) Subject to appropriate variation to conform to the nature of the applicant's business, the following items, as a minimum, shall be included in the summary: Total interest income; total interest expense; income (loss) from continuing operations; net income; total loans; total investments; total assets; total savings; total borrowings; total capital; and total number of customer service facilities indicating the number which provide full service. Applicants may include additional items which they believe would enhance understanding and highlight trends in their financial condition and results of operation. Briefly describe, or cross-reference to a discussion of, factors such as accounting changes, business combinations, or dispositions of business operations that materially affect the comparability of the information reflected in selected financial data. Discussion of, or reference to, any material uncertainties should also be included where those matters might cause the data reflected not to be indicative of the applicant's future financial condition or results of operations.

C) Those applicants that~~which~~ elect to provide 5 year summary information in accordance with Section C28 of the Financial Accounting Standards Board's Statement of Financial Accounting Standards (FASB Statement 89), "Financial Reporting and Changing Prices"~~,~~" (Accounting Standards Current Text General Standards as of June 1, 1992, no subsequent date or addition, Financial Accounting Standards Board, 401 Merritt 7, P.O. Box 5116, Norwalk CT 06856-5116), may combine the~~such~~ information with the selected financial data appearing pursuant to this Section.

D) All references to the applicant in the summary and in these instructions shall mean the applicant and its consolidated subsidiaries.

E) If interim-period financial statements are included, or are required to be included by Section 1075.2450~~ below~~, applicants should update the selected financial data for the interim period to reflect any material change in the trends indicated; when~~where such~~

updating information is necessary, applicants should provide the information on a comparative basis unless not necessary to an understanding of the updating information.

c) Management's discussion and analysis of financial condition and results of operation.

1) Discuss the applicant's financial condition, and results of operations. The discussion shall provide information as specified in subsection (c)(1)(A), (B), and (C) ~~below~~ with respect to liquidity, capital resources, and results of operations and also should provide all other information that~~which~~ the applicant believes to be necessary to an understanding of its financial condition, changes in financial condition, and results of operations. Significant business combinations should be discussed. Discussion of liquidity and capital resources may be combined whenever the 2~~two~~ topics are interrelated. Where in the applicant's judgment a discussion of subdivisions of the applicant's business would be appropriate to an understanding of the business, the discussion should focus on each relevant, reportable segment or other subdivision of the business and on the applicant as a whole.

A) Liquidity – Identify any known trends or any known demands, commitments, events, or uncertainties that~~which~~ will result in or that~~which~~ are reasonably likely to result in the applicant's liquidity increasing or decreasing in any material way. If a material deficiency is identified, indicate the course of action that~~which~~ the applicant has taken or proposes to take to remedy the deficiency. Identify and separately describe internal and external sources of liquidity, and briefly discuss any material unused sources of liquid assets. Comment on maturity imbalances between assets and liabilities and planned activities in the secondary mortgage market.

B) Committed resources.

i) Describe the applicant's material commitments for loan fundings or other expenditures as of the end of the latest fiscal period and indicate the general purpose of the commitments and the anticipated source of funds needed to fulfill the commitments.

ii) Describe any known material trends, favorable or unfavorable, in the applicant's committed resources. Indicate any expected material changes in the mix and the relative cost of the resources. This discussion should consider changes between savings, equity, debt, and any off-balance-sheet financing arrangements.

C) Results of operations.

i) Describe any unusual or infrequent events or transactions or any significant economic changes that materially affected the amount of reported income from continuing operations and, in each case, indicate the extent to that~~which~~ income was affected. In addition, describe any other significant components of revenues or expenses which, in the applicant's judgment, should be described in order to understand the applicant's results of operations.

ii) Describe any known trends and uncertainties that~~which~~ have had, or that~~which~~ the applicant reasonably expects will have, a materially favorable or unfavorable impact on net sales or revenues or income from continuing operations. If the applicant knows of events that~~which~~ will cause a material change in the relationship between costs and revenues (such as known future increases in costs of money or interest rates), the change in the relationship should be disclosed.

iii) To the extent that the financial statements disclose material increases in interest expense, provide a narrative discussion of the extent to which the increases are attributable to increases in rates or to increases in volume.

iv) For the 3~~three~~ most recent fiscal years of the applicant, discuss the impact of inflation and changing prices on the applicant's revenues and on income from continuing operations.

v) For the most recent financial statement presented, discuss any unusual risk characteristics in the assets of the

applicant. This would include real estate development, significant amounts of commercial real estate as loan collateral, and any other significant risk factors inherent in the applicant's lending or investment portfolios, including significant increases in amounts of non-accrual, past due, restructured, and potential problem loans (U.S. Securities and Exchange Commission's Securities Act Industry Guide 3, Section III C 1992, no subsequent dates or editions, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549).

D) In completing subsection (c)(1)~~ above~~, the following shall apply:

i) The applicant's discussion and analysis shall be of the financial statements and of other statistical data that~~which~~ the applicant believes will enhance a reader's understanding of its financial condition, changes in financial condition, and results of operations. Generally, the discussion should cover the 3 year period covered by the financial statements and should use year-to-year comparisons or other formats that,~~which~~ in the applicant's judgment, enhance a reader's understanding. However, where trend information is relevant, reference to the 5~~five~~ year selected financial data appearing in subsection (b) ~~above~~ may be necessary.

ii) The purpose of the discussion and analysis should be to provide to investors and other users information relevant to an assessment of the financial condition and results of operations of the applicant as determined by evaluating the amounts and certainty of cash flows from operations and from outside sources. The information provided in this subsection need only include that which is available to the applicant without undue effort or expense and ~~which~~ does not clearly appear in the applicant's financial statements.

iii) The discussion and analysis should specifically focus on material events and uncertainties known to management that~~which~~ would cause reported financial information not to be necessarily indicative of future operating results or ~~of~~ future financial condition. This would include description

and amounts of matters that~~which~~ would have an impact on future operations and have not had an impact in the past, and matters that~~which~~ have had an impact on reported operations and are not expected to have an impact upon future operations.

iv) Where the consolidated financial statements reveal material changes from year to year in one or more line items, the causes for the changes should be described to the extent necessary to an understanding of the applicant's business as a whole; provided, however, if the causes for a change in one line item also relate to other line items, no repetition is required and a line-by-line analysis of the financial statements as a whole is not required or generally appropriate. Applicants need not recite the amount of changes from year to year that~~which~~ are readily computable from the financial statements. The discussion should not merely repeat numerical data contained in the consolidated financial statements.

v) The term "liquidity" as used in subsection (c)(1)(A) ~~above~~ refers to the ability of an enterprise to generate adequate amounts of cash to meet the enterprises' needs for cash. Except where it is otherwise clear from the discussion, the applicant should indicate those balance sheet conditions or income or cash flow items that~~which~~ the applicant believes may be indicators of the liquidity condition. Liquidity generally should be discussed on both a long-term and short-term basis. The issue of liquidity should be discussed in the context of the applicant's own business or businesses.

vi) Applicants are encouraged, but not required, to supply forward-looking information. This is to be distinguished from presently known data that~~which~~ will have an impact upon future operating results, such as known future increases in rates or other costs. This latter data is required to be disclosed.

vii) Applicants that~~which~~ elect to provide narrative explanations of supplementary information disclosed in

accordance with SFAS 89, as referred to in subsection (b)(3)(C)~~ above~~, may combine the explanations with their discussion and analysis required pursuant to this provision or they may supply the information separately. If the information is combined, it shall be located in reasonable proximity to the discussion and analysis. If the information is not combined, the discussion of the impact of inflation otherwise required by this subsection may be omitted if there is an appropriate cross-reference~~cross reference~~ to the explanations provided pursuant to SFAS 89, as referred to in subsection 1075.2370(b)(3)(C).

viii) Applicants which elect not to provide explanations of supplementary information disclosed in accordance with SFAS 89 may discuss the effects of inflation and changes in prices in whatever manner appears appropriate under the circumstances. Although voluntary compliance with SFAS 89 is encouraged, all that is required is a brief textual presentation of management's views. No specific numerical financial data need be presented.

ix) All references to the applicant in the discussion and in these instructions shall mean the applicant and its consolidated subsidiaries.

2) If interim-period financial statements are included or are required to be included by Section 1075.2440, a management's discussion and analysis of the financial condition and results of operations shall be provided to enable the reader to assess material changes in financial condition and results of operations between the period specified in subsection (c)(2)(A) and (B)~~ below~~. The discussion and analysis shall include a discussion of material changes in those items specifically listed in subsection (c)(1) ~~above~~, except that the impact of inflation and changing prices on operations for interim periods need not be addressed.

A) Material changes in financial condition. Discuss any material changes in financial condition from the end of the preceding fiscal year to the date of the most recent interim balance sheet provided. If the interim financial statements include an interim balance sheet as of the corresponding interim date of the preceding fiscal year,

any material change in financial condition from that date to the date of the most recent interim balance sheet provided shall also be discussed. If discussions of changes from both the end and the corresponding interim date of the preceding fiscal year are required, the discussions may be combined at the discretion of the applicant.

B) Material changes in results of operations. Discuss any material changes in the applicant's results of operations with respect to the most recent fiscal year-to-date period for which an income statement is provided and the corresponding year-to-date period of the preceding fiscal year. If the applicant is required to or has elected to provide an income statement for the most recent fiscal year quarter, the discussion also shall cover material changes with respect to that fiscal quarter and the corresponding fiscal quarter in the preceding fiscal year. In addition, if the applicant has elected to provide an income statement for the 12-month period ended as of the date of the most recent interim balance sheet provided, the discussions shall also cover material changes with respect to that 12-month period and the 12-month period ended as of the corresponding interim balance sheet date of the preceding fiscal year.

C) In completing subsection (c)(2) ~~above~~, the following instructions shall apply:

i) If interim financial statements are presented together with financial statements for full fiscal years, the discussion of the interim financial information shall be prepared pursuant to subsection (c)(2) ~~above~~ and the discussion of the full fiscal year information shall be prepared pursuant to subsection (c)(1) ~~above~~. Such discussions may be combined.

ii) The discussion and analysis required by subsection (c)(2) ~~above~~ is required to focus only on material changes. Where the interim financial statements reveal material change from period to period in one or more significant line items, the causes for the changes should be described if they have not already been disclosed; however, if the

causes for a change in one line item also relate to other line items, no repetition is required. Applicants need not recite the amounts of changes from period to period that~~which~~ are readily computable from the financial statements. This discussion should not merely repeat numerical date contained in the financial statements. The information provided should include that which is available to the applicant without undue effort or expense and ~~which~~ does not clearly appear in the applicant's interim financial statements.

iii) The applicant's discussion of material changes in results of operations should identify any significant elements of the applicant's income or loss from continuing operations that~~which~~ do not arise from, or are not necessarily representative of, the applicant's ongoing business.

iv) Applicants are encouraged, but are not required, to discuss forward-looking information.

d) Lending activities.

1) Briefly describe the applicable federal and State restrictions on the lending activities of the applicant, including applicable laws affecting mortgage loan interest rates. Also briefly describe the applicant's general policy concerning loan-to-value ratios; customary methods of obtaining loan originations, such as the use of loan consultants; approval of properties as security for loans; the use of a loan committee, if any; and policies as to requiring title, fire insurance, and casualty insurance on security properties. Indicate the applicant's general future intentions with respect to activities in secondary mortgage markets, including transactions with the Federal Home Loan Mortgage Corporation or mortgage bankers. If significant, indicate loan service fee income as a percentage of net interest income for the years required by Section 1075.2440(b).

2) As to the lending area of the applicant, describe briefly:

A) the lending area restrictions, if any, applicable to the applicant;~~,~~

B) the areas in which the applicant normally lends;~~,~~ and

C) any material loan concentration areas of the applicant. The descriptions may include maps illustrating one or more of these areas. Furnish an estimate of the housing vacancy rates in areas where the applicant's loan concentrations are located, if practicable.

3) Describe briefly the general long-term nature of investment in mortgage loans and the consequent effect upon the earnings spread of savings institutions. State the normal maturity of loans made by the applicant on the security of single-family dwellings and furnish an estimate as to the average length of time the loans are outstanding.

4) For each of the periods required by Section 1075.2440(b), set forth in tabular form, excluding fees that~~which~~ are not considered adjustments of yield, the following:

A) Average yield during the period, computed on no greater than a monthly basis, on:

i) loan portfolio;

ii) investment portfolio;

iii) other interest-earning assets; and

iv) all interest earning assets.

B) Average rate paid during the period, computed on no greater than a monthly basis, on:

i) deposits;~~,~~

ii) borrowings and Federal Home Loan Bank advances;~~,~~

iii) other interest-bearing liabilities;~~,~~ and

iv) all interest-bearing liabilities (subsection (d)(4)(A)(i), (ii), and (iii)~~ above~~).

C) Weighted-average yield at end of the latest required period, for the items in subsection (d)(4)(A) and (B)~~ above~~.

D) The net yield on average interest-earning assets (net interest earnings divided by average interest-earning assets with net interest earnings equaling the difference between the dollar amount of interest earned and paid). Average interest-earning assets should be determined on an interval no more frequent than monthly.

E) For each of the periods required by Section 1075.2440(b), set forth in tabular form:

i) the dollar amount of change in interest income, and

ii) the dollar amount of change in interest expense. The changes should be segregated for each major category of interest-earning asset and interest-bearing liability (as stated in subsection (d)(4)(A) and (B)~~ above~~) into amount attributable to changes in volume change (change in volume multiplied by old rate), and changes in rates (change in rate multiplied by old volume), and changes in rate-volume (change in rate multiplied by the change in volume). The rate/volume variances should be allocated on a consistent basis between rate and volume variance and the basis of allocation disclosed in a note to the table.

5) For each of the periods required by Section 1075.2440(b), present the following:

A) Return on assets (net income divided by average total assets).

B) Return on equity (net income divided by average equity).

C) Equity-to-assets ratio (average equity divided by average total assets).

D) Applicants should supply any additional ratios necessary to explain their operations.

6) Loans:

A) As of the end of the latest fiscal year reported on, present separately the amounts of loans in the categories of real estate mortgages, real estate construction, installment, and commercial, financial and agricultural that~~which~~ are due:

i) In each of the 3~~three~~ years following the balance sheet;~~,~~

ii) after 3~~three~~ through 5~~five~~ years;~~,~~

iii) after 5~~five~~ through 10~~ten~~ years;~~,~~

iv) after 10~~ten~~ through 15~~fifteen~~ years;~~,~~ and

v) after 15~~fifteen~~ years. In addition, present separately the total amount of all such loans due after one year that~~which~~ have predetermined interest rates and floating or adjustable interest rates.

B) In completing subsection (d)(6)(A)~~ above~~, the following shall apply:

i) Scheduled principal repayments should be reported in that maturity category in which the payment is due.

ii) Demand loans, loans having no stated schedule of repayments and no stated maturity, and overdrafts should be reported as due in one year or less.

iii) Determinations of maturities should be based upon contract terms. However, the~~such~~ terms may vary due to the applicant's "rollover policy," in which case the maturity should be revised as appropriate and the rollover policy should be briefly discussed.

7) Describe briefly the risk elements within the loan and investment portfolios including the applicant's customary procedures regarding delinquent loans. As of the end of each of the periods covered by the statements of operation required by Section 1075.2440(b)(1) and as of the

date of the latest statement of financial condition required by Section 1075.2440(a), set forth in tabular form the amounts and categories of non-accrual, past due, restructured, and potential problem loans (see Securities and Exchange Commission's Securities Act Industry Guide 3, Section III C) and the ratio of such loans to total assets. Where the amount of real estate that has been in substance foreclosed, acquired by foreclosure, or by deed in lieu of foreclosure~~thereof~~ is significant, include a brief description of the major properties and a statement as to the applicant's probable losses, if any, upon disposition of such properties.

e) Savings activities.

1) State whether the maximum rate of interest that~~which~~ the applicant may pay is established by regulatory authorities. State that, in the event of liquidations of the applicant after conversion, savings account holders will be entitled to full payment of their accounts before payment to shareholders. Also indicate the percentage of total savings accounts that~~which~~ are from out-of-state sources, if the~~such~~ total is significant.

2) Set forth in tabular form the amounts of time deposit accounts by categories of interest rates as of the dates of each balance sheet filed. Each interest-rate category should not be more than 200 basis points. As of the date of the latest balance sheet, set forth in tabular form for each interest-rate category, the amounts of savings maturing during each of the three years following the balance sheet date and the total maturing thereafter.

3) Disclose the weighted-average rate and general terms (as well as formal provisions for the extension of the maturity) of each category of short-term borrowings, along with the maximum amount of borrowings in each category outstanding at any month-end during each period for which an end-of-period balance sheet is required. In addition, disclose the approximate average short-term borrowings outstanding during the period and the approximate weighted-average interest rate (and a brief description of the means used to compute such average) for the~~such~~ aggregate short-term borrowings. The disclosure required by this subsection need not be furnished as regards borrowings in each particular category when the aggregate amount of such borrowings at the balance sheet date does not exceed one percent of assets at that date. Notwithstanding this reporting threshold, if the weighted average of

the~~such~~ borrowings at year-end, the disclosure called by this subsection should be furnished. This information is not required to be given for any category of short-term borrowings for which the average balance outstanding during the period was less than 30% ~~percent~~ of stockholders equity at the end of the period.

f) Federal regulation. Describe briefly, to the extent not otherwise covered by other items, federal regulation of the applicant and the conduct of its operations. In particular, describe briefly the insurance of accounts and the general regulatory authority of the Federal Deposit Insurance Corporation, and federal regulatory capital requirements;~~,~~ the results of failure to meet those requirements;~~,~~ and the applicant's regulatory capital position in relation to those requirements. Also, describe the assessment authority and requirements of the Federal Deposit Insurance Corporation, the Financing Corporation, and the Resolution Funding Corporation.

g) Federal Home Loan Bank System. If a member, describe briefly the Federal Home Loan Bank System and state that the applicant is a member. The~~Such~~ description shall include:

1) Limitations on borrowings;~~,~~

2) Recent loan policies of the applicant's Federal Home Loan Bank and current interest rates;~~,~~ and

3) Federal Home Loan Bank stock purchase requirements and the applicant's position with respect to those requirements.

h) State regulation. Describe briefly, to the extent not otherwise covered by other items, State regulation of the applicant and the conduct of its operations. In particular, describe briefly the general regulatory authority of the Director~~Commissioner~~, and State regulatory capital requirements, the results of failure to meet those requirements, and the applicant's regulatory capital position in relation to those requirements (Section 5001 of the Act and Section 1075.410). Also describe the supervisory fee assessment authority and requirements of the Director~~Commissioner~~.

i) Federal and state taxation. Describe briefly the federal income tax laws applicable to the applicant including:

1) Permissible bad debt reserves;

2) The applicant's position with respect to the maximum bad debt reserve limitations as of the date of the latest statement of financial condition required under Section 1075.2440(a);

3) Future increases in the effective income tax rate;

4) The date through which the applicant's federal income tax returns have been audited by the Internal Revenue Service;~~,~~ and

5) The tax effect to the applicant of the payment of cash dividends on capital stock of the applicant after conversion. Also describe briefly the State taxation of the applicant.

j) Competition. Describe the material sources of competition for savings banks generally and indicate to the extent practicable the applicant's position in its principal lending and deposit markets. In answering this subsection, give to the extent known the applicant's deposit and mortgage product market shares by county in its geographic market. Also indicate its rank and any material changes or trends in its competitive standing.

k) Office and other material properties.

1) Furnish the location of the applicant's home office and each existing and approved branch office and other office facilities (such as mobile or satellite offices). State the total net book value of all its~~such~~ offices as of the date of the latest statement of financial condition required by Section 1075.2440(a). If any ~~such~~ office is leased, state the expiration dates of those~~such~~ leases.

2) Describe briefly undeveloped land owned by the applicant, including location, net book value, and prospective use and holding period. If the applicant or a subsidiary owns or leases electronic data processing equipment principally for its own use, describe briefly the~~such~~ equipment indicating net book value if owned or the principal lease terms if leased.

l) Employees. State the number of persons employed full time by the applicant including executive officers listed under Section 1075.2350. State whether employees are represented by a collective bargaining group and whether the

applicant's relations with its employees is satisfactory. Summarize briefly any loans, profit sharing, retirement, medical, hospitalization or other remuneration plans provided for employees not already included pursuant to Section 1075.2360.

m) Service corporations. Describe briefly the applicant's investment in any subsidiary and the major lines of business (including any joint ventures) of the subsidiary that~~which~~ are material to its operations.

n) Legal proceedings. Furnish the information regarding legal proceedings required to be disclosed in a registration statement filed under the Securities Exchange Act of 1934 (15 USC ~~U.S.C.~~ 78a et seq., as amended to July 1, 1991, no subsequent dates or editions). In particular, see Item 103 of the "General Rules Regarding Disclosures: Regulations S-K – Standard Instructions for Filing Forms under Securities Act of 1933 and the Securities Exchange Act of 1934" (17 CFR 229.103) November 1992, no subsequent dates or editions, U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Unless the context otherwise requires, the word "registrant" in that regulation shall refer to the applicant.

o) Additional information. The Director ~~Commissioner~~ may upon the request of applicant, and where consistent with the protection of account holders and others, permit the omission of any of the information required by this Section or the furnishing in substitution therefor of appropriate information of comparable character. The Director ~~Commissioner~~ may also require the furnishing of other information in addition to, or in substitution for, the information required by this Section in any case in which the~~where such~~ information is necessary or appropriate for an adequate description of the applicant's business done or intended to be done.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2380 Proxy Statement – Description of the Plan of Conversion

a) A statement to the following effect shall be inserted in the proxy statement immediately preceding the information required by this Section: "The Director ~~Commissioner~~ of Banks and Real Estate has given approval to the plan of conversion, subject to its approval by members and the satisfaction of certain other conditions. However, ~~such~~ approval by the Director ~~Commissioner~~ does not constitute a recommendation or endorsement of the plan by the Director ~~Commissioner~~".

b) The proxy statement shall contain a description of the plan of conversion. The~~Such~~ description shall contain the information required by subsections (c) through (j) ~~below~~ and ~~such~~ additional information as may be necessary to accurately describe the material provisions of the plan.

c) Briefly describe the effects of conversion from a mutual institution to a stock institution including the following information:

1) State that deposit accounts of the applicant will not be affected by the conversion with respect to such matters as balances in the accounts and the extent of insurance of accounts by the Savings Association Insurance Fund or the Bank Insurance Fund, as the case may be;

2) State that deposit and borrowing members of the applicant will not continue to have voting rights in the applicant after conversion and that the members of the stock savings bank shall be only the owners of its capital stock;

3) State the present liquidation rights of account holders and describe the liquidation account to be established and maintained by the applicant, including the conditions under which the~~such~~ account will be paid, the interest of eligible account holders in the~~such~~ account and the formula by which the~~such~~ account will be adjusted;

4) State that the rights and obligations of borrowers from the applicant will not be changed in any manner;

5) State that capital stock to be sold by the applicant will not be insured by the Savings Association Insurance Fund or the Bank Insurance Fund, as the case may be;

6) State that none of the assets of the applicant will be distributed in order to effect the conversion other than to pay expenses incident to the conversion~~thereto~~; and

7) State briefly the reasons why management is recommending the conversion, including any advantages to the community served by the applicant.

d) With respect to the subscription rights of members, furnish the following information:

1) The formula to be used for determining the subscription rights of account holders to purchase shares;

2) Any optional provisions included in the plan of conversion pursuant to Section 1075.1925 for the purchase of shares of capital stock;

3) The allocation formulas to be used when there is an oversubscription of shares at any time during the sale of stock under the plan of conversions; and

4) The use and time of the order forms with respect to the exercise of subscription rights.

e) Offering price range:

1) Set forth on a per-share basis the estimated public offering price range of the shares of capital stock to be sold pursuant to the plan of conversion, except that an estimated price range is not required to be stated if the offering of stock is not to begin until after the meeting of members to vote on the plan of conversion;

2) State that the offering price will be the "pro forma" market value of the~~such~~ shares as determined by the applicant's management and the underwriter, as the case may be; and

3) State that all the shares are required to be sold.

f) Earning and book value per share:

1) Unless the offering of stock is not to begin until after the meeting of members to vote on the plan of conversion, discuss:

A) the earnings per share of the capital stock to be sold on a "pro forma" basis as of the most recent year-end and interim period required by Section 1075.2440(a); and

B) the book value per share on a "pro forma" basis as of the most

recent year-end and interim period required by Section 1075.2440(a).

2) In completing subsection (f)(1)~~ above~~, the following shall apply:

A) Earnings and book value per share shall be furnished without giving effect to the estimated net proceeds from the sale of the capital stock and then after giving effect to those~~such~~ proceeds, with all assumptions used clearly stated.

B) In computing "pro forma" earnings, the applicant shall use the arithmetic average of the:

i) average yield on all interest-earning assets (Section 1075.2370(d)(4)(A)(iv)); and

ii) average rate paid on deposits (Section 1075.2370(d)(4)(B)(i)).

C) If significant changes in interest rates occur during the period presented, the Director ~~Commissioner~~ will consider permitting alternative computations proposed by an applicant that are properly supported.

D) An appropriate statement should be included which explains that the "pro forma" data should not be relied upon as indicative of the actual financial position or results of continuing operations that will be experienced by the applicant after its conversion.

g) State the proposed beginning and ending dates of the subscription period and describe any provisions in the plan of conversion related to the timing or extension of the subscription period. Also, state:

1) That a maximum subscription price will be set forth in the offering circular used for offering of subscription rights,

2) That the actual subscription price will be the public offering price;

3) That the actual subscription price will not exceed the maximum subscription price shown on the order form; and

4) That any difference between the maximum and actual subscription prices will be refunded unless the subscribers affirmatively elect to have the differences applied to the purchase of additional shares of capital stock.

h) Furnish the following information:

1) Describe to the extent practicable the applicant's present intentions with respect to listing the capital stock on an exchange or otherwise providing a market for the purchase and sale of the capital stock in the future;

2) Describe briefly the tax effect of the conversion both to the applicant and to the various classes of account holders receiving nontransferable subscription rights to purchase capital stock in the conversion; and

3) State that the plan of conversion is attached as an exhibit to the proxy statement (or will be made available on request if the summary proxy statement provided for by Section 1075.1925 is being used) and should be consulted for further information.

i) State whether the plan of conversion provides for:

1) unsubscribed capital stock to be offered to the public through underwriters or directly by the converting savings bank. If this~~such~~ is the case, provide the information to the extent known required by Section 1075.2580 and indicate the estimated timing of the proposed offering; and

2) the purchase by any person or group of any insignificant residue of shares remaining at the conclusion of the offering.

j) Furnish the following information in tabular form regarding proposed purchases of capital stock involving organization directors and officers of the applicant:

1) State the total number of shares proposed to be purchased by all officers, directors and their affiliates as a group without naming them.

2) As to each officer and organization director named in Section 1075.2350(a), name him or her, state his or her position, and the number of shares proposed to be purchased by him or her.

3) As to any officer, organization director or affiliate of the organization~~thereof~~ who proposes to purchase 1%~~ percent~~ or more of the total number of shares of capital stock of the applicant to be outstanding, name him or her, state his or her position, and the number of shares proposed to be purchased by him or her.

4) With respect to the information required by subsections ~~subsection~~ (j)(1), (2) and (3)~~ above~~, indicate separately the number of shares proposed to be purchased in each offering category.

5) With respect to the information requested as to affiliates of officers, the~~such~~ information is required only to the extent known. In a case where the~~such~~ confirmation is not obtainable, only the number of shares that~~which~~ the affiliate is given subscription rights to purchase need be disclosed.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2400 Proxy Statement – Capitalization

a) Set forth in substantially the tabular form indicated below the dollar amounts of the capitalization of the applicant. Captions in the following form ~~below~~ may be modified as appropriate.

	(A) Capitalization as of Most Recent Balance Sheet Date	(B) Pro forma adjustments as a Result of Conversion	(C) Pro forma Capitalization, After Giving Effect to the Conversion
Deposits			
FHL bank advances.....			
Other.....			
Borrowings			
Capital Stock.....			
Preferred stock			

Paid-in capital	
Retained earnings:	
Restricted	
Unrestricted.....	
Total.....	

b) In furnishing the information required by subsection (a) ~~above~~, the following shall apply:

1) With respect to capital stock, indicate in the table or in a footnote the total number of shares to be authorized, the par or stated value of such shares, and the number of shares to be sold as part of the conversion.

2) With respect to the funds to be received by the applicant from the sale of its capital stock, indicate in the table the estimated total amount of funds to be obtained, and in a footnote, state the price per share used in making the estimate. The total amount and price per share shall be clearly identified as being estimates.

3) With respect to Column A, the applicant should use the most recent balance sheet date required by Section 1075.2450.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2440 Proxy Statement – Financial Statements

This Section specifies the consolidated balance sheets, the consolidated statements of income, the consolidated statements of cash flows, and stockholders' equity required to be included in the proxy statement. If the applicant has previously used an audit period in connection with its certified financial statements that ~~which~~ does not coincide with its fiscal year, that ~~such~~ audit period may be used in place of any fiscal year requirements provided it covers a full 12 ~~twelve~~ months' operations and is used consistently.

a) Consolidated balance sheets.

1) There shall be furnished for the applicant and its subsidiaries consolidated,

audited balance sheets as of the end of each of the 2 ~~two~~ most recent fiscal years.

2) If the latest balance sheets furnished under subsection (a)(1) ~~above~~ are in excess of 135 days before the date of the Director's ~~Commissioner's~~ approval of the conversion, there shall be furnished an interim balance sheet as of a date within 135 days after this ~~such~~ approval. This interim balance sheet need not be audited.

b) Consolidated statements of income and cash flows.

1) There shall be furnished for the applicant and its subsidiaries and predecessors consolidated, audited statements of income and cash flows for each of the 3 ~~three~~ fiscal years preceding the date of the most recent balance sheet furnished. Nothwithstanding the requirement of submitting consolidated statements for the preceding 3 ~~three~~ fiscal years, if the applicant would qualify as a "Small Business Issuer" under U.S. Securities and Exchange Commission Regulation S-B, 17 CFR 226, the applicant may furnish consolidated statements for the periods that would be required of a small business issuer if the applicant complies with all other provisions of Sections 1075.2370 and 1075.2440 and includes a 2~~two~~-year balance sheet in its proxy statement and offering circular.

2) In addition, for any interim period between the latest audited balance sheet and the date of the most recent interim balance sheet being filed, and for the corresponding period of the preceding fiscal year, statements of income and cash flows shall be furnished. The interim financial statements may be unaudited.

c) Changes in stockholders' equity. An analysis of the changes in each caption of stockholders' equity presented in the balance sheets shall be given in a note or separate statement. This analysis shall be presented in the form of a reconciliation of the beginning balance to the ending balance for each period for which an income statement is required to be furnished, with all significant reconciling items described by appropriate captions.

d) Financial statements of business acquired or to be acquired. There shall be furnished the information required by 17 CFR 210.3-05 and 17 CFR 210.11-01 to 210.11-03, 1992, no subsequent dates or editions, regarding business acquired or to be acquired.

e) Separate financial statements of subsidiaries not consolidated and 50%~~percent~~ or less owned persons. There shall be furnished the information required by 17 CFR 210.3-09 regarding separate financial statements of subsidiaries not consolidated and 50%~~percent~~ or less owned persons.

f) Filing of other statements in certain cases. The Director ~~Commissioner~~ may, upon the request of the applicant, and where consistent with the protection of account holders and others, permit the omission of one or more of the statements required or the filing ~~in substitution therefor~~ of substitute appropriate statements of comparable character. The Director ~~Commissioner~~ may also require the inclusion of other statements in addition to, or in substitution for, the statements ~~herein~~ required in any case in which the ~~where such~~ statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of account holders and others.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2450 Proxy Statement – Consents of Experts and Reports

a) The proxy statement shall briefly describe all consents of experts filed pursuant to Section 1075.2210(g).

b) The statement shall contain a report of the independent public accountants who have certified the financial statements and other matters in the statement.

c) Subsections (a) and (b) ~~above~~ require only a brief summary of the provisions that ~~which~~ are permitted from an investment standpoint and a voting standpoint. A complete legal description of the provision referred to is not required and should not be given. Do not set forth the provision verbatim; only a succinct resume is required.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2460 Proxy Statement – Attachments

There shall be attached to the proxy statement distributed to members and others a copy of the applicant's plan of conversion as approved by the Director ~~Commissioner~~ unless the proxy statement contains a provision indicating that the plan of conversion will not be provided unless

the recipient so requests within a specified period by a postage-paid postcard or other written communication.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2520 Offering Circular – Certain Named Persons – Filing of Written Consent Required

If any person who has not signed an application is named in the offering circular as about to become an organization ~~a~~ director, the written consent of this person shall be filed with the Director ~~Commissioner~~ in the form the Director ~~Commissioner~~ prescribes.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2550 Offering Circular – Statement Required in Offering Circulars

There shall be set forth on the outside cover page of every offering circular the following statement in capital letters printed in bold-face Roman type at least as large as 10~~ten~~-point modern type and at least 2 ~~two~~ points leaded: "These shares have not been approved or disapproved by the ~~Illinois~~ Director ~~Commissioner~~ of the Division of Banking~~Banks and Real Estate~~, nor has the Director ~~Commissioner~~ passed upon the accuracy or adequacy of this offering circular. Any representation to the contrary is unlawful."

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2560 Offering Circular – Preliminary Offering Circular

The outside front cover page of any preliminary offering circular shall bear, in red ink, the caption "Preliminary Offering Circular", the date of its issuance, and the following statement printed in type as large as that used generally in the body of the ~~such~~ offering circular:

> "This offering circular has been filed with the Director ~~Illinois Commissioner~~ of Banks and Real Estate, but has not been authorized for use in final form. Information contained in this offering circular ~~herein~~ is subject to completion or amendment. The shares covered ~~hereby~~ may not be sold, nor may offers to buy be accepted, before the time the offering circular is declared effective by the Director~~Commissioner~~. The offering circular shall not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of theses shares in any state in which such offer, solicitation or sale would be unlawful before registration or qualification under the securities laws of that ~~any such~~ state."

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.2580 Offering Circular – Information with Respect to Public Offering or Direct Community Offering

Each offering circular shall describe the material terms of the plan or plans of distribution for all unsubscribed shares of capital stock to the extent the ~~such~~ description is not already in the proxy statement, including the following:

a) If the shares are to be offered through underwriters, the outside front cover page of both offering circulars shall give the information called for by this subsection. In the case of the offering circular for any public offering, the ~~such~~ information shall be given in substantially the tabular form set forth in this subsection~~below~~. In any other case, the information may be given in narrative form. If the information is not known at the time of the subscription offering, so state and estimate.

	Price to Public	Underwriting Discounts and Commissions	Proceeds to Applicant
Per Share.....	$	$	$
Total.....	$	$	$

b) An offering circular for a public offering or direct community marketing, where the plan of conversion does not contain the optional provision permitted by Section 1075.1925(g), may omit the description relating to the exercise of subscription rights required by Section 1075.2570.

c) If any shares are to be offered through underwriters, the offering circular for the public offering shall state the names of the principal underwriters and the respective amounts underwritten by each. The names of the principal underwriters other than the managing underwriters and the respective amounts to be underwritten may be omitted from the offering circular for the subscription offering, unless the plan of conversion contains the optional provision permitted by Section 1075.2935(g). Each offering circular shall identify each principal

underwriter having a material relationship to the applicant and state the nature of the relationship. Each offering circular shall state briefly the nature of the underwriter's obligation to take the unsubscribed shares.

d) The offering circular for the public offering shall state briefly the discounts and commissions to be allowed or paid to dealers in connection with the sale of the unsubscribed shares. This ~~Such~~ information may be omitted from the offering circular for any subscription offering, unless the plan of conversion contains the optional provision permitted by Section 1075.1925(g).

e) If any shares are to be offered through underwriters, the offering circular for the public offering shall identify any principal underwriter that intends to confirm sales to any accounts over which it exercises discretionary authority and include an estimate of the number of shares so intended to be confirmed. The ~~Such~~ information may be omitted from the offering circular for any subscription offering. With respect to this subsection, the following shall apply:

1) Commissions include all cash, securities, contracts, or anything else of value, paid, to be set aside, disposed of, or understandings made with or for the benefit of any persons in which any underwriter or dealer is interested, in connection with the sale of the shares.

2) Only commissions paid by the applicant in cash are to be included in the table. Any other consideration to the underwriters shall be set forth following the table with a reference ~~thereto~~ in the second column of the table. Any finder's fees or similar payments shall be appropriately disclosed.

3) All that is required as to the nature of the underwriters' obligation is whether the underwriters are, or will be, committed to take and to pay for all the shares if any are taken, or whether it is merely an agency of "best efforts" arrangement under which the underwriters are required to take and pay for only the ~~such~~ shares ~~as~~ they may sell to the public. Conditions precedent to the underwriters' taking the shares, including customary "market outs," need not be described. If a "best efforts" arrangement is used, describe any standby commitments for shares not sold.

f) If any shares are to be sold by the converting savings bank through a direct community marketing, indicate the timing of the offering, the geographical area where the offering will be made, the method to be employed to market the shares,

including the frequency and nature of communications or contracts with potential purchasers, any preferences that will be given any such geographical area or class of potential purchasers, and the limitations on purchases by potential purchasers.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART P: HIGH RISK HOME LOANS

Section 1075.3000 Definitions

"Approved Credit Counselor" means a credit counselor as approved by the Director of the Division ~~Department~~ of Financial Institutions of the Department of Financial and Professional Regulation.

"Good faith" means honesty in fact in the conduct of the transaction.

"High risk home loan" means a home equity loan on residential real property in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the 15th ~~fifteenth~~ day of the month immediately preceding the month in which the application for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or $800. The $800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However this Subpart shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2000), no subsequent amendments or editions are included).

"Home equity loan" means any loan secured by the borrower's primary residence where the proceeds are not to be used as purchase money for the residence.

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded transaction, not otherwise included in 12 CFR 226.4.

"Servicer" means any entity chartered under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, noteholder, or for a licensee's own account, of payments, interests, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.3150 Verification of Ability to Pay Loan

The lender shall verify the borrower's ability to repay the loan in the case of high risk home loans. Such verification shall require, at a minimum, the following:

a) The borrower prepares and submits to the lender a personal income and expense statement in a form prescribed by the Director ~~Commissioner~~ who may permit the use of other forms such as the URLA (Fannie Mae Form 1003 (10/92), available from Fannie Mae, 3900 Wisconsin Avenue, NW, Washington, DC 20016-2892 and Freddie Mac Form 85 (10/92), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions) and Transmittal Summary (Fannie Mae Form 1077 (3/97), available from Fannie Mae, 3900 Wisconsin Avenue,

NW, Washington, DC 20016-2892 and Freddie Mac Form 1008 (3/97), available from Freddie Mac at 1101 Pennsylvania Avenue, NW, Suite 950, PO Box 37347, Washington, DC 20077-0001, no subsequent amendments or editions).

b) Income is verified by means of tax returns, pay stubs, accounting statements or other prudent means.

c) A credit report is obtained regarding the borrower.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.3550 Counseling Prior to Perfecting Foreclosure Proceedings

a) In the event that a high risk home loan becomes delinquent by more than 30 days, the servicer shall send a notice advising the borrower that he or she may wish to seek consumer credit counseling.

b) The notice required in subsection (a) shall, at a minimum, include the following language:

"YOUR LOAN IS OR WAS MORE THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED CONSUMER CREDIT COUNSELING. A LIST OF APPROVED CREDIT COUNSELORS MAY BE OBTAINED FROM THE DIVISION ~~ILLINOIS OFFICE~~ OF BANKS AND REAL ESTATE."

c) If, within 15 days after mailing the notice provided for under subsection (b), a lender or its agent is notified in writing by an approved consumer credit counselor and the approved consumer credit counselor advises the lender or its agent that the borrower is seeking approved consumer credit counseling, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for 30 days from the date of that notice. Only one such 30-day period of forbearance is allowed under this Section per subject loan.

d) If within the 30-day period provided under subsection (c) the lender or its agent, the approved consumer credit counselor, and the borrower agree to a debt management plan, then the lender and its agent shall not institute legal action under Part 15 of Article XV of the Code of Civil Procedure for so long as the debt management plan is complied with by the borrower.

1) The agreed debt management plan must be in writing and signed by the lender or its agent, the approved consumer credit counselor, and the borrower. No modification of an approved debt management plan can be made without the mutual agreement of the lender or its agent, the approved consumer credit counselor, and the borrower.

2) Upon written notice to the lender or its agent, the borrower may change approved consumer credit counselors.

e) If the borrower fails to comply with the agreed debt management plan, then nothing in this Subpart shall be construed to impair the legal right of the lender or its agent to enforce contracts or mortgage agreements.

f) This Section applies only to high risk home loans as defined by Section 1075.3000.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.3600 Mortgage Awareness Program

a) The Mortgage Awareness Program is a counseling and educational component that is provided by the Director of the Division ~~Department~~ of Financial Institutions of the Department.

b) The core curriculum of the Mortgage Awareness Program shall include an explanation of:

1) ~~Explanation of the~~ The amount financed;

2) ~~Explanation of the~~ The finance charge;

3) ~~Explanation of the~~ The annual percentage rate;

4) ~~Explanation of the~~ The total payments;

5) ~~Explanation of the~~ The loan costs, including broker's fees, finance charges, points, origination fees;

6) ~~Explanation of the~~ The right of rescission;

7) ~~Explanation of the~~The foreclosure procedures;

8) ~~Explanation of the~~ The significant debt ratios, including total debt to income, loan debt to income, and loan debt to value of residence;

9) ~~Explanation of~~ The adjustable rate mortgage;

10) ~~Explanation of~~ The balloon payments;

11) ~~Explanation of~~ The credit options;

12) ~~Explanation of~~ Each ~~each~~ item that ~~which~~ appears on a good faith estimate;

13) ~~Explanation of~~ The pre-payment penalties.

c) Counseling session attendees must also complete a personal income and expense statement and a balance sheet, on forms provided by the Director~~Commissioner~~.

d) Prior to signing a certificate of completion, counselors shall privately discuss with each attendee that attendee's income and expense statement and balance sheet, as well as the terms of any loan the attendee currently has or may be contemplating, and provide a Third Party Review to establish the affordability of the loan.

e) Counseling session attendees must also be given a brochure that contains information covered by the Mortgage Awareness Program.

f) Any lender, prior to making a high risk home loan, shall inform the borrower in writing of the right to participate in the Mortgage Awareness Program.

g) No lender shall offer less favorable loan terms to a borrower due to a borrower's participation in a Mortgage Awareness Program.

h) Except as prohibited elsewhere in this Subpart, the borrower may waive participation in the program, provided that the ~~such~~ waiver occurs no less than 2 business days after the day that the borrower receives the written notice required by subsection (f) and that the waiver is in writing in a form approved by the Director~~Commissioner~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.3700 The Director's ~~Commissioner's~~ Authority – Unusually High Rate on Conventional Loans

a) The Director ~~Commissioner~~ shall review and analyze the default and foreclosure rate data reports submitted under Section 1075.3650.

b) The reports and their analyses may be used:

1) In setting the scope of a regularly scheduled examination.

2) In setting the scope of a special examination.

3) In comparing the reported information of a savings bank to other savings banks subject to this Act.

4) In comparing the reported information of a savings bank to the reports submitted by savings banks and charters under other Acts.

c) The Director ~~Commissioner~~ may correspond with a savings bank to seek clarification of information contained in its report and to gather additional data concerning loans in default or loans in foreclosure.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.3750 Third Party Review of High Risk Home Loans

In the case of any high risk home loan, the borrower shall be afforded the opportunity to seek independent review by the Division ~~Office~~ of Banks and Real Estate, of the loan terms, in order to determine affordability of the loan, when and if the General Assembly appropriates adequate funding to the Division ~~Office~~ of Banks and Real Estate specifically for this program.

a) Every borrower who chooses to participate in the independent review provided in this Section shall submit information requested on the worksheets outlined in Appendix A and B.

b) The Division ~~Office~~ of Banks and Real Estate shall provide the borrower with a review of the worksheets and shall also inform the borrower of the amount the borrower has available for a monthly mortgage payment based upon the

borrower's budget.

c) In addition, the Division ~~Office~~ of Banks and Real Estate shall review loan information pertaining to balloon payments and adjustable interest rates and other items disclosed by the loan documents affecting amount of payment and shall inform the borrower of such items.

d) The borrower shall receive a copy of the completed forms and shall sign the forms acknowledging receipt. A copy of the written and signed forms shall be submitted to the lender prior to the closing of the loan and shall become a part of the permanent file for the loan.

e) If, based upon the review, the borrower determines that the loan is not in his or her best economic interest, the reviewer shall so note ~~not~~ this in the completed forms sent to the lender. This determination shall enable the borrower to withdraw from the contemplated loan with no financial penalty.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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].

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

"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: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.4020 Purpose and Scope

a) Purpose. The purpose of this Subpart is to establish the procedures and standards by which the Director ~~Commissioner~~ shall determine whether to disclose confidential supervisory information in response to a request for discovery or disclosure of this ~~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 Director ~~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 pursuant to Section 7(l)(x) of FOIA;

2) a request made by a party to whom the Director ~~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: Amended at 30 Ill. Reg. _____, effective _____)

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 Director~~Commissioner~~. If the request is for a record, the requester must adequately describe the records sought by type and date. The ~~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 Division ~~Office~~ of Banks and Real Estate to produce the requested confidential supervisory information.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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:

Division ~~Office~~ of Banks and Real Estate

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Department of Financial and Professional Regulation
Bureau of Residential Finance/Thrift Division
310 South Michigan Avenue, Suite 2130
Chicago, Illinois 60604-4278
Attention: Thrift Legal Counsel

(Source: Amended at 30 Ill. Reg. _____, effective _____)

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 Director ~~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 Division ~~Office~~ of Banks and Real Estate.

b) Director ~~Commissioner~~ Inquiries. In determining whether to disclose the requested confidential supervisory information, the Director ~~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 Director ~~Commissioner~~ to Respond. The Director~~Commissioner~~, within 15 days, shall determine whether to disclose the requested confidential supervisory information. The 15-day time period shall not commence until the Director ~~Commissioner~~ receives a complete request. If the request is not complete, the Director ~~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 Director ~~Commissioner~~ may notify the savings bank

or Illinois savings bank holding company office that is the subject of the requested information, unless the Director ~~Commissioner~~ determines that to do so would advantage or prejudice any of the parties in the matter at issue.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.4060 Disclosure of Confidential Supervisory Information

a) Conditions and Limitations. The Director ~~Commissioner~~ may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of this ~~such~~ information. Except as authorized by the Director~~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 Director ~~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 Director~~Commissioner~~, the Director ~~Commissioner~~ may nevertheless condition approval for release of confidential supervisory information upon the inclusion of additional or amended provisions in the protective order. The Director ~~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 Director ~~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: Amended at 30 Ill. Reg. _____, effective _____)

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 Director ~~Commissioner~~ that the disclosed confidential supervisory information covered by the protective order has been destroyed.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 1075.4080 Fees for Services

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

1~~a~~) Reproduction costs incurred in making photocopies of documents shall be reimbursed at $.25 per exposure.

2~~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.

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

(Source: Amended at 30 Ill. Reg. _____, effective _____)

SUBPART R: PAYDAY LOANS

Section 1075.5000 Purpose and Scope

This Subpart applies to savings banks chartered under the Savings Bank Act [205 ILCS 205/1001].

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 1075.5010 Definitions

"Payday Loan" or "loan" means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone, in which:

A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts one or more checks dated subsequent to the date written and agrees to hold them for deposit; or

A lender accepts one or more authorizations to debit a consumer's account; or

A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment.

"PLRA" means the Payday Loan Reform Act [815 ILCS 122]. Savings Banks are expressly exempt from the provisions of the PLRA.

"Savings Bank" means a savings bank chartered under the Savings Bank Act [205 ILCS 205/1001].

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 1075.5020 Applicability of Subpart

This Subpart shall apply only to payday loans made by a savings bank. Products and services offered by a savings bank that are not offered by lenders governed by the PLRA shall not be subject to this Subpart.

(Source: Added at 30 Ill. Reg. _____, effective _____)

Section 1075.5030 Issuance of Payday Loans by Savings Banks

a) A savings bank making a payday loan shall satisfactorily address all safety and soundness considerations identified by the Division of Banking in its examination

and supervision of the savings bank. Safety and soundness considerations include, without limitation:

1) Risk-management practices for payday loan activities, particularly with regard to concentrations of payday loans;

2) Capital adequacy, depending on the level and volatility of risk;

3) Allowance for loan losses to ensure the allowance is adequate to absorb estimated credit losses within the payday loan portfolio;

4) Classification of payday loans, given the unsecured nature of the credit and weakness of repayment capacity inherent in payday loans; and

5) The establishment and maintenance of extension, deferral, renewal and rewrite standards consistent with the PLRA.

b) In the event the Division of Banking determines the savings bank's management of safety and soundness risks relating to its payday loan portfolio is deficient, the Division of Banking may initiate corrective enforcement action, as authorized under the Savings Bank Act.

(Source: Added at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Insurance Companies Originating Payday Loans

2) Code Citation: 50 Ill. Adm. Code 902

3)

Section Numbers:	Proposed Action:
902.10	New Section
902.20	New Section
902.30	New Section
902.40	New Section
902.50	New Section

4) Statutory Authority: Implementing and authorized by the Payday Loan Reform Act [815 ILCS 122] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

5) A Complete Description of the Subjects and Issues Involved: The Payday Loan Reform Act requires the Department to promulgate regulatory standards that address a number of business practices concerning payday loans. The Division is charged with promulgating standards, only with respect to insurance companies, described as "exempt entities" in Section 1-15(d) of the Act [815 ILCS 122-1-15(d)].

6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None

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

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed amendments pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking 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.

12) 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:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

Joseph T. Clennon, Staff Attorney
Department of Financial and
Professional Regulation
Division of Insurance
320 West Washington, 4th Floor
Springfield, Illinois 62767-0001

217/557-1396

or

Barb Smith, Rules Coordinator
Department of Financial and
Professional Regulation
320 West Washington
3rd Floor
Springfield, Illinois 62767-0001

217/785-0813

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This new rule will not affect small businesses, small municipalities or not for profit organizations.

B) Reporting, bookkeeping or other procedures required for compliance: See Section 904.40 of this Part.

C) Types of professional skills necessary for compliance: Insurance & accounting

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the Division did not anticipate the need to promulgate regulatory standards to implement the Payday Loan Reform Act.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER l: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 902
INSURANCE COMPANIES ORIGINATING PAYDAY LOANS

Section
902.10 Authority
902.20 Purpose and Applicability
902.30 Definitions
902.40 Insurance Companies Originating Payday Loans
902.50 Enforcement

AUTHORITY: Implementing and authorized by the Payday Loan Reform Act [815 ILCS 122] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 30 Ill. Reg. _____, effective _____.

Section 902.10 Authority

This Part is promulgated by the Director of the Department of Financial and Professional Regulation-Division of Insurance under Section 401 of the Illinois Insurance Code [215 ILCS 5/401] that empowers the Director *to make reasonable rules and regulations as may be necessary for making effective* the insurance *laws* of this State. Further, this Part implements Section 4-30(b) of the Payday Loan Reform Act [815 ILCS 122/4-30(b)] that requires the Secretary to promulgate rules to implement that Act.

Section 902.20 Purpose and Applicability

The purpose of this Part is to establish standards for products and/or services regulated by the Payday Loan Reform Act [815 ILCS 122] when offered by insurance companies. This Part applies to insurance companies, as that term is defined in Section 902.30 of this Part.

Section 902.30 Definitions

Act means the Payday Loan Reform Act [815 ILCS 122].

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

Department means the Illinois Department of Financial and Professional Regulation.

Director means the Director of the Illinois Department of Financial and Professional Regulation-Division of Insurance.

Division means the Illinois Department of Financial and Professional Regulation-Division of Insurance.

Insurance Company means one that is organized, chartered, or holding a certificate of authority to do business under the laws of this State or any other state or under the laws of the United States. (See 815 ILCS 122/1-15(d).)

Payday loan or loan means a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone, in which:

A lender accepts one or more checks dated on the date written and agrees to hold them for a period of days before deposit or presentment, or accepts one or more checks dated subsequent to the date written and agrees to hold them for deposit; or

A lender accepts one or more authorizations to debit a consumer's bank account; or

A lender accepts an interest in a consumer's wages, including, but not limited to, a wage assignment.

Secretary means the Secretary of the Illinois Department of Financial and Professional Regulation.

Section 902.40 Insurance Companies Originating Payday Loans

All insurance companies offering payday loans, as that term is defined in Section 902.30 of this Part, including any insurance products and/or services that constitute a payday loan, as defined in Section 902.30 of this Part, must offer such products and/or services in a manner consistent with the Act. Insurance companies shall ensure that any payday loan products and/or services are offered in a manner that will not jeopardize the insurance company's financial solvency pursuant to Article IIA of the Code [215 ILCS 5/Art. IIA].

Section 902.50 Enforcement

The Secretary or Director may take any appropriate regulatory action, including but not limited to those authorized by Article XXIV of the Code [215 ILCS 5/Art. XXIV], against any insurance company whose products and/or services are inconsistent with the Act or Code.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Accident and Health Reserves

2) Code Citation: 50 Ill. Adm. Code 2004

3)

Section Numbers:	Proposed Action:
2004.5	Amendment
2004.10	Amendment
2004.20	Amendment

4) Statutory Authority: Implementing Section 353(a) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/353(a) and 401].

5) A Complete Description of the Subjects and Issues Involved: For all accident and health insurance policies written on, or after the effective date of this amendment, the reserve standards incorporated in Section 2004.10 of this Part will be the National Association of Insurance Commissioners 2006 Accounting Practices and Procedures Manual (APPM).Currently, Section 2004.10 references the March .

6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None

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

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? Yes

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking 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.

12) Time, Place, and Manner in which interested persons may comment on this 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:

Joseph Clennon, Staff Attorney
Department of Financial and
Professional Regulation

Barb Smith, Rules Coordinator
Department of Financial and
Professional Regulation

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

Division of Insurance 320 West Washington, 4th Floor Springfield, Illinois 62767-0001 217/785-8220	or	320 West Washington 3rd Floor Springfield, Illinois 62767-0001 217/785-0813

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: No small business, small municipalities or not for profit corporations will be affected by this amendment.

B) Reporting, bookkeeping or other procedures required for compliance: This proposed amendment contains an updated NAIC AAPM standard, consequently the requirements are not new, they are simply being revised.

C) Types of professional skills necessary for compliance: Accounting

14) Regulatory Agenda on which this rulemaking was summarized: July 2005

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION~~INSURANCE~~
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCE

PART 2004
ACCIDENT AND HEALTH RESERVES

Section
2004.5 Authority
2004.10 Application and Effective Date
2004.20 Active Life Reserves – Individual Policies
2004.30 Active Life Reserves – Group Policies
2004.40 Claim Reserves – Present Value of Amounts Not Yet Due on Claims
2004.50 Policies Issued Prior to Operative Date of Section 353(a)

AUTHORITY: Implementing Section 353(a) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/353(a) and 401].

SOURCE: Filed December 14, 1965, effective December 28, 1965; codified at 7 Ill. Reg. 4219; amended at 26 Ill. Reg. 3074, effective February 19, 2002; amended at 30 Ill. Reg. _____, effective _____.

Section 2004.5 Authority

This~~The following~~ Part is promulgated and adopted pursuant to and in accordance with the provisions of Section 401 of the Illinois Insurance Code in order to implement Section 353(a) of the Code~~thereof~~.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 2004.10 Application and Effective Date

This Part applies to all companies transacting in this State the kinds of business enumerated in clause (b) of Class 1 and clause (a) of Class 2 of Section 4 of the Illinois Insurance Code [215 ILCS 5/4], and it applies to all accident and health policies for which reserve standards are prescribed under Section 353(a) of the Code. The standards established by this Part will no longer be applicable to policies issued and claims incurred on or after January 1, 2002. After that date, applicable standards are as prescribed by the National Association of Insurance Commissioners (NAIC) (2301 McGee Street, Suite 800, Kansas City~~,~~ MO 64108-2662~~2604~~)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

(Accounting Practices and Procedures Manual – as of March 2006~~2001~~, no subsequent dates or editions).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 2004.20 Active Life Reserves – Individual Policies

a) General Provisions

Active life reserves are required for all in force policies and are in addition to any reserves required in connection with claims. For policy types in subsections~~subsection~~ (b)(1)-(3) of this Section, the minimum reserve shall be determined as specified in this Part~~therein~~. It should be emphasized, however, that these are minimum standards and higher, adequate reserves shall be established by the company in any case in which~~where~~ experience indicates that these minimum standards do not place a sound value on the liabilities under the policy. For policy types in subsection (b)(4) of this Section, the minimum reserve shall be the gross pro rata unearned premium.

b) Types of individual accident and health insurance policies

1) Policies that~~which~~ are noncancellable or noncancellable and guaranteed renewable for life or to a specified age, such as 60 or 65.

2) Policies that~~which~~ are guaranteed renewable for life or to a specified age, such as 60 or 65, but under which the company reserves the right to change the scale of premiums.

3) Policies in which the company has reserved the right to cancel or refuse renewal for one or more reasons, but has agreed implicitly or explicitly that, prior to a specified time or age, it will not cancel or decline renewal solely because of deterioration of health after issue; however, policies shall not be considered of this type if the company has reserved the right to refuse renewal provided the right is to be exercised at the same time for all policies in the same category, unless premiums are based on the level premium principle.

4) All other individual policies.

5) Notices:

A) This subsection (b)~~The above~~ does not classify "franchise" as a type of policy. Such policies are frequently written under an agreement limiting the company's right to cancel or refuse renewal. Usually the right is reserved to refuse renewal of all policies in the group or other categories such as those ceasing to be members of the association, and this would place those~~such~~ policies, in subsection (b)(4) of this Section in accordance with the last clause under subsection (b)(3) of this Section. However, if premiums are based on the level premium principle or if the renewal privilege granted to the individual insured meets the requirements for policies in subsections (b)(1)-(3) of this Section, the franchise policy shall be so classified for reserve purposes.

B) "Family group accident and health insurance policies", as defined in Section 367(4) of the Illinois Insurance Code [215 ILCS 5/367(4)], should have active life reserves determined under this Section.

C) A policy may have guarantees qualifying it as a policy listed in subsections (b)(1)-(3) of this Section until a specified age or duration, after which the guarantees, or lack of guarantees, may qualify it as a policy such as listed in subsections (b)(1)-(4) of this Section. In such case, the policy in each period shall be considered for reserve purposes according to the type to which it then belongs.

D) Where all of the benefits of a policy, as provided by rider or otherwise, are not of the same type as listed in this subsection (b), each benefit shall be considered for reserve purposes according to the type to which it belongs.

c) Reserve standards for policies in subsections (b)(1)-(3) of this Section.

1) Interest. The maximum interest rate for reserves shall be 3½% compounded annually.

2) Mortality:

A) 1941 Commissioners Standard Ordinary Table, or

B) 1958 Commissioners Standard Ordinary Table, or

C) 1941 Standard Industrial Mortality Table, or

D) Commissioners 1961 Standard Industrial Mortality Table, or

E) Such other table as may be approved by the Director of the Department of Financial and Professional Regulation-Division of Insurance (Director).

3) Morbidity or Other Contingency~~other contingency~~:

A) Total disability due to accident or sickness. The minimum standard shall be the 1964 Commissioners Disability Table.

B) Hospital Expense Benefits. The minimum standard shall be the 1956 Inter-company Hospital Table.

C) Surgical Expense Benefits. The minimum standard shall be the 1956 Inter-company Surgical Table.

D) Accidental Death Benefits. The minimum standard shall be the 1959 Accidental Death Benefits Table.

E) All other benefits. The company shall adopt standards to produce reserves which place a sound value on the liabilities under such benefit.

4) Negative Reserves. Negative reserves on any benefit may be offset against positive reserves for other benefits in the same policy, but the mean reserve on any policy shall never be taken as less than one-half the valuation net premium.

5) Preliminary Term. The minimum reserve shall be on the basis of a two-year preliminary term.

6) Reserve Method. Mean reserves diminished by appropriate credit for valuation net deferred premiums, or, mid-terminal reserves plus gross or net pro rata unearned premium reserves. In no event, however, may the aggregate reserve for all policies be less than the gross pro rata unearned

premium under those~~such~~ policies.

7) Alternative Valuation Procedures and Assumptions. Provided the reserve on all policies to which the method or basis is applied is not less in the aggregate than the amount determined according to the applicable standards specified above, the company may use any reasonable assumptions as to the interest rate, mortality rates, or the rates of morbidity or other contingency, and may introduce an assumption as to the voluntary termination of policies. Also, subject to the preceding condition, the company may employ methods other than the methods stated above in determining a sound value of its liabilities under such policies, including but not limited to the following:

A) Optional use of either the level premium, the one-year preliminary term, or the two-year preliminary term method.

B) Prospective valuation on the basis of actual gross premiums with reasonable allowance for future expenses.

C) The use of approximations such as those involving age groupings, groupings of several years of issue or average amounts of indemnity.

D) The computation of the reserve for one policy benefit as a percentage of, or by other relation to, the aggregate policy reserves, exclusive of the benefit or benefits so valued.

E) The use of a composite annual claim cost for all or any combination of the benefits included in the policies valued.

8) For statement purposes, the net reserve liability may be shown as the excess of the mean reserve over the amount of net unpaid and deferred premiums, or, regardless of the underlying method of calculation, it may be divided between the gross pro rata unearned premium reserve and a balancing item for the "additional reserve".

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Duck, Goose and Coot Hunting

2) Code Citation: 17 Ill. Adm. Code 590

3)

Section Numbers:	Proposed Action:
590.10	Amendment
590.20	Amendment
590.40	Amendment
590.50	Amendment
590.60	Amendment
590.80	Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10] and Migratory Bird Hunting (50 CFR 20).

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to: update statewide regulations, make changes to reflect that the Canada goose quota system is being eliminated, add a new federally-approved shot type and update the list of sites and site-specific regulations.

6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None

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

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.

12) Time, Place and Manner in which interested persons may comment on this rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Jack Price, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

13) 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

14) Regulatory Agenda on which this rulemaking was summarized: January 2006

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 590
DUCK, GOOSE AND COOT HUNTING

Section

590.10 Statewide Regulations
590.15 Duck, Goose and Coot General Hunting Regulations on Department-Owned and -Managed Sites Listed in Sections 590.40 and 590.50
590.20 Permit Controlled Department Sites Only – Duck, Goose and Coot Hunting
590.25 Illinois Youth Waterfowl Hunting Permit Requirements (Repealed)
590.26 Illinois Youth Duck Hunting Permit Requirements (Repealed)
590.30 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and -Managed Sites (Repealed)
590.40 Check Station Department Sites Only – Duck, Goose and Coot Hunting
590.50 Non-Check Station Department Sites Only – Duck, Goose and Coot Hunting
590.60 Various Other Department Sites – Duck, Goose and Coot Hunting
590.70 Ohio River
590.80 Early and Late Goose (all species) Hunting Regulations on Department Sites
590.EXHIBIT A The Non-Toxic Shot Zones of Illinois (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10] and Migratory Bird Hunting (50 CFR 20).

SOURCE: Adopted at 5 Ill. Reg. 8857, effective August 25, 1981; emergency amendment at 5 Ill. Reg. 11386, effective October 14, 1981, for a maximum of 150 days; codified at 5 Ill. Reg. 10638; Part repealed at 6 Ill. Reg. 9647, effective July 21, 1982; new Part adopted at 6 Ill. Reg. 11865, effective September 22, 1982; amended at 7 Ill. Reg. 13229, effective September 28, 1983; emergency amendment at 7 Ill. Reg. 13948, effective October 6, 1983, for a maximum of 150 days; emergency expired March 3, 1984; amended at 8 Ill. Reg. 18968, effective September 26, 1984; amended at 9 Ill. Reg. 14242, effective September 5, 1985; peremptory amendment at 9 Ill. Reg. 15062, effective September 25, 1985; emergency amendment at 9 Ill. Reg. 15928, effective October 8, 1985, for a maximum of 150 days; emergency expired March 5, 1986; amended at 10 Ill. Reg. 16588, effective September 22, 1986; emergency amendment at 10 Ill. Reg. 17773, effective September 26, 1986, for a maximum of 150 days; emergency expired February 23, 1987; amended at 11 Ill. Reg. 10560, effective May 21, 1987; emergency

amendment at 11 Ill. Reg. 15242, effective August 28, 1987, for a maximum of 150 days; emergency expired January 25, 1988; amended at 12 Ill. Reg. 12200, effective July 15, 1988; emergency amendment at 12 Ill. Reg. 16233, effective September 23, 1988, for a maximum of 150 days; emergency expired February 20, 1989; emergency amendment at 12 Ill. Reg. 22244, effective December 7, 1988, for a maximum of 150 days; emergency expired May 6, 1989; amended at 13 Ill. Reg. 10525, effective June 20, 1989; amended at 13 Ill. Reg. 14925, effective September 7, 1989; emergency amendment at 13 Ill. Reg. 16579, effective October 4, 1989, for a maximum of 150 days; emergency expired March 3, 1989; amended at 13 Ill. Reg. 17354, effective October 27, 1989; amended at 14 Ill. Reg. 638, effective January 2, 1990; amended at 14 Ill. Reg. 13529, effective August 13, 1990; emergency amendment at 14 Ill. Reg. 17029, effective September 26, 1990, for a maximum of 150 days; emergency expired February 23, 1991; amended at 15 Ill. Reg. 1487, effective January 22, 1991; amended at 15 Ill. Reg. 13293, effective September 3, 1991; emergency amendment at 15 Ill. Reg. 16745, effective November 5, 1991, for a maximum of 150 days; emergency expired April 3, 1992; amended at 16 Ill. Reg. 570, effective December 31, 1991; amended at 16 Ill. Reg. 12491, effective July 28, 1992; emergency amendment at 16 Ill. Reg. 16672, effective October 15, 1992, for a maximum of 150 days; emergency expired March 9, 1993; emergency amendment at 16 Ill. Reg. 18851, effective November 17, 1992, for a maximum of 150 days; emergency expired April 11, 1993; emergency amendment at 17 Ill. Reg. 1658, effective January 20, 1993, for a maximum of 150 days; emergency expired June 14, 1993; amended at 17 Ill. Reg. 16443, effective September 27, 1993; emergency amendment at 17 Ill. Reg. 18867, effective October 14, 1993, for a maximum of 150 days; emergency expired March 13, 1994; amended at 18 Ill. Reg. 10023, effective June 21, 1994; emergency amendment at 18 Ill. Reg. 15161, effective September 27, 1994, for a maximum of 150 days; emergency expired February 23, 1995; amended at 19 Ill. Reg. 13209, effective September 11, 1995; amended at 20 Ill. Reg. 754, effective December 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 12417, effective August 30, 1996; amended at 21 Ill. Reg. 578, effective December 30, 1996; amended at 21 Ill. Reg. 11713, effective August 12, 1997; amended at 22 Ill. Reg. 2182, effective January 2, 1998; amended at 22 Ill. Reg. 15961, effective August 24, 1998; amended at 22 Ill. Reg. 21881, effective December 3, 1998; emergency amendment at 23 Ill. Reg. 3092, effective March 10, 1999, for a maximum of 150 days; emergency expired August 6, 1999; amended at 23 Ill. Reg. 11195, effective August 26, 1999; emergency amendment at 23 Ill. Reg. 14640, effective December 13, 1999, for a maximum of 150 days; emergency expired May 10, 2000; amended at 24 Ill. Reg. 12517, effective August 7, 2000; amended at 25 Ill. Reg. 14131, effective October 22, 2001; amended at 26 Ill. Reg. 16238, effective October 18, 2002; amended at 27 Ill. Reg. 15409, effective September 18, 2003; amended at 28 Ill. Reg. 13562, effective September 24, 2004; amended at 29 Ill. Reg. 9654, effective June 24, 2005; emergency amendment at 29 Ill. Reg. 13900, effective August 30, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 18924, effective November 4, 2005; amended at 30 Ill. Reg. _____, effective _____.

Section 590.10 Statewide Regulations

a) Pursuant to Section 2.18 of the Wildlife Code [520 ILCS 5/2.18], *it shall be unlawful to take, possess, transport, or use migratory waterfowl except during such period of time and in such manner and numbers as may be provided in the Federal "Migratory Bird Treaty Act"* (16 USC 703-711), *the "Migratory Bird Hunting Stamp Act"* (16 USC 1718 et seq.), and annual "Rules and Regulations for Migratory Bird Hunting" (50 CFR 20 and 21) (collectively referred to in this Part as federal regulations) (no incorporation in this Part includes later amendments or editions), or contrary to any State regulations made in the Wildlife Code. Violation is a Class B misdemeanor (see 520 ILCS 5/2.18).

b) The regulations in Section 2.33 of the Wildlife Code on illegal devices shall apply to this Part, unless federal regulations are more restrictive. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33), except that violation of Section 2.33(g), (i), (o), (p), (y) and (cc) are Class A misdemeanors with a minimum $500 fine and a maximum $5,000 fine in addition to other statutory penalties.

c) Duck, goose and coot regulations are in accordance with Federal Regulations (50 CFR 20) unless the regulations in this Part are more restrictive. Violation is a Class B misdemeanor (see 520 ILCS 5/2.18).

d) It shall be unlawful while attempting to take migratory waterfowl or coots to have in possession any shotgun shells not approved as non-toxic by federal regulations. Violation is a petty offense (see 520 ILCS 5/2.18-1).

e) It shall be unlawful to possess any shotgun shell loaded with a shot size larger than number T steel; number BBB bismuth, Ultrashok High Density, or Hevi-Steel; number BB tungsten/iron, tungsten/matrix (Impact), or tungsten/polymer; number B Hevi-Shot, tungsten/bronze/iron (TBI), Wingmaster HD, Xtended Range Hi-Density, or Dead Coyote; number 1 Silvex or Hevi-13; or number 3 Heavyweight when attempting to take waterfowl. Violation is a petty offense (see 520 ILCS 5/2.18-1).

f) ~~Emergency Closure The Department of Natural Resources (Department or DNR) will close the Canada goose season giving 48 hours notice when quotas established by federal regulations are reached, when harvest in any area is excessive due to extreme weather conditions or when a serious outbreak of~~

~~infectious disease occurs, such as avian cholera or duck virus enteritis.~~ Hunting Canada Geese after the season is closed is a Class B misdemeanor (see 520 ILCS 5/2.18). Possession of freshly killed wild geese during the closed season is a Class A misdemeanor (see 520 ILCS 5/2.33(cc)).

g) Closed Areas
Closed areas, including waterfowl refuges and rest areas, may be designated at certain sites in accordance with 17 Ill. Adm. Code 510. Boundaries of these closed areas will be posted. Violation is a petty offense (see 520 ILCS 5/2.20).

h) Commercial Migratory Waterfowl Hunting Area Permits

1) The holder of a permit ~~in the counties of Alexander, Jackson, Union and Williamson shall forward information on harvest and hunters to the Department, by phone and on forms furnished by the Department, at times required by the Department. The holder of a permit in any other county~~ shall forward information on harvest and hunters to the Department on forms furnished by the Department, at times required by the Department. The Department shall give the permit holder reasonable written notice of the dates reports are required. Permit holders are required to retain a copy of their harvest records for at least 2 years after expiration of their permit. Failure to timely supply such reports will make the permit holder subject to revocation of his permit and suspension of the privilege to hold the permit for up to 5 years. Violation is a petty offense (see 520 ILCS 5/3.6).

2) On any property where the principal waterfowl harvest is wild geese, it is the permit holder's duty to ensure that no more than 5 persons occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season. Violation is a petty offense (see 520 ILCS 5/3.8).

~~3) The Department may assign the maximum potential Canada goose harvest (number registered pits x 5 hunters x Canada goose bag limit) to the cumulative quota zone harvest for each day a club is late in reporting.~~

i) Waterfowl Hunting Zones:

1) North Zone – That portion of the State north of a line running east from the Iowa border along Illinois Route 92 to U.S. Interstate 280, east along U.S. Interstate 280 to U.S. Interstate 80, then east along U.S. Interstate 80

to the Indiana border.

~~2) Northern Illinois Quota Zone – DuPage, Kane, Lake, and McHenry counties, and those portions of LaSalle and Will counties north of I-80.~~

2)~~3)~~ Central Zone – That portion of the State south of the Northern Zone boundary to the Modoc Ferry route on the Mississippi River and east along the Modoc Ferry Road to Modoc Road to St. Leo's Road to Illinois Route 3, then north to Illinois Route 159, then north to Illinois Route 161, then east to Illinois Route 4, then north to U.S. Interstate 70, then east along U.S. Interstate 70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to U.S. Interstate 70, then east along U.S. Interstate 70 to the Indiana border.

~~4) Central Illinois Quota Zone – Calhoun, Cass, Fulton, Jersey, Knox, Mason, Morgan, Peoria, Pike, Tazewell, and Woodford counties, as well as those portions of LaSalle, Grundy, and Will counties south of I-80.~~

3)~~5)~~ South Zone – From the southern boundary of the Central Zone south to the remainder of the State.

4)~~6)~~ Northeastern Illinois Canada Goose Zone – All lands and waters in the counties of Cook, DuPage, Grundy, Kankakee, Kane, Kendall, Lake, McHenry and Will.

~~7) Southern Illinois Quota Zone – Alexander, Union, Williamson, and Jackson Counties.~~

j) No person during the open season shall take or attempt to take wild geese prior to ½ hour before sunrise nor after sunset. In Alexander, Union, Williamson and Jackson Counties~~the Southern Illinois Quota Zone (SIQZ)~~, no person shall take or attempt to take wild geese after the hour of 3:00 p.m.; except, during the last 3 days of the Canada goose season and during any goose seasons that occur after the regular Canada goose season and during any Canada goose season set in September, hunting hours in Alexander, Union, Williamson and Jackson Counties~~the SIQZ~~ shall close at statewide closing time. During special light goose seasons as indicated in subsection (n), statewide hunting hours shall be ½ hour before sunrise to ½ hour after sunset daily. Hunting prior to ½ hour before

sunrise during the open season is a Class A misdemeanor (see 520 ILCS 2.33(y)). Hunting after ½ hour after sunset is a Class A misdemeanor (see 520 ILCS 2.33(y)). Hunting after closing hours is a Class B misdemeanor (see 520 ILCS 5/2.18).

k) On any property where the principal waterfowl harvest is wild geese in Alexander, Union, Williamson and Jackson Counties~~the Southern Illinois Quota Zone~~, no more than 5 persons shall occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season. Violation is a petty offense (see 520 ILCS 5/3.8(b)(4)).

~~l)~~ ~~The following apply in the Northern and Central Illinois Quota Zones only:~~

~~1)~~ ~~It is unlawful to hunt Canada geese during seasons after September 15 without having in possession a current season's permit to hunt Canada geese, unless exempt from a State waterfowl stamp. Such permits are not transferrable and are not valid unless they contain the hunter's name, signature, date of birth, and the same State waterfowl stamp number that is on the State waterfowl stamp that is signed by the hunter or affixed to his/her license.~~

~~2)~~ ~~Immediately upon killing a Canada goose that will be taken into possession, hunters must mark with indelible ink, punch or slit the Permit to Hunt to indicate the date of kill (one date for each goose harvested) and zone where killed.~~

~~3)~~ ~~Hunters must report their kill on the same calendar day the geese are taken by calling 1-800-WETLAND (938-5263). Hunters must report the number of geese taken, date and zone where taken.~~

~~4)~~ ~~Violation is a Class B misdemeanor (see 520 ILCS 5/2.18).~~

l)~~m)~~ Registration in the U.S. Fish and Wildlife Service Migratory Bird Harvest Information Program (HIP) is required for those persons who are required to have a hunting license before taking or attempting to take ducks, geese or coots. Instructions for registering are provided with issuance of hunting license. Violation is a petty offense (see 520 ILCS 5/3.1(f)).

m)~~n)~~ If 50 CFR 20 or 21 allows light goose seasons to be liberalized, snow geese, blue geese and Ross' geese may be taken in accordance with federal regulations

regarding hunting hours, method of taking and bag limits through March 31.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 590.20 Permit Controlled Department Sites Only – Duck, Goose and Coot Hunting

a) Sites covered in this Section, which allow hunting by permit only, are:

Banner Marsh Fish and Wildlife Area

Horseshoe Lake Conservation Area

Sangchris Lake State Park subimpoundment

Snakeden Hollow State Fish and Wildlife Area

Spring Lake State Fish and Wildlife Area − Spring Lake Bottoms Unit

Union County Conservation Area

b) Permit Requirements

1) Permit reservations shall be accepted starting in September. Initial acceptance dates and methods for making reservations will be publicly announced. Only applications for reservations submitted by Illinois residents will be processed during the first 2 weeks of the application period. Applicants making reservations will be sent confirmation.

2) Permits shall be issued until the daily quota is filled. The daily quota is determined by the formula: one hunter per 10 to 40 huntable acres. Huntable acres are determined by, but not limited to, the biological studies on the number of the species available; the condition, topography, and configuration of the land at the site; the condition of the roads at the site; the number of employees available to work at the site; and the number of blinds which can be established on a site as set forth in Section 3.8 of the Wildlife Code [520 ILCS 5/3.8].

3) The permit shall be for the use of the entire blind. It shall be the responsibility of the permit holder to bring one hunting partner or one non-hunting partner or 2 non-hunting partners (3 persons per blind but not

more than 2 hunters per blind) for Snakeden Hollow State Fish and Wildlife Area, Horseshoe Lake Conservation Area, and Union County Conservation Area, or 3 partners (hunters or non-hunters; 4 persons per blind) for Banner Marsh Fish and Wildlife Area, Spring Lake State Fish and Wildlife Area – Spring Lake Bottoms Unit and Sangchris Lake State Park subimpoundment. Non-hunting partners are defined as persons under 21 years of age accompanying the hunter in the blind. Unallocated blinds shall be filled by a drawing at the sites.

4) Permits are not transferrable.

5) Permits will be issued from the Springfield Permit Office for permit-controlled sites. For other information write to:

Illinois Department of Natural Resources
Permit Office – Waterfowl
P.O. Box 19457
Springfield IL 62794-9457

c) General regulations

1) All use other than permit hunting as defined in subsection (b)(3) is prohibited at Snakeden Hollow State Fish and Wildlife Area from October 1 through close of Central Zone Canada goose season.

2) Hours, Permits and Stamp Charges

A) Hunting hours are from legal opening time until 1:00 p.m., except at Horseshoe Lake Conservation Area and Union County Conservation Area, which close at 12 noon.

B) At Snakeden Hollow State Fish and Wildlife Area from opening day through November 30, all hunters must register at the check station by 5:00 a.m. Permits are void after 5:00 a.m. From December 1 through December 31, all hunters must register at the check station by 5:30 a.m. Permits are void after 5:30 a.m. From January 1 through the close of goose season, all hunters must register at the check station by 6:00 a.m. Permits are void after 6:00 a.m. At Banner Marsh Fish and Wildlife Area, Horseshoe Lake Conservation Area and Union County Conservation Area

hunters with permit reservations are required to check in at the check station between 4:30 a.m. and 5:00 a.m. Permits are void after 5:00 a.m. A drawing shall be held to allocate blind sites at all sites. At Sangchris Lake State Park subimpoundment hunters must be checked in 90 minutes before legal hunting hours (2 hours before sunrise). Permits are void after this time. At Spring Lake State Fish and Wildlife Area – Spring Lake Bottoms Unit hunters are required to check in at the check station no later than one hour before legal shooting time, after which time permits are void. Check out is required at all sites listed in this Section.

C) A $15 Daily Usage Stamp must be purchased at Snakeden Hollow State Fish and Wildlife Area, Horseshoe Lake Conservation Area and Union County Conservation Area. Partners between 16 and 20 years of age must pay daily usage stamp fee. Partners under 16 are not required to purchase a daily usage stamp.

D) A $10 Daily Usage Stamp must be purchased at Banner Marsh Fish and Wildlife Area, Spring Lake State Fish and Wildlife Area – Spring Lake Bottoms Unit and Sangchris Lake State Park subimpoundment. Non-hunting partners between 16 and 20 years of age must pay daily usage stamp fee. All partners under 16 are not required to purchase a daily usage stamp.

3) Hunting shall be done from assigned blinds only and hunters shall not move from blind to blind or leave the blind and return.

4) Guns must be unloaded and encased at all times when not hunting.

5) The legal hunting seasons~~season~~ for Horseshoe Lake Conservation Area and Union County Conservation Area are~~is~~ the dates of the South~~Southern Quota~~ Zone duck and goose hunting seasons~~season~~ except that these areas shall be closed on Mondays, Tuesdays (except for the Illinois Youth Goose Hunt) and December 24, 25, 26 and the first weekday after December 26 other than a Monday. (These sites shall be open only for the Illinois Youth Goose Hunt on the first weekday after December 26 other than a Monday, pursuant to Section 685.110.)

6) The legal hunting season at Snakeden Hollow State Fish and Wildlife Area is the dates of the Central Zone goose hunting season except that the

area shall be closed on Mondays, Tuesdays, Wednesdays, and December 24, 25 and 26.

7) The legal hunting season at Banner Marsh Fish and Wildlife Area is the dates of the Central Zone duck hunting season.

8) The legal hunting season for the Sangchris Lake Subimpoundment is the opening day of the Central Zone duck hunting season, Tuesdays, Thursdays and Sundays, and the last day of the Central Zone duck hunting season except during the second firearm deer season when the Subimpoundment will be closed on the first day of the season and hunting hours will close at 10:00 a.m. during the remaining days of the second firearm deer season (on Thursdays blinds will be allocated by a daily drawing at the site pursuant to Section 590.60(b)(41)(B)).

9) The legal hunting season at Spring Lake State Fish and Wildlife Area – Spring Lake Bottoms Unit is every Tuesday, Thursday and Sunday of the Central Zone duck hunting season except the second Sunday in November, which is closed due to the Youth Hunt.

10)~~9)~~ At Horseshoe Lake Conservation Area and Union County Conservation Area during duck season hunters may possess up to 25 shot shells. When duck season is closed hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit. At Snakeden Hollow State Fish and Wildlife Area hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

11)~~10)~~ At Horseshoe Lake Conservation Area and Union County Conservation Area hunters may bring up to 3 dozen decoys per party. No full bodied or supermagnum shell decoys are allowed. At Sangchris Lake Subimpoundment only Department decoys may be used.

12)~~11)~~ Hunters without their guns may leave the blind to retrieve crippled waterfowl at Horseshoe Lake Conservation Area and Union County Conservation Area.

13)~~12)~~ Hunters must be at least 16 years of age (except for the Illinois Youth Goose/Duck Hunt) to draw for a pit or blind. Each person under 16 years of age must be accompanied by a supervising adult.

d) Violation of this Section is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 590.40 Check Station Department Sites Only – Duck, Goose and Coot Hunting

a) The sites listed in this Section conform to Statewide Regulations (Section 590.10) and General Department Regulations (Section 590.15), except as noted in parentheses and in the remainder of this Section. Daily hunting hours close at 1:00 p.m. unless otherwise indicated in parentheses below.

1) Anderson Lake Conservation Area – All Management Units (previous years blind builders shall have until February 1 to salvage blind materials)

2) Batchtown (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

3) Calhoun Point (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

4) Glades (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

5) Godar-Diamond (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

6) Horseshoe Lake State Park – Madison County (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset with the exclusion of Christmas Day; 3 year blind allocation)

7) Lake DePue and Lake DePue Walk-in Unit (aka 3I)

8) Marshall State Fish and Wildlife Area (the use of any metal, with the exception of fasteners less than 12 inches in length, carpet, and plastic snow fence or mesh will be prohibited in the construction of waterfowl

blinds; previous year's blind builders shall have until February 1 to salvage blind materials)

9) Mazonia State Fish and Wildlife Area (previous years blind builders shall have until February 1 to salvage blind materials; goose hunting prohibited before and after duck season; closed Mondays and Tuesdays)

10) Rice Lake Conservation Area (previous years blind builders shall have until February 1 to salvage blind materials)

11) Sanganois State Fish and Wildlife Area (check station and walk-in areas, hunters are not required to hunt from a blind site during goose seasons held after the duck season)

12) Spring Lake State Fish and Wildlife Area (all hunting must be from portable boat blinds within 10 yards of the assigned numbered stake or buoy; no more than 3 persons shall use one blind; exceptions will be announced at the site's annual duck blind drawing; the maximum horsepower limit of motors on the lake is 25 hp; goose hunting prohibited prior to the regular duck season)

13) Stump Lake (3:30 p.m. CST closing) (except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

14) Woodford State Fish and Wildlife Area (the use of any metal, with the exception of fasteners less than 12 inches in length, carpet, and plastic snow fence or mesh will be prohibited in the construction of waterfowl blinds; previous year's blind builders shall have until February 1 to salvage blind materials)

15) William Powers Conservation Area (previous years blind builders shall have until May 1 to remove blinds in their entirety, including support posts; failure to comply will result in the blind builder and partners for that blind losing privilege of being a blind builder or partner at this site for the following year; no goose hunting prior to duck season; hunting from boat blinds is permitted within 10 feet at all~~of the following numbered marked~~ blind sites~~: 4, 5, 7, 8, 11, 12, 14, 16, 17, 18, 19, 20, 21, 22, 23~~; all hunters must sign in prior to occupying blind and must sign out no later than one hour after closing time)

b) The following regulations apply to all sites listed in this Section under subsection (a):

1) All hunters must report to the check station to fill out information cards and to turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to blinds. Beginning the day after duck season ends, when the check station is not operating, unclaimed blinds shall be allocated on a first come-first served basis, as per Section 590.50(b)(1), (2) and (3). Goose hunters must sign in prior to hunting and sign out and report their harvest at the end of each day's hunt.

2) Registered blind builders or partners desiring to claim their blinds must report to the check station at least one hour before hunting hour each day and occupy that blind for at least one hour. Hunters wishing to move to another blind during their daily hunt must report back to the check station for reassignment.

3) All hunting must be from registered blinds only and hunters must occupy their blinds within one hour after registering at the check station.

4) All hunters must be checked out within one hour of the close of the legal hunting hours. At this time waterfowl and coots bagged must be checked and hunting licenses or Firearm Owner's Identification Cards shall be returned.

5) It shall be unlawful to trespass upon the designated duck hunting area during the 7 days prior to the regular duck season as posted at the site. At Mississippi River Area Pools 25 and 26 and Horseshoe Lake State Park (Madison County) it shall be unlawful to trespass upon the designated duck hunting area between sunset of the Sunday immediately preceding opening day of regular duck season through the day before regular duck season as posted at the site.

6) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges from 2 weeks prior to the start of regular duck season through the close of regular duck and Canada goose season.

7) No more than 4 persons shall occupy a blind at one time, except on the statewide Youth Waterfowl Hunting Day, as authorized in Section

590.15(f), 5 persons may occupy a blind at one time only if the party is comprised of 2 youth hunters, their non-hunting parents and one non-hunting guide.

8) Blind sites shall be allocated for a period of one year unless otherwise noted in parentheses under subsection (a).

9) During duck season, blinds not claimed by the builder or partners by one hour before hunting time shall be assigned by a drawing at this time and during the hours from 8:00 a.m. to 11:00 a.m., except at Marshall State Fish and Wildlife Area and Woodford State Fish and Wildlife Area, any blinds left unclaimed after completion of the daily drawing will be assigned on a first come-first served basis up to 30 minutes after the drawing and from 8:00 a.m. to 11:00 a.m., and except at Batchtown, Calhoun Point, Glades, Godar-Diamond, Horseshoe Lake State Park (Madison County) and Stump Lake (9:00 a.m.-1:00 p.m.) after which time the area shall be closed to additional hunters.

10) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds, except as listed in parentheses under subsection (a). After this date, all materials become the property of the new blind builder or the Department.

11) For those sites listed in this subsection that have 3 year blind allocation periods, re-registration of blind sites during the non-draw years must be accomplished in person during a publicly announced period. Failure to re-register during the prescribed period will result in the loss of blind site. Registrants must present current year's Illinois hunting license and State waterfowl stamp for each blind builder. Blinds not re-registered will be allocated by a drawing. No waterfowl blind may be removed until after the close of the waterfowl season.

c) Violation of this Section is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 590.50 Non-Check Station Department Sites Only – Duck, Goose and Coot Hunting

a) The following sites conform to Statewide Regulations (Section 590.10) and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

General Department Regulations (Section 590.15), except as noted in the remainder of this Section.

Anderson Lake West Point Management Unit (walk-in or boat; staked sites; daily draw)

Chain O'Lakes State Park (For goose seasons prior to duck season, hunting allowed from numbered blind sites only and blinds need not be completed; blinds must be removed in their entirety, including support posts, by May 1; failure to comply will result in the blind builder and partners for that blind losing the privilege of being a blind builder or partner at this site for the following year)

Clear Lake Wildlife Management Area (one year blind allocation)

Des Plaines River Conservation Area (Goose hunting permitted during special goose season prior to regular waterfowl season; during special goose season hunting allowed from numbered blind sites only and blinds do not have to be completed; previous years blind builders shall have until February 1 to salvage blind materials)

Double T State Fish and Wildlife Area (Wednesday, Saturday and Sunday hunting only; daily drawing at Rice Lake State Fish and Wildlife Area check station; hunting from staked blind sites only; no other use October 1 through the close of the Central Zone goose season)

Fuller Lake (Daily hunting hours close at 3:30 p.m. CST, except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; 3 year blind allocation period)

Helmbold Slough (3 year blind allocation period)

Illinois River – Pool 26 (3 year blind allocation period)

Kankakee River State Park (no boat hide required; no goose hunting permitted prior to duck season; previous years blind builders shall have until February 1 to salvage blind materials)

Lake Sinnissippi (Department Owned Land; the use of any metal, with the exception of fasteners less than 12 inches in length, will be prohibited in the construction of waterfowl blinds; waterfowl hunters allocated blind numbers 1, 2,

3, 4, 13, 14, 15, 16, 20, 21, 26, 27, 28, 29, 30, 31 or 32 will have the option to either construct a platform blind (4' x 8' with boat hide) or a boat hide blind no less than 7.5'~~6'~~ x 18' in dimension fully enclosed on all four sides, must include 4 shooting holes or ports and brushed (doors capable of being closed are permitted for boat access); hunters choosing to construct a boat hide type of blind will not be required to construct a dog hide; blind numbers 1, 2, 3, 4, 13, 14, 15, 16, 20, 21, 26, 27, 28, 29, 30, 31 and 32 must be removed in their entirety no later than 10 days after the close of the Northern Zone waterfowl season, but may be removed beginning November 15; backwater blinds 5, 6, 7, 8, 9, 10, 11, 12, 18, 19, 22, 23, 24 and 25 must be removed in their entirety by the previous years' blind builder by no later than 7 days after the next allocation period; hunting from boat blinds is permitted within 10 feet from any numbered stake if the blind is not built; for early teal season, hunting is from numbered blinds only, or if blinds are not completed, within 10 feet of the numbered stake; there is no early goose season in August or September~~; blinds may be removed beginning November 15; hunting from boat blinds is permitted within 10 feet of marked blind sites beginning November 15 for those blinds removed on or after November 15~~)

Marshall State Fish and Wildlife Area – Sparland Unit (the use of any metal, with the exception of fasteners less than 12 inches in length, carpet, and plastic snow fence or mesh will be prohibited in the construction of waterfowl blinds; previous year's blind builders shall have until February 1 to salvage blind materials; hunters are required to check in and check out at the self-check box located at the Lacon boat ramp)

Meredosia Lake (one year blind allocation period) – Rules and Regulations will be publicly announced.

Mississippi River Pool 16 (Federal Lands; no permanent blinds – temporary blinds only above Velie Chute except for Goose Pond, Sunfish Slough, and Milan Bottoms (landward area upriver from River Mile 474); 2 year blind allocation period; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunting)

Mississippi River Pool 17 (Federal Lands; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunting; 2 year blind allocation period)

Mississippi River Pool 18 (Federal Lands; scull boat hunting for waterfowl is

permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunting; 2 year blind allocation period)

Mississippi River Pools 21, 22, 24 (Federal Lands; 2 year blind allocation period)

Mississippi River Pools 25, 26 (Federal Lands; 3 year blind allocation period)

Momence Wetlands (Hunting allowed from a portable blind or anchored boat blind only; no more than 3 persons per blind site; no hunting during firearm deer seasons)

Pekin Lake State Fish and Wildlife Area (all hunting must be from portable boat blinds within 10 yards of the assigned numbered stake or buoy; no more than 3 persons shall use one blind; exceptions will be announced at the site's annual duck blind drawing; goose hunting prohibited prior to the regular duck season)

Piasa Island (3 year blind allocation period)

Quincy Bay (Mississippi River Pool 21) (hunting hours legal opening to 1:00 p.m. for blinds 1 through 25 only)

Red's Landing (3 year blind allocation period; that portion of Red's Landing that is north of the access road will be noted as a walk-in/boats without motors area only; no permanent blinds; daily hunting hours will close at 3:30 p.m. CST, except the last 3 days of duck season and the last 3 days of regular Canada goose season shall close at sunset; hunting parties shall not hunt over less than 12 decoys nor more than 24 decoys)

Redwing Slough/Deer Lake (closed on Mondays, Tuesdays, Thursdays and Fridays except that hunting will be allowed on opening day of duck season; no goose hunting except during duck season; previous years blind builders shall have until February 1 to salvage blind materials; daily hunting hours will close at 1:00 p.m.)

Redwing Slough/Deer Lake State Natural Area (hunting from boat blinds is permitted within 10 feet of marked blind sites)

Rice Lake, Walk-in Management Unit, Copperas Creek Management Unit and Big Lake Management Unit (Walk-in or boats without motors only; daily drawing; daily hunting hours will close at 1:00 p.m.)

Riprap Landing (3 year blind allocation period; that portion of Riprap Landing that is south of blind 5, known as Rust Land Company, will be noted as a walk-in; boats without motors in area only; no permanent blinds; hunting parties shall not hunt over less than 12 decoys or more than 24 decoys; decoys must be picked up daily; no vehicles allowed)

Shabbona Lake State Recreation Area (Hunting will be allowed between November 1 and December 31 but only when the North Zone Canada goose season is open; permanent, pre-constructed blinds will be awarded for either November or December; boat and dog hides are not required; persons awarded blinds at the drawing, or their partners, must claim their blinds one hour before legal shooting hours; hunting hours will end at 1:00 p.m. daily)

Starved Rock State Park (Department managed areas; the use of any metal, with the exception of fasteners less than 12 inches in length, will be prohibited in the construction of waterfowl blinds; all blinds must be removed in their entirety no later than 10 days after the close of the Central Zone duck season; blinds may be removed beginning November 15; hunting from boat blinds is permitted within 10 feet of marked blind sites beginning November 15 for those blinds removed on or after November 15; hunting from boat blinds within 10 feet of marked blind sites is allowed until the end of the regular Central Zone Canada goose season)

b) The following regulations apply to all sites listed in this Section under subsection (a).

1) Blind builders or partners must occupy their blinds by one-half hour before opening hunting hour each day in order to claim their blind for the day. Blinds not legally occupied may be claimed on a first come-first served basis.

2) Attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest. The insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind.

3) All hunting must be from registered blinds only unless otherwise noted in parentheses under subsection (a).

4) Blind sites shall be allocated for a period of one year unless otherwise

noted in parentheses under subsection (a).

5) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds, except as listed in parentheses under subsection (a). After that date, blinds become the property of the new blind builders.

6) No more than 4 persons shall occupy a blind at one time, except on Mississippi River Pools 16, 17, 18, 21, 22 and 24 and Blanding Wildlife Area.

7) On Mississippi River Pools 16, 17, 18, 21, 22 and 24 and Blanding Wildlife Area the limit of 4 persons does not apply.

8) For those sites listed in subsection (a) that have 3 year blind allocation periods, re-registration of blind sites during the non-draw years must be accomplished in person during a publicly announced period. Failure to re-register during the prescribed period will result in the loss of blind site. Registrants must present current year's Illinois hunting license and State waterfowl stamp for each blind builder. Blinds not re-registered will be allocated by a drawing. No waterfowl blind may be removed until after the close of the waterfowl season.

9) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges 2 weeks prior to the start of regular duck season through the close of regular duck and Canada goose season as posted at the site.

10) It shall be unlawful to trespass upon the designated waterfowl hunting area during the 7 days prior to the waterfowl season as posted at the site. At Mississippi River Area Pools 25 and 26 it shall be unlawful to trespass upon the designated waterfowl hunting area between sunset of the Sunday immediately preceding the opening date of waterfowl season through the day before waterfowl season as posted at the site.

c) Blind winners on the following sites will be provided forms for the purpose of maintaining waterfowl harvest records. The forms must be completed and returned within 15 days after the close of the site's waterfowl season or the blind builder and partners for that blind shall not be allowed to be a blind builder or partner at these sites for the following year.

Chain O'Lakes State Park

Clear Lake Wildlife Management Area

Des Plaines Conservation Area

Kankakee River State Park

Pekin Lake State Fish and Wildlife Area

Redwing Slough/Deer Lake

d) Violation of this Section is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 590.60 Various Other Department Sites – Duck, Goose and Coot Hunting

The sites listed in this Section conform to Statewide Regulations (Section 590.10) and the following regulations, except as noted.

a) Regulations

1) Hunting hours are from legal opening to 1:00 p.m., except hunting shall be permitted until sunset on those sites indicated by (1) following the location in subsection (b).

2) No permanent blinds allowed, except for Department constructed blinds; all blinds must be of a portable nature and constructed with natural vegetation at the blind site and no pits can be dug. All materials must be removed or dismantled at the end on the day's hunt.

3) Portable boat blinds must have been completed, including final brushing, before entering the water and must be removed at the end of the day's hunt.

4) Waterfowl hunters must maintain a distance of 200 yards between hunting parties, except for Department constructed blinds or staked locations.

5) No hunting is permitted within 200 yards of developed recreation areas,

public use facilities, and construction or industrial sites.

6) No check station is operated nor is any check in/check out required, except as indicated in the remainder of this Section.

7) It shall be unlawful to trespass upon areas designated as waterfowl rest areas or refuges from 2 weeks prior to the start of regular duck season through the close of regular duck and Canada goose season except as indicated in the remainder of this Section.

8) It shall be unlawful to trespass upon the designated waterfowl hunting area during the 7 days prior to the regular duck season unless otherwise posted at the site.

b) Site specific regulations

1) Blanding Wildlife Area (federal lands, boat access only; scull boat hunting for waterfowl is permitted but hunters must not get closer than 200 yards from a permanent duck blind or in areas posted as closed to scull hunters)

2) Boston Bay (no permanent blinds may be built; temporary blinds only; 200 yards apart)

3) Cache River State Natural Area (1)

4) Campbell Pond Wildlife Management Area (1)

5) Carlyle Lake Project Lands and Waters

A) No one may enter the subimpoundment area to hunt waterfowl before 4:30 a.m. each day of the waterfowl hunting season, or remain in the area after 3:00 p.m. each day of the waterfowl hunting season, except during the last 3 days of the Canada goose season and during any goose seasons that occur before or after Canada goose season, hunters must be out of the area by one hour after sunset and not return until 4:30 a.m. The subimpoundment area is defined as that area bordered by the Kaskaskia River on the east and south and extending north and west to the Carlyle Lake project boundary, and includes impoundment areas 1, 2, 3, and 4 and within the impoundments on the East Side Management Area

located east of the Kaskaskia River.

B) The waters of Carlyle Lake are defined as the lake and that portion of the Kaskaskia River, northfork, eastfork, Peppenhorst Branch and Allen Branch north of the buoys only, and Hurricane Creek that are within the boundaries of the Carlyle Lake property.

C) Walk-in hunting shall be permitted in subimpoundment areas. Boats with no motors are allowed in the subimpoundments. Department personnel will designate boat launching locations.

D) When the water level in the subimpoundment area is too high (due to flooding) to allow walk-in hunting, Department personnel shall post that the area is open to boats with motors of 10 hp or less and will designate boat launching locations.

E) Known eagle protection areas will be posted by the Site Superintendent and will be closed to waterfowl hunting.

F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys shall not be left out unattended or after 3:00 p.m. each day of the waterfowl season, except during the last 3 days of the Canada goose season and during any goose seasons that occur after Canada goose season, decoys shall not be left out unattended or later than one hour after sunset.

G) All waterfowl hunters must register prior to hunting each day of the waterfowl hunting season at the nearest accessible registration box. All hunters must sign out and record their harvest daily before they exit the area.

H) The Army Corps of Engineers may build blinds on Corps managed lands and waters for management purposes only.

I) During the last 3 days of Canada goose season and during any goose seasons that occur after Canada goose season, hunting hours shall close at sunset daily.

J) The following rules apply to North Allen Branch Waterfowl Management Area (Eldon Hazlet State Park) only:

i) Three designated blind sites are available on a first come-first served basis. Walk-in hunting only is permitted with a maximum of 4 hunters per site. All hunting must be from one blind site located between identically numbered stakes.

ii) Hunters must sign in prior to hunting, and sign out and report their harvest at the end of each day. All hunters must be checked out by 2:00 p.m. daily, except the last 3 days of the Canada goose season, and during any goose seasons that may occur after the Canada goose season, hunters must be checked out by one hour after sunset.

iii) Decoys shall not be left out unattended.

iv) When the lake floods this area and designated blind sites are not usable for walk-in hunting, the Department, by public announcement and/or posting, will open the affected area to hunting from boats per Carlyle Lake Project Lands and Waters' rules.

6) Chauncey Marsh (1)
Permit required, may be obtained at Red Hills State Park Headquarters and must be returned by February 15.

7) Clinton Lake (1)

A) Hunters must obtain a free site hunting permit and windshield card from the site office prior to hunting. While hunting, the windshield card must be visible in the windshield with the permit number clearly visible. Site hunting permits must be in the hunter's possession while in the field. Hunters must return the permit and report harvest by February 15 of the following year, or hunting privileges for the following season shall be forfeited.

B) Except as described in subsections (b)(7)(C) and (D), hunting is allowed only from anchored portable blinds, except that no waterfowl hunting is permitted in the area extending from a line between the west side boat ramp and the southern-most point of the central peninsula to the Davenport Bridge.

C) Waterfowl hunting is also permitted from staked sites in designated areas on a first come-first served basis. Walk-in or boat hunting only. Hunting parties must hunt within 25 yards of a staked site. No more than 4 hunters per party are permitted.

D) Hunting is permitted from permanent land-based Disabled Hunting Program blinds.

E) Each party must hunt over a minimum of 12 decoys. Decoys must be removed from the sites following each day's hunt. Decoys must not be left unattended.

F) Except for the Handicap Hunting Program facilities, blinds must be portable or built from material brought in or available at the blind site. Blinds must be dismantled and removed at the end of each day's hunt. No trees or bushes may be cut.

8) Coffeen Lake State Fish and Wildlife Area

A) Hunters must sign in prior to hunting and sign out, reporting harvest at the end of each day.

B) Hunting from staked sites only.

C) No permanent blinds.

D) Hunting by boat access only.

E) No cutting vegetation on site.

F) Hunting north of railroad tracks only.

G) Hunting hours from legal opening to 1 p.m. Fishing allowed between the railroad tracks and the county road after 1:00 p.m.

H) Four hunters per blind site.

I) No hunting during firearm deer seasons.

J) All hunters must be checked out at sign in box by 2:00 p.m.

9) Cypress Pond State Natural Area (hunters must sign in prior to hunting and sign out reporting harvest at the end of each day) (1)

10) Devil's Island State Fish and Wildlife Area (1)

11) Dog Island Wildlife Management Area (1)
Hunters must sign in prior to hunting and sign out reporting harvest at end of each day.

12) Donnelley State Wildlife Area

A) Hunting is prohibited on Tuesdays and Wednesdays except open on opening day and on the first Sunday immediately preceding the first firearm deer season as set forth in 17 Ill. Adm. Code 650.10 except as indicated in Section 590.25.

B) Goose hunting is prohibited after the close of the duck season.

C) All hunting shall be from designated blinds only. Refilling or changing blinds is not permitted.

D) All hunters must report to the check station to fill out an information card and turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to blinds.

E) A hunter may bring one or 2 hunting partners under the age of 21.

F) $10 daily usage stamp must be purchased to hunt this area. Non-hunting partners between 16 and 20 years of age must pay daily usage stamp fee. Non-hunting partners under 16 are not required to purchase a daily usage stamp.

G) No outboard motors are allowed by public – only by authorized DNR personnel.

H) No more than 3 persons shall occupy a blind at any one time.

I) All parties are required to report to check station within one hour

after termination of hunt or no later than 2:00 p.m.

J) All parties must hunt over a minimum of 12 decoys and a maximum of 48 decoys can be used, which must be removed upon the termination of the hunt.

K) The first weekend and the third Saturday of the regular duck season shall be designated as youth hunt days. This shall consist of youth or youths 15 and under plus one adult per blind. There shall be no charge for the youth on these days. Those blinds not allocated to youths shall be available to adults on those days.

L) One blind shall be made available by priority claim to "disabled" persons (as defined in Section 2.33 of the Wildlife Code).

13) Fort de Chartres Historic Site (1)

A) Hunting is allowed from anchored, portable boat blinds only on a first come-first served basis.

B) Each hunting party is required to hunt over a minimum of 12 decoys which must be removed at the end of each hunting day.

C) No hunting is allowed during firearm deer season.

14) Fox Ridge State Park (1)
Hunting restricted to Embarras River and its flood waters.

15) Fox River (1)

A) Waterfowl hunting is prohibited on that portion of the Fox River running from the Kendall-Kane County line downstream to a line extending from the intersection of Route 71 and Douglas Street in Oswego, across the Fox River to the intersection of Hickory Lane and Riverview Drive.

B) Waterfowl hunting shall be from Department designated sites only on that portion of the Fox River downstream from the line extending from the intersection of Route 71 and Douglas Street in Oswego, across the Fox River to the intersection of Hickory Lane

and Riverview Drive downstream to the Fox River Drive Bridge. Hunting at the designated sites will be on a first come-first served basis. Statewide regulations shall be in effect with no other Sections of this Part being applicable.

16) Fox River – Chain of Lakes (Lake and McHenry Counties) (1) Waterfowl blind regulations promulgated in accordance with the Illinois Administrative Procedure Act [5 ILCS 100] under the authority of the Fox Waterway Agency are in full force and effect on those public waters under their jurisdiction. Failure to comply with such regulations constitutes a violation of this Section. Statewide regulations shall be in effect with no other Sections of this Part applicable.

17) Freeman Mine
Hunting regulations will be publicly announced.

18) Heidecke State Fish and Wildlife Area, Braidwood Fish and Wildlife Area and Powerton Lake

A) Blind sites shall be allocated on a daily draw basis conducted at the check stations 60 minutes before hunting time. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select blind site in order drawn; only those hunters registered in party shall be allowed to hunt with their party; no more than 3 hunters per party; persons under the age of 16 shall not be allowed to hunt unless accompanied by an adult.

B) Blind sites not selected during the drawing shall be allocated on a first come-first served basis. Vacant blind sites shall not be allocated after the drawing until one hour after legal hunting time. No blind sites shall be allocated after 10:00 a.m. Hunters wishing to move to another blind site must report this move to the check station attendant in person before such a move.

C) Access to water blind sites must be by boat only and from designated boat launch sites.

D) All hunting must be from portable boat blinds, within 10 yards of the assigned numbered stake or buoy. No more than 3 persons shall use one blind.

E) Upon vacating blind sites, all hunters must report to the check station within one hour. At this time, waterfowl bagged must be checked in and displayed to the station operator and hunting licenses returned.

F) Each hunting party is required to hunt over a minimum of 12 decoys. Decoys must be picked up immediately after the hunt is over.

G) Heidecke Lake and Braidwood Lake shall be closed to all fishing and boat traffic except for legal waterfowl hunters from 10 days prior to regular duck season until the close of the regular duck and Canada goose season. Powerton Lake shall be closed to boat traffic from 7 days prior to opening of regular duck season until February 15, except for legal waterfowl hunters, and closed to all unauthorized entry during the regular duck season.

H) No hunting on Monday and Tuesday at Heidecke and Braidwood Lakes. No hunting at Powerton Lake on Monday through Thursday except hunting permitted on State holidays.

I) It is unlawful to hunt waterfowl on the water area in any watercraft less than 16 feet long and 60 inches in beam and without a gas-powered motor.

J) No guns may be carried from water blinds to retrieve waterfowl that fall on land.

K) Hunting is closed on Christmas Day and New Year's Day.

L) All water areas not posted with blind site numbers shall be refuge and are closed to all boat traffic except by authorized personnel.

M) It is unlawful to shoot across any dike.

N) Waterfowl hunting shall close with the conclusion of the duck season at Powerton Lake. At Heidecke and Braidwood Lakes, waterfowl hunting closes at the end of duck or goose season, whichever is later. No goose hunting is allowed prior to duck

season.

19) Hidden Springs State Forest (hunting restricted to Richland Creek and its floodwaters) (1)

20) Horseshoe Lake (Alexander County) Public Hunting Area

A) Closed to waterfowl hunting on Mondays and Tuesdays.

B) When duck season is closed, goose hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

21) Horseshoe Lake Refuge (no hunting allowed, no boat motors except trolling motors will be allowed on Horseshoe Lake from October 15 to March 1)

22) Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit (site permit required)

23) Kaskaskia River Fish and Wildlife Area (~~only~~ the last 3 days of both the duck season and ~~the last 3 days of~~ the regular Canada goose season) (1)

A) No waterfowl hunters may remain in the area after 3:00 p.m. For those lands lying south of Illinois Route 154 and north of Illinois Route 13, the legal hunting hours shall be from statewide opening hour until statewide closing hour.

B) All waterfowl hunting parties must use at least 12 decoys. Hunting is allowed on a first come-first served basis.

C) It is unlawful to leave duck and goose decoys unattended. Decoys must be picked up at the end of each day's hunt.

D) All waterfowl hunters must register prior to hunting each day of the waterfowl season at the nearest check station, and must sign out and record their harvest daily before they exit the area.

E) The following regulations apply to the Doza Creek Waterfowl Management Area:

i) No waterfowl hunters may enter the area before 4:30~~3:00~~ a.m. each day of the waterfowl hunting season. No waterfowl hunters may remain in the area after 3:00 p.m. During the second firearm deer season, waterfowl hunting closes at 11:00 a.m. and no waterfowl hunters may remain in the area after 1:00 p.m.

ii) Only waterfowl, coot, firearm deer hunting (during the second firearm deer season only), archery deer and fall archery turkey hunting (as provided by 17 Ill. Adm. Code 670 and 720) allowed in this area during the duck hunting season; goose hunting is closed during the second firearm deer season if the second firearm deer season occurs after duck season.

iii) For the first 4 days of the duck season, all waterfowl hunting must occur within 10 yards of an assigned, numbered stake, and only one hunting party may occupy a staked site at any given time. Starting on day 5 and for the remainder of the waterfowl season, hunting is allowed on a first come-first served basis and hunting need not occur by a stake. Waterfowl hunters must maintain a distance of 200 yards between hunting parties.

iv) A drawing for stake allocation will be done at the site office by mail no later than 4 weeks before the opening day of duck season. The application deadline and procedure will be publicly announced. Hunters who wish to hunt together at a staked location must register as a hunting party. Only 4 persons shall be in a hunting party. Only those persons in that party may hunt at the assigned stake. No later than 2 weeks prior to duck season, at least one person from each of the hunting parties drawn should appear at the site office to choose a staked site in the order that the hunting parties were drawn.

F) Handicapped accessible waterfowl hunting blind (Dry Lake Access Area)

i) Application for hunting dates should be received at the site office September 1-10 and will be allocated on a first request basis or via a drawing, if needed.

ii) Three hunters are allowed in the blind. At least one hunter must have a P-2 handicapped certification.

iii) Hunters must sign in/out and report harvest at check station after hunting.

24) Kickapoo State Recreation Area

A) Hunting permitted only from staked sites. Hunters must sign in prior to hunting and sign out and report harvest at the end of each day's hunt.~~Sites will be allocated by daily drawing at the designated check in. Registration will be from 4:30 a.m. to 5:00 a.m. each day. The drawing will be held immediately after registration period.~~

B) Hunters must register and hunt as parties. No more than 4 hunters per party are permitted. ~~Parties will select blind sites in the order they are drawn.~~ No non-hunting partners.

~~C) Staked sites not selected during the drawing shall be allocated on a first come-first served basis.~~

C)~~D)~~ Upon vacating their blinds, all hunters must take their completed harvest cards, issued daily on site, and place them in the collection box at the designated check station.

D)~~E)~~ Each hunting party must hunt over a minimum of 12 decoys.

E)~~F)~~ Waterfowl hunting is permitted only during the first 7 weekdays of the November portion of the Central Zone Canada goose season.

F)~~G)~~ Hunting from staked sites only. Hunting must be within 10 feet of the staked location. All hunting must be from one portable blind or one anchored boat blind. Electric motors only for all boats.

G)~~H)~~ Blind material must be brought in and taken out each day. No

vegetation may be cut at the site.

H)~~I)~~ Hunting hours are from legal opening to 1:00 p.m. Hunters must be out of the field by 2:00 p.m.

I)~~J)~~ Hunters wishing to move to another vacant blind location may do so on a first come-first served basis, provided they include the blind change on the harvest card and report their harvest for each blind. ~~If hunters do not occupy the stake they have drawn by legal shooting time, they forfeit the right to the staked hunting location.~~

25) Kinkaid Lake Fish & Wildlife Area (1)

26) Lake Shelbyville West Okaw and Kaskaskia Fish and Wildlife Area

A) Waterfowl hunting shall be permitted as described below except in duly posted restricted and "No Hunting" areas.

B) Waterfowl hunting in the Fish Hook, the North Dunn, the McGee, and the Jonathan Creek Waterfowl Areas shall be allotted by a daily drawing from opening day through the first Saturday and Sunday of the regular waterfowl season. Parties must register for drawings between 3:00 a.m. and 4:00 a.m. Central Standard Time at the check station on those days. Each party drawn shall be allowed to choose one of the staked sites in the waterfowl area. Parties must select sites in the order they are drawn. Maximum party size is 4 persons. In addition, the following regulations shall apply:

i) All parties must hunt within 10 yards of their assigned stake.

ii) All parties must be in place by ½ hour before hunting time.

iii) All parties are required to report their harvest by 2:00 p.m. following each hunt.

C) Hunting in the Jonathan Creek, North Dunn and McGee Waterfowl Areas shall be restricted to designated, staked sites on a first come-first served basis except as noted in subsections (b)(26)(A) and

(B). Hunting in the Fish Hook Area shall be restricted to designated, staked sites on a first come-first served basis until the opening of the Illinois Southern Zone duck season, except as noted in subsections (b)(25)(A) and (B). A hunting party must hunt within 10 yards of the stake.

D) Each hunting party in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas are required to hunt over a minimum of 12 decoys.

E) Motors of over 10 horsepower shall not be operated in the Fish Hook, Jonathan Creek, Dunn, and McGee Waterfowl Areas.

F) Waterfowl hunting only is permitted in the Fish Hook, Dunn, Jonathan Creek and McGee Waterfowl Areas during the regular waterfowl season, except that pheasant, rabbit and quail hunting is permitted after 1:00 p.m. daily beginning the day after the close of the Central Zone Duck Season.

G) During the regular waterfowl season, only licensed waterfowl hunters with valid site waterfowl permits who are in the pursuit of waterfowl are permitted on the Kaskaskia River from the Strickland Boat Access north to the Illinois Central Railroad bridge from ½ hour before sunrise until 1:00 p.m.

H) A free permit is required, which is obtained from the site office. Permits must be in possession while hunting waterfowl. The permit must be returned and harvest reported by February 15 or the hunter will forfeit his hunting privileges at this site for the following year.

27) Marshall State Fish and Wildlife Area – Duck Ranch Unit Only

A) On days open to hunting, blind or staked sites shall be allocated by a random drawing held at Marshall State Fish and Wildlife Area (MSFWA) check station, 5 miles south of Lacon on S.R. 26. The drawing will be conducted 60 minutes prior to legal shooting time. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select hunting blinds in the order drawn. No more than 4 hunters per party; only registered party members shall

be allowed to hunt in the party's blind.

B) Blinds or staked sites not selected during the drawing shall be allocated on a first come-first served basis. Vacant staked sites shall not be allocated after the drawing until one hour after legal hunting time. No blind sites shall be allocated after 11:00 a.m. Daily hunting hours will close at 1:00 p.m.

C) All hunting must be from a designated blind or staked site. Refilling or changing blinds or staked sites is not permitted.

D) Hunters are required to report their harvest at the end of the day's hunt on a harvest card located in the blind. Hunters are not required to report back to the MSFWA check station.

E) No hunting on Monday, Wednesday, or Friday.

28) Mermet

A) Waterfowl hunting shall be permitted ~~only~~ during ~~the~~ duck ~~hunting~~ season only.

B) Hunting is allowed in ~~both~~ the walk-in and blind areas only. ~~Those individuals wishing to hunt in the walk-in area are required to deposit their hunting licenses and register at the check station prior to entering the area. Individuals who wish to use the blind area are required to deposit their hunting licenses and participate in a daily drawing during which blinds shall be assigned. Individual hunter, or hunting party, can only be allocated one blind per day. Those persons exempted by law from having hunting licenses must deposit their Firearm Owner's Identification Cards.~~

C) No fishing on the area during duck season.~~The daily drawing shall be held 1½ hour prior to legal hunting time.~~

D) Hunting hours are from legal opening until 3:30 p.m. each day, except the last 3 days of duck season, when hunting shall be allowed until sunset.~~All members of the hunting party shall register as a group (not to exceed 4 persons per group, except on the statewide Youth Waterfowl Hunting Day, as authorized in 17 Ill.~~

~~Adm. Code 685.110(c), 5 persons may occupy a blind at one time only if the party is comprised of 2 youth hunters, their non-hunting parents and one non-hunting guide) for the purpose of the drawing.~~

E) Manned check station will be closed Christmas Day and every Sunday and Monday during regular duck hunting season. Walk-in hunting will be allowed on Sundays and Mondays.~~Hunter or hunting party is to accept and hunt the blind drawn, or reject it immediately. Hunters rejecting blinds are ineligible to hunt in the blind area for the remainder of that day. Any vacant (rejected) blinds at the end of the drawing can be drawn for by parties who drew "blanks" during the original drawing.~~

F) Blind sites shall be allocated on a daily drawing basis at the manned waterfowl check station 90 minutes before legal hunting time (except Sunday and Monday when the manned check station is closed). All hunters are required to deposit their hunting licenses before entering the areas. Those persons exempted by law from having a hunting license shall deposit their Firearm Owner's Identification Card. ~~Those hunters in the blind area shall park in designated areas. These parking areas shall be numbered to correspond with particular blind sites located along the levee road.~~

G) Hunters shall register as a party/group of up to 4 hunters for the drawing (except on the statewide youth waterfowl hunting day, as authorized in 17 Ill. Adm. Code 685.110(c) when 5 people may occupy a blind at one time if the party includes 2 youth hunters); each party/group drawn shall be allowed to select a blind in the order drawn; only those hunters registered in that party/group shall be allowed to hunt with the party. ~~In the blind area, a minimum of 12 decoys per blind is required while hunting waterfowl.~~

H) Upon allocation of blinds, all hunting parties/hunters must accept and hunt the blind chosen, or reject the allocation of the blind immediately. All those rejecting the allocation of a blind shall be ineligible to hunt within the blind area for the remainder of that day. Individual hunters, or hunting parties, can only be allocated one blind per day. Blinds not selected during the main drawing shall be allocated on a first-come first-served basis. No blinds will be allocated after 1:00 p.m., except the last 3 days of duck season

when no allocation will be allowed after 3:00 p.m.~~Boats without motors may be used in the walk-in areas.~~

I) Hunters must occupy their blinds/hunting area within one hour after registering at the manned check station.~~No hunting Christmas Day, Sundays and Mondays in the blind area.~~

J) All hunting parties are required to report to the check station immediately after vacating their blind/hunting area and/or no later than 4:00 p.m. At that time, waterfowl harvested must be checked in and displayed to the check station operator. Only then will the hunting license be returned to the hunter. ~~Hunting hours are from legal opening to 12 noon.~~

K) All hunters must park in designated areas only. All areas are marked with corresponding numbers or area designations. Only one vehicle per hunting party will be allowed, unless approval is granted by check station operator.~~Hunters cannot possess more than 25 shotshells.~~

L) Within the blind area, a minimum of 12 decoys are required while hunting waterfowl. No decoys are required within the walk-in areas. All decoys must be removed from the area at the end of the day's hunt.

M) A 25 shotgun shell limit per hunter, per day, applies on this area. It is unlawful for a hunter to have in his or her possession more than 25 shotgun shells while on the site.

N) All hunting must be conducted from the allocated blind. Hunting outside of allocated blinds is not permitted, except within the walk-in areas.

O) Attempts to claim a blind by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest. Insertion of a boat into a boat hide and/or the spread of decoys before a blind shall not be considered legal occupation of a blind.

P) Due to safety factors, persons under 16 years of age shall not hunt,

or attempt to hunt, unless accompanied by a parent, legal guardian, or person designated by the parent or guardian who is 18 years of age or older.

Q) Claiming or attempting to claim any blind that is legally occupied and/or harassing, in any manner, the occupants of a blind that is legally occupied is unlawful.

R) Boats without motors may be used within the walk-in areas.

29) Newton Lake Fish and Wildlife Area

A) Blind sites shall be allocated by a daily drawing to be conducted at 4:30 a.m. Blind sites not selected during the drawing (or in the event that personnel are not available to conduct drawing) shall be allocated on a first come-first served basis until one hour before shooting time; and then after 9:00 a.m. All hunters must register before entering the hunting area. Hunting hours end at 1:00 p.m.; all hunters must be off the water or out of the field by 2:30 p.m. daily.

B) Upon vacating their blinds, all hunters must place their completed harvest cards in the collection box located at the boat ramp or site headquarters.

C) There will be duly posted waterfowl refuges. These areas shall be closed to all boat traffic and boat fishing during the waterfowl season.

D) No more than 4 persons shall occupy a blind at one time.

E) The west arm of the lake shall be closed to all waterfowl hunting.

F) Blind sites shall be determined by the Department of Natural Resources and marked with numbered stakes. When it is deemed necessary, the Department shall remove, move or close blind sites in order to carry out the operations of the overall management program.

G) Hunters wishing to move to another vacant blind location may do

so on a first come-first served basis, providing they include the blind change on the harvest card and report their kill for each blind. If hunters do not occupy the stake they have drawn by legal shooting time, they forfeit the right to the staked hunting location.

H) Access to water blind sites shall be by boat only and from the east side boat ramps. Access to land sites shall be by walk-in only and from nearby hunter parking lots. No parking is allowed along county roads.

I) All water hunting must be from one portable blind or one anchored portable boat blind located between the assigned numbered stakes, no more than 10 yards from shore. All land hunting must be done from a position within 50 feet of the assigned numbered stake.

J) Crippled waterfowl that fall on land, other than areas designated as refuge, shall be retrieved by foot. However, no gun may be carried while attempting to recover such birds.

K) Blind site water: A position between 2 like numbered stakes where a blind may be located. Blind site land: A position within 50 feet of numbered stakes where a hunter may set up or a temporary blind may be located.

L) Fishing shall be prohibited in the east arm of the lake during the waterfowl season.

M) Each party must hunt over a minimum of 12 decoys, and all decoys must be removed at the end of each day's hunt.

N) When it is deemed necessary for public safety reasons, such as flooding, high winds, or heavy fog, the Department will close the lake area to all fishing and all boating activity except for non-water hunting programs.

O) This site is closed to all users except firearm deer hunters during the firearms deer seasons.

30) Oakford Conservation Area (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

31) Pyramid State Park – Captain Unit

A) All vehicles must have a site hunting permit displayed in windshield. Permits must be returned by February 15.

B) Hunting hours are from legal opening to 1:00 p.m.; hunters must be out of the field by 2:00 p.m.

C) Each hunting party is required to hunt over a minimum of 12 decoys; all decoys must be picked up at the end of each day's hunt.

D) All hunters must register as a group not to exceed 4 names per card. A hunter's name may only appear on one lottery card.~~No more than 4 hunters to a party.~~

E) Blind~~12 staked~~ sites will be allocated by daily drawing at the Galum Unit Office beginning at 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January. All hunting must occur within 10 yards of an assigned, numbered stake, except for stakes identified at the check station where hunters may hunt from any place in the wetland in which the stake is located. There will be no moving to staked locations after initial drawing.

F) Successful~~All names in a party must be on one card; successful~~ participants must~~will~~ have their lottery card stamped with the date and blind~~stake~~ number. The card must be in the possession of the hunter or group while hunting. Waterfowl harvested must be reported on blind selection card and returned daily to a hunter check station box.

G) Waterfowl hunters not participating in daily draw must report their harvest on site hunting permit by February 15.

H) Entry time for hunters not participating in daily lottery is 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January.

I) Waterfowl hunters may not hunt on main lakes other than staked locations. Hunters may hunt crop fields and wetlands that have not been staked; however, they must be a minimum of 200 yards from the nearest staked location or another hunter.

J) No waterfowl hunting is allowed within 200 yards of the Captain Unit Waterfowl Rest Area or within 100 yards of any private property boundary.~~from the nearest staked location or another hunter.~~

K) The land and water portion of the Captain Unit Waterfowl Rest Area is closed to all entry from October 28 through February 28. The location of the Captain Unit Waterfowl Rest Area is described as follows: All land and water west of Panda Bear Road north to Northern Haul Road, then south on Beltline Road to Western Haul Road, then east on Pyatt-Cutler Road.

L) After duck season is closed and during the Canada goose hunting season, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag.

M) The waterfowl daily drawing and ~~12~~ staked locations will be closed to hunting on December 25.

32) Pyramid State Park – Denmark Unit

A) All vehicles must have a site hunting permit displayed in windshield. Permits must be returned by February 15.

B) Hunting hours are from legal opening to 1:00 p.m.; hunters must be out of the field by 2:00 p.m.

C) Each hunting party is required to hunt over a minimum of 12 decoys; all decoys must be picked up at the end of each day's hunt.

D) All hunters must register as a group, but no more than 4 names shall be listed per card. A hunter's name may only appear on one lottery card.~~No more than 4 hunters to a party.~~

E) Blind~~32 staked~~ sites will be allocated by daily drawing at the Galum Unit office beginning at 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January. All hunting must occur within 10 yards of an assigned, numbered stake, except for stakes identified at the check station where hunters may hunt from any

place in the wetland in which the stake is located. There will be no moving to staked locations after initial drawing.

F) Successful~~All names in a party must be on one card; successful~~ participants must~~will~~ have their lottery card stamped with the date and blind~~stake~~ number. The card must be in the possession of the hunter or group while hunting. Waterfowl harvested must be reported on blind selection card and returned daily to a hunter check station box.

G) Waterfowl hunters not participating in daily draw must report their harvest on site hunting permit by February 15.

H) Entry time for hunters not participating in daily lottery is 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January.

I) Waterfowl hunters may not hunt on main lakes other than staked locations. Hunters may hunt crop fields and wetlands that have not been staked; however, they must be a minimum of 200 yards from the nearest staked location or another hunter.

J) No waterfowl hunting within 200 yards of Denmark Unit Waterfowl Rest Area and 100 yards of any private property boundary.

K) The land and water portion of the Denmark Unit Waterfowl Rest Area is closed to all entry from October 28 through February 28. The location of the Denmark Unit Waterfowl Rest Area is described as follows: All land and water east of field DM 72 following Pipestone Creek, north and then east along Seven Island Trust Property Boundary, then east to Eastern Haul Road, then north to Pyatt-Cutler Road.

L) After duck season is closed and during the Canada goose hunting season, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag.

M) The waterfowl daily drawing and ~~32~~ staked locations will be closed to hunting on December 25.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

33) Pyramid State Park – East Conant Unit

A) All vehicles must have a site hunting permit displayed in windshield. Permits must be returned by February 15.

B) Hunting hours are from legal opening to 1:00 p.m.; hunters must be out of the field by 2:00 p.m.

C) Each hunting party is required to hunt over a minimum of 12 decoys; all decoys must be picked up at the end of each day's hunt.

D) No more than 4 hunters to a party.

E) No waterfowl hunting within 100 yards from any private property boundary.

F) After duck season is closed and during the Canada goose hunting season, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag.

G) Entry time for hunters not participating in daily lottery is 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January.

H) Hunters may hunt crop fields and wetlands; however, they must be a minimum of 200 yards from the nearest staked location or another hunter.

34) Pyramid State Park – Galum Unit

A) All vehicles must have a site hunting permit displayed in windshield. Permits must be returned by February 15.

B) Hunting hours are from legal opening to 1:00 p.m.; hunters must be out of the field by 2:00 p.m.

C) Each hunting party is required to hunt over a minimum of 12 decoys; all decoys must be picked up at the end of each day's hunt.

D) All hunters must register as a group, but no more than 4 names shall be listed per card. A hunter's name may only appear on one

lottery card.~~No more than 4 hunters to a party.~~

E) Blind~~4 staked~~ sites will be allocated by daily drawing at the Galum Unit Office beginning at 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January. All hunting must occur within 10 yards of an assigned, numbered stake, except for stakes identified at the check station where hunters may hunt from any place in the wetland in which the stake is located. There will be no moving to staked locations after initial drawing.

F) Successful~~All names in a party must be on one card; successful~~ participants must~~will~~ have their lottery card stamped with the date and blind~~stake~~ number. The care must be in the possession of the hunter or group while hunting. Waterfowl harvested must be reported on blind selection card and returned daily to a hunter check station box.

G) Waterfowl hunters not participating in daily draw must report their harvest on site hunting permit by February 15.

H) Entry time for hunters not participating in daily lottery is 4:30 a.m. in November, 5:00 a.m. in December and 5:30 a.m. in January.

I) Waterfowl hunters may not hunt on main lakes other than staked locations. Hunters may hunt crop fields and wetlands that have not been staked; however, they must be a minimum of 200 yards from the nearest staked location or another hunter.

J) No waterfowl hunting within 100 yards of any private property boundary.

K) After duck season is closed and during the Canada goose hunting season, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag.

L) The waterfowl daily drawing and ~~4~~ staked locations will be closed to hunting on December 25.

35) Ray Norbut State Fish and Wildlife Area (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

36) Rend Lake Project Lands and Waters

A) All waterfowl hunters and all boats must be out of the Casey Fork and Big Muddy subimpoundments by 2:00 p.m. each day of the waterfowl season and not return until 4:30 a.m., except during the last 3 days of the Canada goose season, and during any goose season occurring after the Canada goose season, hunters must be out of the areas by one hour after sunset and not return until 4:30 a.m.

B) No hunting permitted from the subimpoundment dams.

C) While waterfowl hunting, no one may have in his/her possession any tool or device designed to cut brush or limbs, except common hunting knives and pocket knives.

D) No waterfowl hunting permitted within 200 yards of the refuge boundary, or within 100 yards of any private property boundary.

E) All boat traffic is prohibited from entering the subimpoundments from one week before waterfowl season until opening day of waterfowl season.

F) All waterfowl hunters must sign in prior to hunting and sign out and report their harvest at the end of each day's hunt.

G) Air boats will not be allowed in the Casey Fork Subimpoundment, the Big Muddy Subimpoundment, and the impoundments on Corps of Engineers' managed areas such as Atchison Creek and Gun Creek during the regular duck and Canada goose seasons. When ice conditions do not allow access at boat ramps by normal watercraft, then air boats can be used in the Casey Fork and Big Muddy Subimpoundments.

H) Permanent blinds at the Whistling Wings Access Area shall be regulated as follows:

i) During goose season, a separate drawing will be held for the pits at Whistling Wings. This drawing will be held at the Cottonwood check station following the drawing for

staked hunting sites. Hunters may not register for more than one drawing per day. Unsuccessful hunters in the drawing for Whistling Wings pits may select any unclaimed staked location after the drawings.

ii) Hunters who wish to hunt together must register as a hunting party and be present at the drawing.

iii) All hunters must have the registration card from the check station in their possession while hunting.

iv) Hunters must occupy the pit they have drawn by legal shooting time. If a pit is not occupied by legal shooting time, another party who has registered at the check station may occupy the unclaimed pit.

v) No more than 6 dozen decoys may be used per pit.

vi) No more than 4 hunters will be allowed in a pit or hunting party.

I) Each hunting party is required to hunt over a minimum of 12 decoys at each blind site, and all decoys must be picked up at the end of each day's hunt.

J) During the last 3 days of Canada goose season and during any goose seasons occurring after Canada goose season, hunting hours shall close at sunset daily.

K) The land portion of the Rend Lake Refuge is closed to trespassing during waterfowl season. The location of the Rend Lake Refuge is described as follows:

i) Bounded on the south by a buoy line, approximating the Jefferson-Franklin County Line.

ii) Bounded on the east by a buoy line and/or signs approximating the channel of the Casey Fork Creek.

iii) Bounded on the west by a buoy line and/or signs

approximating the channel of the Big Muddy River.

iv) Bounded on the north portion of the Big Muddy River by a buoy line and/or signs approximating a line which would extend west from Ina, Illinois.

v) Bounded on the north portion of the Casey Fork Creek by the Casey Fork Subimpoundment Dam.

vi) Bounded on Nason Point by refuge boundary signs at project limits.

L) After the close of regular duck season, goose hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

M) Staked Hunting Areas – Those areas designated as a staked hunting area will be publicly announced and the following regulations will apply:

i) All hunting must occur within 10 yards of an assigned, numbered stake except for stakes identified at the check station where hunters may hunt from any place in the field in which the stake is located and only one hunting party may occupy a staked site at any given time.

ii) Stakes will be assigned via a daily drawing held at 4:00 a.m. during November, 4:30 a.m. in December and 5:00 a.m. in January. Check stations will be open from ½ hour before drawing time to 9:30 a.m. daily.

iii) Check station at the Bonnie Dam Access Area will be operated on a daily basis through the second weekend of the waterfowl season. Thereafter, Bonnie Dam check station will only be open on weekends and holidays as posted at the check station. Cottonwood Access Area will be operated on a daily basis throughout the waterfowl season for both Bonnie Dam and Cottonwood Hunting Areas. Hunters who wish to hunt together at a staked location must register as a hunting party and be present for

the drawing. Only those persons in that party may hunt at the assigned stake. No more than 5 persons shall be in a hunting party.

iv) Hunters arriving at the check station after the draw may enter the staked area only if it is one hour prior to shooting time or between 9:00 a.m. and 9:30 a.m. All hunters must register at the check station.

v) When a staked hunting location is vacated by a hunting party any other registered hunting party may claim the vacant stake on a first come-first served basis. If hunters do not occupy the stake they have drawn by legal shooting time, they forfeit the right to the staked hunting location.

vi) When hunting parties have killed their legal daily bag limit of ducks (not including coots and mergansers) and/or Canada geese in respect to the legal hunting season dates they must vacate the hunting site.

vii) Hunters must sign in and out and report their harvest on the cards at the access area where they launch.

37) Sahara Woods State Fish and Wildlife Area (1)

38) Saline County Conservation Area (1)

A) Waterfowl hunting is allowed north of the township road only.

B) Walk-in hunting only.

C) Hunters must sign in prior to hunting and sign out reporting harvest at the end of each day.

39) Sand Ridge State Forest (Sparks Pond Land and Water Reserve) (1)

A) Hunting is permitted on Tuesdays and Saturdays during the duck season. Permits are issued on a first come-first served basis.

B) Two hunters are allowed per blind. At least one hunter must have

a P-2 handicapped certification.

C) Hunters must report harvest to site office.

40) Sanganois State Fish and Wildlife Area

A) Hunters using the main walk-in hunting area from opening day of the Central Zone duck season through the first Sunday of the Central Zone duck season must have a permit issued from the site office. Procedures for issuance of permits will be publicly announced.

B) Hunters using the walk-in area shall use the check station at the headquarters area located 8 miles northwest of Chandlerville just off Route 78 or the check station on the west side of the Illinois River one mile north of Browning near Route 100.

C) Walk-in waterfowl hunting shall be permitted only in the area posted for this purpose.

D) All hunters using a walk-in area must report to the check station to fill out information cards and to turn in hunting licenses or Firearm Owner's Identification Cards before proceeding to area.

E) Topper's Hole is a walk-in area accessed by boat only, no check-in, check-out, no permanent blinds, hunting parties must stay at least 200 yards apart, hunting parties shall hunt over no less than 12 decoys, daily hunting hours are legal shooting hours through 1:00 p.m. CST.

F) The Baker tract is a daily-draw walk-in area with 4 separate hunting compartments. One party of hunters (up to 4 hunters per party) will be permitted to hunt in each hunting compartment. The allocation of the 4 Baker tract hunting compartments will be by daily draw as part of the site's daily draw vacant blind allocation. Parties must register for the draw together on the same card.

G) Upon the completion of hunting, hunters must report to the check station within one hour.

H) Fishing is prohibited in the impoundment areas during the duck season, except that walk-in only access for fishing from the bank is permitted after 1:00 p.m.

I) No person shall trespass on the Barkhausen Refuge during the period from October 1 through end of goose season.

J) No person shall trespass on the Marion-Pickerel Waterfowl Refuge during the period from October 1 through the last day of the waterfowl season, unless prior permission for a specific reason (such as access to private land or to retrieve dead or wounded game) is granted by the site superintendent.

K) When the Central Zone goose season extends beyond the duck season, goose hunting shall be permitted with statewide hunting hours in effect. Hunters need not occupy a blind. All hunting must be conducted within non-refuge areas.

L) No hunting permitted from the walk-in area subimpoundment levee.

M) Hunters may use boats without motors in the walk-in area; the construction and/or use of permanent blinds in the walk-in area is prohibited.

41) Sangchris Lake State Park

A) During the last 3 days of the regularly scheduled Canada goose season, hunting hours will close at statewide closing.

B) Blind sites shall be allocated by a daily drawing to be conducted 90 minutes prior to hunting time. Blind sites not selected during the drawing (or in the event that personnel are not available to conduct the drawing) shall be allocated on a first come-first served basis. (During that portion of the Canada goose season which follows the duck season, the west side goose pit area, the west arm blind sites and east arm blind sites south of power lines shall be available for goose hunting and shall be allocated on a daily drawing basis to be held at 5:30 a.m. daily.)

C) During that portion of the light goose season which follows the regular Canada goose season, the west-side goose pit area blinds, subimpoundment blinds, and designated fields west of the west boat ramp shall be available daily on a first come-first served basis. Hunters must sign in at the appropriate parking area no earlier than 5 a.m.

D) All hunting must be from registered blind sites only and hunters must occupy their blinds within one hour after registering at the check station.

E) Upon vacating their blinds, hunters must place their completed harvest cards in the collection boxes located at either the east or west boatdock.

F) There will be a duly posted waterfowl refuge. These areas shall be closed to all boat traffic (except as allowed in subsection (b)(41)(K)) and boat fishing during the waterfowl season. Bank fishing along the dam shall be permitted.

G) No more than 4 persons shall occupy a blind at one time.

H) The center arm of the lake shall be closed to all waterfowl hunting.

I) Blind sites shall be determined by the Department of Natural Resources and marked with a numbered stake. When it is deemed necessary, the Department of Natural Resources shall remove, move or close blind sites in order to carry out the operations of the overall management program.

J) Hunters wishing to move to another blind location may do so after 10 a.m. providing they include the blind change on the harvest card and report their kill for each blind.

K) Access to water blind sites shall be by boat only and from designated boat launch sites. Blinds on the peninsula subimpoundment shall be accessed on foot once the hunter has reached the peninsula by boat. Corridors located along the edges of the existing refuge will be established to provide access to all available blind sites as designated by site superintendent when

conditions warrant.

L) All hunting must be from one portable blind or one anchored portable boat blind located within a numbered cove and between the assigned numbered stakes or from one Department designated blind or pit.

M) Crippled waterfowl that fall on land, other than areas designated as refuge, shall be retrieved by foot. However, no gun may be carried while attempting to recover such birds.

N) No unauthorized pits or blinds shall be built on State managed land.

O) Blind sites: A position between 2 like numbered stakes within a cove or other Department designated site where a blind may be located.

P) Fishing shall be prohibited in the east and west arms of the lake during the period from 10 days prior to the duck season through the end of the duck season, unless the youth waterfowl hunt is more than 10 days before the regular duck season, then the east and west arms will be closed to accommodate the youth waterfowl hunt. Fishing shall be prohibited in the west arm of the lake and the east arm of the lake south of the power lines during that portion of the Canada goose season that follows the duck season.

Q) Each party must hunt over a minimum of 12 decoys, and all decoys must be removed at the end of each day's hunt.

R) When it is deemed necessary for public safety reasons, such as flooding, high winds, or heavy fog, the Department of Natural Resources will close the lake area to all fishing and all boating activity except for non-water hunting programs.

S) During flood conditions, waterfowl hunters may hunt the tailwaters of Sangchris Lake dam including Clear Creek and the South Fork of the Sangamon River. Decoys must be removed at the end of each day's hunt.

T) West-side goose pit area blinds will be available every day each week except Tuesday and Wednesday, through the regular Canada goose season, except for the Tuesday and Wednesday preceding the last day of the Canada goose season.

U) Hunters in the west-side goose pit area may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit after the close of the Central Zone duck season.

V) All blinds will be closed during the first day of the second firearm deer season; hunting hours will be from statewide hunting hours until 10:00 a.m. the remaining days of the second firearm deer season.

42) Shawnee National Forest, Upper and Lower Bluff Lakes
Goose hunting is prohibited at Lower Bluff Lake.

43) Shawnee National Forest, LaRue Scatters
All hunting must be by walking in or in boats without motors.

44) Shawnee National Forest, Oakwood Bottoms (Green Tree Reservoir west of the Big Muddy levee)

A) All hunting must be by walking into the area.

B) Each hunting party must hunt over a minimum of 12 decoys in Compartments 19, 20 and 21.

C) No person shall tamper with or attempt to manipulate any of the gates, pumps or structures in the subimpoundment area.

45) Sielbeck Forest Natural Area (1)

46) Stephen A. Forbes State Park

A) On the main lake hunting is allowed from a boat blind only in the designated areas.

B) Only walk-in hunting is allowed in the subimpoundment.

C) Hunting shall be allowed on a first come-first served basis. All hunters must use 12 decoys, minimum.

47) Ten Mile Creek Fish and Wildlife Area (1)

A) Waterfowl hunters must obtain permits prior to hunting. Permits must be returned by February 15.

B) Each hunting party is required to hunt over a minimum of 12 decoys at each blind site, and all decoys must be picked up at the end of each day's hunt.

C) Areas designated as Rest Areas are closed to all access during the Canada Goose Season only. Rest Area designation has been given to that part of the Belle Rive unit that lies south of Auxier Creek and is posted as Rest Area, and the 250 acre tract at the Western edge of the Eads Mine unit.

D) After the close of the duck season, goose hunters in that portion of Ten Mile Creek that lies in the Rend Lake Quota Zone may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

48) Turkey Bluffs State Fish and Wildlife Area (All hunters must sign in and out and report kill) (1)

49) Union County (Firing Line Waterfowl Management Area)

A) Blind sites shall be allocated on a daily draw basis at the site shop building 60 minutes prior to hunting time. Hunters shall register as parties for the drawing; each party drawn shall be allowed to select a blind site in order drawn; only those hunters registered in a party shall be allowed to hunt with their party; no less than 2 hunters and no more than 4 hunters per party; persons under the age of 16 shall not be allowed to hunt unless accompanied by an adult.

B) Blinds not allocated during the drawing will not be hunted that day. Moving from blind to blind is not allowed.

C) Access to blind sites is from Clear Creek Levee only.

D) Each hunting party must hunt over a minimum of 12 decoys. Decoys must be picked up immediately after the hunt is over.

E) Hunting hours end at 1:00 p.m. and all hunters must be out of the area by 2:00 p.m. Daily entry into the area is restricted until after the drawing for hunting sites.

F) When duck season is closed, hunters may not possess more than 5 shot shells for every Canada goose allowed in the daily bag limit.

50) Weinberg-King State Park – Spunky Bottoms Unit (no access restrictions; sign in/sign out required) (1)

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 590.80 Early and Late Goose (all species) Hunting Regulations on Department Sites

a) During goose hunting seasons that begin before or extend beyond the regular duck season, statewide regulations and site specific regulations for goose hunting, as indicated in Sections 590.40, 590.50 and 590.60, shall apply to all sites (except those closed in subsections (c), (d), (e) and (f)) with the following exceptions:

1) Check in and check out (or sign in and out) is required only at sites with an asterisk (*).

2) No fees will be charged for hunting for seasons before duck season or for seasons after the regular Canada goose season.

3) No sites are closed to fishing during seasons before the regular duck season or for seasons after the regular Canada goose season.

4) Hunting from a completed blind or staked site is waived during seasons held before the regular duck season or for seasons held after the regular Canada goose season at sites marked with an @.

5) Hunting from a staked site (blind need not be completed) is required during seasons held before the regular duck season at sites marked with a #.

6) During goose seasons held prior to regular duck season, no hunting is allowed in designated dove management fields or within 100 yards of such fields.

7) During goose seasons held after the Canada goose season all restrictions regarding the use of decoys or the number of shotgun shells that hunters can possess are no longer in force.

8) During goose seasons held after Canada goose season, statewide hunting hours apply.

b) The following sites will be open to all goose hunting seasons:

Blanding Wildlife Area @

Cache River Natural Area *

Carlyle Lake Project Lands and Waters, including North Allen Branch Waterfowl Management Area (no early goose hunting east of Kaskaskia River from Cox's Bridge Access north to the Department's boundary line) *

Chain O'Lakes State Park #

Chauncey Marsh (permit required, available at Red Hills State Park)

Clinton Lake State Recreational Area – early season goose hunting in waterfowl hunting areas east of Parnell Bridge and North of Route 54 only. Any goose hunting seasons after the regular Canada goose seasons will close March 15.

Des Plaines Conservation Area #

Devil's Island State Fish and Wildlife Area

Dog Island Wildlife Management Area *

Fort de Chartres Historic Site

Horseshoe Lake State Park (Madison County) (blind builders or partners must occupy their blinds by ½ hour before opening hunting hour each day in order to

claim their blind for the day; attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest; the insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind) # *

~~Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Unit (site permit and harvest report required)~~

Kaskaskia River State Fish and Wildlife Area (Baldwin Lake Waterfowl Rest Area is closed to hunting) *

Kinkaid Lake Fish and Wildlife Area

Lake Shelbyville (except West Okaw and Kaskaskia Fish and Wildlife Area~~; season opens with teal season~~)

Marshall State Fish and Wildlife Area – Sparland and Duck Ranch Units @

Marshall State Fish and Wildlife Area – Spring Branch and Marshall Units * @

Meredosia Lake

Mississippi River State Fish and Waterfowl Management Area (Pools 25 and 26) (no hunting is allowed in the designated Batchtown Waterfowl Rest Area, Crull Hollow Rest Area and Godar Rest Area; blind builders or partners must occupy their blinds by ½ hour before opening hunting hour each day in order to claim their blind for the day; attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest; the insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind) @

Mississippi River Pools 16, 17, and 18 @

Mississippi River Pools 21, 22, and 24 @

Oakford Conservation Area

Rend Lake Project Lands and Waters @

Saline County Conservation Area *

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Sanganois State Fish and Wildlife Area * @

Shawnee Forest, LaRue Scatters

Shawnee Forest, Oakwood Bottoms

Shawnee Forest, Upper Bluff Lake

Ten Mile Creek Fish and Wildlife Area (permit required; rest areas open to hunting during goose season before and after the regular goose season)

Turkey Bluffs State Fish and Wildlife Area *

Weinberg-King State Park – Spunky Bottoms Unit (1)

Woodford Fish and Wildlife Area * @

c) The following sites will be open to any goose hunting seasons that occur before the regular duck season through the end of the regular Canada goose season:

Anderson Lake (closed after regular duck season) * @

Clinton Lake State Recreation Area (hunting will be in designated walk-in areas only; boat blinds allowed where hunting will be within 50 yards of a staked site; free site permit required; no hunting within 200 yards of developed areas, construction zones and 300 yards of electrical power lines; no more than 4 persons per blind and a minimum of 12 decoys must be used)

Coffeen Lake State Fish and Wildlife Area (hunting north of County Road N6th only; no fishing north of County Road N6th during this season) * #

Lake Shelbyville West Okaw and Kaskaskia Fish and Wildlife Area (must have site specific permit~~; season opens with teal season~~)

Ray Norbut State Fish and Wildlife Area *

Rice Lake (season opens with teal season; sunrise until 1:00 p.m.; closed after regular duck season) * @

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

d) The following sites will be open to all goose hunting during any Canada goose hunting seasons that occur after the regular duck season:

Banner Marsh * @

Braidwood State Fish and Wildlife Area *

Heidecke State Fish and Wildlife Area *

Kankakee River State Park

Lake DePue Fish and Wildlife Area *

Lake Sinnissippi Fish and Wildlife Area

Newton Lake Fish and Wildlife Area *

Pekin Lake Fish and Wildlife Area

Spring Lake Fish and Wildlife Area (hunting from registered blinds or within 10 yards of staked blind sites is permitted after the close of the duck season) *

Starved Rock State Park *

e) The following sites will be open to any goose hunting seasons that occur after the regular Canada goose hunting season:

Double T State Fish and Wildlife Area (from pits or staked blind~~blinds~~ sites only)*

Horseshoe Lake Conservation Area (controlled hunting and public hunting areas) * @

Horseshoe Lake State Park (Madison County) – Gabaret, Mosenthein, Chouteau Island Units (site permit and harvest report required)

Jim Edgar Panther Creek State Fish and Wildlife Area (Open Unit, West Open Unit, Quail Management Unit only)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Pyramid State Park – Captain Unit (no hunting in Captain Unit Waterfowl Rest Area) @

Pyramid State Park – Denmark Unit (no hunting in Denmark Unit Waterfowl Rest Area) @

Pyramid State Park – East Conant Unit

Pyramid State Park – Galum Unit @

Sangchris Lake State Park *

Stephen A. Forbes State Park *

Snakeden Hollow State Fish and Wildlife Area (from pits only) *

Union County Conservation Area (firing line and controlled hunting area) * @

William W. Powers Conservation Area

f) The following sites will be closed to all goose hunting seasons that occur outside the regular duck season dates:

Donnelley Fish and Wildlife Area

Mazonia State Fish and Wildlife Area *

Mermet Lake Fish and Wildlife Area

Powerton Reservoir

Redwing Slough/Deer Lake

g) The following sites will be open to any goose hunting seasons that occur before the regular duck season and after the regular Canada goose season:

Kidd Lake State Natural Area

h) Violation of this Section is a petty offense (see 520 ILCS 5/2.20).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Informal Conference Board

2) Code Citation: 86 Ill. Adm. Code 215

3)

Section Numbers:	Proposed Action:
215.100	Amendment
215.105	Amendment
215.110	Amendment
215.115	Amendment
215.120	Amendment
215.125	Amendment
215.130	Amendment
215.135	New Section

4) Statutory Authority: 20 ILCS 2505/2505-510 and 2505-795

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments to 86 Ill. Adm. Code Secs. 215.100 through 215.130 address procedural issues which need to be clarified to improve the operations of the Informal Conference Board. The revision allows the Director of Revenue to appoint at least three additional Board members and provides that the Board members will be assigned to panels, consisting of three members.

The new section, 86 Ill. Adm. Code Sec. 215.135, implicates a policy issue since this proposed rule restricts a taxpayer's ability to request informal review within the Office of Administrative Hearings if the taxpayer has received an Informal Conference Board Decision which addresses the merits of the proposed audit adjustments.

6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rulemaking currently in effect: No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed amendments pending on this Part? No

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Louise Calvert
Administer
Informal Conference Board
Illinois Department of Revenue
100 West Randolph Street
Chicago, Illinois 60601

312/814-1722

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: All small businesses and not for profit corporations that have been audited by the Department of Revenue would be affected. These amendments would not affect municipalities.

B) Reporting, bookkeeping or other procedures required for compliance: The regulations provide guidance as to the procedures that taxpayers must follow in order to request review of audit adjustments by the Informal Conference Board.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2006

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 215
INFORMAL CONFERENCE BOARD

Section
215.100 Informal Conference Board
215.105 Composition of the Informal Conference Board
215.110 Representation of the Taxpayer Before the Informal Conference Board
215.115 Procedure for Requesting Review by the Informal Conference Board
215.120 Review of Requests by the Informal Conference Board
215.125 Disposition of Proposed Assessments
215.130 In-Person Conferences
215.135 Informal Review in Administrative Hearings Not Available

AUTHORITY: Implementing Section 2505-510, and authorized by Section 2505-795, of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-510 and 2505-795].

SOURCE: Adopted at 25 Ill. Reg. 5390, effective April 2, 2001; amended at 30 Ill. Reg. _____, effective _____.

Section 215.100 Informal Conference Board

The Director of Revenue shall establish an Informal Conference Board (ICB) for the purpose of reviewing proposed adjustments to tax returns generated~~recommended~~ by auditors of the Department of Revenue's Audit Bureau prior to~~Revenue examiners or auditors before~~ the issuance of a Notice of Tax Liability, Notice of Deficiency or Notice of Claim Denial. The ICB shall have the authority to recommend an appropriate resolution~~conclusion~~ to any such~~a~~ matter when, following a review, circumstances warrant such action.~~involving such proposed liabilities or claim denials.~~ This informal review process affords taxpayers an opportunity to resolve disagreements with the Department after a liability, deficiency, or claim denial has been proposed, but before commencement of the formal protest and administrative hearing process. It is the goal of the Informal Conference Board to ensure that the Department's proposed audit adjustments that are disputed by the taxpayer are correct and to resolve disputes with taxpayers concerning their tax liability at the earliest opportunity possible in the administrative process. The~~, and the~~ ICB will liberally exercise its discretion in all areas provided for in this Part with this goal in mind.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

Section 215.105 Composition of the Informal Conference Board

a) The members of the ICB shall be:

1) the General Counsel for the Department;~~,~~

2) the Chairman of the Board of Appeals;~~, and~~

3) the Manager of the Audit Bureau; and

4)~~3)~~ at least three employees~~an employee~~ of the Department, other than the ICB Administrator, who have experience in state and local tax and procedure ~~or a person under the direct supervision of the General Counsel or the Chairman of the Board of Appeals~~, to be designated by the Director of Revenue.

b) The Board members will serve on panels consisting of three members each. The assignment of Board members to a panel will be handled by the ICB Administrator. The ICB Administrator shall assign cases to the panels at his or her discretion.

c)~~b)~~ The ICB members~~member~~ designated by the Director under subsection (a)(4) shall serve for ~~an~~ initial terms~~term~~ of one year upon appointment and thereafter shall serve at the pleasure of the Director. Each ICB member may delegate his or her function on the Board~~ICB~~ to one or more qualified staff members who may represent the Board member~~ICB~~ at any informal ~~taxpayer~~ conferences. However, ~~but~~ each ICB member shall remain personally responsible for approving final actions of the ICB panel. In the event a Board member recuses himself or herself due to a conflict of interest, the Board member may designate a replacement who will be responsible for approving final actions of the ICB panel.

d)~~c)~~ The ICB Administrator shall be an individual with extensive experience in state and local tax~~audit or legal practice~~ and procedures and shall be appointed by the Director of Revenue. The ICB Administrator shall be under the direct supervision ~~of the Director of Revenue~~ and ~~shall~~ serve at the pleasure of the Director. The ICB Administrator shall be responsible for the day and the day operation of the ICB and shall maintain a record of the cases considered and the activities and decisions of the Board. The ICB Administrator shall supervise the conferees and support staff of the ICB and~~. The ICB Administrator shall~~ ensure that the work of

the ICB is completed in a timely manner.

e)~~d)~~ The ICB shall be a separate and distinct division of the Department of Revenue and shall not be a unit or division of the Audit Bureau, the Office of Administrative Hearings~~ Division~~, the Board of Appeals or the Office of Legal Services~~ Office of the Department~~. If a~~No~~ member of the Office of Administrative Hearings ~~Division~~ or Special Assistant Attorney General assigned~~who acts~~ as a litigator within the Department, except~~in the Administrative Hearings Division, with the exception of~~ the General Counsel, participates~~may participate~~ in the informal conference process as a board member, representative of a board member, or conferee, that employee shall be barred from later involvement with the case as an administrative law judge or as a litigator, should the taxpayer subsequently file a protest with the Office of Administrative Hearings or in Circuit Court regarding the matter.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 215.110 Representation of the Taxpayer Before the Informal Conference Board

A taxpayer may represent himself~~him~~ or herself or may be represented by any person of the taxpayer's~~his~~ choice during the informal conference process. A taxpayer's chosen representative before the ICB need not be an attorney. However, any person purporting to act in a representative capacity must file a duly executed Power of Attorney on a form prescribed by the Department before that person will be allowed to represent the taxpayer before the ICB. Powers of Attorney filed as part of the informal conference process shall be good for that function only and shall not authorize representation or require Department notice for any other purpose following service of a final decision by the ICB.~~Any Power of Attorney filed by a non-attorney shall be sufficient for participation in the informal review provided by this Part.~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 215.115 Procedure for Requesting Review by the Informal Conference Board

a) Notice~~Letter~~ of Proposed Audit Adjustments~~Liability~~. Once the auditor has conducted the audit and made an~~At the conclusion of an audit or~~ examination of the taxpayer's books and records provided during the audit process~~in all cases where the Department asserts a deficiency in the amount of tax due or proposes to deny all or some portion of a refund amount claimed~~, the Department shall issue a written notice to the taxpayer in cases in which a liability or deficiency is asserted or a refund claimed is denied in whole or in part as a result of the audit.~~proposing~~

the tax liability or proposed denial of the claim for refund. Such letter shall hereinafter be referred to as a "Notice of Proposed Liability", Notice of Proposed Deficiency, or "Notice of Proposed Claim Denial". The notice shall state the amount of the proposed liability, deficiency or claim denialThe Department's proposed liability or claim denial notices shall state the specific grounds for the proposed deficiency or claim denial and inform the taxpayer of his or her right to an informal review by the Informal Conference Board.or in-person conference. The taxpayer shall have 60 days after the date the Notice of Proposed Liability, Notice of Proposed Deficiency, or Notice of Proposed Claim Denial is issued to file a request with the Informal Conference Board for review of the proposed audit adjustmentassessment. The 60-day period for filing a request commences with the date the notice is hand delivered to the taxpayer, or with the mailing date of the notice.Notice of Proposed Liability or Notice of Proposed Claim Denial. The mailing date isof mailing shall be the date that appears on the face of the notice or the postmark date, if later than the date shown on the notice. A request for review shall be deemed to be timely filed if it is either received by the ICB or is postmarked within the 60-day period.

b) Situations When the Taxpayer Will Not Be Issued a Notice of Proposed Audit Adjustment. The Department will not issue a Notice of Proposed Liability, Notice of Proposed Deficiency or Notice of Proposed Claim Denial when a taxpayer has agreed to an audit by signing the EDA-105 or IL-870, or by making a payment of tax deemed assessed under ITA Section 903(a)(4). By signing the EDA-105 or IL-870, or making such a payment, the taxpayer has waived his or her right to seek review by the Informal Conference Board. The Department will also not issue a Notice of Proposed Liability, Notice of Proposed Deficiency, or Notice of Proposed Claim Denial when the taxpayer refuses to extend the statue of limitations when those statutes will expire prior to the expiration of the 60-day period for seeking Informal Conference Board review.

c) Requirements of a Request for Review. A written request to the ICB will commence the informal review process. The ICBthat will examine the basis for the proposed audit adjustments that are being disputed and review the reasons why the taxpayer disagrees with the proposed adjustments, along with all Notice of Proposed Deficiency or Notice of Proposed Claim Denial issued by the Department, along with a review of the taxpayer's request, all supporting documentation and any additional information that the taxpayer may wish to submit in support of his or her position. The request to the ICB for review of the proposed audit adjustments shall be on a form prescribed by the Department. The formassessment or claim denial shall be in writing, or the Department may

provide a specific form for filing the request, which shall include at least the following identifying information:

1) The name of the taxpayer or taxpayers;,

2) the taxpayer's identifying numbers (Social Security number of individuals or IBT number, which is the Illinois Business Tax number issued by the Department for registration purposes, or federal identification number for entities, such as corporations, estates and trusts, or partnerships);,

3) the current address of the taxpayer andor the taxpayer's representative to which correspondence concerning the request should be directed;,

4) the amount of the proposed liability, deficiencyassessment or claim denial that is the subject of the request;,

5) the audit period years at issue to which the request is directed;, and

6) the identifying numbers that appear on the Notice of Proposed LiabilityDeficiency, Notice of Proposed DeficiencyTax Liability or Notice of Proposed Claim Denial. The request must be dated and signed by the taxpayer or by an authorized representative of the taxpayer. If the taxpayer fails, unless for good cause shown, to provide all information required by the Department's form and instructions, the Board may refuse to take jurisdiction of the request or dismiss the request.

d)e) In-Person Conference Request. An in-person conference with the ICB panel members or their representatives must be requested at the time that the request for review is filed with the ICB. See Section 215.130 for additional detail relating to in-person conferences.

e)d) Grounds for Request. A request to the ICB mustmay raise objections to the proposed audit adjustments. Theassessment and the request may be supplemented up until 30 days before the in-person conference, if one is requested, or within 30 days after the filing of the request if an in-person conference is not requested.at any time prior to final action by the ICB. The request shall state the taxpayer's specific reasons for the disagreement with the proposed adjustmentsassessment or denial of claim for refund and show why the Department's proposed tax adjustmentcalculation of the tax proposed to be assessed by the Department is incorrect. The request should reference any information relied upon by the

taxpayer.

f) The filing of a Request for Review by a taxpayer or authorized representative under this Part shall act as a waiver of the applicable statute of limitation that would otherwise prevent the Department from the issuance of a Notice of Tax Liability, Notice of Deficiency, or Notice of Claim Denial following the completion of an audit. In such instance, any applicable limitations period shall be tolled from the date the Request for Review is accepted by the ICB up to and including 180 days following the date of the final decision or memorandum issued by the ICB. Futhermore, the taxpayer will execute all necessary waivers for later audit periods where requested to do so by the Audit Bureau while the matter is pending at the ICB. Should the taxpayer fail to execute all necessary waivers for later audit periods where requested to do so by the Audit Bureau, the Audit Bureau will notify the ICB of the non-compliance and the ICB may dismiss the taxpayer's case.

g)~~e)~~ Proposals for Disposition. A taxpayer may submit a formal request to settle the tax dispute with the Department as a part of the initial request to the ICB or at any point during ICB review prior to the issuance of an Action Decision. Procedures for proposals are outlined in Section 215.125.

h)~~f)~~ Offers in Compromise. The ICB will not accept or negotiate offers in compromise. If a taxpayer is only seeking relief from the further obligation to pay an undisputed tax liability based on an inability to pay, the taxpayer should contact the Department's Board of Appeals after a final assessment of the tax.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 215.120 Review of Requests by the Informal Conference Board

a) The informal conference process is the first step in attempting to resolve~~resolving~~ a tax dispute with the Department. It provides an opportunity for the ICB and the taxpayer to review and discuss the issues relating to the proposed audit adjustments brought into question. ~~assessment or claim denial.~~ The informal conference process is not subject to the requirements of the Illinois Administrative Procedure Act [5 ILCS 100] and any~~the~~ final action taken~~Action Decisions made~~ by the ICB is~~are~~ not subject to administrative review.

b) In order to make its determination with respect to a written request, the ICB may request additional relevant information regarding the grounds raised in the

taxpayer's request for ICB review. Requests for information by the ICB are limited to information or documents related to issues raised during the audit that are reflected in the reasons for, and/or the computations supporting, any proposed audit adjustments.~~the notice of proposed assessment.~~ A request for additional information may also be made by the ICB either in writing or orally during the course of an in-person conference~~, if requested by the taxpayer~~. The taxpayer, or the taxpayer's representative, has a duty to respond to any requests for additional information within 30 days from the date of the request, unless otherwise agreed.~~both the taxpayer or taxpayer's representative and the ICB representative agree to another time period.~~ Failure to respond in a timely and complete manner may result in the request for an in-person conference and/or relief being denied. A written statement by the taxpayer that information requested does not or did not exist, or cannot be assembled or collated in a reasonable amount of time, will be considered a complete response. However, ~~a~~ failure to provide the information requested because it cannot be assembled or collated in a reasonable amount of time may be the basis of an ICB decision to deny an in-person conference and/or the relief requested by the taxpayer.

c) Documentation or information submitted to the ICB in writing or as part of an informal conference, other than offers of disposition, may~~does not~~ become part of the Department's audit file or may be reviewed by the Audit Bureau. If a taxpayer submits information to the conferee, the information may be given to the auditor to review and make any revisions to the proposed audit adjustments before an ICB conference is held or before a recommendation is made by the conferee. In the situation where information is returned to the auditor for review, the ICB will retain jurisdiction over the matter. Documentation or information submitted to the ICB does not become part of any formal record and cannot be forwarded to any other agency~~administrative~~ or judicial body for purposes of that body making a determination on the merits of any case. Both the taxpayer and the Department must present all evidence directly to those judicial~~adjudicative~~ bodies in accordance with the rules of those bodies~~that body~~ if they wish the~~such~~ evidence to be considered.

d) Requests for review submitted to the ICB and all accompanying information provided ~~thereafter~~ are part of the pre-assessment administrative process of the Department. All~~, and~~ ~~all~~ such information is covered by the confidentiality provisions of the various tax laws.

e) Recommendations, notes, memoranda and other records of the ICB with respect to issues raised in pending ICB matters are not subject to disclosure and do not

become part of the audit file.

f) The ICB is charged with the responsibility of making a determination of whether the amount of the proposed audit adjustment~~assessment~~ is accurate. After a complete review of the request, accompanying information and any evidence and arguments submitted on behalf of the taxpayer at an in-person conference, if requested, the ICB shall issue an Action Decision. Whenever possible, the~~The~~ Action Decision shall be issued within 120~~90~~ days after receipt of the taxpayer's request. An Action Decision shall be issued only upon~~ and requires~~ the approval of no fewer~~less~~ than 2 of the 3 members of the ICB panel assigned to the matter. The ICB may establish procedures for processing requests for review that involve proposed liabilities, deficiencies or claim denials in an amount of $5,000 or less, interest and penalty excluded. The Action Decision is final and binding on the Department except where there is a misrepresentation of material fact or a clerical or mathematical error made by the taxpayer, the ICB or a member of the ICB staff. In such situations, the Board may amend or vacate the Action Decision. Action Decisions~~and~~ must be implemented by those areas of the Department to which they are~~it is~~ directed. The taxpayer and its representative will be provided with a written notice of the Action Decision. ~~The 90-day period may be extended by mutual agreement of both parties, in writing, prior to the expiration of the original 90-day period.~~

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 215.125 Disposition of Proposed Assessments

a) Offers of disposition of a proposed audit adjustment~~assessment or claim denial~~ may be proposed to the ICB or by the ICB. The ICB shall consider disposing of the matter in~~at~~ controversy in all instances where, having made a reasonable evaluation of such matters, the ICB determines that there is uncertainty as to the correctness of the proposed audit adjustments and it is not in the best interest of the Department to issue an assessment or claim denial with respect to the issue.

b) Offers of disposition shall be tendered in writing to the ICB on a form prescribed by the Department. Disposition offers may be submitted with the initial request to the ICB or at any point during ICB review prior to the issuance of an Action Decision. The offer shall include specific proposed net dollar amounts, identification of issues to be conceded, in whole or in part, by either party, and the supporting rationale for acceptance of the offer. The ICB may also consider a request for penalty waiver as part of the offer. Any offer received may be

accepted, rejected or countered by the ICB and the taxpayer or its representative shall be notified ~~in writing~~ of the ICB's decision with regard to the offer as part of the Action Decision.

c) Statements made by a taxpayer in the written offer of disposition will be considered to be made in the course of good faith negotiations and will not be admissible against the taxpayer in any further proceedings with regard to the matter in controversy.

d) When a decision~~tentative agreement~~ has been reached by~~between a taxpayer and~~ the ICB~~ staff~~, an Action Decision~~a written agreement~~ setting forth the terms and conditions of the proposed disposition shall be issued~~prepared~~. As with all other Action Decisions issued by the ICB after informal review or in-person conference, the Action Decision must be approved by~~agreement becomes effective upon approval of~~ no fewer~~less~~ than 2 of the 3 members of the ICB panel assigned to the matter.

e) An approved Action Decision setting forth the conditions of the proposed disposition submitted in accordance with this Section becomes effective when executed by the taxpayer or its representative.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 215.130 In-Person Conferences

a) Taxpayers shall be given ~~may request~~ an in-person conference if requested in the taxpayer's initial application for review with ICB~~in their request to the ICB~~. The ICB may also request an in-person conference. There is no requirement that an in-person conference be held, except as requested by the taxpayer. However, failure of a taxpayer to agree to an ICB ~~a~~ requested in-person conference may result in denial of the relief sought due to ~~because of~~ a lack of sufficient information having been supplied to ~~by~~ the ICB.

b) The purpose of the in-person conference is to allow the ICB members or their representatives and the taxpayer or taxpayer's representative~~,~~ to explore the issues raised by the proposed audit adjustment~~assessment~~, develop the factual basis of the request, and ~~to~~ consider information relevant to the determination of the request.

c) The ICB shall mail a written notice of the time, date and location of the in-person

conference to the taxpayer or taxpayer's representative, at the address provided on the request to the ICB. The address provided in the original request shall be presumed to be the correct address for all purposes unless the taxpayer or taxpayer's representative notifies the ICB of a change of address in writing. Failure to notify the ICB of a change in address is grounds for dismissal of the taxpayer's request for review by the ICB.

d) An in-person conference will be scheduled within 45 days after receipt of the request from the taxpayer whenever possible, and may ~~shall~~ be established by mutual agreement of the taxpayer, the taxpayer's representative and the ICB members or staff representatives conducting the conference. Failure of the taxpayer or the taxpayer's representative to cooperate with setting a conference date constitutes grounds for denial of an in-person conference. At least 2 of the 3 ~~Each~~ ICB panel members ~~member~~ or their ~~his or her~~ representatives ~~representative~~ shall participate in the in-person conference. In cases in which the amount of proposed liability, deficiency or claim denial at issue is $5,000 or less, interest and penalty excluded, then only one ICB member or his or her representative is required to participate in the in-person conference.

e) A taxpayer or a taxpayer's representative who does not appear at the scheduled conference shall be deemed to have waived his or her right to an in-person conference unless ~~the taxpayer or taxpayer's representative can show~~ good cause for failing to attend can be shown. Good cause shall include, but not be limited to, illness of the taxpayer or his or her representative or ~~, and~~ weather conditions or catastrophes, natural or otherwise, ~~other acts of God~~ that preclude attendance by any party to the conference.

f) Formal rules of evidence do not apply at an in-person conference.

g) Upon conclusion of the in-person conference~~before the 3-member ICB or representatives of the board members~~, the ICB panel will issue a final Action Decision to the taxpayer and/or the taxpayer's representative and to the Audit Bureau, where the terms of the final Action Decision shall be implemented.

(Source: Amended at 30 Ill. Reg. _____, effective _____)

Section 215.135 Informal Review in Administrative Hearings Not Available

a) When the Informal Conference Board has issued an Action Decision that addresses the merits of the audit adjustments, a taxpayer that files a protest of any

subsequent Notice of Tax Liability, Notice of Deficiency, of Notice of Claim Denial with the Office of Administrative Hearings cannot request informal review as provided by 86 Ill. Adm. Code 200.135

b) See 86 Ill. Adm. Code 200.135 for further guidance.

(Source: Added at 30 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Real Estate License Act of 2000

2) Code Citation: 68 Ill. Adm. Code 1450

3)

Section Numbers:	Adopted Action:
1450.10	Amendment
1450.15	Amendment
1450.20	Amendment
1450.25	Amendment
1450.30	Amendment
1450.35	Amendment
1450.40	Amendment
1450.50	Amendment
1450.60	Amendment
1450.65	Amendment
1450.70	Amendment
1450.75	Amendment
1450.80	Amendment
1450.85	Amendment
1450.90	Amendment
1450.95	Amendment
1450.100	Amendment
1450.105	Amendment
1450.110	Amendment
1450.115	Amendment
1450.120	Amendment
1450.125	Amendment
1450.130	Amendment
1450.135	Amendment
1450.140	Amendment
1450.145	Amendment
1450.150	Amendment
1450.155	Amendment
1450.160	Amendment
1450.165	Amendment
1450.170	Amendment
1450.175	Amendment
1450.180	Amendment
1450.185	Amendment
1450.190	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1450.195	Amendment
1450.200	Amendment
1450.205	Amendment
1450.207	Amendment
1450.210	Amendment
1450.215	Amendment
1450.220	Amendment
1450.225	Amendment
1450.230	Amendment
1450.235	Amendment
1450.240	Amendment
1450.245	Amendment
1450.246	Amendment
1450.250	Amendment
1450.255	Amendment
1450.260	Amendment
1450.265	Amendment
1450.266	Amendment
1450.275	Amendment
1450.276	Amendment
1450.277	Amendment
1450.278	Amendment
1450.280	Amendment
1450.285	Amendment
1450.286	Amendment
1450.287	Amendment
1450.288	Amendment
1450.290	Amendment
1450.295	Amendment
1450.305	Amendment
1450.315	Amendment
1450.320	Amendment
1450.325	Amendment
1450.330	Amendment
1450.335	Amendment
1450.340	Amendment

4) Statutory Authority: Real Estate License Act of 2000 [225 ILCS 454]

5) Effective Date of Amendments: June 8, 2006

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: November 4, 2005; 29 Ill. Reg. 17959

10) Has JCAR issued a Statement of Objection to these amendments? Yes.

A) Statement of Objection: May 26, 2006; 30 Ill. Reg. 9925

B) Agency Response: June 23, 2006, 30 Ill. Reg. _____

11) Differences between proposal and final version: There were no substantive changes made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will 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: Section 1450.140 is amended to clarify what constitutes "misleading advertising." The amendment clarifies that advertising likely to create confusion regarding the permitted use of a property is misleading under the Real Estate License Act of 2000. The amendment also provides examples of language that is likely to create confusion. Additional non-substantive changes were made to the entire Part by changing references from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation, the creation of the Division of Professional Regulation, and the transfer of real estate regulation back to the Division of Professional Regulation.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813 Fax: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VIII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION~~OFFICE OF BANKS AND REAL ESTATE~~
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1450
REAL ESTATE LICENSE ACT OF 2000

SUBPART A: DEFINITIONS

Section
1450.10 Definitions

SUBPART B: LEASING AGENT RULES

Section
1450.15 Leasing Agent General Provisions
1450.20 Leasing Agent Examination Requirement
1450.25 Sponsor Card for Leasing Agents
1450.30 Issuance of Leasing Agent License
1450.35 Termination of Employment of Leasing Agent
1450.40 120 Day Leasing Agent Permit
1450.50 Continuing Education Requirement for Leasing Agents
1450.55 Approved Courses, Schools and Instructors for Leasing Agents

SUBPART C: LICENSING AND EDUCATION

Section
1450.60 Educational Requirements to Obtain a Broker's or Salesperson's License
1450.65 Salesperson and Broker Examinations
1450.70 Applications for Salesperson's and Broker's Licenses by Examination
1450.75 Sponsor Cards for Brokers and Salespersons
1450.80 Branch Offices
1450.85 Corporations, Limited Liability Companies, Partnerships, and Limited Partnerships
1450.90 Assumed Name
1450.95 Fees
1450.100 Nonresident Licensure by Reciprocity
1450.105 Renewals
1450.110 Change of Information

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1450.115 Continuing Education
1450.120 Rental Finding Services

SUBPART D: COMPENSATION AND BUSINESS PRACTICES

Section
1450.125 Managing Broker Responsibilities
1450.130 Supervision
1450.135 Discrimination
1450.140 Advertising
1450.145 Internet Advertising
1450.150 Office Identification Signs
1450.155 Display of Licenses
1450.160 Employment Agreements
1450.165 Unlicensed Assistants
1450.170 Corporation for Indirect Payment
1450.175 Special Accounts
1450.180 Record Keeping
1450.185 Disclosure of Compensation
1450.190 Disclosure of Licensee Status
1450.195 Brokerage Agreements and Listing Agreements
1450.200 Written Agreements
1450.205 Referral Fees and Affinity Relationships

SUBPART E: AGENCY RELATIONSHIPS

Section
1450.207 Confidentiality
1450.210 Failure to Disclose Information Not Affecting Physical Condition
1450.215 Licensee Serving as a Dual Agent in a Transaction Where a Licensee is a Party to the Transaction

SUBPART F: DISCIPLINE RULES AND PROCEDURES

Section
1450.220 Unprofessional Conduct
1450.225 Suspension or Denial for Failure to Pay Taxes, Child Support or Any Illinois-Guaranteed Student Loan
1450.230 Temporary Suspension
1450.235 Otherwise Discipline

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1450.240 Dissolution: Effect of Suspension or Revocation of Sponsoring Brokers or Managing Brokers
1450.245 Inspections and Audits
1450.246 Audits of Special Funds by Outside Auditors
1450.250 Case File Review Committee
1450.255 Hearings
1450.260 Real Estate Recovery Fund
1450.265 Automatic Termination Upon Order to Payout from the Real Estate Recovery Fund
1450.266 Advisory Letters

SUBPART G: PRE-LICENSE AND CONTINUING EDUCATION RULES

Section
1450.270 Definition of Schools and School Branch (Repealed)
1450.275 Pre-License Schools
1450.276 Curriculum for Pre-License Schools
1450.277 Expiration Date and Renewal Period for Pre-License Schools
1450.278 Pre-License Instructors
1450.280 Expiration Date and Renewal Period for Pre-License Instructors
1450.285 Continuing Education Schools
1450.286 Curriculum for Continuing Education Schools and Course Registration Process
1450.287 Expiration Date and Renewal Period for Continuing Education Schools
1450.288 Continuing Education Instructors
1450.290 Expiration Date and Renewal Period for Continuing Education Instructors
1450.295 Distance Education Courses
1450.300 Class Attendance Requirements (Repealed)
1450.305 Recruitment at Test Center
1450.310 Withdrawal of Approval of Schools (Repealed)
1450.315 Discipline of Schools or Instructors

SUBPART H: GRANTING VARIANCES

Section
1450.320 Granting Variances

SUBPART J: TRANSITION RULES

Section
1450.325 Salesperson Applicants – Transition Provisions

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1450.330 Broker Applicants – Transition Provisions
1450.335 Continuing Education – Transition Provisions
1450.340 Education License Renewals – Transition Provisions

AUTHORITY: Implementing the Real Estate License Act of 2000 [225 ILCS 454] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (General Rules), effective December 4, 1974; Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (School Rules), effective July 29, 1974; amended at 3 Ill. Reg. 885, effective February 2, 1979; amended at 4 Ill. Reg. 195, effective August 12, 1980; amended at 5 Ill. Reg. 5343, effective May 6, 1981; amended at 5 Ill. Reg. 8541, effective August 10, 1981; codified at 5 Ill. Reg. 11064; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2406, effective February 3, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8221, effective July 1, 1982; amended at 9 Ill. Reg. 341, effective January 3, 1985; transferred from Chapter I, 68 Ill. Adm. Code 450 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1450 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2977; amended at 12 Ill. Reg. 8036, effective April 26, 1988; amended at 15 Ill. Reg. 10416, effective July 1, 1991; amended at 16 Ill. Reg. 3204, effective February 14, 1992; emergency amendment at 19 Ill. Reg. 12003, effective August 8, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16623, effective December 1, 1995; amended at 20 Ill. Reg. 6492, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 3602, effective March 7, 1997; amended at 21 Ill. Reg. 8350, effective June 30, 1997; old Part repealed and new Part adopted by emergency rulemaking at 24 Ill. Reg. 704, effective January 1, 2000, for a maximum of 150 days; old Part repealed and new Part adopted at 24 Ill. Reg. 8263, effective May 30, 2000; amended at 27 Ill. Reg. 12018, effective July 9, 2003; amended at 28 Ill. Reg. 2141, effective January 22, 2004; amended at 30 Ill. Reg. 11075, effective June 8, 2006.

SUBPART A: DEFINITIONS

Section 1450.10 Definitions

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

"Act" means the Real Estate License Act of 2000 [225 ILCS 454].

"Affidavit of Non-participation" means a sworn statement made by an unlicensed person associated with or an owner of a licensed real estate corporation, limited liability company, partnership, or limited partnership attesting that the unlicensed person is not actively directing or engaging in real estate activities as part of that association or ownership.

"Certificate of registration" means the document issued by the Division~~OBRE~~ indicating approval of a continuing education course for which CE credit can be granted.

"Compliance agreement" means an agreement entered into between a licensee and the Division~~OBRE~~ in conjunction with an administrative warning letter.

"Credit hour" means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through a distance education program approved by the Division~~OBRE~~.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Good moral character" means a reliable and trustworthy character as will enable a person to discharge the duties of a real estate licensee in a manner which protects the public's interest and welfare. Evidence of inability to discharge such duties may include the commission of conduct violative of Section 20-20 of the Act.

"Managing broker" means a broker who has supervisory responsibilities for licensees in one or, in the case of a multi-office company, more than one office and who has been appointed as such by the sponsoring broker. Refer to the definition of sponsoring broker below.

"Moral turpitude" means conduct that is inherently base, depraved or vile.

"Office" means a real estate broker's place of business where the general public is

invited to transact business and where records may be maintained and licenses displayed, whether or not it is the broker's principal place of business. When determining whether an office exists the following shall be considered by the Division~~OBRE~~:

An office is any business location or structure which is owned, controlled, operated or maintained by a person who, at that location or structure, is:

engaging in licensed activities;

offering real estate services to consumers;

holding out to the public that the person is engaged in the practice of real estate brokerage;

maintaining original real estate documents and records related to active or pending transactions;

maintaining current escrow records; or

meeting consumers for the purpose of engaging in real estate licensed activities.

The following places do not constitute an office:

a motor vehicle primarily used for transportation;

a place whose purpose is solely devoted to advertising real estate matters of a general nature or to making a sponsoring broker's business name generally known;

a place which a licensee uses solely for storage or archiving of records; or

a licensee's residence unless held out to the public as a location at which real estate brokerage services are available to the public.

A licensee engaged in the practice of real estate brokerage shall maintain an office. If the licensee is sponsored by another, then the office shall be the office of the sponsoring broker.

A post office box, mail drop location, or other similar facility shall not constitute an office, so long as none of the activities described in this definition take place at this facility.

"School branch" means a location where a pre-license school provides instruction other than the sponsoring school's principal location.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Semester hours" shall be converted into quarter hours at a ratio of 2 semester hours to 3 quarter hours.

"Sole owner" when used to describe a licensee means a licensee who has a 100% ownership interest alone, has ownership as a joint tenant or tenant by the entirety or holds 100% beneficial interest in a land trust.

"Sponsoring broker" means the broker who has issued a sponsor card to a licensed salesperson, another licensed broker, or a leasing agent.

There shall be only one sponsoring broker for any one real estate company. According to the definition herein, the sponsoring broker is the entity holding the company real estate license, whether the entity is an individual who operates as a sole proprietorship, a partnership, limited liability company, corporation or registered limited liability partnership.

The entity that is the sponsoring broker for the real estate company may delegate its duties in accordance with company policy to appropriate company personnel, authorized to act and sign on behalf of the sponsoring broker.

Some examples include but are not limited to:

the sponsoring broker could authorize a managing broker for the company to sign sponsor cards in the name of the sponsoring broker;

the sponsoring broker could authorize a qualified company employee or independent contractor to oversee bookkeeping duties

relative to the sponsoring broker's escrow account;

the sponsoring broker may delegate authorized signers for the escrow account to sign on behalf of the sponsoring broker; and

the sponsoring broker may delegate to authorized company personnel, the ability to sign contracts entered into by the sponsoring broker in accordance with the sponsoring broker's company policy.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

SUBPART B: LICENSING AND EDUCATION

Section 1450.15 Leasing Agent General Provisions

a) A licensed leasing agent shall not engage in any licensed activities other than those activities relating to the leasing of residential real property. A licensed leasing agent may not offer or negotiate the sale or exchange of real estate, or engage in any other activities described in Section 1-10 of the Act not relating to the leasing of residential real estate.

b) No person other than a duly authorized broker, salesperson, or leasing agent or an individual working under a 120 day leasing agent permit shall engage in, for compensation, residential leasing activities for which a license is required under the Act.

c) No leasing agent licensee may accept compensation for the performance of leasing agent activities except from the sponsoring broker by whom the licensee is employed.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.20 Leasing Agent Examination Requirement

a) The Division~~OBRE~~ or its designated testing service shall conduct the examinations at times and places as the Division~~OBRE~~ shall approve.

b) If a person who has received a passing score on the examination fails to file an application and meet all requirements for a leasing agent license within one year

after receiving a passing score on the examination, credit for the examination shall terminate. The person thereafter may make a new application for examination.

c) If an individual has failed the examination three times, the individual must repeat the education requirement set forth in Section 5-10 of the Act prior to taking the examination again.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.25 Sponsor Card for Leasing Agents

a) Except for a person working under a 120 day leasing agent permit as provided in Section 1450.40 of this Subpart, no leasing agent license applicant may engage in the activities of a licensed leasing agent until a valid sponsor card has been issued to the applicant.

b) A sponsoring broker shall prepare upon forms provided by the Division~~OBRE~~ and deliver to each leasing agent employed by the broker a sponsor card certifying that the person whose name appears thereon is in fact employed by that broker, and that the applicant has not practiced under a 120 day leasing agent permit for more than 120 days.

c) A sponsor card properly issued pursuant to this Section shall serve as a temporary permit allowing the sponsored individual to engage in practice as a leasing agent until the applicant is issued a leasing agent license. An applicant may practice under a sponsor card temporary permit for a maximum of 45 days.

d) A licensed real estate broker may issue a sponsor card to an individual only in the following circumstances:

1) upon presentation of a leasing agent examination pass score report which states that the broker may issue a sponsor card; or

2) upon presentation of an original leasing agent license which is endorsed by the broker by whom the leasing agent was previously employed.

e) The sponsoring broker shall, within 24 hours after issuance of the sponsor card, submit the following to the Division~~OBRE~~ by certified or registered mail, return receipt requested, or other signature restricted delivery service.

1) For applicants for an initial leasing agent license:

A) a copy of the sponsor card and transcript, if applicable;

B) a leasing agent examination pass score report which states that the broker may issue a sponsor card;

C) a leasing agent license application that is signed by the applicant and on which all questions have been answered; and

D) the license application fee required by Section 1450.95 of this Part.

2) For persons already holding a leasing agent license:

A) a copy of the sponsor card; and

B) the properly endorsed leasing agent license and pocket card of the sponsored licensee.

f) A broker issuing a sponsor card shall retain a copy of the sponsor card until such time as the leasing agent license is received and properly displayed in the broker's office.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.30 Issuance of Leasing Agent License

a) The Division~~OBRE~~ shall, within 30 days after receipt of the copy of the sponsor card and other documentation submitted by the issuing broker, issue a leasing agent license and a pocket card to the sponsored licensee or notify the applicant why the license cannot be issued.

b) A leasing agent license shall be conspicuously displayed in the sponsoring broker's office. Each licensee shall carry on the licensee's person the licensee's pocket card or, if a pocket card has not yet been issued, a properly issued sponsor card, when engaging in any licensed activity. The licensee shall display the pocket card or sponsor card upon demand.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1450.35 Termination of Employment of Leasing Agent

a) Upon termination of employment of a leasing agent licensee, the sponsoring broker shall immediately:

1) endorse the leasing agent's license as provided on that document;

2) submit a photocopy of the endorsed license to the Division~~OBRE~~ within 2 days after termination by certified mail, return receipt requested, or other signature restricted delivery service;

3) retain a copy of the endorsed license at least until the expiration date printed on that license; and

4) give the original endorsed license indicating the termination to the licensee.

b) Once a license is endorsed, the leasing agent licensee is prohibited from practicing until the licensee is again issued a properly completed sponsor card.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.40 120 Day Leasing Agent Permit

a) Pursuant to Section 5-5(d) of the Act, a person engaging in practice under the provisions of this Section shall first obtain a 120 day leasing agent permit. A permit holder shall comply with all provisions of the Act and this Subpart as if the permit holder were a licensee, and shall be subject to standards of practice and disciplinary provisions as if the permit holder were a licensee. A broker supervising a permit holder shall be responsible for the activities and actions of a permit holder as if the permit holder were a leasing agent licensee.

b) Within 24 hours after employing a permit holder, a broker shall submit the following information to the Division~~OBRE~~ on forms provided by the Division~~OBRE~~:

1) the name, address and other information as is requested by the Division~~OBRE~~ to identify the permit holder;

2) certification by the permit holder that the applicant has not been a leasing agent licensee within the past two years and that the applicant has not been a permit holder within the past two years;

3) certification that the permit holder is at least 18 years of age;

4) certification that the permit holder has successfully completed a four year course of study in a high school or secondary school or an equivalent course of study approved by the Illinois State Board of Education (e.g., GED); and

5) certification that the permit holder is at the time of application, or will be within a period of 90 days, enrolled in a leasing agent course of instruction approved by the Division~~OBRE~~.

c) Upon expiration of the 120 day leasing agent permit period, the permit holder shall immediately cease engaging in leasing agent activities unless the person has been issued a leasing agent sponsor card or a leasing agent license.

d) A person shall not practice pursuant to a 120 day leasing agent permit more than once in any 24 month period. A person who has been a leasing agent licensee within the past 24 month period shall not practice as a 120 day permit holder.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.50 Continuing Education Requirement for Leasing Agents

a) Beginning with the July 31, 2000 renewal of licenses for leasing agents, and for every renewal thereafter, each leasing agent licensee shall complete during the 24 month period prior to that renewal a minimum of six hours of continuing education (CE) that is relevant to leasing residential real property and is approved by the Advisory Council created by Section 30-10 of the Act. Approved courses shall, at a minimum, cover recent changes in the Act and other laws affecting the leasing of residential real estate and material regarding fair housing laws relating to the leasing of residential real property.

b) A renewal applicant is not required to comply with these requirements for the first renewal following the original issuance of the applicant's leasing agent license.

c) Continuing education schools, instructors, and courses must be approved by the

DivisionOBRE as provided in Section 1450.285 of this Part.

d) Licensee compliance with CE requirements shall be certified pursuant to the following provisions:

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements of this Section.

2) The DivisionOBRE may, in the context of compliance audits, require additional evidence demonstrating compliance with the CE requirements (e.g., a certificate of attendance). It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

3) In the context of a compliance audit, the DivisionOBRE shall accept verification (e.g., original transcript, certificate of attendance) submitted directly from a school on behalf of a renewal applicant as proof of CE compliance.

4) When there appears to be a lack of compliance with CE requirements, a licensee shall be subject to discipline pursuant to this Part and the Act.

e) The DivisionOBRE shall conduct audits pursuant to Section 1450.245 to verify compliance with this Section.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

SUBPART C: LICENSING AND EDUCATION

Section 1450.60 Educational Requirements to Obtain a Broker's or Salesperson's License

a) An applicant for a salesperson's license must have successfully completed 45 credit hours of instruction in an approved Real Estate Transaction Course or have received a baccalaureate or master's degree in accounting, real estate, law, finance, business, or other degrees approved by the DivisionOBRE.

b) 120 credit hours of instruction in approved courses or a baccalaureate degree including courses involving real estate or related material are required for broker applicants. Credit shall be given for class hours successfully completed in the following manner:

1) 45 credit hours for a Real Estate Transactions course;

2) 15 credit hours for a Brokerage Administration course;

3) 15 credit hours for Contracts and Conveyances;

4) 15 credit hours of mandatory course work as established by the Education Advisory Council and the Division~~OBRE~~;

5) Credit for the remaining 30 class hours may be obtained by completing at least two of the following courses listed:

A) Appraisal

B) Property Management

C) Financing

D) Sales and Brokerage

E) Farm Property Management

F) Real Property Insurance

c) An applicant for a broker license who is licensed as an Illinois real estate salesperson is presumed to have completed a 45 credit hour Real Estate Transactions course provided that the licensee has not been nonrenewed for the preceding two years or more. Having received 45 class hours credit as a licensed real estate salesperson, an additional 45 class hours credit cannot be earned by taking a Real Estate Transactions course.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.65 Salesperson and Broker Examinations

a) Each applicant for a salesperson's license shall file an application for examination as determined by the designated testing service. The application shall include:

1) Certification that the applicant is 21 years of age or 18 having attained the education required by Section 5-25 of the Act. Forty-eight semester hours

shall meet the minimum requirements of Section 5-25.

2) Certification of graduation from high school or its equivalent (e.g., GED).

3) The required fee as provided in Section 1450.95 of this Part.

4) Proof of one of the following:

A) Currently admitted to practice law by the Supreme Court of Illinois;

B) Completion of at least 45 class hours of instruction in real estate courses approved by the Advisory Council;

C) Completion of a correspondence course approved by the Advisory Council in accordance with Section 1450.295 of this Part; or

D) Evidence of receiving a baccalaureate or master's degree from a college or university in accounting, real estate, law, finance, business, or other degrees approved by the Division~~OBRE~~.

b) Each applicant for a broker's license shall file an application for examination as determined by the designated testing service. The application shall include:

1) Certification that the applicant is 21 years of age or 18 having attained the education required by Section 5-25 of the Act. Forty-eight semester hours shall meet the requirements of Section 5-25;

2) Certification of graduation from high school or its equivalent (e.g., GED);

3) The required fee as provided in Section 1450.95 of this Part;

4) Proof of one of the following:

A) Currently admitted to practice law by the Supreme Court of Illinois;

B) Completion of at least 120 hours of instruction in real estate courses approved by the Advisory Council in accordance with Section 1450.275;

C) Completion of a correspondence course approved by the Advisory Council in accordance with Section 1450.295 of this Part; or

D) Evidence of receiving a baccalaureate or master's degree from a college or university in accounting, real estate, law, finance, business, or other degrees approved by the Division~~OBRE~~.

c) Applicants who complete the instruction described in subsection (b)(4)(B) ~~above~~ after the final filing date for an examination will be permitted to submit proof prior to the examination, subject to the late fee and late proof procedures established by the testing service designated by the Division~~OBRE~~.

d) If an applicant has failed an examination 3 times, the applicant must repeat the pre-license education in order to be readmitted to sit for the examination.

e) Pursuant to Section 5-35(c) of the Act, the 3 year time period does not apply to education earned as part of a baccalaureate degree program.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.70 Applications for Salespersons and Brokers Licenses by Examination

a) Each applicant for a salesperson's license shall submit to the Division~~OBRE~~:

1) An application which is signed by the applicant and on which all questions have been answered;

2) The fee as provided by Section 1450.95 of this Part;

3) Proof of successful completion of the examination authorized by the Division~~OBRE~~;

4) A properly completed sponsor card issued in accordance with Section 1450.75 of this Part; and

5) Transcript, if applicable.

b) Each applicant for a broker's license shall submit to the Division~~OBRE~~:

1) An application which is signed and on which all questions have been answered;

2) The fee as provided by Section 1450.95 of this Part;

3) Proof of successful completion of the examination authorized by the Division~~OBRE~~;

4) A properly completed sponsor card form issued in accordance with Section 1450.75 of this Part;

5) Transcript, if applicable; and

6) If the applicant will be a sponsoring broker, a properly completed consent to audit and examine special accounts form.

c) An applicant shall have one year from the date of receipt of a passing score on the examination to file an application with the Division~~OBRE~~ and to meet all of the requirements for licensure.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.75 Sponsor Cards for Brokers and Salespersons

a) A properly issued sponsor card shall serve as a temporary permit allowing the sponsored individual to engage in the practice of real estate for a maximum of 45 days only for the sponsoring broker named on the sponsor card.

b) The sponsoring broker shall issue a sponsor card to an individual only in the following instances:

1) Upon presentation of a real estate examination pass score report which states that the broker may issue a sponsor card;

2) Upon presentation of an original license endorsed by the broker by whom the licensee was previously employed or with whom the licensee was previously associated; or

3) Upon presentation of a license expired for less than 2 years.

c) Upon issuance of a sponsor card, the issuing broker shall, within 24 hours after issuance, submit the following to the Division~~OBRE~~ by certified or registered mail return receipt requested or other signature restricted delivery service:

1) For Licensees

A) a copy of the sponsor card and transcript, if applicable;

B) appropriate sponsor card fee as set forth in Section 1450.95 of this Part; and

C) one of the following:

i) the properly endorsed real estate license and pocket card of the sponsored licensee; or

ii) an expired license of the sponsored licensee along with the fee as provided by Section 1450.95 of this Part and proof of education, if applicable, as required by Section 5-50 or 5-55 of the Act; or

iii) the pocket card of the licensee and a sworn statement by the licensee explaining why the license is not submitted.

If neither the license nor pocket card is available, the status of the license shall be verified by the Director ~~of Real Estate~~ or his or her designee.

2) For Salesperson Applicants

A) a copy of the sponsor card and transcript, if applicable;

B) a real estate pass score report which states that the broker may issue a sponsor card; and

C) other documentation as required by Section 1450.70 of this Part.

3) For Broker Applicants

A) a copy of the sponsor card and transcript, if applicable;

B) a real estate pass score report which states that the broker may issue a sponsor card; and

C) other documentation as required by Section 1450.70 of this Part.

4) Should applicant be found not to have completed all the requirements, the applicant's sponsor card shall be void, the applicant shall be considered to have never been authorized to practice, and the applicant shall be subject to disciplinary action in accordance with Section 20-20 of the Act and Section 1450.220 of this Part.

d) A licensed real estate broker may practice as a sole proprietor, partnership, corporation, or limited liability company provided that prior to doing business the broker complies with the licensing requirements for partnerships, corporations or limited liability companies set forth in Section 1450.85 of this Part and submits the following to the Division~~OBRE~~ by certified or registered mail return receipt requested or other signature restricted delivery service:

1) a copy of the sponsor card issued to himself;

2) the appropriate sponsor card fee as provided by Section 1450.95(h)(2); and

3) one of the following:

A) his or her properly endorsed real estate broker license and pocket card; or

B) an expired broker license along with the fee set forth in Section 1450.95 and proof of education, if applicable, as required by Section 1450.105; or

C) the pocket card and a sworn statement by the licensee explaining why the license is not submitted. If neither the license nor the pocket card is available, the status of the license shall be verified by the Director or his or her designee; or

D) a completed consent to audit and examine special accounts form if one is not already on file.

e) The Division~~OBRE~~ shall, within 30 days after receipt of the sponsor card, appropriate fees and appropriate documentation, issue a license to the sponsored licensee, or notify the applicant why the license cannot be issued.

f) Expiration of the Sponsor Card. A sponsor card shall be valid for a period of 45 days from issue date unless extended for an additional 45 days by the Division~~OBRE~~ for good cause.

1) Good cause shall be limited to those instances where the Division~~OBRE~~ has unnecessarily delayed the processing of a license.

2) The request for extension shall be considered granted only upon written notice ~~thereof~~ from the Division~~OBRE~~.

g) The sponsoring broker shall retain a copy of the sponsor card until the license is received.

h) Upon termination of a licensee, a sponsoring broker shall immediately:

1) Endorse the licensee's license as provided for on that document;

2) Submit a photocopy of the endorsed license to the Division~~OBRE~~ within 2 business days after termination by certified or registered mail return receipt requested, or other signature restricted delivery service;

3) Retain a copy of the endorsed license at least until the expiration date printed on that license; and

4) Give the original endorsed license to the licensee.

i) Once a license has been endorsed, the licensee is prohibited from practicing real estate until the licensee is issued a properly completed sponsor card.

j) Each licensee shall carry either a properly issued sponsor card or a valid pocket card at all times and shall display same upon demand.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.80 Branch Offices

a) A sponsoring broker wanting to operate a real estate branch office shall, in accordance with Section 5-45 of the Act, file an application with the Division~~OBRE~~, on forms provided by the Division~~OBRE~~, together with the following:

1) A properly completed Consent to Examine and Audit Special Accounts form;

2) The name and license number of the manager of the branch office; and

3) All required fees under Section 1450.95.

b) Upon receipt of the above documents and review of the application, the Division~~OBRE~~ shall issue a license authorizing the sponsoring broker to engage in real estate activities at that branch office or shall notify the applicant of the reason for the denial of the license.

c) The name of the branch office shall be the same as that of the main office, or shall clearly delineate the branch office's relationship with the main office (e.g., affiliated with, associated with, subsidiary of).

d) The sponsoring broker shall not open a branch office or have licensees working from a branch office until after receipt of the branch office license.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.85 Corporations, Limited Liability Companies, Partnerships, and Limited Partnerships

a) Persons who desire to practice real estate in this State in the form of a corporation, limited liability company, or partnership shall, in accordance with Section 5-15 of the Act, file an application with the Division~~OBRE~~, on forms provided by the Division~~OBRE~~, together with the following:

1) If an assumed name is to be used, a copy of the assumed name certificate;

2) A Federal Employer Identification Number (FEIN). If a FEIN has not been issued, a photocopy of the FEIN application;

3) A properly completed Consent to Examine and Audit Special Accounts

form;

4) A properly completed real estate corporation/limited liability company/partnership information form;

5) The fee as provided by Section 1450.95 of this Subpart.

b) All requirements for a license to practice as a corporation, limited liability company or partnership shall be met within 1 year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be considered for licensure, the applicant shall file a new application and fee.

c) Corporations, in addition to the items listed in subsection (a) of this Section, shall submit the following:

1) The name of the corporation and its registered address, a list of all officers, and the license number for each officer who is licensed as a real estate broker;

2) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State is also required;

3) All unlicensed officers shall submit affidavits of non-participation with the corporation application. Licensed salespersons shall not be officers of the corporation even if they submit an affidavit of non-participation; and

4) A list of all shareholders, the number of shares of the corporation owned and the license number for each shareholder who is a licensee.

d) Limited Liability Companies

1) Limited liability companies, in addition to the items listed in subsection (a), shall submit the following:

A)~~1)~~ The name of the limited liability company and its registered address, a list of all members, and the license number for each member who has an Illinois real estate license. If a member of the

limited liability company is a business entity, the applicant shall identify any licensees who are owners, officers, managers, or partners of the business entity;

B)~~2)~~ A list of all managers and their broker license numbers;

C)~~3)~~ A copy of the Articles of Organization filed with the Secretary of State or, if it is a foreign limited liability company, a copy of the application for admission endorsed by the Secretary of State.

2) All unlicensed members shall submit with the limited liability company application affidavits of non-participation. Licensed salespersons shall not be managers of the limited liability company even if they submit an affidavit of non-participation.

e) Partnerships, in addition to the items listed in subsection (a), shall submit the following:

1) An application containing the name of the partnership and its business address and the names of all general partners, and the broker license number of each general partner. Licensed salespersons shall not be general partners.

2) An affidavit stating that the partnership has been legally formed.

f) Limited partnerships, in addition to the items listed in subsection (a), shall submit the following:

1) A letter of authority from the Secretary of State's Limited Partnership Department or, if it is a foreign limited partnership, a copy of the application for admission endorsed by the Secretary of State;

2) A listing of all general partners and, if any general partner is a real estate licensee, the broker license number for each licensed general partner;

3) All unlicensed general partners must submit with the partnership application affidavits of non-participation; and

4) If the general partner is an entity, the identity and license number of any brokerage licenses who are owners, managers, members or partners of the

entity.

g) In assessing the restrictions against a salesperson or leasing agent, or group of salespersons or leasing agents, owning, or directly or indirectly controlling, more than 49% of a corporation, limited liability company, or partnership, pursuant to Section 5-15(e) of the Act the following may be considered:

1) For corporations: the Division~~OBRE~~ may consider the role of any salespersons or leasing agents in any limited liability company or partnership that may have an interest in the corporation.

2) Limited liability companies: the Division~~OBRE~~ may consider the role of any salespersons or leasing agents in any corporation or partnership that may serve as a member or manager of the limited liability company.

3) Partnerships: the Division~~OBRE~~ may consider the role of any salespersons or leasing agents in any corporation or limited liability company that may serve as a limited partner. Additional information may be requested by the Division~~OBRE~~ as necessary to determine compliance with this restriction.

h) Upon receipt of the above documents and review of the application, the Division~~OBRE~~ shall issue a license authorizing the corporation, limited liability company, or partnership to engage in the practice of real estate or shall notify the applicant of the reason for the denial of the license.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.90 Assumed Name

a) If a sponsoring broker acting as a sole proprietor operates under any name other than that appearing on his or her license, the sponsoring broker shall submit to the Division~~OBRE~~ a certified copy of the broker's registration under the Assumed Business Name Act [805 ILCS 405]. The assumed business name registration shall be obtained in each county in which the assumed business name is used. Any corporation, limited partnership, general partnership or limited liability company operating under any name other than that appearing on its application for a license shall provide to the Division~~OBRE~~ a copy of the filing or certificate authorizing it to do business under an assumed name. Sponsored licensees may not operate under an assumed business name other than that of their sponsoring broker.

b) The licensee shall submit the information to the Division~~OBRE~~ within 30 days after use of the assumed name.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.95 Fees

a) License of a Leasing Agent~~.~~

1) The application fee for an initial leasing agent license shall be $75.

2) The application fee to renew a leasing agent license shall be $50 per year.

3) The late renewal fee for leasing agent licenses renewed after the expiration date of the license shall be $50.

4) The fee for issuing a 120 day leasing agent permit shall be $25.

b) License of Real Estate Salesperson~~.~~

1) The fee for an initial license as a salesperson is $125. The fee must accompany the application to determine the applicant's fitness to receive a license.

2) The fee for renewal of a salesperson's license which has not expired shall be calculated at the rate of $50 per year.

3) The fee for the renewal of a salesperson's license which has been expired for not more than 2 years, as provided for in Section 5-55 of the Act, is the sum of all lapsed renewal fees plus $50.

c) License of Broker~~.~~

1) The fee for an initial license as a broker is $125. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a broker's license which has not expired shall be calculated at the rate of $75 per year.

3) The fee for the renewal of a broker's license which has been expired for not more than 2 years, as provided for in Section 5-55 of the Act, is the sum of all lapsed renewal fees plus $50.

d) License of Partnership, Limited Liability Company, or Corporation.

1) The fee for an initial license for a partnership, limited liability company, or corporation is $125. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a license for a partnership, limited liability company, or corporation shall be calculated at the rate of $75 per year.

3) The fee for the renewal of a license for a partnership, limited liability company or corporation which has been expired is the sum of all lapsed renewal fees plus $50.

e) License for Branch Office.

1) The fee for an initial license for a branch office is $125. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a branch office license shall be calculated at the rate of $75 per year.

3) The fee for the renewal of a branch office license which has been expired is the sum of all lapsed renewal fees plus $50.

f) Pre-License School, Instructor, and Course Fees.

1) The fee for an application for initial approval of a pre-license school is $1,025. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for renewal of approval of a pre-license school shall be calculated at the rate of $525 per year.

3) The fee for the renewal of approval of a pre-license school which has been expired is the sum of all lapsed renewal fees plus $50.

4) The fee for an application for initial approval of a branch for a pre-license school is $175 per branch. The fee must accompany the application to determine an applicant's fitness to receive approval.

5) The fee for renewal of approval of a branch for a pre-license school shall be calculated at the rate of $125 per branch per year.

6) The fee for the renewal of approval of a branch for a pre-license school which has been expired is the sum of all lapsed renewal fees plus $50.

7) The fee for transferring a branch location shall be $25 per transfer.

8) The fee for application for initial approval of a pre-license instructor is $125. The fee must accompany the application to determine the applicant's fitness for approval.

9) The fee for renewal of approval of a pre-license instructor shall be calculated at the rate of $125 per year.

10) The fee for the renewal of approval of a pre-license instructor which has been expired is the sum of all lapsed renewal fees plus $50.

11) The fee for application for initial approval of a pre-license course is $125. The fee must accompany the application for approval.

12) The fee for renewal of approval of a pre-license course shall be calculated at the rate of $50 per year.

13) The fee for the renewal of approval of a pre-license course which has been expired is the sum of all lapsed renewal fees plus $50.

g) Continuing Education School, Instructor, and Course Fees.

1) The fee for an application for initial approval as a continuing education (CE) school shall be $2,025. The fee must accompany the application to determine an applicant's fitness for approval.

2) The fee for renewal of approval as a CE school shall be $2,025 per year.

3) The fee for renewal of approval as a CE school which has expired shall be all lapsed renewal fees plus $50.

4) The fee for an application for initial approval as a CE instructor shall be $75. The fee must accompany the application to determine an applicant's fitness to receive approval.

5) The fee for renewal of approval as a CE instructor shall be $75 per year.

6) The fee for the renewal of approval as a CE instructor which has been expired shall be all lapsed renewal fees plus $50.

7) The fee for an application for initial approval of a CE course shall be $125. The fee must accompany the application for approval.

8) The fee for renewal of approval of a CE course shall be $50 per year.

9) The fee for renewal of approval of a CE course which has expired shall be all lapsed renewal fees plus $50.

h) General.

1) All fees paid pursuant to the Act and this Section are non-refundable.

2) The fee for the issuance of a duplicate license or pocket card, for the issuance of a replacement license or pocket card for a license or pocket card which has been lost or destroyed, for the issuance of a license with a change of name or address other than during the renewal period, or for the issuance of a license with a change of location of business, is $25.

3) The fee for a certification of a licensee's record for any purpose is $25.

4) The fee for a wall license showing registration shall be the cost of producing the license.

5) The fee for a roster of persons licensed under the Act or for a list of licensees sponsored by the sponsoring broker shall be the cost of producing the roster.

6) Applicants for an examination as a leasing agent, broker, salesperson, or

instructor shall be required to pay a fee covering the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.

7) The fee for requesting a waiver of continuing education requirements pursuant to Section 5-70 of the Act shall be $25.

8) The fee for processing a sponsor card other than at the time of original licensure is $25.

9) The fee for a copy of a transcript of the proceedings under Section 20-60(h) of the Act shall be the cost of a copy of the transcript. A copy of the balance of the record will be provided at the Division's~~OBRE's~~ cost for producing the record.

10) The fee for certifying the record referred to in Section 20-75 of the Act is $1 per page of the record.

11) The Division~~OBRE~~ may charge an administrative fee not to exceed $500, as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1450.250(d)(2).

12) Each university, college, community college or school supported by public funds shall be exempt from the school licensure fees provided each university, college, community college or school meets the following criteria:

A) the facility is supported by public funds;

B) the instructors are considered full-time faculty and are supported by public funds or if the administrator of the real estate school/program/curricula is considered full-time with exclusive responsibility for the administration of the real estate school/program/curricula and is supported by public funds;

C) the program, pre-license and/or continuing education, revenues are

deposited into the general fund of the university, college, community college or school as are other appropriated public funds; and

D) the program, pre-license and/or continuing education, is not a for-profit division of the university, college, community college or school.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.100 Nonresident Licensure by Reciprocity

a) A nonresident broker's license shall be issued to a real estate broker licensed under the laws of his or her state of domicile under the following conditions:

1) That the broker is the holder of an active broker's license in his or her state of domicile;

2) The Division~~OBRE~~ has a reciprocal agreement with the broker's state of domicile that includes the provisions of this Section;

3) That the standards of that state for licensing as a real estate broker are substantially equivalent to or greater than the minimum standards in Illinois;

4) That the broker maintains a definite place of business in his or her state of domicile and has been actively engaged in the real estate business as a broker during the immediately preceding 2 years; and

5) The broker shall file an application, on forms furnished by the Division~~OBRE~~, along with the required fee and:

A) a statement bearing the seal of the licensing authority from each state in which he or she is licensed, showing:

i) that he or she has an active license as a broker in that state;

ii) that the license is in good standing; and

iii) that no complaints are pending against the broker;

B) proof of passing an approved test on Illinois specific real estate brokerage laws;

C) if the broker does not maintain a definite office or place of business within the State of Illinois, a written statement which:

i) appoints the Director~~Commissioner~~ to act as the broker's agent upon whom all judicial and other process may be served;

ii) acknowledges and agrees to abide by all of the provisions of the Act with respect to all of the broker's activities within and relating to the State of Illinois; and

iii) assents to jurisdiction of the Division~~OBRE~~;

D) properly completed 45 day sponsor card form.

b) A nonresident salesperson's license may be issued to a real estate salesperson who is employed by or associated with a nonresident broker holding a broker license in this State under the following conditions:

1) That the salesperson is the holder of an active license in his or her state of domicile;

2) That the salesperson is domiciled in the same state as the broker with whom he or she is associated;

3) The Division~~OBRE~~ has a reciprocal agreement with the salesperson's state of domicile that includes the provisions of this Section;

4) That the standards of that state for licensing as a salesperson are substantially equivalent to or greater than the minimum standards in Illinois; and

5) The salesperson shall file an application on forms furnished by the Division~~OBRE~~, along with the required fee and:

A) a properly completed 45 day sponsor card form;

B) a statement bearing the seal of the licensing authority from each state in which he or she is licensed, showing:

i) that he or she has an active license as a salesperson in that state;

ii) that the license is in good standing; and

iii) that no complaints are pending against the salesperson;

C) proof of passing an approved test on Illinois specific real estate brokerage laws; and

D) if the salesperson does not maintain a definite office or place of business within the State of Illinois, a written statement which:

i) appoints the Director~~Commissioner~~ to act as the salesperson's agent upon whom all judicial and other process may be served;

ii) acknowledges and agrees to abide by all of the provisions of the Act with respect to all of the salesperson's activities within and relating to the State of Illinois; and

iii) assents to jurisdiction of the Division~~OBRE~~.

c) Licenses previously granted under reciprocal agreements with other states shall remain in force so long as the Division~~OBRE~~ has a reciprocal agreement with the state that includes the requirements of this Section, unless that license is suspended, revoked, or terminated by the Division~~OBRE~~ for any reason provided for suspension, revocation, or termination of a resident licensee's license. Licenses granted under reciprocal agreements may be renewed in the same manner as a resident's license. Any licensee who renews a license which was granted under a reciprocal agreement thereby assents to jurisdiction without regard to the location of the licensee's domicile or principal business location or office locations.

d) Any person holding a valid nonresident license under this Section shall be eligible to obtain a broker's or salesperson's license of the type granted to residents

without examination should that person change his/her state of domicile to Illinois and that person otherwise meets the qualifications for licensure under this Act.

e) All requirements for nonresident licensure shall be met within 1 year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be reconsidered for licensure, the applicant shall file a new application and fee.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.105 Renewals

a) Every leasing agent license issued under the Act shall expire on July 31 of each even numbered year.

b) Every salesperson's license issued under the Act shall expire on April 30 of each odd numbered year. All salespersons licenses which expire on March 31, 2001, pursuant to the Real Estate License Act of 1983 shall be extended to April 30, 2001.

c) Every broker's license issued under the Act shall expire on April 30 of each even numbered year. All broker's licenses which expire on January 31, 2000, pursuant to the Real Estate License Act of 1983 shall be extended to April 30, 2000. Sponsoring brokers shall also submit a properly completed consent to audit and examine special accounts form.

d) Every license issued to a corporation, limited liability company, partnership, limited partnership, or branch office under the Act shall expire on October 31 of each even numbered year. The holder of the license shall submit the following:

1) A properly completed consent to audit and examine special accounts form; and

2) A properly completed change of business information form as provided for in Section 1450.110 of this Part.

e) Renewal applications shall be submitted on forms provided by the Division~~OBRE~~. All renewals shall include the name and license number of the sponsoring broker. Failure to receive a renewal form from the Division~~OBRE~~ shall not constitute an excuse for failure to pay the renewal fee or to renew one's

license.

f) Practicing or offering to practice on an expired or inoperative license shall constitute unlicensed or unauthorized practice and shall be grounds for discipline pursuant to Section 20-20 of the Act.

g) Any leasing agent, salesperson, or broker whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fee provided that the license expired while the licensee was:

1) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, the State Militia called into the service or training of the United States, or

2) engaged in training or education under the supervision of the United States prior to induction into military service, or

3) serving as the Director or Deputy Director~~ of Real Estate in the State of Illinois~~, or as an employee of the Division~~OBRE~~. A licensee renewing his or her license in accordance with this subsection may renew the license within a period of two years following the termination of service and are not required to take a refresher course or a retest.

h) In accordance with Section 5-55 of the Act, any licensee whose license under this Act has expired for more than 2 years shall not be eligible for renewal of that license. Any licensee whose license has been expired for less than 2 years may renew the license at any time by complying with the requirements of this Part, by paying the fees required by Section 1450.95 of this Part and by providing the Division~~OBRE~~ with evidence that the licensee has satisfactorily completed the required continuing education courses, including six hours per year while the license was expired.

i) In accordance with Section 5-50 of the Act, upon request, the Division~~OBRE~~ shall prepare and mail to the sponsoring real estate broker a listing of licensees who, according to the records of the Division~~OBRE~~, are sponsored by that broker. The sponsoring broker shall notify the Division~~OBRE~~ concerning any inaccuracies in the listing within 30 days after its receipt.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1450.110 Change of Information

a) It is the responsibility of each licensee to immediately notify the Division~~OBRE~~ of any change of name, address, or office location. For example, if the licensee has had a name change either by court order or due to a change in marital status, the licensee shall notify the Division~~OBRE~~ of the name change together with a certified copy of the marriage certificate or portions of the court order relating to the name change, and indicate under which name the license shall issue. If the licensee regularly practices under a diminutive of their first name (e.g., Meg for Margaret or Mark for Mariusz or Sam for Shamim), last name or a middle name instead of the licensee's full legal name, the licensee shall notify the Division~~OBRE~~ of the alternate name. To help ensure proper credit, the licensee shall ensure that all continuing education certificates are issued under the name of licensure.

b) It is the responsibility of each sponsoring broker to immediately notify the Division~~OBRE~~ of any change of business information.

1) When a licensee acquires or transfers any interest in a corporation, limited liability company, partnership, or limited partnership licensed under the Act, the sponsoring broker shall submit to the Division~~OBRE~~ a properly completed change of business information form.

2) When a licensee becomes an officer or manager of a corporation, limited liability company, partnership, or limited partnership licensed under the Act, the sponsoring broker shall submit to the Division~~OBRE~~ a properly completed change of business information form. Any changes in managing brokers, branch or principal offices shall be reported in writing to the Division~~OBRE~~ within 15 days after the change.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.115 Continuing Education

a) Continuing Education Hour Requirements

1) Pursuant to Article 5 of the Act, each licensee who is required to take continuing education (CE) shall complete 6 hours of CE for each year of the prerenewal period in courses approved by the Advisory Council. Licensees who complete CE after the expiration of a license are eligible

for approval of CE only upon payment of all fees required by this Part and completion of the necessary forms.

2) Pursuant to Section 5-70 of the Act, CE requirements apply to those licensees who obtained initial licensure in Illinois on or after January 1, 1977 and those licensees who did not have a license for 15 years as of January 1, 1992. Continuous licensure is not required to be eligible for this exemption. However, if a license has been expired for a period of 2 years or more, the date of initial licensure, for purposes of this Section, shall be the date of licensure after that nonrenewed period.

3) A renewal applicant is not required to complete CE requirements for the first renewal following original licensure if:

A) the initial salesperson's license was issued less than one year prior to the expiration date; or

B) the initial broker's license was issued less than one year prior to the expiration date.

4) A renewal applicant is required to complete 6 hours of continuing education if:

A) the licensee's initial salesperson license was issued more than one year prior to that licensee's first expiration date and less than two years prior to that licensee's first expiration date.

B) a broker's license was issued to a person, not already licensed as a salesperson, more than one year prior to that licensee's first broker expiration date and less than two years prior to that licensee's first broker expiration date.

5) Salespersons and brokers licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section, unless they are exempt pursuant to Section 5-70(a) of the Act or subsection (a)(2) or (a)(3).

6) The Division~~OBRE~~ shall conduct random audits to verify compliance with this Section.

b) Approved Continuing Education

1) CE credit may be earned for verified attendance at or participation in a course which is offered by an approved CE school that meets the requirements set forth in Section 1450.285 of this Part.

2) CE credit may also be earned for completion of a self-study course that is offered by an approved CE school that meets the requirements set forth in Section 1450.295 of this Part.

3) Pursuant to Section 5-70 of the Act, the CE in a curriculum approved by the Education Advisory Council requirement shall be satisfied by successful completion of the following:

A) Core category. A minimum of 6 hours of CE in a curriculum approved by the Education Advisory Council.

B) Elective category. A maximum of 6 hours of CE in the following elective courses:

i) Appraisal;

ii) Property management;

iii) Residential brokerage;

iv) Farm property management;

v) Rights and duties of sellers, buyers and brokers;

vi) Commercial brokerage and leasing;

vii) Real estate financing; and

viii) Other CE courses approved by the Advisory Council (e.g., real estate tax laws).

4) One hour of approved CE shall include at least 50 minutes of classroom instruction and shall be exclusive of any time devoted to taking the examination as set forth in subsection (b)(6) ~~below~~.

5) Each CE course shall include one or more subjects from either the core category or elective category set forth in subsection (b)(3)(A) or (b)(3)(B), where the individual is in actual attendance, or participates in, or completes self-study. All CE courses shall be a minimum of three hours and shall be offered in three-hour increments. Each three-hour increment shall be from topics in the core or elective category. In no case shall topics from the core and elective category be combined within the same three-hour period. The CE school shall clearly indicate on the certificate of completion the number of hours earned from each CE course and identify whether the completed course was from the core or elective category.

6) Each CE course shall include the successful completion of an examination which measures the attendee's understanding of the course material. A score of at least 70% is required on the examination for successful completion of any CE course.

A) The examination shall be given on-site immediately following any CE course. When a sequence of courses is offered, the examination may be given either at the end of each individual course or it may be given at the end of the sequence of courses so long as the examination covers all aspects of the course material.

B) All examinations, including self-study examinations and retake examinations, shall be proctored by a representative of the approved CE school and shall include at least 25 questions for each three-hour increment of CE earned.

C) No credit for CE shall be given to any licensee unless the examination is successfully completed. The CE school shall allow the attendee one retake within 30 days after a failed examination in order to receive credit for CE. No more than one retake shall be allowed. A licensee failing a retake shall not receive credit for that CE course unless the entire course is retaken and the examination is successfully completed.

7) Self-study CE shall comply with all of the requirements of this Section, except that:

A) Verified attendance is only required for taking the examination.

B) Classroom instruction is not required for self-study CE, as the intent is for the licensees to review and learn the material on their own.

C) Acceptable self-study materials include, but are not limited to, reading material and audio/video cassettes.

D) The examination site for self-study CE shall be determined by the CE school, and it shall be proctored by a representative of the approved sponsor. An approved instructor is not required to proctor the examination.

8) All CE courses shall:

A) Contribute to the advancement, integrity, extension and enhancement of professional skills and knowledge in the practice of real estate;

B) Provide experiences (e.g., role playing, lectures, films) which contain subject matter and course materials relevant to that set forth in Section 5-70 of the Act; and

C) Be developed and presented by persons with education and/or experience in the subject matter of the CE course.

9) Nothing shall prohibit an approved CE school and its instructors from utilizing audio-visual aides or satellite communications with two-way voice interaction in assisting in the presentation of CE courses.

10) Pursuant to Section 5-70(f) of the Act, CE credit may be earned by an approved instructor for teaching an approved CE course or pre-license course also approved for CE. Credit for teaching an approved CE course may only be earned one time per course during a prerenewal period. One hour of teaching is equal to one hour of CE.

11) As provided for in Section 5-75 of the Act, if licensees have earned CE hours offered in another state or territory for which they will be claiming credit toward full compliance in Illinois, each applicant shall submit an application along with a $25 processing fee within 90 days after

completion of the CE course and prior to expiration of the license. The Advisory Council shall review and recommend approval or disapproval of the CE course provided the CE school and CE course are substantially equivalent to those approved in Illinois and provided that the course included the successful completion of a proctored examination. In determining whether the CE school and CE course are substantially equivalent the Advisory Council shall use the criteria in Sections 5-70 through 5-85 of the Act and this Section.

12) CE credit shall not be given for CE courses taken in Illinois from schools not pre-approved by the Division~~OBRE~~.

13) Except for self-study CE courses, no more than 6 hours of CE may be taken in any calendar day.

c) Certification of Compliance with CE Requirements

1) Each licensee shall certify on the renewal application full compliance with the CE requirements set forth in subsections (a) and (b) of this Section.

2) The Division~~OBRE~~ may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of completion, transcript, etc.). It is the responsibility of each renewal applicant as proof of CE completed.

3) When during an audit or compliance review, the Division~~OBRE~~ determines that a licensee may be deficient in complying with CE requirements, the Division~~OBRE~~ will notify the licensee, and the sponsoring broker of the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery service, of the possible deficiency. The licensee shall have 60 days from the date the deficiency notification is mailed to submit to the Division~~OBRE~~ evidence of compliance with CE requirements.

A) If satisfactory evidence of compliance with CE requirement (as set forth in subsection (c)(2) of this Section) is submitted, the Division~~OBRE~~ shall notify the licensee by first class mail, that the licensee is in compliance.

B) If the licensee has certified compliance with CE requirements on

the licensee's most recent renewal application pursuant to subsection (c)(1) of this Section but cannot submit evidence of having been in compliance on the date the licensee made the certification, the licensee may during the 60 days notice period submit evidence of having attained compliance with CE requirements after the date the certification was made. The submission of evidence of post-certification completion must be accompanied by a non-refundable administrative fee of $25 per course credit hour completed after the date the licensee originally certified compliance. The submission of evidence will not be reviewed or considered if the proper fee does not accompany the submission. Upon submission of the evidence and appropriate fee, the evidence will be reviewed. If the evidence is found to be satisfactory, the Division~~OBRE~~ shall notify the licensee and the sponsoring broker of the licensee that the licensee is in compliance. Any credit hours submitted for post-certification course completion and found satisfactory may not be used as credit for the next renewal requirements.

C) If the licensee fails to submit within the 60 day notice period satisfactory evidence of compliance with CE requirements, the failure shall be evidence of a violation of Section 20-20(a) of the Act regarding false or fraudulent representation to obtain a license and the continuing education requirements of Article 5 of the Act. The Division~~OBRE~~ shall send notice pursuant to Section 20-60 of the Act indicating the commencement of disciplinary proceedings. A copy of this notice shall be sent to the sponsoring broker of the licensee.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.120 Rental Finding Services

a) Definition – Application~~.~~

1) A rental finding service is any business that~~which~~ finds, attempts to find, or offers to find, for any person who pays or is obligated to pay a fee or other valuable consideration, a unit of rental real estate or a lessee to occupy a unit of rental real estate~~,~~ not owned or leased by the business.

2) Any person, corporation, limited liability company, partnership, or limited partnership that~~which~~ operates a rental finding service shall be considered a broker or salesperson as defined in the Act, shall obtain a license pursuant to the Act, and shall comply with the provisions of this Section.

3) The provisions of this Section shall not apply to those exempted under Section 5-20 of the Act.

b) Contract. A rental finding service shall, prior to accepting a fee or other valuable consideration for the services, enter into a written contract with the person for whom such services are to be performed and deliver to the individual a copy of the contract. The contract shall include, in the case of a rental finding service that~~which~~ finds, offers, or attempts to find a unit of rental real estate for an individual, at a minimum, the following provisions:

1) The term of the contract;

2) The total amount to be paid for the services to be performed and a clear designation of the amount paid in advance of the performance of the services;

3) A statement regarding the refund or nonrefund of the fee paid in advance, which shall include:

A) the precise conditions, if any, upon which a refund is based;

B) the fact that the conditions shall occur within 90 days from the date of the contract;

C) the fact that the refund shall be paid no later than 10 days after demand, provided the check has been honored;

4) The statements required by subsection (b)(3) ~~above~~ shall be uniform in type of a size larger than that used for the balance of the contract;

5) The type of rental unit desired, the geographical area requested, and the rent the prospective tenant is willing to pay;

6) A detailed statement of rental finding services to be performed by the licensee, which ~~services~~ shall include, at a minimum, the delivery to the

prospective tenant of all rental information ~~as~~ listed in subsection (c)~~below~~;

7) A statement that the contract shall be null and void if information concerning possible rental units or locations furnished by the licensee is not current or accurate with respect to the type of rental unit desired and described in subsection (b)(5)~~ above~~. A listing for a rental unit that~~which~~ has not been available for rent for over two days shall be prima facie proof of not being current;

8) A statement that information furnished by the licensee concerning possible rental units may be up to 2 days old;

9) A statement requiring the licensee to refund all fees paid in connection with the contract if the contract is null and void for any reason. The licensee shall not impose any condition for the refund and the contract shall state when the refund will be paid.

c) Disclosure. Pursuant to subsection (b)(6)~~ above~~, the following written information for each rental unit shall be provided to the person with whom the contract is entered~~ into~~:

1) The name, address, and the telephone number of the owner of each rental unit~~,~~ or the owner's~~his~~ authorized agent;

2) A description of the rental unit;

3) The amount of rent requested;

4) The amount of security deposit required;

5) A statement describing utilities that~~which~~ are located in the rental unit and included in the rent;

6) The occupancy date and the term of lease;

7) A statement setting forth the source of the rental information (i.e., owner, agent);

8) All other information that~~which~~ may reasonably be expected to be of

concern to the prospective tenant.

d) Permission of Owner. A rental finding service shall not list or advertise any rental unit without the express written authority of the owner or agent of each unit.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

SUBPART D: COMPENSATION AND BUSINESS PRACTICES

Section 1450.125 Managing Broker Responsibilities

a) The sponsoring broker shall inform the Division~~OBRE~~ in writing of the name and certificate number of all managing brokers employed by the sponsoring broker and the office or branch offices each managing broker is responsible for managing. Each managing broker shall have an active license as a broker.

b) The sponsoring broker shall be responsible for issuing sponsor cards. However, the sponsoring broker may delegate that responsibility to one or more managing brokers.

c) Upon written request within 15 days after the loss of a managing broker, the Division~~OBRE~~ shall issue a written authorization to allow the continuing operation of a licensed office or branch office, provided that the sponsoring broker or representative under a duly executed power of attorney assumes responsibility, in writing, for the operation of the office and agrees to personally supervise the operations. No authorization shall be valid for more than 60 days unless extended by the Division~~OBRE~~ for good cause and upon written request by the sponsoring broker. Good cause includes circumstances as sales under contract pending closing, loss of livelihood for sales associates, and undue hardship caused to sellers.

d) When a managing broker receives a renewal application from the Division~~OBRE~~ for a licensee supervised by the managing broker or employed by the sponsoring broker of the manager, he shall notify the licensee of the receipt, personally within 7 days or by certified or registered mail or other signature restricted delivery service within 10 days. The notice shall also inform the licensee that any unprocessed renewal form will be returned to the Division~~OBRE~~ by the managing broker. When a managing broker receives a renewal application from Division~~OBRE~~ for a licensee not supervised by the managing broker or employed by the sponsoring broker of the managing broker, the renewal form shall

immediately be returned to the Division~~OBRE~~.

e) All managing brokers shall notify the Division~~OBRE~~ on business letterhead of any change of business address of the offices they manage within 24 hours of any change. Change of address is required for all offices and branch offices. A license returned to the Division~~OBRE~~ for the reason described in this subsection shall remain in good standing until the new licenses are issued and in the possession of the licensee.

f) The Division~~OBRE~~ will honor the Order of a court of competent jurisdiction appointing a legal representative for the sole purpose of closing out the affairs of a deceased broker or a broker who has been adjudicated disabled, who was a sole proprietor, until the real estate brokerage is closed but not to actively engage in the brokerage business as defined in Section 1-10 of the Act.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.130 Supervision

a) A managing broker shall exercise reasonable supervision over the activities of licensees and unlicensed assistants working in those offices managed by the managing broker. This supervision of activities includes~~would include~~:

1) the implementation of office policies and procedures established by the sponsoring broker;

2) training of licensees or unlicensed assistants;

3) assisting licensees as necessary in real estate transactions;

4) supervising those special (escrow) accounts over which the sponsoring broker has delegated responsibility to the managing broker in order to ensure compliance with the special (escrow) account provisions of the Act and this Part;

5) supervising all advertising of any service for which a license is required;

6) familiarizing sponsored licensees with the requirements of federal and state laws relating to the practice of real estate; and

7) compliance with this Part for licensees and offices under his/her supervision.

b) The sponsoring broker shall remain ultimately responsible for compliance with this Part. The sponsoring broker shall name a managing broker for every office.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.135 Discrimination

a) No licensee shall enter into a listing agreement that~~which~~ prohibits the sale or rental of real estate to any person because of race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other class protected by Article 3 of the Illinois Human Rights Act [775 ILCS 5/Art. 3].

b) No licensee shall act or undertake to act as a real estate broker or real estate salesperson with respect to any property the disposition of which is prohibited to any person because of race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other class protected by Article 3 of the Illinois Human Rights Act.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.140 Advertising

a) Deceptive and misleading advertising includes, but is not limited to, the following:

1) advertising a property that is subject to an exclusive listing agreement with a sponsoring broker other than the licensee's own without the permission of and identifying that listing broker;

2) failing to remove advertising of a listed property within a reasonable time, given the nature of the advertising, after the earlier of the closing of a sale on the listed property or the expiration or termination of the listing agreement; ~~and~~

3) advertising a property at auction as an absolute auction or auction without reserve, when there is a minimum bid or opening bid required; and~~.~~

4) advertising a property in a manner that creates a reasonable likelihood of confusion regarding the permitted use of the property. Advertising for a property zoned single family shall be deemed to be likely to confuse a buyer regarding the permitted use of the property where the advertising contains words or phrases suggesting multi-dwelling use, including but not limited to "apartment", "two units", "related living", "in-law arrangement", or "related apartment".

b) For the purposes of this Section and Section 1450.145 on Internet Advertising, listing information available on a sponsoring broker's or licensee's website, extranet or similar site but behind a firewall or similar device requiring a password, registration or other type of security clearance to access that information shall not be considered advertising.

c) For the purposes of this Section and Section 1450.145 on Internet Advertising, unsolicited marketing of a licensee's real estate brokerage services and farming (prospecting) shall be considered advertising.

d) Nothing in Section 10-30 of the Act shall require a sponsoring broker to include the name of one of its sponsored licensees on signs or other general advertising of the sponsoring broker.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.145 Internet Advertising

a) Definitions. For the purposes of this Section, these terms shall be defined as follows:

1) Advertising or marketing real property: An Internet site which consists of information regarding properties which have been listed with a real estate brokerage company, the identity of that real estate brokerage company or licensee for each property and information related to those properties.

2) Advertising or marketing of real estate brokerage services: An Internet site which includes an offer or solicitation to provide services related to marketing or identifying real property for sale or lease.

3) Page: Each html document. This can include several screens of

information that are viewed by scrolling down to the end of the document.

4) Frame: This refers to that portion of the Web page that does not change when the user links to a different site or moves to different pages.

5) Scraping: This term refers to using or altering existing listing information or keywords that are copied from one Internet site and posted or displayed for the benefit of the general public in front of a firewall at another site without written or electronic authorization and disclosure of ownership.

b) A sponsoring broker that~~which~~ has authorized advertising or marketing real property must include on the page on which the company or firm's advertisement or marketing appears the following data:

1) the city or geographic area in which the property being advertised or marketed is located;

2) the company's name as registered with the Division~~OBRE~~ or the assumed name it has registered with the Division~~OBRE~~ (commonly recognized abbreviations are permitted);

3) if the sponsoring broker does not hold a real estate brokerage license for the jurisdiction in which the property is located, the regulatory jurisdictions in which the sponsoring broker does hold a real estate brokerage license; and

4) if this information is contained on the frame on the sponsoring broker's site, it does not have to be included on every page of the site.

c) Sponsoring Broker's HomePage

1) A sponsoring broker advertising or marketing real estate brokerage services must include on the company's home page or on a clearly identified link appearing on that page the following data:

A)~~1)~~ the company or firm's name as registered with the Division~~OBRE~~ or the assumed name as it has registered with the Division~~OBRE~~ (commonly recognized abbreviations are permitted); and

B)~~2)~~ the city and state in which the company's principal office is

located.

2) If this information is contained on the frame on the sponsoring broker's site, it does not have to be included on every page of the site.

d) Any licensee who has authorized advertising or marketing real property must include on the page of the site on which the licensee's advertisement or information appears the following data:

1) the licensee's name;

2) the city or geographic area in which the property being advertised or marketed is located;

3) the name of the company with which the licensee is affiliated as that company name is registered with the Division~~OBRE~~ or the assumed name it has registered with the Division~~OBRE~~ (commonly recognized abbreviations are permitted);

4) if the licensee does not hold a real estate broker or salesperson license for the jurisdiction in which the property is located, the regulatory jurisdictions in which the licensee does hold a real estate broker or salesperson license; and

5) if this information is contained on the frame on the licensee's site, it does not have to be included on every page of the site.

e) Licensee's HomePage

1) A licensee advertising or marketing real estate brokerage services must include on his or her home page the following data:

A)~~1)~~ the licensee's name;

B)~~2)~~ the name of the company with which the licensee is affiliated as that company name is registered with the Division~~OBRE~~ or the assumed name it has registered with the Division~~OBRE~~ (commonly recognized abbreviations are permitted); and

C)~~3)~~ the city and state in which the licensee's office is located.

2) If this information is contained on the frame on the licensee's site, it does not have to be included on every page of the site.

f) Sponsoring Broker − E-commerce or Electronic Communications

1) A sponsoring broker using e-commerce or electronic communications, such as e-mail, e-mail discussion groups and bulletin boards for marketing or transactional purposes, must include on the first or last page of all communications the following data:

A)~~1)~~ the company or firm's name as registered with the Division~~OBRE~~ or the assumed name it has registered with the Division~~OBRE~~ (commonly recognized abbreviations are permitted); and

B)~~2)~~ the city and state in which the sponsoring broker's main office or the office from which the communication originated is located.

2) This subsection (f) shall not apply to communications between a sponsoring broker and a member of the public provided that the member of the public has sent a communication to the licensed company and that the sponsoring broker's initial communication contained the information required in this subsection (f).

g) License − E-commerce or Electronic Communication

1) Any licensee using e-commerce or electronic communications, such as e-mail, e-mail discussion groups, and bulletin boards, for marketing or transactional purposes, must include on the first or last page of all communications the following data:

A)~~1)~~ the licensee's name;

B)~~2)~~ the name of the company with which the licensee is affiliated as that company name is registered with the Division~~OBRE~~ (commonly recognized abbreviations are permitted); and

C)~~3)~~ the city and state in which the licensee's office is located.

2) This subsection (g) shall not apply to communications between a licensee

and a member of the public provided that the member of the public has sent a communication to the licensee and that the licensee's initial communication contained the information required ~~above~~ in this subsection (g).

h) It will be considered to be a violation of the Act and this Part if a licensee or sponsoring broker scrapes, as defined in this Section, listing information from another site. Listing information obtained from another Internet site and placed behind a firewall or other device which is password protected or requires registration by the consumer in order to access that information need not identify the original listing broker.

i) A sponsoring broker or licensee may link to listing information from another Internet site without approval unless the owner of the site linked to specifically requires consent. Any link must be done in a way that does not mislead or deceive the public as to the ownership of any listing information.

j) All licensees, including sponsoring brokers, shall periodically review the advertising and marketing information on their site and update as necessary to assure that the information is current and not misleading.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.150 Office Identification Signs

a) An identification sign on the outside of an office shall be of a size and nature that it~~they~~ will be reasonably readable by the public. Listings within building directories fulfill the requirements of this Section.

b) Office identification signs must be professional in appearance and meet all applicable zoning restrictions and applicable restrictive covenants.

c) The identification sign must be plainly visible from an area accessible to the public.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.155 Display of Licenses

a) The original licenses of all licensees must be displayed in the office in which they

primarily work and in a manner that ~~they~~ will be visible and physically accessible to the public.

b) "Accessible" areas may include, but are not limited to:

1)~~a)~~ the wall of a public waiting or reception area; or

2)~~b)~~ the wall of a main hallway the public can frequently walk through.

c) Managing brokers assigned to manage more than one office shall display copies of their license in those offices they manage, but that~~which~~ are not the primary office out of which the manager works.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.160 Employment Agreements

a) Every sponsoring broker shall have a written employment agreement with every sponsored licensee.

b) The employment~~This~~ agreement shall be dated and signed by the parties. The agreement shall include, at a minimum, the employment or independent contractor relationship terms, including, but not limited to, supervision, duties, compensation, duration, and termination. The term "duration", as used in this subsection~~Section~~, is not intended to require a specific termination date, but rather to allow the parties to negotiate the term of the agreement, such as "at will"~~,~~ or a specific length of time, and how the agreement is renewed or terminated. These~~, and that these~~ provisions shall be included in the agreement.

c) The employing broker shall give to every employee and independent contractor a copy of the employment agreement and any modifications.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.165 Unlicensed Assistants

a) Licensees under the Act may employ, or otherwise utilize the services of, unlicensed assistants to assist them with administrative, clerical, or personal activities for which a license under the Act is not required.

b) An unlicensed assistant, on behalf of and under the direction of a licensee, may engage in the following administrative, clerical, or personal activities without being in violation of the licensing requirements of the Act. The following list is intended to be illustrative and declarative of the Act and is not intended to increase or decrease the scope of activities for which a license is required under the Act. An unlicensed assistant of a licensee may:

1) answer the telephone, take messages, and forward calls to a licensee;

2) submit listings and changes to a multiple listing service;

3) follow up on a transaction after a contract has been signed;

4) assemble documents for a closing;

5) secure public information from a courthouse, sewer district, water district, or other repository of public information;

6) have keys made for a company listing;

7) draft advertising copy and promotional materials for approval by a licensee;

8) place advertising;

9) record and deposit earnest money, security deposits, and rents;

10) complete contract forms with business and factual information at the direction of and with approval by a licensee;

11) monitor licenses and personnel files;

12) compute commission checks and perform bookkeeping activities;

13) place signs on property;

14) order items of routine repair as directed by a licensee;

15) prepare and distribute flyers and promotional information under the direction of and with approval by a licensee;

16) act as a courier to deliver documents, pick up keys, etc.;

17) place routine telephone calls on late rent payments;

18) schedule appointments for the licensee (this does not include making phone calls, telemarketing, or performing other activities to solicit business on behalf of the licensee);

19) respond to questions by quoting directly from published information;

20) sit at a property for a broker tour that~~which~~ is not open to the public;

21) gather feedback on showings;

22) perform maintenance, engineering, operations or other building trades work and answer questions about such work;

23) provide security;

24) provide concierge services and other similar amenities to existing tenants;

25) manage or supervise maintenance, engineering, operations, building trades and security; and

26) perform other administrative, clerical, and personal activities for which a license under the Act is not required.

c) An unlicensed assistant of a licensee may not perform the following activities for which a license under the Act is required. The following list is intended to be illustrative and declarative of the Act and is not intended to increase or decrease the scope of activities for which a license is required under the Act. An unlicensed assistant of a licensee may not:

1) host open houses, kiosks, or home show booths or fairs;

2) show property;

3) interpret information on listings, titles, financing, contracts, closings, or other information relating to a transaction;

4) explain or interpret a contract, listing, lease agreement, or other real estate document with anyone outside the licensee's company;

5) negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee; or

6) perform any other activity for which a license under the Act is required.

d) Any licensee who employs an unlicensed assistant shall be responsible for the actions of the unlicensed assistant taken while under the supervision of, or at the direction of, the licensee.

e) Any licensee who is responsible for the actions of an unlicensed assistant by statute, regulation, contract, or office policy and who permits, aids, assists, or allows an unlicensed assistant to perform any activity for which a license under the Act is required shall be in violation of the Act.

f) Stenographic, clerical, maintenance, engineering, building trades, security, or office personnel not directly engaged in the practice of real estate brokerage as defined in Section 1-10 of the Act are not required to be licensed.

g) A licensee is prohibited from acting as an unlicensed assistant for any licensee other than his or her sponsoring broker or a licensee sponsored by the sponsoring broker.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.170 Corporation for Indirect Payment

a) Every sponsored licensee who forms a corporation pursuant to Section 10-20(e) of the Act, for the purpose of receiving the sponsored licensee's compensation, shall file with the Licensing Section of the Division~~OBRE~~ a copy of the certificate of incorporation issued by the Secretary of State.

b) A corporation formed pursuant to Section 10-20(e) of the Act may only receive compensation earned by the licensee. The corporation may not be licensed under the Act and shall not be used by the licensee to perform real estate activities, sponsor, employ or associate itself with other licensees, hold itself out to the public, or advertise to the public under the corporation's name.

c) A corporation formed pursuant to Section 10-20(e) of the Act may receive compensation earned by the licensee arising out of activities unrelated to the practice of real estate.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.175 Special Accounts

a) Escrow Moneys Defined.

1) "Escrow moneys" means all moneys, promissory notes or any other type or manner of legal tender or financial consideration deposited with any person for the benefit of the parties to the transaction. A transaction exists once an accepted real estate contract is signed or lease agreed to by the parties. Escrow moneys include without limitation earnest moneys and security deposits, except those security deposits in which the person holding the security deposit is also the sole owner of the property being leased or sold and for which the security deposit is being held.

2) Pursuant to the terms of a written agreement between a licensee and a client, such as a property management agreement, rent moneys paid to a licensee for transmittal to the licensee's client (e.g., the owner) shall not be considered to be "escrow moneys". In addition, other moneys held in a custodial account by a licensee for transmittal to licensee's client, pursuant to the terms of a written agreement, such as a contract for deed, shall not be subject to these escrow rules.

3) Earnest money constitutes escrow moneys whether in the form of personal checks, cashier's checks, money orders, cash, or any other forms of legal tender.

b) Escrow Accounts. Pursuant to Section 20-20(h)(8) of the Act, sponsoring brokers who accept escrow moneys shall maintain and deposit in a special account (hereinafter referred to as an escrow account), separate and apart from personal or other business accounts, all escrow moneys entrusted to them while acting as the real estate brokers, escrow agents, or as the temporary custodians of the funds of others.

1) Such escrow account shall be non-interest bearing, unless the character of

the deposit is such that payment of interest thereon is otherwise required by law or unless the principals to the transaction specifically require, in writing, that the deposit be placed in an interest bearing account.

2) If an interest bearing account is required, the recipient of the interest shall be specifically indicated, in writing, by the principals of the transaction.

3) A sponsoring broker may maintain more than one escrow account.

4) An escrow account need not be maintained by a sponsoring broker who does not receive escrow moneys entrusted to him or her while acting as a real estate broker, or as escrow agent, or as temporary custodian of the funds of others.

5) Every escrow account, whether interest bearing or non-interest bearing, shall be maintained at a federally insured depository.

6) Commingling Prohibited. Each sponsoring broker shall deposit only escrow moneys received in connection with any real estate transaction in an escrow account. The sponsoring broker shall not deposit personal funds in an escrow account, except he or she may deposit from his or her own personal funds, and keep in any escrow account, an amount sufficient to avoid incurring service charges relating to the escrow account. The sum shall be specifically documented as being for service charges and the sponsoring broker shall have proof available that the amount of his or her own funds in the escrow account does not exceed the minimum amount required by the depository to maintain the account without incurring service charges. Transfer of funds as provided for in subsection (i)(4) of this Section shall not constitute commingling.

c) The sponsoring broker shall provide a receipt to the payor of any cash constituting escrow funds and shall retain a copy of the receipt.

d) Time of Deposit of Escrow Moneys. All escrow moneys accepted by a sponsoring broker shall be placed in the sponsoring broker's escrow account not later than the next business day following the transaction. A transaction exists once an accepted real estate contract is signed or lease agreed to by the parties. If such funds are received on a day prior to a bank holiday or any other day on which the bank or savings and loan association is closed, such funds shall then be deposited on the next business day upon which the depository is open.

e) A sponsoring broker serving as escrow agent shall notify all principals in writing if a principal fails to tender escrow moneys, when a principal's payment as escrow moneys is dishonored by the financial institution on which it was drawn, or when there appears on the face of the governing contract to be a deficiency in the amount on deposit.

f) Maintenance of Escrow Moneys on Deposit in Escrow Account. The sponsoring broker shall keep all escrow moneys on deposit in an escrow account until a transaction is consummated or terminated, except to the extent that such escrow moneys, or any part thereof, shall be disbursed according to the provisions set forth in subsection (g).

g) Disbursement of Escrow Moneys. Pursuant to Section 20-20(h)(8) of the Act, the sponsoring broker shall disburse escrow moneys according to the following requirements, however, a sponsoring broker may not disburse funds until they have been honored by the payor's depository.

1) The sponsoring broker must disburse escrow moneys upon consummation or termination of the transaction. Such disbursement must be according to the terms of the contract and must be made not earlier than the day the transaction is consummated or terminated and not later than the next business day following the sponsoring broker's receipt of notice of the consummation or termination, or otherwise in accordance with the written direction of all principals to the transaction or their duly authorized agents.

A) Commissions and/or fees earned by a sponsoring broker in any transaction shall be disbursed by that broker from the funds deposited in an escrow account no earlier than the day the transaction is consummated or terminated and not later than the next business day after the transaction is consummated or terminated, or otherwise in accordance with the written direction of all principals to the transaction or their duly authorized agents.

B) Authorized disbursements are those which are made on behalf of, and at the written direction of, all principals to the transaction or their duly authorized agents.

C) A sponsoring broker shall not withhold, for any period of time, an authorized disbursement of escrow moneys due to any claim for a

commission or compensation to any licensee.

2) Pursuant to Section 20-20(h)(8)(i) of the Act, if prior to the consummation or termination of the transaction, the sponsoring broker receives written direction from all of the principals to the transaction or their duly authorized agents agreeing to a disbursement of the escrow moneys, that broker must disburse the escrow moneys according to the written directions. Such disbursement must be made not later than the next business day following the sponsoring broker's receipt of the last required written direction.

3) The sponsoring broker may release escrow moneys pursuant to Section 20-20(h)(8)(ii) of the Act which allows a sponsoring broker to disburse escrow moneys prior to the consummation or termination of the transaction in accordance with directions providing for the release, payment, or distribution of escrow moneys contained in any written contract signed by the principals to the transaction or their duly authorized agents. In any such case the terms of the contract concerning the release of the escrow moneys shall be adhered to by the sponsoring broker.

4) Pursuant to Section 20-20(h)(8)(iii) of the Act and notwithstanding any other requirements or responsibilities in this Part, if the sponsoring broker receives an order from a court of competent jurisdiction providing for the disbursement of the escrow moneys, that broker must disburse the escrow moneys according to the terms of the order.

5) For the purposes of this Section, "duly authorized agent" shall mean an attorney-in-fact, an attorney-at-law who represents that he or she is acting on behalf of one of the principals to the transaction, or any other person the licensee can prove was authorized to act on behalf of a principal to the transaction.

h) Disputes Regarding Escrow Moneys~~.~~

1) In the event of a dispute over the return or forfeiture of any escrow moneys held by the sponsoring broker or if a sponsoring broker has knowledge that any party to a transaction contests or disagrees with an anticipated disbursement of escrow moneys held by that broker, he or she shall continue to hold the deposit in his or her escrow account:

A)~~1)~~ until he or she has a written release from all parties or their duly authorized agents consenting to the disposition, in which case the escrow moneys must be disbursed according to the terms of the written direction no later than the next business day after the sponsoring broker's receipt of the last required written release;

B)~~2)~~ until a civil action is filed, by either the sponsoring broker or one of the parties, to determine its disposition, at which time payment may be made into court;

C)~~3)~~ until the funds are turned over to the State Treasurer or such other appropriate State agency or officer designated pursuant to the Act or the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025], because of inactivity of the account or inability to locate the parties, or inability of the parties to reach a resolution.

2) If an interpleader action is filed by the sponsoring broker, and the broker is authorized by real estate contract to withdraw from the escrow account those amounts as may be necessary to reimburse the sponsoring broker for costs and reasonable attorney's fees associated with that action, excluding costs and attorney's fees associated with that broker's attempt to collect a commission or fee.

i) Escrow Records. Each sponsoring broker who accepts earnest money shall maintain, in his or her office or place of business, a bookkeeping system in accordance with sound accounting principles, and without limiting the foregoing, such system shall consist of at least the following escrow records as further described below:

1) Journal. A journal shall be maintained for each escrow account. Such journal shall show the chronological sequence in which funds are received and disbursed by the sponsoring broker.

A) For funds received, such journal shall include the date the funds were received, the name of the person on whose behalf the funds are delivered to that broker and the amount of the funds so delivered.

B) For fund disbursement, the journal shall include the date, the payee, the check number and the amount disbursed.

C) A running balance shall be shown after each entry (receipt or disbursement).

2) Ledger. A ledger shall be maintained for each transaction. The ledger shall show the receipt and the disbursement of funds affecting a single particular transaction such as between buyer and seller, or landlord and tenant, or the respective parties to any other relationship. The ledger shall include the names of all parties to a transaction, the amount of such funds received by the sponsoring broker and the date of such receipt. The ledger shall show, in connection with the disbursements of such funds, the date thereof, the payee, the check number and the amount disbursed. The ledger shall segregate one transaction from another transaction. There shall be a separate ledger or separate section of each ledger, as the broker shall elect, for each of the various kinds of real estate transactions (e.g., lease). If the ledger is computer generated from the same data entry from which the journal is generated, the sponsoring broker must maintain copies of the bank deposit slips, bank disbursement slips, or other bank receipts, to account for the data on the ledger.

3) Monthly Reconciliation Statement. Each sponsoring broker shall reconcile, within ten days after receipt of the monthly bank statement, each escrow account maintained by such broker except where there has been no transactional activity during the previous month. Such reconciliation shall include a written work sheet comparing the balances as shown on the bank or savings and loan association statement, the journal and the ledger, respectively, in order to insure agreement between the escrow account and the journal and the ledger entries with respect to such escrow account. Each such reconciliation shall be kept for at least 5 years from the last day of the month covered by such reconciliation.

4) If escrow moneys are transferred from an escrow account to another account for disbursement, the sponsoring broker must maintain a copy of all records reflecting a disbursement from the other account.

5) Master Escrow Account Log. Each sponsoring broker shall maintain a Master Escrow Account Log identifying all escrow bank account numbers, and the name and address of the bank where the escrow accounts are located. The Master Escrow Account Log must specifically include all bank account numbers opened for individual transactions, even if such

account numbers fall under another umbrella account number.

6) A sponsoring broker may employ a more sophisticated bookkeeping system based on sound accounting principles, including a system of electronic data processing equipment. However, any such system must contain or produce printed records containing the information required by this Section, although it need not be in the same format as provided for in this Section.

7) The Division~~OBRE~~ shall have available for distribution, on request, samples of an approved journal, ledger, monthly reconciliation statement, and Master Escrow Account Log.

8) Pursuant to Section 20-20(h)(9) of the Act, the sponsoring broker shall make available to the real estate enforcement personnel of the Division~~OBRE~~ during normal business hours all escrow records and related documents maintained in connection with the practice of real estate within 24 hours after a request.

9) Copies of all Escrow Money Instruments. Except as otherwise provided by law, the broker shall retain copies of all escrow money instruments received from a principal as part of a transaction, including copies of all personal checks, cashier's checks, certified checks, money orders, promissory notes, or other financial instruments. The broker shall also retain copies and/or documentation of all disbursements or transfers into or out of an escrow account.

10) Escrow records shall be retained for 5 years. The escrow records for the immediate prior 2 years shall be maintained in the office location and the balance of the records can be maintained at another location.

11) If escrow records are lost, stolen, or destroyed due to fire, flood or any other circumstances, the broker must report such loss to the Division~~OBRE~~ enforcement division within 30 days by signature restricted delivery. The broker must also immediately obtain copies of monthly bank statements, deposit and disbursement receipts, and any other available records, to reconstruct such loss of escrow records.

12) A sponsoring broker may delegate the bookkeeping duties under this Part to another person, including a managing broker, a bookkeeper, certified

public accountant, unlicensed assistant, licensed assistant, or sponsored licensee. However, compliance with the bookkeeping duties remain the responsibility of the sponsoring broker. The sponsoring broker is ultimately responsible for the proper administration of the escrow account pursuant to this Part.

j) Sponsored Licensees. Sponsoring brokers shall institute office policies to ensure that the sponsored licensees tender escrow moneys received in compliance with this Part. Sponsored licensees, whether salespersons, brokers, or leasing agents, may not maintain their own escrow accounts.

k) Branch Offices. Branch offices may maintain escrow accounts in compliance with this Part or may transmit all escrow moneys received to the main office, but not to another branch office, for compliance with this Part.

1) If the branch office does maintain escrow accounts, all of the requirements of this Part apply, including maintaining all required escrow records, and submitting to the Division~~OBRE~~ all required escrow forms.

2) If the branch office does not maintain escrow accounts but instead transmits all escrow moneys received to the main office, all escrow moneys must be transmitted by the branch office to the main office not later than the next business day following the transaction. A transaction exists once an agreement has been reached and an accepted real estate contract signed or lease agreed to by the parties. Even if the branch office transmits all escrow moneys received to the main office, the branch office must maintain records showing the date the escrow moneys were transferred to the main office. The funds received at the main office from a branch office shall be placed in the sponsoring broker's escrow account not later than the next business day following receipt of such funds from the branch office.

l) Escrow Requirements for Property Management Activities. Security deposits shall be maintained in an escrow account for the duration of the lease, unless the tenant waives this requirement in writing. Such waiver, if included in the lease, shall appear in bold print.

m) Notification to the Division~~OBRE~~ of Identity of Escrow Accounts. Consent to Audit All Accounts.

1) Each sponsoring broker shall, at the time of the original application for licensure and at the time of renewal of licensure, on forms provided by the Division~~OBRE~~, file with the Division~~OBRE~~ the name of the banks, savings and loan associations, or other recognized depositories in which each escrow account is maintained, and the name of each account, and the names of the persons authorized to withdraw funds from such accounts, and shall, as a condition of licensure, consent on such form to the examination and audit of all escrow accounts, notwithstanding whether the account is identified on the form, by the Division~~OBRE~~.

2) A new form shall be executed by the sponsoring broker and filed with the Division~~OBRE~~ within 10 days after the time of a change of depository, method of doing business, or persons authorized to make withdrawal. A new form shall also be executed each time a new escrow account is opened. However, a new form shall not be required each time a new escrow account is opened for an individual transaction and where such account falls under an umbrella account which has already been identified in a prior form. The identity of each of these individual escrow accounts, however, must be included in the Master Escrow Account Log pursuant to subsection (i)(5) of this Section.

n) Violations. Any licensee who violates any of the provisions of this Part may be deemed to have endangered the public interest pursuant to Section 20(h)(12) of the Act and may be subject to a temporary suspension pursuant to Section 20-65 of the Act.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.180 Record Keeping

a) A sponsoring broker shall keep or cause to be kept, escrow records, transaction records, employment agreements, and records reflecting the payment of compensation, as further described in this Section.

1) Escrow records for each interest bearing and non-interest bearing escrow account or account into which escrow funds have been deposited. These records shall include:

A) Journals as defined in Section 1450.175(i)(1).

B) Monthly bank statements.

C) Ledgers as defined in Section 1450.175(i)(2).

D) Monthly reconciliations as defined in Section 1450.175(i)(3).

E) Master Log of (Escrow) Accounts as defined in Section 1450.175(i)(5).

2) The~~These~~ escrow records required by subsection (a)(1) shall be maintained for 5 years. The broker shall ensure that the escrow records for the immediate prior 2 year period are maintained in the office location. All in office escrow records shall be made available for inspection and audit during normal business hours by the Division~~OBRE~~ staff no later than 24 hours after a request for escrow records and related documents. Any escrow records more than two years old and stored at a location other than the office shall be made available for inspection during normal business hours within 30 days after the request.

3)~~2)~~ Records relating to transactions shall be kept in the office involved in the transaction.

A) These records might include copies of the following:

i)~~A)~~ Residential Property Transactions: Signed contracts, including offers and counteroffers, written release of escrow funds, Dual Agency Authorization, written direction for deposit into interest bearing special account, power of attorney, disclosures (e.g., lead paint, seller disclosure) and closing statements.

ii)~~B)~~ Property Management/Leasing: Any rental finding agreement, leases, periodic accounting or statement to the owner regarding the receipts and disbursements.

iii)~~C)~~ Commercial Representation: Tenant or owner representation agreement, letters of intent, leases, and any written modifications to an executed lease.

B) The documents listed in subsection (a)(3)~~These lists~~ are not

intended to be all inclusive; rather, they are intended to be examples of pertinent documents to be retained. Any similar documents pertinent to a particular transaction shall also be retained. Any information contained on the outside of a transaction file shall be considered part of that file.

C) Transaction records shall be maintained for 5 years. The sponsoring broker shall ensure that any transaction records involving any active or pending transaction or representation, or any transaction in which escrow funds or monies belonging to others were received and have not yet been disbursed shall be maintained in the office location. All transaction records maintained at the office location shall be made available for inspection and audit during normal business hours by the Division~~OBRE~~ staff no later than 24 hours after a request for escrow records and related documents. Any transaction records stored at a location other then the office shall be made available for inspection during normal business hours within 30 days after the request.

D) Sponsoring brokers may allow their sponsored licensees to maintain a duplicate of the transaction records.

4)~~3)~~ Employment agreements, as required by Section 10-20 of the Act, shall be maintained for 5 years after the sponsored licensee is no longer affiliated with the sponsoring broker. The broker shall maintain the written employment agreement for every licensee who is employed by or affiliated with the sponsoring broker. A copy of the employment agreement for each sponsored licensee at a branch office shall be maintained at the respective branch office.

5)~~4)~~ Records reflecting the payment of compensation for the performance of licensed activities shall be maintained for 5 years.

b) If the records are kept electronically, the sponsoring broker shall ensure that a back up is made. In the case of escrow records, the back up shall be made at least monthly. The monthly reconciliation, including its worksheet, shall be printed out and maintained by hard copy. The journal shall be reduced to hard copy at least monthly.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.185 Disclosure of Compensation

Pursuant to Section 10-10(b) of the Act, a licensee shall disclose, in writing, any compensation the licensee expects to receive or that he or she knows the licensee's sponsoring broker will receive, arising out of a referral to any person or entity whose services are related to the transaction, including any financial institution, insurance broker, mortgage broker, home inspector, or any other third party. The disclosure shall indicate the relationship between the licensee or the licensee's sponsoring broker and the referred person~~,~~ or entity, and any interest the licensee or the licensee's sponsoring broker may have in the referred person or entity.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.190 Disclosure of Licensee Status

A licensee is "selling, leasing or purchasing any interest~~,~~", directly or indirectly, for purposes of Section 10-27 of the Act, when the licensee:

a) is selling, leasing or seeking to purchase property as sole owner;

b) is selling or seeking to purchase property as a joint tenant or tenant by the entirety;

c) holds a beneficial interest in a land trust selling, leasing or seeking to purchase an interest in the subject property;

d) is a general partner in a partnership selling, leasing or seeking to purchase an interest in the subject property;

e) is an officer, director, majority or controlling shareholder of a corporation selling, leasing or seeking to purchase an interest in the subject property; or

f) is a manager or majority or controlling member of a limited liability company selling, leasing or seeking to purchase an interest in the subject property.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.195 Brokerage Agreements and Listing Agreements

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

a) All exclusive brokerage agreements, including all exclusive listing agreements and exclusive buyer brokerage agreements, shall be in writing.

b) All written buyer brokerage agreements, whether exclusive or non-exclusive, shall contain the following:

1) the agreed basis or amount of compensation~~,~~ and time of payment;

2) the duration of the buyer brokerage agreement, clearly set forth;

3) the name of the broker and the buyer;

4) the signatures of the parties; and

5) the duties of the buyer's broker.

c) All written listing agreements, whether exclusive or non-exclusive, shall contain the following:

1) the list price;

2) the agreed basis or amount of commission and the time of payment of the commission;

3) the duration of the listing agreement, with a definite termination date~~,~~ clearly set forth;

4) the name of broker and seller;

5) the identification of property involved (address or legal description);

6) the signatures of the parties; and

7) the duties of the listing broker.

d) Pursuant to Section 10-25 of the Act, no licensee shall obtain any written brokerage agreement containing a clause automatically extending the period of the contract. Any written brokerage agreement not containing such a provision for automatic expiration shall be void.

e) Every written brokerage agreement shall expressly provide that no amendment or alteration to the terms, with respect to the amount of commission or with respect to the time of payment of commission, shall be valid or binding unless made in writing and signed by the parties.

f) No licensee shall use real estate contract forms to change previously agreed commission payment terms.

g) If a listing agreement provides that, in the event of a default by a buyer, the broker's full commission or fees will be paid out of an earnest money deposit, with the remainder of the earnest money to be paid to the seller, the provision shall appear in the listing agreement in letters larger than those generally used in the listing agreement.

h) Each brokerage agreement shall clearly state that it is illegal for either the owner or the broker to refuse to display or sell to any person because of one's membership in a protected class, e.g.,~~:~~ race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other class protected by Article 3 of the Illinois Human Rights Act.

i) Each brokerage agreement for a residential property of four units or less~~,~~ that~~which~~ provides for a protection period subsequent to its termination date~~,~~ shall also provide that no commission or fee will be due and owing pursuant to the terms of the brokerage agreement if, during the protection period, a valid, written brokerage agreement is entered into with another licensed real estate broker.

j) A broker may discuss a possible future brokerage agreement with a consumer whose property is exclusively listed with another broker or who is subject to a written exclusive buyer brokerage agreement only under the following conditions:

1) when the consumer initiates the contact; or

2) when the current broker, upon request, fails to provide, within 10 calendar days, the type and expiration date of the brokerage agreement between the consumer and the current broker. The request and response shall be in writing and mailed return receipt requested. If the above information is not received within 14 calendar days, the broker may then contact the consumer only if this information cannot be obtained from another source of shared broker information.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.200 Written Agreements

a) No licensee shall solicit, accept or execute any contract or other document relating to a real estate transaction that contains~~which shall contain~~ any blanks with the intention of filling them in after signing or initialing the contract or other document.

b) No licensee shall make any addition to, deletion from or alteration of any signed contract or other document relating to a real estate transaction without the written, telefax or telegraphic consent or direction from all signatories. No licensee shall process any contract or other document that has been altered after being signed, unless each addition, deletion or alteration is signed or initialed by all signatories at the time of the addition, deletion or alteration.

c) A true copy of the original or corrected contract or other document relating to a real estate transaction shall be delivered or mailed within 24 hours after~~of~~ the time of signing or initialing the original or correction to the person signing or initialing the contract or other document.

d) All forms used by licensees intended to become binding real estate contracts shall clearly state that fact~~this~~ in the heading in large bold type. No licensee shall use a form designated Offer to Purchase when it is intended that the form shall be a binding real estate contract.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.205 Referral Fees and Affinity Relationships

a) No licensee may pay a referral fee to an unlicensed person who is not a principal to the transaction. In order to meet the license requirement, the person receiving the referral fee may be duly licensed as a real estate broker in either Illinois or the person's state or country of domicile. If the person's country of domicile does not have a licensing statute for real estate agents, then, in order to receive a referral fee, the person must comply with the laws, if any, of his or her country concerning the practice of real estate brokerage business.

b) Request of Referral Fee

1) No licensee may request a referral fee unless reasonable cause for payment of the referral fee exists. Reasonable cause for payment of a referral fee means that:

A)~~1)~~ an actual introduction of a client has been made to a licensee; or

B)~~2)~~ a contractual referral fee relationship exists with the licensee.

2) The fact that reasonable cause to demand a referral fee exists does not necessarily mean that a legal right to the referral fee exists.

3)~~c)~~ A licensee is prohibited from interfering with the agency relationship of another licensee or attempting to induce a client to break a listing or an exclusive representation agreement with another licensee for the purpose of replacing that agreement with a new listing or representation agreement in order to obtain a referral fee. For purposes of this Section, an agency relationship shall be deemed to exist when a written, exclusive agency agreement (either a listing or buyer representation agreement) is entered into. Interfering with the agency relationship of another licensee includes, but is not limited to:

A)~~1)~~ demanding a referral fee from another licensee without reasonable cause;

B)~~2)~~ threatening to take harmful action against the client of another licensee because of their existing agency relationship and in order to obtain a referral fee; or

C)~~3)~~ counseling the client of another licensee on how to terminate or amend an existing agency contract in order to obtain a referral fee.

4) Any activities that involve the communication of corporate relocation policies or benefits to a transferring employee, as long as that communication does not involve advice or encouragement on how to terminate or amend an existing agency contract, shall not be considered interference under subsection (b)(3).

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

SUBPART E: AGENCY RELATIONSHIPS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1450.207 Confidentiality

Licensees in receipt of confidential information shall take reasonable steps to safeguard that~~the~~ information from unauthorized disclosure.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.210 Failure to Disclose Information Not Affecting Physical Condition

No cause of action shall arise against a licensee for the failure to disclose:

a) that an occupant of that property was afflicted with Human Immunodeficiency Virus (HIV) or any other medical condition;

b) that the property was the site of an act or occurrence that~~which~~ had no effect on the physical condition of the property or its environment or the structures located thereon (Section 15-20 of the Act). Such acts shall include, but are not limited to, murder or suicide;

c) fact situations on property that is not the subject of the transaction; or

d) physical conditions located on property that is not the subject of the transaction that do not have a substantial adverse effect on the value of the real estate that is the subject of the transaction. This provision is intended to apply to actions taken by the Division~~OBRE~~ under the Act as well as to all civil actions in Illinois.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.215 Licensee Serving as a Dual Agent in a Transaction Where a Licensee is a Party to the Transaction

A licensee shall~~may~~ not serve as a dual agent in any transaction to which he or she, or an entity in which he or she, has an ownership interest is a party to the transaction.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

SUBPART F: DISCIPLINE RULES AND PROCEDURES

Section 1450.220 Unprofessional Conduct

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

The Division~~OBRE~~ may suspend, revoke, or take other disciplinary action based upon its finding that the licensee or applicant has engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public. The following descriptions are illustrative of the types of conduct that would constitute "dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public."

a) Failure to act in the best interests of a client.

b) Deliberately misleading a client as to the market value of the property.

c) Failing to advertise the property as obligated by the listing agreement.

d) Deliberately misrepresenting to prospective purchasers or their agents the condition of the property or the availability of access to show the property.

e) Purchasing or transferring of the property through an intermediary in order to conceal the purchase by the licensee.

f) Inducing a seller to list the property through false representations.

g) Inducing a seller through false representations or false promises to transfer the property to the licensee.

h) Taking unfair advantage of a client's or customer's age, disability, or lack of understanding of the English language.

i) Engaging in conduct with the public or other real estate licensees in the practice of real estate in a manner that is abusive, harassing, or lewd.

j) Representing oneself as a sponsoring broker or managing broker without providing the actual supervision and management of the real estate business.

k) Failing to reasonably safeguard confidential information or improperly using confidential information.

l) Obstructing an inspection, audit, investigation, examination, or a disciplinary proceeding.

m) Any violation of Section 1450.175, Special Accounts, shall be deemed

unprofessional conduct.

n) Assisting or inducing a licensee to violate the Act or this Part.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.225 Discipline for Failure to Comply with Illinois Tax Acts, Child Support Order or Default on Illinois Guaranteed Student Loan

a) If the Division~~OBRE~~ receives certification that a licensee is in violation of Section 20-35, 20-40, or 20-45 of the Act, the Division~~OBRE~~ shall notify the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery, that the licensee may be disciplined unless the licensee provides to the Division~~OBRE~~ certification that the licensee has complied with all applicable Illinois tax Acts, eliminated the delinquency, or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.

b) If the Division~~OBRE~~ receives certification that an applicant is in violation of Section 20-35, 20-40, or 20-45 of the Act, the Division~~OBRE~~ shall notify the~~such~~ applicant, by certified or registered mail, return receipt requested, or other signature restricted delivery, of its intent to deny the applicant a license under the Act, unless the applicant provides to the Division~~OBRE~~ certification that the applicant has complied with all applicable Illinois tax Acts, eliminated the delinquency or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.

c) For the purposes of this Section "certification " shall mean:

1) a verified statement by the appropriate administering agency of such delinquency, failure to file, failure to pay or default or satisfaction thereof; or

2) a finding by an administrative body, or a finding by a court of competent jurisdiction that the licensee or applicant is delinquent in child support or is liable to pay a certain amount for Illinois taxes or is delinquent or has defaulted on an Illinois guaranteed student loan obligation.

d) A licensee or applicant may participate in a hearing, but the basis for the hearing shall only be for the purpose of proving that the petitioner is not the person for

which such failure to pay or delinquency information was received, that the petitioner has executed a formal, written payment plan with the appropriate administering agency, signed and approved by both parties, or that the petitioner has satisfied the outstanding debt; collateral attack of the certification is not permitted.

e) A licensee will be eligible for reinstatement, renewal or issuance upon a showing that the certified failure to file, failure to pay, default or delinquency has been satisfied and by completing the appropriate application and paying any fees as established by this Part.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.230 Temporary Suspension

a) The grounds for temporary suspension, as set forth in Section 20-65 of the Act, shall be based on evidence sufficient to cause the Division~~OBRE~~ to reasonably believe that the public interest, safety, or welfare imperatively requires emergency action. Emergency action is imperatively required when a licensee's conduct poses a threat that the public's or another licensee's money will be stolen or defalcated or that the continued licensure of a licensee will be a threat to the physical safety of the public or another licensee. When determining imminent harm, the Division~~OBRE~~ may consider any combination of acts committed by a licensee including, but not limited to:

1) Failure to account for or to remit any moneys or documents that belong to others, as set forth in Section 20-20(h)(7) of the Act;

2) Failure to maintain and deposit in a special or escrow account, separate and apart from personal and other business accounts, all escrow moneys belonging to others entrusted to a licensee while acting as a real estate broker, escrow agent, or temporary custodian of the funds of others as set forth in Section 20-20(h)(8) of the Act;

3) Failure to make available to real estate enforcement personnel of the Division~~OBRE~~ during normal business hours all escrow records and related documents within 24 hours after a request for those documents by Division~~OBRE~~ personnel, as set forth in Section 20-20(h)(9) of the Act and Section 1450.180 of this Part; however, this action in and of itself shall not be sufficient grounds for a temporary suspension; and

4) Commingling money or property of others with the licensee's own as set forth in Section 20-20(h)(13) of the Act.

b) A petition for temporary suspension shall:

1) State the statutory basis for the action petitioned;

2) Allege facts, supported by evidence or affidavit sufficient for temporary suspension;

3) Be signed by the Director or the Director's designee; and

4) Be presented to the Director~~Commissioner~~ either in person or by telephone and in the presence of a court reporter.

c) An order for temporary suspension shall:

1) Contain findings of fact sufficient to support imposition of a temporary suspension;

2) Recite the statutory basis for the action;

3) Appoint a hearing officer;

4) Demand immediate surrender of the license; and

5) Be signed by the Director~~Commissioner~~.

d) A notice of temporary suspension shall accompany the order and shall:

1) Set a hearing date within 15 days after the date on which the order takes effects;

2) Name the hearing officer who shall conduct the hearing; and

3) Include a copy of the Division's~~OBRE's~~ Practice in Administrative Hearings.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1450.235 Otherwise Discipline

a) "Discipline" means a refusal to issue or renew a license, probation, suspension, or revocation of a license, censure, reprimand, fine, or any other sanction explicitly provided for in the Act.

b) In conjunction with any of the disciplines enumerated in the Act, the Division~~OBRE~~ may impose "other discipline" in order to maintain the standards of professional conduct, the competency of a licensee, and the protection of the public, which may include:

1) Restricting a licensee's access to escrow funds;

2) Requiring the successful completion of any approved real estate course, including courses for those licensees who would otherwise not be required to complete continuing education pursuant to Section 5-70 of the Act; or

3) Requiring the licensee to provide any report, record or document regarding real estate activity the Division deems~~which~~O~~BRE may deem~~ relevant and appropriate.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.240 Dissolution: Effect of Suspension or Revocation of Sponsoring Brokers or Managing Brokers

a) Suspension or revocation of sponsoring broker:
Upon the effective date of a temporary or otherwise suspension or revocation of the license of a sponsoring broker corporation, limited liability company, partnership, or sole proprietorship and their respective principal or sponsoring broker, unless an interim sponsoring broker or receiver is appointed by the real estate brokerage company or its representative and subject to approval by the Division~~OBRE~~:

1) The licenses of all respective sponsored licensees are automatically inoperative. However, each broker may resume the practice of real estate only upon securing a properly completed 45 day sponsor card, signed either as a self sponsored broker or by another sponsoring broker. Each salesperson or leasing agent may resume the practice of real estate only

upon securing a properly completed 45 day sponsor card signed by an active sponsoring broker.

2) All brokerage agreements with the sponsoring broker, including listing agreements, are deemed expired pursuant to Section 10-25 of the Act unless a new sponsoring broker is named within 7 business days. Unless a new sponsoring broker is named within 7 days the suspended or revoked sponsoring broker shall notify, in writing, all clients with whom the sponsoring broker has an active brokerage agreement, and advise that the brokerage agreement expired as of the date that~~which~~ is 7 business days after the suspension or revocation, and that the clients are legally authorized to enter into another brokerage agreement with any active broker.

3) Suspensions or revocations of a sponsoring broker shall not have an effect on the enforceability of any pending, executed real estate contracts.

A) the suspended or revoked sponsoring broker shall send a written notice to all clients with a pending, executed real estate contract explaining the suspensions or revocations, and that the suspensions or revocations shall not have an effect on the enforceability of the pending, executed real estate contracts. The notice shall also identify the name, address, and telephone number of the person in control of the escrow money. To the extent that the clients require additional real estate services, the notice shall provide that the clients may seek those services from another active broker.

B) a suspension or revocation shall not preclude the receipt of any commission or other compensation earned by the suspended or revoked sponsoring broker or other formerly sponsored licensee prior to the effective date of a suspension or revocation of the sponsoring broker.

b) Suspension or revocation of managing broker:
In the event of a suspension or revocation of a managing broker the offices and branch offices managed by that managing broker may resume the practice of real estate upon securing a replacement managing broker. Consistent with Section 5-45(e) of the Act, if a replacement managing broker is unable to be secured immediately after a suspension or revocation of the managing broker, the entity may continue to practice real estate for the first 15 days after the suspension or

revocation. If, after 15 days, a replacement managing broker has not been secured, the office may only continue to practice real estate upon securing the written authorization of the Division~~OBRE~~ as provided for in Section 5-45(e) of the Act.

c) In the event of the voluntary retirement or the voluntary dissolution of a sponsoring broker, the sponsoring broker shall, at a reasonable time prior to the voluntary retirement or voluntary dissolution, provide written notice to all sponsored licensees to allow the sponsored licensees to secure new sponsoring brokers, and shall provide written notice to all active clients to allow the clients to secure brokerage agreements with new brokers.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.245 Inspections and Audits

a) Inspections~~.~~

1) The Division~~OBRE~~ is authorized to inspect those areas of a sponsoring broker's office open and generally available to the public at any time during normal business hours with or without the sponsoring broker's consent. With the sponsoring or responsible managing broker's consent or, if no consent is given, then upon 24 hours' notice the Division~~OBRE~~ may conduct a visual and physical inspection of the non-public areas of a sponsoring broker's office and interview any person, including any licensee or non-licensee, who may have knowledge or information about the licensee's practice of real estate. The licensee may have an attorney present if he or she so chooses.

2) Except as provided in subsection (b), upon any written or oral request by Division~~OBRE~~ personnel for written documentation, a licensee shall produce the requested documentation within 30 days after the request.

b) Escrow Audits~~.~~

1) The Division~~OBRE~~ is authorized to audit special accounts, escrow records and documents related to any escrow accounts maintained by the licensee. Escrow Audits may be conducted at any time with the sponsoring broker's consent or without consent during normal business hours with at least 24 hours' notice and the ability for the licensee to have an attorney present if

her or she so chooses. Escrow Audits may include:

A)~~1)~~ A review and examination of all required, original escrow records as set forth in this Part.

B)~~2)~~ A review and examination of any document, including originals, related to a licensee's escrow accounts.

C)~~3)~~ Interviews of any person, including any licensee or non-licensee, who may have knowledge or information about the licensee's practices for maintaining and administering his or her escrow accounts.

2) Upon any written or oral request by Division~~OBRE~~ personnel for an Escrow Audit, a licensee shall make available during normal business hours any and all requested escrow records and related documents within 24 hours after the request. If those documents are not required to be kept on site, they shall be provided within 30 days after the request.

c) Subject to Section 20-20(h)(9) and (18) of the Act, the Division~~OBRE~~ is authorized to obtain a licensee's original records for the purposes of inspection, audit, and reproduction. The Division~~OBRE~~ shall promptly return all original documents or records to the licensee.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.246 Audits of Special Funds by Outside Auditors

a) General Rule. The Division~~OBRE~~ may cause audits of special accounts of sponsoring brokers to be conducted by licensed certified public accountants under the circumstances and as provided for in this Section.

b) Basis for Audit. Upon receipt of~~: 1)~~ a complaint from one or more members of the public,~~; 2)~~ information from another regulatory or law enforcement agency,~~;~~ or~~ 3)~~ evidence developed by the Division,~~OBRE;~~ any of which causes the Division~~OBRE~~ to reasonably believe that escrow moneys required to be kept in a special account have been misappropriated, the Division~~OBRE~~ may contract with a licensed certified public accountant for the purpose of auditing the special accounts of the sponsoring broker responsible for the accounts in question.

c) Definitions. The following terms shall have the meanings set forth in this Section:

1) Reasonable belief. The complaints, information or evidence available to the Division~~OBRE~~ are of such a nature or have sufficient credibility that a prudent person in the exercise of good judgment would reasonably rely or act upon that information or evidence.

2) Misappropriated or Misappropriation. The use of escrow moneys for a purpose other than that for which the escrow moneys were deposited or that is permitted by the Real Estate License Act of 2000, this Part, or the agreements providing for the handling of the escrow moneys. The mere failure to follow the provisions of Section 1450.175 dealing with the deposit and accounting for escrow moneys shall not constitute misappropriation.

3) Escrow Moneys. Shall have the same definition as set forth in Section 1-10 of the Act.

d) Notice of Audit. The Division~~OBRE~~ shall notify in writing the sponsoring broker responsible for the special accounts to be audited that an auditor has been retained to audit those special accounts, the identity of the auditor or auditing firm, and the fact that the sponsoring broker shall submit all pertinent records for audit within 30 days after receipt of the written notice.

e) Procedures for Audit. The auditor or the Division~~OBRE~~ shall contact the sponsoring broker responsible for the special accounts for the purpose of scheduling the audit of the special accounts. The sponsoring broker shall provide the records requested at the scheduled time and location or as otherwise agreed by the sponsoring broker and the auditor or the Division~~OBRE~~.

f) Written Report. Any licensed certified public accountant performing an audit for the Division ~~OBRE~~ under the provisions of this Section and the Act shall provide a written report to the Division~~OBRE~~, with a copy to the sponsoring broker, detailing the findings of the auditor with specific reference to compliance with the special account requirements of the Act and this Part.

g) Noncompliance and Cost of Audit. The sponsoring broker shall be liable for the cost of the audit if an order is issued by the Director~~Commissioner~~, pursuant to Section 20-60 of the Act, finding that escrow moneys were misappropriated by

the sponsoring broker or his, her, or its employees, independent contractors, agents or designees.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.250 Case File Review Committee

a) The Real Estate Case File Review Committee of the Real Estate Administration and Disciplinary Board, authorized by Sections 20-60(c) and 25-10 and 25-15(4) of the Act, shall be composed of at least 2 voting members of the Real Estate Administration and Disciplinary Board as appointed by the Assistant Director of Real Estate Professions with approval of the Board, the Assistant Director, an Investigation Supervisor and Chief of Prosecutions.

b) The Case File Review Committee shall meet at least once every 2 months to exercise its functions and duties as set forth in subsection (c) ~~below~~. The Case File Review Committee members may take the actions listed in subsection (d) ~~below~~ without meeting in person, but through other communication. The Case File Review Committee may meet concurrently with members of the regulatory staff or Board members of related professions, including, but not limited to Auctioneers, Land Sales, Time Share, Appraisal, Mortgage Brokers to discuss interrelated professional matters. The Case File Review Committee shall make every effort to consider expeditiously and take prompt action on each item on its agenda.

c) A "complaint" means the initial claim or allegation made against a licensee which results in a preliminary investigation to determine whether or not a formal complaint shall be brought. "Case file" means a complaint has been made against a licensee that resulted in a preliminary inquiry and information has been sought pursuant to the Act and this Part in order to determine whether a formal complaint should be initiated and/or prosecution pursued.

d) The Case File Review Committee shall have the following duties and functions:

1) Shall recommend whether a case file be closed or refer the case file to Prosecutions for further review and action.

2) May recommend that an Administrative Warning Letter be issued, with or without a compliance agreement that may include an administrative fee pursuant to Section 1450.95(h)(11), and the case file closed. A case file

may be closed without an Administrative Warning Letter if the Case File Review Committee deems it appropriate.

3) May recommend that cases of similar types of allegations be offered a standard disposition within a range recommended by the Board. A recommendation of an offer of standard disposition shall not restrict the Board from hearing an individual case at a hearing and issuing a recommendation based upon the individual facts and evidence in rebuttal, mitigation or aggravation in the individual matter.

4) May expedite a case file to Prosecutions if, in the opinion of the Assistant Director of Real Estate Professions, Investigation Supervisor, or Chief of Prosecutions, the matter requires immediate attention. Case files requiring immediate attention may include, but are not limited to: conduct involving fraud, dishonesty, embezzlement, or unlicensed practice; actual or imminent harm or injury to a member of the public; reports of an escrow account shortage or discrepancies; or, refusal to provide escrow account records or related documents within the required time period.

5) Shall report a summary of the actions of the Case File Review Committee at each Board meeting.

e) In determining what action to take or whether to proceed with a formal complaint, investigation and prosecution of a case file, the Case File Review Committee shall consider factors including, but not limited to:

1) the effect on the public's health, safety and welfare;

2) any indication of fraud;

3) commingling or embezzlement;

4) evidence of escrow account shortages or discrepancies;

5) refusal to provide escrow account records or related documents within the required time period; or

6) prosecutorial merit.

f) Disqualification of a Case File Review Committee member:

1) A Case File Review Committee member shall be recused from consideration of a case file when a conflict of interest or prejudice would prevent that Committee member from being fair and impartial.

2) Participation in the initial stages of the handling of a case file, including participation on the Case File Review Committee and in informal conferences, shall not bar a Case File Review Committee member from later participating in decision making relating to that case file as a formal complaint or prosecution.

g) Meetings of the Case File Review Committee are an exception to the Open Meetings Act and shall be closed to the public, in accordance with 5 ILCS 120/2(c)(15).

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.255 Hearings

All disciplinary hearings brought before the Board under Article 20 of the Act shall be conducted in accordance with the Rules of Practice in Administrative Hearings ~~as provided for~~ in 68 Ill. Adm. Code 1110.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.260 Real Estate Recovery Fund

a) Necessity of Notice
When any person commences, in the civil courts, an action for a judgment that~~which~~ may result in collection from the Real Estate Recovery Fund, that person shall notify the Division~~OBRE~~ in writing at the time of commencement of the action.

b) Time of Notice
"Time of the commencement of the action" shall be construed to mean within 7 days after:

1) the plaintiff in a civil action files a Complaint or an Amended Complaint in the Circuit Court or the Federal District Court; or

2) the aggrieved party files a proof of claim or an adversary action regarding nondischargeability of the debt in a bankruptcy matter.

c) Place and Manner of Notice
Notice required by Section 20-90 of the Act or by this Section shall be sent by certified mail, return receipt requested, or shall be delivered by hand, to the Division~~OBRE~~ in Chicago, Illinois, Attention: Docket Clerk.

d) Contents of Notice
Every notice required by Section 20-90 of the Act or by this Section shall include:

1) a copy of the Court document:

A) the complaint showing the "Filed" stamp of the Clerk of the Court in which the complaint was filed; or

B) the proof of claim or an adversary complaint regarding nondischargeability in a bankruptcy matter.

2) copies of relevant documents available to the claimant, including:

A) real estate sales contract, lease, closing statement, disbursement directions, or other evidence of title to real property on which the claim is based, or if claimant does not possess title, evidence of the interest in real property on which the claim is based (evidence includes such documents as title policy, deed, or lease);

B) proof of any check or money order regarding earnest money or security deposit, other negotiable instruments, or dishonored checks issued by the licensee.

3) an itemized statement of losses of actual cash money which the claimant alleges occurred as a result of conduct identified in Section 20-85 of the Act by a licensed broker, salesperson, leasing agent, or unlicensed employee of a broker. Where no itemized statement is possible, the claimant must state under oath that his or her losses are estimated and that his or her calculation of estimated losses is as accurate as circumstances permit him or her to make.

e) Necessity of Natural Person as a Defendant

No notice of claim will be recognized or accepted where the underlying complaint does not name at least one natural person, either a licensed broker, salesperson, leasing agent, or unlicensed employee of a broker, as a defendant.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.265 Automatic Termination Upon Order to Payout from the Real Estate Recovery Fund

A licensee who desires to contest an automatic termination for payment out of the Real Estate Recovery Fund pursuant to Section 20-90(i) of the Act~~,~~ must file the appropriate motion or appeal with the Court that~~which~~ ordered the payment from the Fund.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.266 Advisory Letters

a) The Division~~OBRE~~ may issue advisory letters on issues dealing with the interpretation and application of the Real Estate License Act of 2000 and this Part.

b) A licensee is entitled to rely upon an advisory letter from the Division~~OBRE~~ and will not be disciplined by the Division~~OBRE~~ for actions taken in reliance on the advisory letter. An advisory letter may only be relied upon by the licensee seeking the advisory letter. However, the Division~~OBRE~~ may change its position prospectively, at which time the licensee who sought the advisory letter will have to meet the new position or policy of the Division~~OBRE~~.

c) Although not binding on the Division~~OBRE~~, licensees other than the licensee who sought the advisory letter may refer to an advisory letter issued by the Division~~OBRE~~ as the reason for a licensee's acts or omissions that result in the Division~~OBRE~~ considering disciplinary action against the licensee. The Division~~OBRE~~ will consider such arguments but will not be bound by the advisory letter except as to the licensee who actually sought the advisory letter from the Division~~OBRE~~.

d) Requests for advisory letters shall be submitted in writing to the Division~~OBRE~~. The request shall include at a minimum the following:

1) the name of the licensee on whose behalf the advisory letter is sought;

2) the factual situation or hypothetical factual situation on which the advisory letter is sought;

3) citations to any provisions of the Act, rules or cases that the licensee or the licensee's advisor believes is relevant to the issue as well as a discussion of the relevance of the cited material to the issue on which advice is sought; and

4) a statement of the issue or issues on which advice is sought.

e) Because advisory letters will be available through the Freedom of Information Act and may also be published by the Division~~OBRE~~, the party requesting the advisory letter should indicate whether the name of the licensee should be disclosed in the advisory letter. If the request for the advisory letter includes a request to keep the name of the licensee or other parties in the letter confidential, then the person requesting the advisory letter shall submit along with the request a second letter using generic business names, for example Licensee A, Company B, for the names to be kept confidential. If the Division~~OBRE~~ receives such a request, then the published response will only use the generic names.

f) The Division~~OBRE~~ shall respond to the licensee requesting the advisory letter within 60 days after receipt of the request by the Division~~OBRE~~. The response may be the advisory letter, an estimated time for providing an advisory letter, a request for clarification or additional information, or a statement that the Division~~OBRE~~ declines to issue an advisory letter as requested with an indication of the reason for declining to issue the advisory letter. The Division~~OBRE~~ shall provide a copy of all correspondence concerning a request for an advisory letter to the sponsoring broker, if any, of the licensee requesting the advisory letter.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

SUBPART G: PRE-LICENSE AND CONTINUING EDUCATION RULES

Section 1450.275 Pre-License Schools

a) In accordance with Section 30-5(a) of the Act, any person or entity seeking approval to provide pre-license education shall submit an application on forms provided by the Division~~OBRE~~ along with the appropriate fee required by this Part. The Division~~OBRE~~ shall, after review by the Advisory Council, approve a pre-license school if it meets certain minimum requirements and pays the required

fee as provided in the Act and this Part.

b) The program of education for a pre-license school shall:

1) Be approved by the school's governing and/or supervising body;

2) Use instructors who have a valid license as a pre-license instructor as set forth in the Act and Section 1450.278;

3) Have a curriculum that conforms to the standards of Section 1450.276;

4) Administer a final course examination as outlined in Section 1450.276.

c) Facilities

1) A pre-license school must provide an office in Illinois for the maintenance of all records, office equipment and office space necessary for customer service.

2) The premises, equipment and facilities of the pre-license school shall comply with all applicable community fire codes, building codes, and health and safety standards.

3) The pre-license school is subject to inspection prior to approval or at any time thereafter by authorized representatives of the Division~~OBRE~~. The inspection shall be during regular business hours, with at least 24 hours' advance notice of the inspection.

4) No pre-license school shall be maintained in a private residence.

5) Whenever a pre-license school intends to operate a branch location, an application shall be submitted to the Division~~OBRE~~ for each branch location. Each application shall be accompanied by the fee as required by this Part.

6) No pre-license school shall allow the school premises or classrooms to be used during class time by anyone to directly or indirectly recruit students to become affiliated with a licensee. Instructors and school administrators shall promptly report to the Division~~OBRE~~ any such efforts to recruit students.

d) Administration

1) Pre-License schools shall use only licensed pre-license instructors.

2) No licensed pre-license school shall advertise that it is endorsed, recommended, or accredited by the Division~~OBRE~~. The pre-license school, however, may indicate that the school is licensed by and the course of study has been approved by the Division~~OBRE~~.

3) Every pre-license school shall submit to the Division~~OBRE~~, upon its request, a schedule of all courses to be taught and when and where they will be taught. The Division~~OBRE~~ shall be notified of any changes to that schedule.

4) The pre-license school shall provide a prospective student prior to enrollment with information that specifies the course of study to be offered, the tuition to be charged, the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship, any additional fee to be charged for supplies, materials or books that become the property of the student upon payment, and other matters that are material to the relationship between the school and the student.

5) Each pre-license school shall maintain for each student a record which shall include the course of instruction undertaken, dates of attendance, and areas of study completed satisfactorily. Each student's record shall be maintained by the pre-license school for a period of 5 years and shall be available for inspection by the student or by the Division~~OBRE~~ or its designee during regular business hours.

6) A licensed pre-license school shall upon request give evidence of the financial resources available to equip and maintain the school, as documented by, e.g., a current balance sheet or an income statement.

7) The Division~~OBRE~~ shall be reimbursed by any out-of-state pre-license school for all reasonable expenses incurred by the inspector to inspect its facilities.

e) The Division~~OBRE~~ shall notify administrative officials of the applicant in writing

within 15 days after its approval or disapproval. In the event the applicant is disapproved, the reasons will be detailed and the applicant advised that the applicant may request a hearing as provided for in Section 30-5 of the Act.

f) The Division~~OBRE~~ shall be notified of all proposed changes in ownership of a pre-license school on forms provided by the Division~~OBRE~~ 30 days prior to the change in ownership.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.276 Curriculum for Pre-License Schools

a) Pre-license schools shall offer, at a minimum, the courses provided for in this Section.

b) The application for licensure as a pre-license school shall include a list of courses to be offered, an outline and course description for each course along with an examination and answer key. Each outline shall make reference to the textbook used and other material related to the course or subject matter, and shall conform to the approved curriculum outlines prepared by the Division~~OBRE~~.

c) Pre-license schools must provide the following courses:

1) Real Estate Transactions shall include a minimum of 45 class hours. The course shall include instruction in real estate law, types of interest and ownership in real estate, home ownership, legal descriptions, titles, liens, taxes, encumbrances, listing, advertising, appraisal, finance, closings, and professional code of ethics. This course shall be mandatory for all salesperson candidates.

2) Brokerage Administration shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in Illinois real estate law and licensure, listings, title search, forms for closing, contract forms, and the broker-salesperson relationship.

3) Contracts and Conveyances shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in deeds, fixtures, contracts, real estate closings, foreclosure and redemption, land use controls, landlord/tenant relationship, cooperatives and condominiums.

4) Advanced Principles 2000 shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates and shall include agency, disclosure, environmental issues, escrow, license law and other topics approved by the EAC and the Division~~OBRE~~.

d) Pre-license schools shall provide two or more of the following courses:

1) Appraisal shall consist of a minimum of 15 class hours. The course shall include instruction in the appraisal process, real property and value, economic trends, depreciation and land value.

2) Property Management shall consist of a minimum of 15 class hours. The course shall include, but not be limited to, instruction in fundamentals of tenant-management relationship, property modernization, property maintenance, leases, real property insurance, commercial property, industrial property and advertising.

3) Financing shall consist of a minimum of 15 class hours. The course shall include instruction in types of financing, sources of financing, mortgages, mortgage documents, closing a mortgage, interest, liens, foreclosure, real property insurance, mortgage risk, principles of property value for mortgage credit, mortgage analysis and construction loans.

4) Sales and Brokerage shall consist of a minimum of 15 class hours. The course shall include instruction in qualifications and functions of a real estate broker; land utilization; appraisal principles and methods; office organization; selection, training and supervision of salespersons and office personnel; compensation of salesperson listings; prospects; real estate markets; financial control; and government regulations.

5) Farm Property Management shall include a minimum of 15 class hours. The course shall include instruction in inventorying assets, determining method of operation, tenants, budgeting, crop and livestock production, marketing, tax planning and depreciation, government programs and regulations, insurance and ethics.

6) Real Property Insurance shall include a minimum of 15 class hours. The course shall include instruction in risk, functions of insurance, insurance contracts, types and purposes of insurance.

7) Other courses as approved from time to time by the Division~~OBRE~~. If additional elective courses are developed, they shall be approved by the Division~~OBRE~~ prior to implementation. The courses shall be approved upon determination that the course is at least 15 clock hours (one clock hour equals 50 minutes) in length and constitutes real estate related material.

e) Examinations. Each course shall end in a mandatory proctored final examination consisting of at least 50 questions for each 15 classroom hours for which the minimum passing score shall be no less than 75%.

f) Attendance at all classes is mandatory; however, credit for absences not to exceed 10% of the class hours may be made up by attendance at make-up classes as provided in subsection (g). Missing any class hours after having the opportunity to make up class hours as provided in subsection (g) shall result in failure of the course.

g) Each school shall provide time and facilities for conducting make-up classes for students who were absent from the regularly scheduled class period.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.277 Expiration Date and Renewal Period for Pre-License Schools

a) Every pre-license school and school branch license as well as their course approvals shall expire on June 30 of each odd numbered year.

b) Each pre-license school shall be responsible for submitting an application for renewal of the license on forms provided by the Division~~OBRE~~. Failure to receive a renewal form shall not constitute a valid reason for failure to submit a renewal application or pay the renewal fee or to renew the appropriate license.

c) The applicable fees shall be those set forth in Section 1450.95 of this Part.

d) As part of the renewal application each pre-license school shall submit a list of courses, an outline, course description and examination answer key for each course to be taught.

e) Operation of a pre-license school on an expired or inoperative license shall constitute the unlicensed or unauthorized practice and may be grounds for discipline.

f) Any pre-license school or school branch whose license under the Act has expired for more than two years shall not be eligible for renewal of that license. Any pre-license school whose license has been expired for less than two years may renew the license only after providing the Division~~OBRE~~ with evidence that all qualifications of Section 1450.275 have been met and the required fees have been paid.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.278 Pre-License Instructors

a) An applicant for a license as a pre-license instructor must be approved by the Division~~OBRE~~ and meet the following criteria:

1) Except as provided in subsection (b), pass an examination approved by the Division~~OBRE~~ with a minimum score of 75 percent, make application for the license within one year after receiving the necessary minimum score, have a real estate broker's license and been active as a real estate broker for at least the last 3 years; and

2) Be currently admitted to practice law by the Supreme Court of Illinois, and for at least 3 years have been engaged in the active practice of law in Illinois; or

3) Be a properly credentialed pre-license instructor of real estate courses who is or has been engaged in the practice of teaching for at least 3 years; or as evidenced by a professional designation such as, but not limited to, a designated real estate instructor (DREI); or approved by a college's or university's governing body to teach in a real estate degree program; or

4) Be properly licensed or certified to engage in the business of appraisal, finance and/or related real estate occupations and be a member of a nationally recognized association in that field, and for at least 3 years have been engaged in that practice; or

5) In the judgment of the Director~~ of Real Estate~~, after receipt of a recommendation from the Advisory Council, the person is qualified by experience or education, or both, to supervise a course of study pursuant to the provisions of this Section.

A) In determining whether a person is qualified to supervise a course of study under this Section, the Director shall consider:

i)~~A)~~ The individual's teaching experience;

ii)~~B)~~ The individual's real estate experience;

iii)~~C)~~ Any real estate, business or legal education of the individual;

iv)~~D)~~ The results of a personal interview with the individual. The personal interview may be conducted via telephone if it would be overly burdensome and unreasonable for the applicant to personally appear for the interview (e.g., applicant living out-of-state); and

v)~~E)~~ The recommendation of the Advisory Council. The Advisory Council shall evaluate the application and make a recommendation to the Director~~ of Real Estate~~ for approval or disapproval of the applicant as a pre-license instructor.

B) The Division~~OBRE~~ shall issue approval to the applicant or notify the applicant in writing why approval cannot be issued.

b) Previously approved pre-license instructors are exempt from taking the examination as long as they have maintained a valid instructor's license, and have no lapse in licensure greater than 2 years.

c) No approved pre-license instructor shall be seated for either the salesperson or broker licensure examination except for the purpose of securing a salesperson's or broker's license. Nothing in this provision shall prevent the Division~~OBRE~~ from using pre-license instructors to monitor and evaluate the examination.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1450.280 Expiration Date and Renewal Period for Pre-License Instructors

a) Pre-license instructor licenses expire on June 30 of each odd numbered year.

b) Each licensed pre-license instructor shall be responsible for submitting an application for renewal of the license on forms provided by the Division~~OBRE~~ verifying that a pre-license course was taught during the pre-renewal period by the applicant or the applicant attended a Division~~an OBRE~~ approved instructor training program during the pre-renewal period. Failure to receive a renewal form shall not constitute a valid reason for failure to submit the renewal form or pay the required renewal fee.

c) The applicable fees shall be those set forth in Section 1450.95 of this Part.

d) Instructing courses on an expired or inoperative license shall constitute the unlicensed or unauthorized practice and may be grounds for discipline.

e) Restoration

1) Any licensed pre-license instructor whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fees provided that the license expired while the instructor was:

A)~~1)~~ on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, the State Militia called into the service or training of the United States; or

B)~~2)~~ engaged in training or education under the supervision of the United States prior to induction into military service; or

C)~~3)~~ serving as the Director~~ of Real Estate in the State of Illinois,~~ or as an employee of the Division~~OBRE~~.

2) A pre-license instructor renewing his or her license in accordance with this subsection (e) may renew the license within a period of two years following the termination of service and is not required to retest or reapply.

f) Except as otherwise provided in this Section, any pre-license instructor whose license under the Act has expired for more than two years shall not be eligible for renewal of that license.

g) Any pre-license instructor whose license has been expired for less than two years may renew the license only after providing the Division~~OBRE~~ with evidence that all qualifications of Section 1450.278 have been met, that the instructor taught at least one course within the period of licensure or has completed a Division ~~an OBRE~~ approved instructor training program and the required fee is paid.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.285 Continuing Education Schools

a) Approval of continuing education (CE) Schools. Those entities seeking approval as CE schools shall maintain an office in Illinois for maintenance of all records, office equipment and office space necessary for customer service.

1) The CE school's office may be subject to inspection by authorized representatives of the Division~~OBRE~~ during regular working hours and upon at least 24 hours' notice when the Division~~OBRE~~ has reason to believe that there is not full compliance with the Act or this Part and that this inspection is necessary to ensure full compliance.

2) The Division~~OBRE~~ shall be reimbursed by any out-of-state CE school for all reasonable expenses incurred by the inspector to inspect its facilities.

3) Entities seeking licensure as CE schools shall file a CE school application, on forms provided by the Division~~OBRE~~, along with the required fee. The application shall include the following:

A) An agreement by the applicant that the applicant shall provide to the Division~~OBRE~~, upon request, a schedule including location, date, time, and name of instructor of each CE course to be offered;

B) The CE school's certification:

i) that all CE courses offered by the CE school for CE credit will comply with the criteria in the Act and this Part;

ii) that the CE school will be responsible for verifying attendance at each CE course and providing a certificate of completion signed by the CE school;

iii) that the CE school will maintain its records for not less than 5 years and shall make these records available for inspection by the Division~~OBRE~~ or its designee during regular business hours;

iv) that upon request by the Division~~OBRE~~, the CE school will submit evidence to establish compliance with this Section and Sections 30-15 through 30-25 of the Act;

v) that the CE schools will only offer CE, other than distance education CE, in an environment that is conducive to learning (i.e., adequate lighting, seating) and does not jeopardize the health, safety, and welfare of the attendees;

vi) that financial resources are available to equip and maintain its office in a manner necessary to enable the CE school to comply with Article 30 of the Act, this Section and this Part, documented by a current balance sheet, an income statement or any similar evidence as requested by the Division~~OBRE~~; and

vii) that upon request the CE school will make available to a licensee who has taken one or more of the CE school's courses the records dealing with the licensee's participation in those courses.

4) Validly licensed pre-license schools seeking to offer CE courses qualify for a continuing education school license upon completion of the required application and submission of the required fee.

5) The Division~~OBRE~~ shall issue approval to the CE school or notify the CE school, in writing, why approval cannot be issued.

b) Licensed CE schools shall comply with the following:

1) No licensed CE school shall allow the premises or classrooms utilized

during CE courses to be used by anyone to directly or indirectly recruit students. CE schools and CE instructors shall report to the Division~~OBRE~~ any efforts to recruit students.

2) No licensed CE school shall advertise that it is endorsed, recommended, or accredited by the Division~~OBRE~~. The CE school, however, may indicate that the school and the CE course have been approved by the Division~~OBRE~~.

3) Licensed CE schools shall utilize in the teaching of approved CE courses only CE instructors who have been licensed by the Division~~OBRE~~.

4) Licensed CE schools shall specify in any advertising promoting CE courses the number of CE hours that may be credited toward Illinois CE requirements for license renewal. Further, licensed CE schools shall specify the number of core or elective CE course hours that may be earned by successfully completing the course.

5) All CE courses given by licensed CE schools shall be open to all licensees and not be limited to members of a single organization or group.

c) Administration

1) All CE schools shall seek a certificate of registration for all CE courses they plan to offer and shall not offer any CE course until the Division~~OBRE~~ has issued a certificate of registration for that course. All requests for registration of courses shall include a course description, course outline, examination and answer key.

2) Upon request all CE schools shall also notify the Division~~OBRE~~ as to all CE instructors they plan to use.

3) The CE school shall be responsible for assuring verified attendance at each CE course or self-study examination. No renewal applicant shall receive CE credit for time not actually spent attending the CE course or when a passing score of 70% on the examination was not achieved.

4) Each licensed CE school shall submit to the Division~~OBRE~~, on or before the 15th of each month, a report of those licensees passing CE courses offered by it during the preceding calendar month.

A) The monthly reports shall, at a minimum, include the following information for each licensee:

i) the licensee's name, address, social security number, and license number;

ii) the CE school's name and license number; ~~and~~

iii) the CE course name, course license number, course category (core or elective), and credit hours; and

iv) such other information as may be required by the Division~~OBRE~~.

B) If no courses were given by a CE school during the preceding calendar month, that CE school shall report in writing that no courses were given.

C) The monthly reports shall be submitted on forms or in a computer readable format provided by the Division~~OBRE~~.

D) There is no processing fee for a monthly report submitted in the computer readable format specified by the Division~~OBRE~~. Each monthly report submitted on paper or in a format other than that specified by the Division~~OBRE~~ shall be accompanied by a processing fee of $.50 per licensee, per course listed on the report, payable by check to the Department of Financial and Professional Regulation~~OBRE~~.

E) A monthly report received by the Division~~OBRE~~ with a postmark after the day it is due (the 15th day of the month) shall be accompanied by an administrative fee of $200 in addition to the fees set forth in subsection (c)(4)(D).

F) If a CE school fails to file monthly reports or a statement saying that no CE courses were given, or fails to pay the required fees for three successive months, then the courses offered by that school may be disqualified pursuant to procedures set forth in Section 30-15of the Act until all delinquent reports, processing fees, and

administrative fees as set forth in this Section have been submitted to and are received by the Division~~OBRE~~. The Division~~OBRE~~ shall send notice to the school of an informal conference before the Advisory Council and of pending disqualification pursuant to Section 30-15(d) of the Act by certified or registered mail, return receipt requested, or by other signature restricted delivery service.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.286 Curriculum for Continuing Education Schools and Course Registration Process

a) The following are the subject matters for core (mandatory) courses subject to change by the Division~~OBRE~~, through its Advisory Council:

1) license law and escrow

2) fair housing

3) agency.

b) The following are the subject matters for elective courses subject to change by the Division~~OBRE~~, through its Advisory Council:

1) antitrust

2) appraisal

3) property management

4) residential brokerage

5) farm property management

6) rights and duties of sellers, buyers and brokers

7) commercial brokerage and leasing

8) real estate financing

9) environmental

10) technology.

c) Credit hours may be earned for self-study programs approved by the Advisory Council.

d) A broker or salesperson may earn credit for a specific continuing education course only once during the prerenewal period.

e) The Division~~OBRE~~ shall issue certificates of registration for approved CE courses upon successful completion of the following process:

1) The person or entity seeking approval for the CE course shall complete and submit the application approved by the Division~~OBRE~~ for a certificate of registration;

2) The CE course shall be identified as either "core" or "elective" by the applicant;

3) The CE course description, outline, examination and answer key is submitted along with the application;

4) The required fee as provided for in Section 1450.95 of this Part is submitted; and

5) The Advisory Council approves the application for registration of the CE course.

f) CE credit, which shall be limited to 3 hours, may be granted for pre-license courses but only after issuance of a certificate of registration by the Division~~OBRE~~ following the process provided for in subsection (e) of this Section.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.287 Expiration Date and Renewal Period for Continuing Education Schools

a) Every continuing education school license shall expire on June 30 of each even numbered year.

b) Every certificate of registration of a CE course shall expire on June 30 of each even numbered year.

c) Each licensed CE school shall be responsible for renewal of the license on forms provided by the Division~~OBRE~~. Failure to receive a renewal form shall not constitute a valid reason for failure to submit the proper application for renewal.

d) The applicable fees shall be those set forth in Section 1450.95 of this Part.

e) Each CE school shall submit the renewal application along with the proper fee and a list of courses to be taught, course descriptions, course outlines, examinations and answer keys.

f) Operation of a CE school on an expired or inoperative license shall constitute the unlicensed or unauthorized practice and shall be grounds for discipline under the Act.

g) Any continuing education school whose license under the Act has expired for more than two years shall not be eligible for renewal of that license. Any CE school whose license has been expired for less than two years may renew the license after providing the Division~~OBRE~~ with evidence that all qualifications of Section 1450.285 have been met and the proper renewal fees have been paid.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.288 Continuing Education Instructors

a) An applicant seeking approval from the Division~~OBRE~~ to become a licensed CE instructor shall submit a completed application, on forms provided by the Division~~OBRE~~, along with the required fee as provided for in Section 1450.95 of this Part.

b) An individual applying to become a licensed CE instructor shall meet at least one of the following criteria:

1) Licensed and active in practice as a real estate broker for at least the last three years; or

2) Is currently admitted to practice law and for three years has been engaged in real estate related work as part of his or her active practice of law or has taught pre-licensure real estate courses; or

3) Is a properly credentialed instructor of real estate courses who is or has been engaged in the practice of teaching for at least three years; or as evidenced by a professional designation, such as, but not limited to, a designated real estate instructor (DREI); or approved by a college's or university's governing body to teach in a real estate degree program; or

4) Is properly licensed or certified to engage in the business of appraisal, finance and/or related real estate occupations (not including real estate salespersons or leasing agents) and for at least three years has been engaged in that practice; or

5) Is qualified by experience or education as outlined in Section 30-15(b)(9) of the Act. In determining whether a person is qualified to teach CE under that Section, the Director ~~of Real Estate~~ shall consider the following:

A) The individual's teaching experience;

B) The individual's real estate experience;

C) Any real estate, business or legal education of the individual;

D) The results of a personal interview with the individual. The personal interview may be conducted via telephone if it would be overly burdensome and unreasonable for the applicant to personally appear for the interview (e.g., applicant living out-of-state); and

E) The recommendation of the Advisory Council. The Advisory Council shall make a recommendation to the Director ~~of Real Estate~~ for approval or disapproval of the applicant as a CE instructor.

c) Individuals validly licensed to teach salesperson and broker pre-license courses, pursuant to Section 1450.278 of this Part, are qualified as CE instructors as long as they submit an application to the Division~~OBRE~~ for licensure as a CE instructor and pay the required fee.

d) The Division~~OBRE~~ shall notify the applicant in writing within 15 days after its approval or disapproval. In the event the applicant is disapproved, the reasons will be detailed and the applicant advised that the applicant may request a hearing as provided for in Section 30-5 of the Act.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.290 Expiration Date and Renewal Period for Continuing Education Instructors

a) Every continuing education instructor license shall expire on June 30 of each even numbered year.

b) Each licensed CE instructor shall be responsible for renewal of the license on forms provided by the Division~~OBRE~~. Failure to receive a renewal form shall not constitute a valid reason to submit the proper application for renewal and for failure to pay the proper renewal fee.

c) The applicable fees shall be those set forth in Section 1450.95 of this Part.

d) Teaching CE courses on an expired license shall constitute the unlicensed or unauthorized practice and shall be grounds for discipline.

e) Restoration

1) Any licensed CE instructor whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fees provided that the license expired while the instructor was:

A)~~1)~~ on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, or the State Militia called into the service or training of the United States; or

B)~~2)~~ engaged in training or education under the supervision of the United States prior to induction into military service; or

C)~~3)~~ serving as the Director ~~of Real Estate in the State of Illinois,~~ or as

an employee of the Division~~OBRE~~.

2) A CE instructor renewing his or her license in accordance with this subsection (e) may renew the license within a period of two years following the termination of service and is not required to retest or reapply.

f) Any continuing education instructor whose license under the Act has expired for more than two years shall not be eligible for renewal of that license. Any CE instructor whose license has been expired for less than two years may renew the license only after providing the Division~~OBRE~~ with evidence that all qualifications of Section 1450.288 have been met and the proper renewal fee is paid.

g) Any CE instructor applying for renewal must verify he or she has taught at least one course within the period of licensure or has completed a Division~~an OBRE~~ approved instructor training program.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.295 Distance Education Courses

Distance education courses are courses in which instruction does not take place in a traditional face to face classroom situation but rather when instruction takes place through other media. Distance education programs include but are not limited to those that are presented through on-line courses, interactive classrooms, video conferencing, audio tape, print media, video tape, compact disks and interactive computer. Distance education courses shall be affiliated with a licensed pre-license or CE school and meet the curriculum requirements set forth in Section 1450.276 and/or Section 1450.286 of this Part, as applicable.

a) Distance education courses must meet all requirements for pre-license or CE courses, whichever is applicable, and any additional requirements established by the Act and this Part.

b) Distance education courses shall be submitted to the Division~~OBRE~~ for review and approval as provided for in Section 1450.276 or Section 1450.286, whichever is applicable.

c) Pre-license or CE schools providing distance education courses shall establish written policies and procedures for grading examinations and lessons, which shall

include provisions for instructor comments, suggestions and written correction of errors. There shall also be written procedures for the prompt return of materials. Copies of these policies shall be provided to the Division~~OBRE~~ upon request.

d) Schools providing distance education courses shall establish performance objectives for each course.

e) Pre-license schools offering distance education courses shall maintain an average passing rate of at least 40% for all students who take the licensure examination for the first time over a 6 month period, either January through June or July through December.

f) Schools providing distance education courses shall provide for a valid licensed instructor to be available during normal business hours to answer student questions.

g) Each school offering distance education courses shall submit for approval by the Division~~OBRE~~ the general plans for proctoring exams for distance education courses and each school shall be responsible for the security and integrity of course final examinations and the suitability of the sites and proctors utilized by the school.

h) Each school offering distance education shall provide appropriate technical support throughout the period the courses are offered.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.305 Recruitment at Test Center

Licensees shall not recruit~~Recruitment of~~ test takers to become affiliated with a licensee at test facilities where the Illinois Real Estate Licensing Examination is being conducted ~~is not permitted~~ before, during, or after the examination.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.315 Discipline of Schools or Instructors

a) The Advisory Council, after notice, can conduct an informal conference for the purpose of reviewing a school's or instructor's compliance with this Act and this Part. The Advisory Council may make a recommendation to the Board based

upon its findings and conclusions resulting from that conference.

b) Upon written recommendation of the Board to the Director~~Commissioner~~, the Division~~OBRE~~ may refuse to issue or renew a license or certificate of registration, reprimand, fine, withdraw approval, place on probation, suspend, or revoke any license or otherwise discipline any license or certificate of registration, of any pre-license school, pre-license instructor, CE school, CE instructor, course, or applicant for the license or certificate of registration when, at any time:

1) The quality of the course, instruction or program fails to meet the established criteria as set forth in the Act and this Part.

2) If the license approval was based upon false or deceptive information.

3) If any other professional license, accreditation, certification of the instructor or school is suspended, revoked or otherwise disciplined.

4) When the applicant or licensee has:

A) subverted or attempted to subvert the integrity of any exam or course, including through improper reproduction of an exam, providing an answer key to an exam, cheating, bribery or otherwise, or aids and abets an applicant or licensee to subvert the integrity of any exam or course;

B) made any substantial misrepresentation, misleading or untruthful advertising, including without limitation guaranteeing success or a "pass score" on any exam or in any course or using any trade name or insignia of membership in any educational or any real estate organization of which the applicant or licensee is not a member;

C) taught real estate courses without being qualified, including, but not limited to, being unapproved by the Division~~OBRE~~, being unlicensed, having a nonrenewed license or being uncertified, or aids and abets an unqualified individual to teach a real estate course;

D) failed to provide information to the Division~~OBRE~~ as required under any provision of the Act or this Part; or

E) disregarded or violated any provision of the Act or this Part.

5) If any approved pre-license school fails to maintain an average passing rate of at least 40% for all students who take the licensure examination for the first time over a 6 month period, either January through June or July through December.

c) Disciplinary proceedings shall be conducted by the Board as provided for in the Act and Subpart F of this Part.

d) The Division~~OBRE~~ may temporarily suspend without hearing the certificate of registration for a licensed CE school's courses for failure to comply with the Act or this Part upon recommendation of the Advisory Council. No CE credit shall be granted to any licensee for completing a CE course for which the certificate of registration has been temporarily suspended.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

SUBPART H: GRANTING VARIANCES

Section 1450.320 Granting Variances

a) The Director~~Commissioner of Banks and Real Estate~~ may grant variances from this Part~~these rules~~ in individual cases in which~~where~~ he or she finds that:

1) the provision from which the variance is granted is not statutorily mandated;

2) no party will be injured by the granting of the variance; and

3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director~~Commissioner~~ shall notify the Board of his or her intention to grant a variance, and the reasons for granting the variance~~therefor~~, at a meeting of the Board, prior to granting the variance.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.325 Salesperson Applicants – Transition Provisions

a) Until March 31, 2000, an applicant for a salesperson license may be allowed to sit for the examination if the applicant submits either:

1) a course completion transcript verifying~~which verifies~~ that, on or before December 30, 1999, the applicant completed the previously required 30 hour Real Estate Transactions course; or

2) proof of current Illinois attorney registration or a baccalaureate degree involving real estate as provided for under the Part, and otherwise meets the licensure requirements in effect on December 30, 1999, including the age requirements.

b) If an applicant for a salesperson license eligible to sit for the examination under subsection (a) of this Section fails the salesperson examination three times, the applicant shall be allowed to sit for the examination on or before March 31, 2000, only upon completion of the 15 hour Salesperson Real Estate Transaction Supplemental Course.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.330 Broker Applicants – Transition Provisions

a) Until March 31, 2000, an applicant for a broker's license may be allowed to sit for the examination if the applicant:

1) submits a course completion transcript verifying~~which verifies~~ that, on or before December 30, 1999, the applicant completed the previously required 90 credit hours of broker pre-license courses; or

2) submits proof of current Illinois attorney registration or a baccalaureate degree involving real estate as provided for under this Part, and otherwise meets the licensure requirements in effect on December 30, 1999, including the salesperson pre-license course completion, salesperson experience and age requirements.

b) If an applicant for a broker license eligible to sit for the examination under subsection (a) of this Section fails the broker examination three times, the applicant shall be allowed to sit for the examination on or before March 31, 2000, only upon completion of the 15 hour Broker Administration course.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.335 Continuing Education – Transition Provisions

a) As of February 1, 2000, CE schools may no longer provide a consolidated classroom curriculum of four CE course for twelve credit hours in a calendar day, and students may not earn more than six credit hours in a calendar day. CE course credit earned through a distance learning program is not subject to the maximum of six credit hours in a calendar day.

b) Renewal applicants may satisfy the CE core course requirements by the submission of completion of courses that had been approved at the time of completion as mandatory courses. The acceptance of mandatory courses in lieu of core courses shall be permitted until:

1) April 30, 2001, for salesperson renewal applicants; and

2) April 30, 2000, for broker renewal applicants.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

Section 1450.340 Education License Renewals – Transition Provisions

a) Pre-license. Every active pre-license school, pre-license school branch location, and pre-license instructor shall be granted written authority to continue to educate through ~~to~~ June 30, 2000, as if the licenses had been renewed on December 31, 1999. A licensee offering educational services under this authority may be disciplined in the same manner as an active licensee practicing by authority of a renewed certificate. Every pre-license school, pre-license school branch location, and pre-license instructor license and every pre-license course registration shall expire on June 30, 2000, and may be renewed for a period to June 30, 2001 upon submission of the required forms and payment of the fee required by Section 1450.95. After June 30, 2001~~Thereafter~~, the licenses will expire on June 30 of each odd numbered year.

b) CE. Every active license to a CE school, CE instructor, and restricted CE instructor under the Act shall be granted written authority to continue to educate through ~~to~~ June 30, 2000, as if the licenses had been renewed on April 30, 2000. A licensee offering educational services under this authority may be disciplined in

the same manner as an active licensee practicing by authority of a renewed certificate. Every CE school, CE instructor, and restricted CE instructor license and every CE course registration shall expire on June 30, 2000, and may be renewed for a two year period upon submission of the required forms and payment of the fee required by Section 1450.95. After June 30, 2000~~Thereafter~~, the licenses will expire on June 30 of each even numbered year.

(Source: Amended at 30 Ill. Reg. 11075, effective June 8, 2006)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Child Care

2) Code Citation: 89 Ill. Adm. Code 50

3)

Section Numbers:	Adopted Action:
50.230	Amendment
50.320	Amendment

4) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Pubic Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].

5) Effective date of Amendments: June 6, 2006

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain any 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 Proposed Amendments was Published in Illinois Register: August 26, 2005; 29 Ill. Reg. 13156

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Difference between proposal and final version: No substantive changes were made in the text of the proposed amendments.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.

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

14) Are there any other amendments pending on this Part? No

15) Summary and purpose of amendments: Pursuant to provisions of Public Act 93-361, this rulemaking updates the child care income eligibility guidelines based on the State Median Income for the current fiscal year.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, Illinois 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 50
CHILD CARE

SUBPART A: GENERAL PROVISIONS

Section
50.101 Incorporation by Reference
50.110 Participant Rights and Responsibilities
50.120 Notification of Available Services
50.130 Child Care Overpayments and Recoveries

SUBPART B: APPLICABILITY

Section
50.210 Child Care
50.220 Method of Providing Child Care
50.230 Child Care Eligibility
50.235 Income Eligibility Criteria
50.240 Qualified Provider
50.250 Additional Service to Secure or Maintain Child Care

SUBPART C: PAYMENT FEES

Section
50.310 Fees for Child Care Services
50.320 Maximum Monthly Income and Parent Fee by Family Size, Income Level and Number of Children Receiving Full-time Care

SUBPART D: CHILD CARE ABUSE AND NEGLECT

Section
50.410 Provider Eligibility
50.420 Payment for Child Care Services

SUBPART E: GREAT START PROGRAM

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section
50.510 Great START Program
50.520 Method of Providing the Wage Supplement
50.530 Eligibility
50.540 Employer Responsibility
50.550 Notification of Eligibility
50.560 Phase-in of Wage Supplement Scale
50.570 Wage Supplement Scale
50.580 Evaluation

AUTHORITY: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IXA and 12-13].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9502, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 14961, effective November 10, 1997; emergency amendment at 22 Ill. Reg. 12816, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 21037, effective November 27, 1998; emergency amendment at 23 Ill. Reg. 10875, effective August 20, 1999, for maximum of 150 days; amended at 24 Ill. Reg 1058, effective January 10, 2000; emergency amendment at 24 Ill. Reg. 6604, effective April 5, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 13987, effective September 1, 2000; amended at 24 Ill. Reg. 15423, effective October 10, 2000; emergency amendment at 25 Ill. Reg. 2735, effective February 5, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 8176, effective June 23, 2001; emergency amendment at 25 Ill. Reg. 8443, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14854, effective October 31, 2001; emergency amendment at 25 Ill. Reg. 16116, effective December 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7113, effective April 25, 2002; amended at 27 Ill. Reg. 12090, effective July 14, 2003; amended at 27 Ill. Reg. 18411, effective November 24, 2003; amended at 28 Ill. Reg. 6895, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 10121, effective July 1, 2004, for a maximum of 150 days; emergency expired November 27, 2004; amended at 29 Ill. Reg. 2687, effective February 4, 2005; emergency amendment at 29 Ill. Reg. 13253, effective August 11, 2005, for a maximum of 150 days; emergency expired January 7, 2006; amended at 30 Ill. Reg. 11190, effective June 6, 2006.

SUBPART B: APPLICABILITY

Section 50.230 Child Care Eligibility

a) Child care services are restricted to children under age 13 and to children under age 19 who are under court supervision or have physical or mental incapacities as documented by a statement from a local health provider or other health

professional.

b) Parents and other relatives eligible to receive child care services include:

1) Recipients of Temporary Assistance for Needy Families (TANF) under Article IV of the Public Aid Code participating in work and training activities as specified in their personal plans for employment and self-sufficiency who have been approved for child care benefits by the Department and who meet the monthly income ceilings in subsection (b)(2) of this Section.

2) Working families, including teen parents while they attend school to obtain a high school degree or its equivalent, whose monthly incomes do not exceed the following amounts by family size:

Family Size	Gross Monthly Income
2	$2,051~~1,960~~
3	$2,533~~2,421~~
4	$3,016~~2,882~~
5	$3,498~~3,344~~
6	$3,981~~3,805~~
7	$4,071~~3,891~~
8	$4,162~~3,978~~

The above income guidelines will be indexed annually so that the thresholds are no less than 50% of the most current State Median Income for each family size.

3) Families who do not receive TANF and need child care services in order to attend school or training (up to and including the acquisition of the first Associate Degree and/or the first Bachelor's Degree) whose monthly income does not exceed the monthly income ceilings in subsection (b)(2) of this Section. Qualifying families are eligible to receive child care services needed to attend literacy and other adult basic education, English as a Second Language, GED preparation, and vocational training for up to 24 non-consecutive months with no work requirement, after which they must work a monthly average of at least 20 hours per week in paid employment. Child care provided to a teen parent to obtain a high school

degree, or its equivalent, does not count against this 24-month limit. Qualifying families are eligible to receive child care services to attend a 2 or 4 year college degree program if they work a monthly average of at least 10 hours per week in paid employment or a monthly average of at least 20 hours per week in a combination of paid employment and unpaid, educationally-required work activities such as student teaching, an internship, a clinical, a practicum or an apprenticeship. Child care services shall be available during time periods that are reasonably related to the following activities performed outside the home: paid work, self-employment and education or training activity, including class hours and research, laboratory, library and transportation time. Families with a work requirement shall receive the same grace periods between jobs as persons who receive services pursuant to subsection (b)(2) of this Section. If a parent is claimed as a dependent by another person for federal income tax purposes, that parent is only eligible if his or her income when added to the income of the other person does not exceed the monthly income ceiling in subsection (b)(2) of this Section for that family size.

4) Relatives (other than parents) who receive child-only TANF or General Assistance (GA) benefits as Representative Payee for children in need of care while they work outside the home.

c) All families must be residents of Illinois.

d) Payment for child care services to eligible parents may begin:

1) if care was provided at the time and all eligibility factors are met, on either:

A) the date of the parent's signature; or

B) one week (seven calendar days) prior to the stamped date of receipt by the Department or its agents, whichever is later; or

2) on the date the child care provider actually begins providing child care services, if the application is received in advance of services being provided and all eligibility factors are met.

e) Eligibility ceases 10 calendar days from the date of the termination notice sent to the parent by the Department or its agents following a determination of

ineligibility.

(Source: Amended at 30 Ill. Reg. 11190, effective June 6, 2006)

SUBPART C: PAYMENT FEES

Section 50.320 Maximum Monthly Income and Parent Fee by Family Size, Income Level and Number of Children Receiving Full-time Care

Family Size 2

Monthly Income	1 Child Monthly Co-Pay	1 Child Weekly Co-Pay
$ 0 - 327	$ 4.33	$ 1.00
328 - 491	13.00	3.00
492 - 654	21.67	5.00
655 - 818	34.66	8.00
819 - 981	47.66	11.00
982 - 1,145	65.00	15.00
1,146 - 1,308	86.66	20.00
1,309 - 1,472	108.33	25.00
1,473 - 1,636	134.32	31.00
1,637 - 1,799	160.32	37.00
1,800 - 1,962~~1,960~~	186.32	43.00
1,963 - 2,051	212.32	49.00

Family Size 3

Monthly Income	1 Child Monthly Co-Pay	1 Child Weekly Co-Pay	2 Children Monthly Co-Pay	2 Children Weekly Co-Pay
$ 0 - 423	$ 4.33	$ 1.00	$ 8.67	$ 2.00
424 - 606	13.00	3.00	17.33	4.00

607 - 808	21.67	5.00	30.33	7.00
809 - 1,010	34.66	8.00	52.00	12.00
1,011 - 1,212	47.66	11.00	69.33	16.00
1,213 - 1,414	65.00	15.00	95.33	22.00
1,415 - 1,616	86.66	20.00	147.32	34.00
1,617 - 1,818	108.33	25.00	190.65	44.00
1,819 - 2,020	134.32	31.00	233.98	54.00
2,021 - 2,222	160.32	37.00	277.31	64.00
2,223 - 2,424 ~~2,421~~	186.32	43.00	320.64	74.00
2,425 - 2,533	212.32	49.00	363.97	84.00

Family Size 4

Monthly Income	1 Child Monthly Co-Pay	1 Child Weekly Co-Pay	2 Children Monthly Co-Pay	2 Children Weekly Co-Pay	3 Children Monthly Co-Pay	3 Children Weekly Co-Pay
$ 0 - 481	$ 4.33	$ 1.00	$ 8.67	$ 2.00	$ 8.67	$ 2.00
482 - 722	13.00	3.00	17.33	4.00	17.33	4.00
723 - 962	21.67	5.00	30.33	7.00	34.66	8.00
963 - 1,203	34.66	8.00	52.00	12.00	52.00	12.00
1,204 - 1,443	47.66	11.00	69.33	16.00	73.66	17.00
1,444 - 1,684	65.00	15.00	95.33	22.00	99.66	23.00
1,685 - 1,924	86.66	20.00	147.32	34.00	151.66	35.00
1,925 - 2,165	108.33	25.00	190.65	44.00	194.99	45.00
2,166 - 2,405	134.32	31.00	233.98	54.00	238.32	55.00
2,406 - 2,646	160.32	37.00	277.31	64.00	281.65	65.00
2,647 - 2,887~~2,882~~	186.32	43.00	320.64	74.00	324.98	75.00
2,888 - 3,016	212.32	49.00	363.97	84.00	368.31	85.00

Family Size 5

Monthly Income	1 Child Monthly Co-Pay	1 Child Weekly Co-Pay	2 Children Monthly Co-Pay	2 Children Weekly Co-Pay	3 Children Monthly Co-Pay	3 Children Weekly Co-Pay	4 Children Monthly Co-Pay	4 Children Weekly Co-Pay

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

$ 0 - 558	$ 4.33	$ 1.00	$ 8.67	$ 2.00	$ 8.67	$ 2.00	$ 8.67	$ 2.00
559 - 837	13.00	3.00	17.33	4.00	17.33	4.00	21.67	5.00
838 - 1,116	21.67	5.00	30.33	7.00	34.66	8.00	34.66	8.00
1,117 - 1,395	34.66	8.00	52.00	12.00	52.00	12.00	56.33	13.00
1,396 - 1,674	47.66	11.00	69.33	16.00	73.66	17.00	77.99	18.00
1,675 - 1,953	65.00	15.00	95.33	22.00	99.66	23.00	103.99	24.00
1,954 - 2,232	86.66	20.00	147.32	34.00	151.66	35.00	155.99	36.00
2,233 - 2,511	108.33	25.00	190.65	44.00	194.99	45.00	199.32	46.00
2,512 - 2,790	134.32	31.00	233.98	54.00	238.32	55.00	242.65	56.00
2,791 - 3,069	160.32	37.00	277.31	64.00	281.65	65.00	285.98	66.00
3,070 - 3,348 ~~3,344~~	186.32	43.00	320.64	74.00	324.98	75.00	329.31	76.00
3,349 - 3,498	212.32	49.00	363.97	84.00	368.31	85.00	372.64	86.00

Family Size 6

Monthly Income	1 Child Monthly Co-Pay	1 Child Weekly Co-Pay	2 Children Monthly Co-Pay	2 Children Weekly Co-Pay	3 Children Monthly Co-Pay	3 Children Weekly Co-Pay	4 Children Monthly Co-Pay	4 Children Weekly Co-Pay
$ 0 - 635	$ 4.33	$ 1.00	$ 8.67	$ 2.00	$ 8.67	$ 2.00	$ 8.67	$ 2.00
636 - 952	13.00	3.00	17.33	4.00	17.33	4.00	21.67	5.00
953 - 1,270	21.67	5.00	30.33	7.00	34.66	8.00	34.66	8.00
1,271 - 1,587	34.66	8.00	52.00	12.00	52.00	12.00	56.33	13.00
1,588 - 1,905	47.66	11.00	69.33	16.00	73.66	17.00	77.99	18.00
1,906 - 2,222	65.00	15.00	95.33	22.00	99.66	23.00	103.99	24.00
2,223 - 2,540	86.66	20.00	147.32	34.00	151.66	35.00	155.99	36.00
2,541 - 2,857	108.33	25.00	190.65	44.00	194.99	45.00	199.32	46.00
2,858 - 3,175	134.32	31.00	233.98	54.00	238.32	55.00	242.65	56.00
3,176 - 3,492	160.32	37.00	277.31	64.00	281.65	65.00	285.98	66.00
3,493 - 3,809 ~~3,805~~	186.32	43.00	320.64	74.00	324.98	75.00	329.31	76.00
3,810 - 3,981	212.32	49.00	363.97	84.00	368.31	85.00	372.64	86.00

5 Children	5 Children

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Monthly Income	Monthly Co-Pay	Weekly Co-Pay
$ 0 - 635	$ 8.67	$ 2.00
636 - 952	21.67	5.00
953 - 1,270	39.00	9.00
1,271 - 1,587	60.66	14.00
1,588 - 1,905	82.33	19.00
1,906 - 2,222	108.33	25.00
2,223 - 2,540	160.32	37.00
2,541 - 2,857	203.65	47.00
2,858 - 3,175	246.98	57.00
3,176 - 3,492	290.31	67.00
3,493 - 3,809 ~~3,805~~	333.64	77.00
3,810 - 3,981	376.97	87.00

Family Size 7

Monthly Income	1 Child Monthly Co-Pay	1 Child Weekly Co-Pay	2 Children Monthly Co-Pay	2 Children Weekly Co-Pay	3 Children Monthly Co-Pay	3 Children Weekly Co-Pay	4 Children Monthly Co-Pay	4 Children Weekly Co-Pay
$ 0 - 649	$ 4.33	$ 1.00	$ 8.67	$ 2.00	$ 8.67	$ 2.00	$ 8.67	$ 2.00
650 - 974	13.00	3.00	17.33	4.00	17.33	4.00	21.67	5.00
975 - 1,299	21.67	5.00	30.33	7.00	34.66	8.00	34.66	8.00
1,300 - 1,623	34.66	8.00	52.00	12.00	52.00	12.00	56.33	13.00
1,624 - 1,948	47.66	11.00	69.33	16.00	73.66	17.00	77.99	18.00
1,949 - 2,273	65.00	15.00	95.33	22.00	99.66	23.00	103.99	24.00
2,274 - 2,598	86.66	20.00	147.32	34.00	151.66	35.00	155.99	36.00
2,599 - 2,922	108.33	25.00	190.65	44.00	194.99	45.00	199.32	46.00
2,923 - 3,247	134.32	31.00	233.98	54.00	238.32	55.00	242.65	56.00
3,248 - 3,572	160.32	37.00	277.31	64.00	281.65	65.00	285.98	66.00
3,573 - 3,897 ~~3,891~~	186.32	43.00	320.64	74.00	324.98	75.00	329.31	76.00
3,898 - 4,071	212.32	49.00	363.97	84.00	368.31	85.00	372.64	86.00

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DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Monthly Income	Children Monthly Co-Pay	Children Weekly Co-Pay	Children Monthly Co-Pay	Children Weekly Co-Pay
$ 0 - 649	$ 8.67	$ 2.00	$ 8.67	$ 2.00
650 - 974	21.67	5.00	21.67	5.00
975 - 1,299	39.00	9.00	39.00	9.00
1,300 - 1,623	60.66	14.00	65.00	15.00
1,624 - 1,948	82.33	19.00	86.66	20.00
1,949 - 2,273	108.33	25.00	112.66	26.00
2,274 - 2,598	160.32	37.00	164.65	38.00
2,599 - 2,922	203.65	47.00	207.98	48.00
2,923 - 3,247	246.98	57.00	251.31	58.00
3,248 - 3,572	290.31	67.00	294.64	68.00
3,573 - 3,897 ~~3,891~~	333.64	77.00	337.97	78.00
3,898 - 4,071	376.97	87.00	381.30	88.00

Family Size 8

Monthly Income	1 Child Monthly Co-Pay	1 Child Weekly Co-Pay	2 Children Monthly Co-Pay	2 Children Weekly Co-Pay	3 Children Monthly Co-Pay	3 Children Weekly Co-Pay	4 Children Monthly Co-Pay	4 Children Weekly Co-Pay
$ 0 - 664	$ 4.33	$ 1.00	$ 8.67	$ 2.00	$ 8.67	$ 2.00	$ 8.67	$ 2.00
665 - 996	13.00	3.00	17.33	4.00	17.33	4.00	21.67	5.00
997 - 1,328	21.67	5.00	30.33	7.00	34.66	8.00	34.66	8.00
1,329 - 1,660	34.66	8.00	52.00	12.00	52.00	12.00	56.33	13.00
1,661 - 1,992	47.66	11.00	69.33	16.00	73.66	17.00	77.99	18.00
1,993 - 2,323	65.00	15.00	95.33	22.00	99.66	23.00	103.99	24.00
2,324 - 2,655	86.66	20.00	147.32	34.00	151.66	35.00	155.99	36.00
2,656 - 2,987	108.33	25.00	190.65	44.00	194.99	45.00	199.32	46.00
2,988 - 3,319	134.32	31.00	233.98	54.00	238.32	55.00	242.65	56.00
3,320 - 3,651	160.32	37.00	277.31	64.00	281.65	65.00	285.98	66.00
3,652 - 3,983 ~~3,978~~	186.32	43.00	320.64	74.00	324.98	75.00	329.31	76.00
3,984 - 4,162	212.32	49.00	363.97	84.00	368.31	85.00	372.64	86.00

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Monthly Income	5 Children Monthly Co-Pay	5 Children Weekly Co-Pay	6 Children Monthly Co-Pay	6 Children Weekly Co-Pay	7 Children Monthly Co-Pay	7 Children Weekly Co-Pay
$ 0 - 664	$ 8.67	$ 2.00	$ 8.67	$ 2.00	$ 8.67	$ 2.00
665 - 996	21.67	5.00	21.67	5.00	26.00	6.00
997 - 1,328	39.00	9.00	39.00	9.00	43.33	10.00
1,329 - 1,660	60.66	14.00	65.00	15.00	65.00	15.00
1,661 - 1,992	82.33	19.00	86.66	20.00	90.99	21.00
1,993 - 2,323	108.33	25.00	112.66	26.00	116.99	27.00
2,324 - 2,655	160.32	37.00	164.65	38.00	168.99	39.00
2,656 - 2,987	203.65	47.00	207.98	48.00	212.32	49.00
2,988 - 3,319	246.98	57.00	251.31	58.00	255.65	59.00
3,320 - 3,651	290.31	67.00	294.64	68.00	298.98	69.00
3,652 - 3,983 ~~3,978~~	333.64	77.00	337.97	78.00	342.31	79.00
3,984 - 4,162	376.97	87.00	381.30	88.00	385.64	89.00

(Source: Amended at 30 Ill. Reg. 11190, effective June 6, 2006)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Temporary Assistance for Needy Families

2) Code Citation: 89 Ill. Adm. Code 112

3) Section Number: 112.78 Adopted Action: Amendment

4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13] and Public Act 94-0533

5) Effective Date of Amendment: June 12, 2006

6) Does this rulemaking contain an automatic repeal date? No

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 21, 2005; 29 Ill. Reg. 15776

10) Has JCAR Issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: No substantive changes were made in the text of the proposed amendment.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

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

Section Number	Proposed Action	Illinois Register Citation
112.84	Amendment	29 Ill. Reg. 16330; October 28, 2005

15) Summary and Purpose of Rulemaking: In accordance with provisions of Public Act 94-533, the use of the State minimum wage ($6.50) is being implemented to determine the required number of hours of participation in TANF Work Experience and TANF Work First. This change in State law requires that the State or federal minimum wage,

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

whichever is higher, be used to calculate the number of participation hours in work and training activities. A companion amendment is also being adopted in 89 Ill. Adm. Code 121.

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

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, Illinois 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section
112.1 Description of the Assistance Program and Time Limit
112.2 Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
112.3 Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
112.5 Incorporation by Reference
112.6 The Family Violence Option

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
112.8 Caretaker Relative
112.9 Client Cooperation
112.10 Citizenship
112.20 Residence
112.30 Age
112.40 Relationship
112.50 Living Arrangement
112.52 Social Security Numbers
112.54 Assignment of Medical Support Rights
112.60 Basis of Eligibility
112.61 Death of a Parent (Repealed)
112.62 Incapacity of a Parent (Repealed)
112.63 Continued Absence of a Parent (Repealed)
112.64 Unemployment of the Parent (Repealed)
112.65 Responsibility and Services Plan
112.66 Alcohol and Substance Abuse Treatment
112.67 Restriction in Payment to Households Headed by a Minor Parent
112.68 School Attendance Initiative
112.69 Felons and Violators of Parole or Probation

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section
112.70 Employment and Work Activity Requirements
112.71 Individuals Exempt from TANF Employment and Work Activity Requirements
112.72 Participation/Cooperation Requirements
112.73 Adolescent Parent Program (Repealed)
112.74 Responsibility and Services Plan
112.75 Teen Parent Personal Responsibility Plan (Repealed)
112.76 TANF Orientation
112.77 Reconciliation and Fair Hearings
112.78 TANF Employment and Work Activities
112.79 Sanctions
112.80 Good Cause for Failure to Comply with TANF Participation Requirements
112.81 Responsible Relative Eligibility for JOBS (Repealed)
112.82 Supportive Services
112.83 Teen Parent Services
112.84 Employment Retention and Advancement Project
112.85 Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section
112.86 Project Advance (Repealed)
112.87 Project Advance Experimental and Control Groups (Repealed)
112.88 Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.89 Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.90 Project Advance Sanctions (Repealed)
112.91 Good Cause for Failure to Comply with Project Advance (Repealed)
112.93 Individuals Exempt From Project Advance (Repealed)
112.95 Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section
112.98 Exchange Program (Repealed)

SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Section
112.100 Unearned Income
112.101 Unearned Income of Parent
112.105 Budgeting Unearned Income
112.106 Budgeting Unearned Income of Applicants
112.107 Initial Receipt of Unearned Income
112.108 Termination of Unearned Income
112.110 Exempt Unearned Income
112.115 Education Benefits
112.120 Incentive Allowances
112.125 Unearned Income In-Kind
112.126 Earmarked Income
112.127 Lump-Sum Payments
112.128 Protected Income (Repealed)
112.130 Earned Income
112.131 Earned Income Tax Credit
112.132 Budgeting Earned Income
112.133 Budgeting Earned Income of Employed Applicants
112.134 Initial Employment
112.135 Budgeting Earned Income For Contractual Employees
112.136 Budgeting Earned Income For Non-contractual School Employees
112.137 Termination of Employment
112.138 Transitional Payments (Repealed)
112.140 Exempt Earned Income
112.141 Earned Income Exemption
112.142 Exclusion from Earned Income Exemption
112.143 Recognized Employment Expenses
112.144 Income from Work-Study and Training Programs
112.145 Earned Income From Self-Employment
112.146 Earned Income From Roomer and Boarder
112.147 Income From Rental Property
112.148 Payments from the Illinois Department of Children and Family Services
112.149 Earned Income In-Kind
112.150 Assets
112.151 Exempt Assets
112.152 Asset Disregards
112.153 Deferral of Consideration of Assets
112.154 Property Transfers (Repealed)
112.155 Income Limit

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

SUBPART H: PAYMENT AMOUNTS

Section
112.250 Grant Levels
112.251 Payment Levels
112.252 Payment Levels in Group I Counties
112.253 Payment Levels in Group II Counties
112.254 Payment Levels in Group III Counties
112.255 Limitation on Amount of TANF Assistance to Recipients from Other States (Repealed)

SUBPART I: OTHER PROVISIONS

Section
112.300 Persons Who May Be Included in the Assistance Unit
112.301 Presumptive Eligibility
112.302 Reporting Requirements for Clients with Earnings
112.303 Budgeting
112.304 Budgeting Schedule
112.305 Strikers
112.306 Foster Care Program
112.307 Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96
112.308 Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
112.309 Institutional Status
112.310 Child Care for Representative Payees
112.315 Young Parents Program (Renumbered)
112.320 Redetermination of Eligibility
112.330 Extension of Medical Assistance Due to Increased Income from Employment
112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

SUBPART J: CHILD CARE

Section
112.350 Child Care (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

112.352 Child Care Eligibility (Repealed)
112.354 Qualified Provider (Repealed)
112.356 Notification of Available Services (Repealed)
112.358 Participant Rights and Responsibilities (Repealed)
112.362 Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
112.364 Rates of Payment for Child Care (Repealed)
112.366 Method of Providing Child Care (Repealed)
112.370 Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

Section
112.400 Transitional Child Care Eligibility (Repealed)
112.404 Duration of Eligibility for Transitional Child Care (Repealed)
112.406 Loss of Eligibility for Transitional Child Care (Repealed)
112.408 Qualified Child Care Providers (Repealed)
112.410 Notification of Available Services (Repealed)
112.412 Participant Rights and Responsibilities (Repealed)
112.414 Child Care Overpayments and Recoveries (Repealed)
112.416 Fees for Service for Transitional Child Care (Repealed)
112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency

amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; peremptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency

amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989;

amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996;

amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 598, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 942, effective January 6, 1999; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1682, effective January 20, 1999; emergency amendment at 23 Ill. Reg. 5881, effective May 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6958, effective May 30, 1999; amended at 23 Ill. Reg. 7091, effective June 4, 1999; amended at 23 Ill. Reg. 7896, effective July 1, 1999; emergency amendment at 23 Ill. Reg. 8672, effective July 13, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 10530, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12648, effective September 27, 1999; amended at 23 Ill. Reg. 13898, effective November 19, 1999; amended at 24 Ill. Reg. 289, effective December 28, 1999; amended at 24 Ill. Reg. 2348, effective February 1, 2000; amended at 25 Ill. Reg. 10336, effective August 3, 2001; emergency amendment at 25 Ill. Reg. 11584, effective September 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14865, effective November 1, 2001; amended at 26 Ill. Reg. 138, effective January 1, 2002; amended at 26 Ill. Reg. 924, effective January 15, 2002; emergency amendment at 26 Ill. Reg. 3329, effective February 19, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9803, effective June 24, 2002; amended at 26 Ill. Reg. 10492, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10994, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17182, effective November 15, 2002; amended at 27 Ill. Reg. 4545, effective February 28, 2003; amended at 27 Ill. Reg. 7240, effective April 7, 2003; amended at 27 Ill. Reg. 18417, effective November 20, 2003; amended at 28 Ill. Reg. 1090, effective December 31, 2003; amended at 28 Ill. Reg. 5655, effective March 22, 2004; amended at 29 Ill. Reg. 5473, effective April 1, 2005; amended at 29 Ill. Reg. 8161, effective May 18, 2005; emergency amendment at 29 Ill. Reg. 16008, effective October 4, 2005, for a

maximum of 150 days; emergency expired March 2, 2006; amended at 30 Ill. Reg. 11202, effective June 12, 2006.

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section 112.78 TANF Employment and Work Activities

a) Education (Below Post-Secondary)
Participants who are not working are limited to Adult Basic Education/GED/ESL and short-term Vocational Training programs lasting less than two years and may be required, in coordination with the education schedule, to participate in Job Readiness activities, job skills training, Job Search, and/or Work Experience at the same time they are attending the education/training program to the extent resources will allow. Co-enrollment in Adult Basic Education/GED/ESL and Vocational Training is encouraged. In this activity, the individual receives information, referral, counseling services and supportive services to increase the individual's employment potential. Participants may be referred to testing, counseling and education resources. Educational activities will include basic and remedial education; English proficiency classes; high school or its equivalency (for example, GED) or alternative education at the secondary level; and with any educational program, structured study time to enhance successful participation.

1) Assignment to Education (Below Post-Secondary)

A) Individuals to be assigned to Education may include but are not limited to individuals:

i) who do not have a high school degree or equivalent;

ii) who have limited English proficiency; and

iii) who do not read at or above a 9.0 grade level.

B) Educational activities may be combined with other activities if it is determined appropriate.

2) Approval criteria for education (Below Post-Secondary)

A) The program selected by the individual must be accredited under State law.

B) The individual's program must be needed for the participant to complete his or her Responsibility and Services Plan.

C) The individual must be enrolled full-time as defined by the institution or part-time if a full-time program is not available or appropriate.

D) When programs of comparable quality are available in more than one geographical area, the program selected will be the least costly in supportive service costs to the Department. When programs of comparable quality are available in the same geographical area, the individual may select a preferred program.

3) Participation Requirements

A) Participation must be full-time unless a full-time program is not readily available or a part-time program is most appropriate based on the individual's or family's circumstances.

B) Clients attending a program administered by the Illinois State Board of Education (ISBE) must maintain satisfactory progress as determined by the following:

i) active participation and pursuit of educational objectives;

ii) teacher's written remarks;

iii) grades;

iv) demonstrated competencies;

v) classroom exercises; and

vi) periodic test/retest results.

C) ISBE educational providers determine satisfactory progress based on a combination of the indicators listed above and test/retest results. The determination of satisfactory progress including test/retest results must be reported upon completion of the

academic term or twice a year if the program is continuous for 12 months.

D) Clients attending a program not administered by ISBE must maintain satisfactory progress as determined by the written policy of the institution. The determination of satisfactory progress including test/retest results must be reported upon completion of the academic term or twice a year if the program is continuous for 12 months.

E) Curriculum changes must be made with the prior approval of TANF staff and will be approved when the change is consistent with the Responsibility and Services Plan.

F) Except for individuals attending high school, participation in Education (Below Post-Secondary) is limited to 24 months except that the individual may continue in the education program if he or she also works for at least 20 hours each week and the combined hours of work plus credit hours or class hours, as appropriate, equal at least 25 hours each week. Months in which the individual establishes good cause (see Section 112.80) for not participating in the program will not count toward the 24-month limit.

b) Vocational Training
Vocational Training is designed to increase the individual's ability to obtain and maintain employment. Vocational Training activities will include vocational skill classes designed to increase a participant's ability to obtain and maintain employment. Vocational Training may include certificate programs. Participants who are not working are limited to short-term Vocational Training programs lasting less than two years and may be required, in coordination with the education/training schedule, to participate in Job Readiness activities, job skills training, Job Search, and/or Work Experience at the same time they are attending the education/training program to the extent resources will allow.

1) Approval Criteria For Vocational Training

A) The individual's program must be accredited under requirements of State law.

B) The individual must be underemployed or unemployed and in need

of additional training and the training will better prepare the participant to enter the labor force.

C) Co-enrollment in Adult Basic Education/GED/ESL and Vocational Training is encouraged if the individual does not have a high school diploma or GED.

D) The individual must apply for all available educational benefits such as the Pell Grant and scholarships from the Illinois Student Assistance Commission as well as any scholarship or grants identified by the education or training facility for which the participant may be eligible.

E) The individual must be enrolled full-time as defined by the institution or part-time if full-time is not available or appropriate.

F) Clients who are working at least 20 hours per week and whose combined work plus credit hours or class hours, as appropriate, equal at least 25 hours each week may be approved for vocational training after the two-year limitation.

G) The individual must be in a program needed for the individual to obtain employment in a recognized occupation.

H) Jobs must be available in the chosen field in a specific geographical area where the individual intends to work consistent with the individual's Responsibility and Services Plan upon completion.

I) When programs of comparable quality are available in more than one geographical area, the program selected will be the least costly in supportive service costs to the Department. When programs of comparable quality are available in the same geographical area, the individual may select a preferred program.

J) Vocational Training may be combined with other activities if it is determined appropriate.

K) The individual must possess the aptitude, ability and interest necessary for success in the selected program as determined by

such factors as test results and educational/training background.

2) Participation Requirements

A) Participation must be full-time unless a full-time program is not readily available or a part-time program is most appropriate based on the individual's or family's circumstances.

B) The individual must maintain a "C" average if this measurement is used by the institution to determine satisfactory progress. The individual will be allowed one semester below a "C" average to bring the grades up to a "C" average. When grades are not used, progress will be determined by the written policy of the institution to establish a comparable grade level upon completion of the academic term.

C) The individual must participate the assigned number of hours each week.

D) The client must complete all scheduled program enrollment hours each academic term to maintain satisfactory progress, except in the following situation. If the client withdraws from one or more scheduled courses during an academic term, the client must complete all scheduled enrollment hours during the following academic term. The client may withdraw from one or more scheduled classes in more than one academic term, but must complete all scheduled enrollment hours the following academic term to maintain satisfactory progress.

E) Curriculum changes must be made with the prior approval of TANF and will be approved when the change is consistent with the Responsibility and Services Plan.

c) Job Readiness

1) The Job Readiness activities are designed to enhance the quality of the individual's level of participation in the world of work while learning the necessary essentials to obtain and maintain employment. These activities help individuals gain the necessary job finding skills to help them find and retain employment that will lead to economic independence.

2) Assignment to Job Readiness
Job Readiness activities may be combined with other activities if it is determined appropriate.

3) Participation requirements

A) Participation must be full-time unless a full-time program is not readily available or a part-time program is most appropriate based on the individual's or family's circumstances.

B) The individual must attend all scheduled classes or sessions. The individual must be making satisfactory progress as defined by the written policy of the job readiness provider and approved by the Department. If there is a job search activity in the program, the individual must make up to ten acceptable employer contacts in a 30 day period unless the participant shows good faith effort (see subsection (d)(3)(B) of this Section for the definition of "good faith effort").

C) The individual must participate the number of assigned hours each week.

D) The individual must respond to a job referral, accept employment and respond to mail-in contact.

d) Job Search

1) Description of Job Search
Job Search may be conducted individually or in groups. Job Search may include the provision of counseling, job seeking skills, training and information dissemination. Group Job Search may include training in a group session.

2) Assignment to Job Search

A) If assessed as job ready, participants will be assigned to Job Search. If job ready clients are unable to find employment on their own, they will be reassessed and may be placed in a more appropriate activity within six months.

B) Individuals completing education or vocational training or Job Readiness training may be assigned to Job Search.

C) Job Search may be combined with other activities if it is determined appropriate.

3) Participation Requirements

A) Participants must attend all scheduled classes or sessions. Participants will be notified in writing of all meetings.

B) Individuals must contact employers in an effort to secure employment. Participants must make up to 20 acceptable employer contacts in a 30-day period.

C) Acceptable employer contacts may include but are not limited to:

i) a face-to-face contact with an employer or the employer's representative;

ii) the completion and return of an application to an employer;

iii) the completion of a civil service test required for employment with State, local, or the federal government or the completion of a Department of Employment Security (DES) screening test;

iv) the completion and mailing of a resume with a cover letter to a recognized employer;

v) reporting to the union hall for union members verified to be in good standing; or

vi) registration with DES/Illinois Employment and Training Center (IETC).

e) Community Work Experience
TANF participants who have not found employment and who need orientation to work, work experience or training are placed on a supervised work assignment to

improve their employment skills through actual Work Experience at private or not-for-profit employers, organizations and governmental agencies. Participants are referred to work assignments as vacancies are available. Participants in Work Experience may perform work in the public interest (which otherwise meets the requirements of this Section) such as enrollment as a full-time Americorps*VISTA~~VISTA~~ volunteer or Job Corps participant under Title I of the 1973 Domestic Volunteer Services Act (42 USC 4951 et seq.) for a Federal office or agency with its consent, and, notwithstanding (31 USC 1342) or any other provision of law, such agency may accept such services but such participants shall not be considered to be federal employees for any purpose.

1) Assignment to Community Work Experience

A) Community Work Experience is for:

i) participants who will benefit from working for an employer who provides a subsidized employment assignment to improve the individual's opportunity to attain self-sufficiency; or

ii) participants who need experience to prevent deterioration of, or to enhance, existing skills (for example, typing).

B) Entry into Community Work Experience
Participants are determined to be appropriate for Community Work Experience activity based on an assessment of their education, training and employment history. Procedures used in the assessment are a face-to-face meeting with the participant and a review of all available information on the participant (including, but not limited to, the individual's case record and Responsibility and Services Plan).

C) Community Work Experience Positions
Participants shall be assigned to a Community Work Experience position to increase the potential for attaining employment. The date participants are scheduled to begin the work assignment marks the beginning of participation in Community Work Experience. Community Work Experience activities may be combined with other activities if it is determined appropriate.

D) Enrollment as a full-time Americorps*VISTA~~VISTA~~ volunteer or Job Corps participant under Title I of the 1973 Domestic Volunteer Services Act (42 USC 4951 et seq.) is an allowable work activity. Paid work study and some paid Workforce Investment Act (WIA) programs are also allowable.

2) Participation Requirements

A) The hours of the work assignment for a calendar month shall not exceed the family's monthly TANF grant and food stamp allotment divided by the higher of the State or federal minimum wage.

B) During work assignment, participants shall be required to perform Job Search activities unless a participant is in an education and training program. Participants are required to accept bona fide offers of employment pursuant to Section 112.72.

C) Participants are also required to report as scheduled and on time to their work assignment Sponsor when notified of an assignment. When they cannot report to their work assignment or if they will be late, they are to immediately notify their work assignment Sponsor.

D) Participants must participate the number of assigned hours each week.

3) Review
Every six months, the participant's Responsibility and Services Plan will be reviewed. If continuing the work assignment will benefit participants in terms of furthering work skills (see subsections (e)(1)(A) and (B)), participants shall be reassigned to the same or another work assignment. In addition, participants will be assessed for assignment to another TANF activity.

4) Length of Assignment
Participants must participate in Work Experience for as long as the Responsibility and Services Plan reflects the need for this activity.

5) Anti-Displacement
Community Work Experience is subject to the provisions of Section 112.78(p).

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

f) On the Job Training (OJT)
In OJT, a participant is hired by a private or public employer and while engaged in productive work receives training that provides knowledge or skills essential to full and adequate performance of the job.

1) Assignment to OJT

A) Job ready individuals may be assigned to OJT.

B) OJT participants shall be compensated at the same rate and with the same benefits as other employees.

C) Wages to participants in OJT shall not be less than the higher of the State or federal minimum wage.

D) Wages to participants in OJT are considered earned income.

E) OJT may be combined with other component activities if it is determined appropriate.

2) Participation Requirements
The individual must participate the assigned number of hours each week.

3) Supportive Services
Participants in OJT receive child care and Medicaid benefits.

g) Work Supplementation Program

1) The Work Supplementation Program develops employment opportunities for TANF recipients by paying wage subsidies to employers who hire program participants. The program is funded by diverting the cash grant an individual would receive if not employed and using the diverted grant to pay a wage subsidy to the employer who hires the recipient. The goal of the Work Supplementation Program is to obtain jobs for TANF recipients, who might not be hired without a subsidy, with sufficient pay to take them off TANF.

2) Eligible Participants

A) TANF participants who meet the selection criteria listed in subsection (g)(2)(B) of this Section are eligible to participate in the Work Supplementation Program. Participation in the program is voluntary. A TANF recipient who wants to participate in the Work Supplementation Program must agree to all provisions in this Section during the time of participation in the program.

B) In order to place special emphasis on people who would not be likely to obtain a job without work supplementation, TANF recipients must meet the following criteria for selection to participate in the Work Supplementation Program:

i) the recipient must be the parent of at least one of the children in the TANF unit;

ii) the recipient must have completed the Job Search work activity; and

iii) the recipient must have no income other than TANF benefits.

C) Recipients identified for employment must be determined eligible for participation by their worker. The worker will recommend for participation in the Work Supplementation Program those participants who are likely to encounter difficulty in obtaining employment (for example, lack of skills for which jobs are available in the area, lack of work history).

D) Nothing in this Section should be construed as providing any recipient the right to participate in the program.

3) Benefits and Reporting Requirements While Participating in the Work Supplementation Program

A) Participants in the Work Supplementation Program are considered to be TANF recipients and remain eligible for Medical Assistance for the duration of their Work Supplementation Program participation. Child care, for cases that are eligible for a cash grant, will be regarded as employment child care.

B) The participant must agree to accept wages from employment, which will be at least an amount which would be earned by working full time (30 hours minimum) at the prevailing minimum wage, less applicable payroll taxes.

C) Participants are required to file quarterly reports as a requirement for continuing eligibility. Changes in income from sources other than the Work Supplementation Program job and/or circumstances must still be reported within five days after occurrence pursuant to 89 Ill. Adm. Code 102.50.

D) Wages paid under a Work Supplementation Program shall be considered to be earned income for purposes of any provision of law (42 USC 1614(e)(3)).

4) Duration of Program Participation

A) Participants may not exceed a total of six months in the Work Supplementation Program subsidized placements regardless of the number of times an individual becomes a TANF recipient. The period of a single assignment is dependent upon the terms of the Work Supplementation Program contract that has been developed with the employer. Recipients will be informed of the length of the Work Supplementation Program subsidy period prior to placement.

B) Participants who leave a supported work position without good cause (as defined in Section 112.80) are removed from the Work Supplementation Program and are subject to sanction.

5) Contracts with Employers

A) Employers that participate in the Work Supplementation Program must enter into a written contract with the Department prior to receiving referrals.

B) Employers must be in good standing (that is, in compliance with all applicable federal, State, county and local laws, regulations and ordinances) with the Illinois Department of Revenue, the Secretary of State and any and all regulatory agencies that have jurisdiction

over their activities.

C) Employers agree to screen clients to hire on their own payroll after six months. Failure to do so will result in the employer being terminated from the program.

6) Calculation of the Diverted Grants

A) The level of grant to be diverted is determined on a prospective basis when a work assignment under the Work Supplementation Program is made. The effective date of the diverted grant is the first day of the first full month of Work Supplementation Program wages.

B) Work Supplementation Program participants are eligible only for the earned income budgeting disregards provided in Sections 112.141 and 112.143. The difference between the flat grant amount and revised amount is diverted to the wage pool.

C) The difference between the payment level and the grant the participant receives is diverted and used in whole or in part to pay a wage subsidy to the employer.

7) Program Completion
If the participant is no longer eligible for TANF benefits after the Work Supplementation Program period, a determination of continued medical eligibility shall be made in accordance with Section 112.330.

8) Anti-Displacement
The Work Supplementation Program is subject to the provisions of Section 112.78(p).

h) Post-Secondary Education
Post-secondary education must be administered by an educational institution accredited under requirements of State law including, but not limited to, the Barber, Cosmetology and Esthetics Act of 1985 [225 ILCS 410], the Real Estate License Act of 1983 [225 ILCS 455], the Public Community College Act [110 ILCS 805], the University of Illinois Act [110 ILCS 305], the Chicago State Universities Law [110 ILCS 660], the Eastern Illinois University Law [110 ILCS 665], the Governors State University Law [110 ILCS 670], the Illinois State

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

University Law [110 ILCS 675], the Northeastern Illinois University Law [110 ILCS 680], the Northern Illinois University Law [110 ILCS 685], the Western Illinois University Law [110 ILCS 690] and the Southern Illinois University Name Change Act [110 ILCS 505].

1) Approval Criteria For Post-Secondary Education

A) The individual must have a high school diploma or a GED.

B) Approval of post-secondary education is part of the process of developing the Responsibility and Services Plan (RSP) with the client. Factors to consider when determining whether post-secondary education is appropriate include, but are not limited to, the client's educational and work history, the client's aptitude for further education, the client's career goal, the client's ability to finance tuition and other expenses not provided by the Department, and the client's ability to arrange transportation, child care and other family obligations.

C) The individual must be enrolled full-time as defined by the institution or part-time if a full-time program is not available or appropriate to upgrade skills for current employment.

D) The individual must be in a program needed for the individual to obtain employment in a recognized occupation or upgrade skills for current employment.

E) The individual does not already possess a baccalaureate degree or an associate degree if the Responsibility and Services Plan goal is an associate degree.

F) If the participant possesses a baccalaureate degree, no additional education may be approved.

G) The individual's program must be accredited under requirements of State law.

H) If needed, the individual must apply for all available educational benefits, such as the Pell Grant and scholarships from the Illinois Student Assistance Commission, as well as any scholarship or

grants identified by the education or training facility for which the participant may be eligible.

I) Jobs, consistent with the individual's Responsibility and Services Plan, must be available in the chosen field in a specific geographical area where the individual intends to work upon program completion.

J) When programs of comparable quality are available in more than one geographical area, the program selected will be the least costly in supportive service costs to the Department. When programs of comparable quality are available in the same geographical area, the individual may select a preferred program.

K) The program selected may be no more than a program that will result in the receipt of a baccalaureate degree consistent with the Responsibility and Services Plan.

L) For category 04 cases, the individual, unless exempted under (h)(1)(N) of this Section, must also be employed in unsubsidized work for at least 20 hours each week or be participating for at least 20 hours per week in one or more of the following paid or unpaid work activities:

i) work study;

ii) practicums, clinicals, or vocational internships such as student teaching, if required by the institution to complete the educational program;

iii) apprenticeships;

iv) self-employment; or

v) enrollment as a full-time Americorps*VISTA~~Americorps VISTA~~ volunteer or Job Corps participant under Title I of the 1973 Domestic Volunteer Services Act (41 USC 4951 et seq.).

In addition, the combined work or work activities plus credit hours

or class hours, as appropriate, must equal at least 25 hours per week.

M) For category 06 (two parent) cases, the parents in the case must be working or involved in approved work activities for a total of 35 hours per week, individually or combined.

N) Clients in a category 04 case with an approved RSP for full-time post-secondary education and a cumulative 2.5 or better grade point average (on a 4.0 scale) may not be subject to the minimum work requirement, described in (h)(1)(L) of this Section, as follows:

i) For the first semester, while the client is establishing a grade point average, the client will not be subject to the minimum work requirement. If a 2.5 grade point average is not achieved in the first semester, the client will be subject to the minimum work requirement in the second semester.

ii) As long as the client's cumulative GPA remains at least 2.5, the client will not be subject to the minimum work requirement.

iii) If the client's cumulative GPA falls below 2.5 at any time, the client may continue to go to school full-time for another semester without being subject to the minimum work requirement.

iv) If the cumulative GPA is below 2.5 two semesters in a row, the client will be subject to the minimum work requirement.

O) Individuals who lose employment, unless due to a temporary scheduled employer shutdown, can continue in post-secondary education and receive supportive services, if eligible, during the current semester while they seek employment. If the individual has not reentered employment by the end of the current semester, the individual will not continue in post-secondary education and receive supportive services, but will be reassigned to another appropriate activity.

2) Participation Requirements

A) The individual must maintain a "C" average if this measurement is used by the institution to determine satisfactory progress. The individual would be allowed one semester below a "C" average to bring the grades up to a "C" average. When grades are not used, satisfactory progress will be determined by the written policy of the institution to establish a comparable grade level upon completion of the academic term.

B) The client must complete all scheduled program enrollment hours each academic term to maintain satisfactory progress, except in the following situation. If the client withdraws from one or more scheduled courses during an academic term, the client must complete all scheduled enrollment hours during the following academic term. The client may withdraw from one or more scheduled classes in more than one academic term but must complete all scheduled enrollment hours the following academic term to maintain satisfactory progress.

C) Curriculum changes must be made with the approval of the TANF worker and will be approved when the change is consistent with the Responsibility and Services Plan.

i) Job Development and Placement (JDP)

1) TANF staff shall develop through contacts with public and private employers unsubsidized job openings for participants. Job interviews will be secured for clients by the marketing of participants for specific job openings.

2) Assignment to JDP
Job ready individuals may be assigned to JDP.

j) Job Retention
Job Retention is designed to assist participants in retaining employment. Job Retention expenses are provided. The individual's supportive service needs are assessed and the individual receives counseling regarding Job Retention skills. Counseling or job coaching may continue after employment begins as long as the

individual continues to receive TANF.

k) Self-Employment
Self-employment activities will increase the individual's ability to start and maintain a business. Self-employment activities will include self-employment development training programs and technical assistance programs. In order to be approved in the self-employment component, the self-employment development plan must be approved.

1) Assignment to Self-Employment
Applicants must have a GED or high school diploma, some work experience and/or proven ability or have a plan that indicates success can be obtained without these requirements.

2) Participation Requirements
Participants must participate in the assigned number of hours.

l) Unstructured Community Service
Unstructured Community Service provides TANF participants with activities that emphasize and build on the individual's job seeking confidence by positively reinforcing the achievement of each small step gained in his or her successful advances toward employment. Activities may include volunteer work as well as job search contacts. Activities are closely monitored for compliance and for tracking the length of time that participants are assigned to Unstructured Community Service. At the reassessment the participant is assigned to the more structured work experience activity or Work First when the participant becomes more job ready. Participants are required to document their Job Search and Community Service activities. Activities must be at the State TANF Work Requirement level or as assigned by their Responsibility and Services Plan.

m) Work First/Pay After Performance

1) Participants who quit employment without good cause or lose employment for reasons entirely out of their control (for example, plant closings or layoffs) will be required to participate in Work First/Pay After Performance for six months or until they obtain employment to the extent slots exist. To the extent that resources allow, job ready clients will also be targeted for Work First/Pay After Performance slots.

2) Individuals in a TANF case, assigned to Work First, must participate in

Work First an average of at least 20 hours each week to earn their TANF grant and food stamps plus 5 employer contacts per week. If the participant does not work 80 hours per month, the reduction per hour not worked will be the amount of the grant divided by 80 hours.

3) Nonexempt individuals in a two-parent TANF case must participate an average of at least 30 hours each week in Work First and 5 employer contacts per week. If the individuals do not work 120 hours per month, the reduction per hour not worked will be the amount of the grant divided by 120 hours.

4) If the value of the participant's TANF grant plus food stamps divided by 80 or 120, respectively, does not equal the State or federal minimum wage, whichever is higher ~~federal minimum wage~~, then the hours will be reduced accordingly.

5) Participants will be assigned to Work First/Pay After Performance until they find unsubsidized employment. An assessment will be conducted every six months to determine appropriateness of assignment, if work skills are being gained and if the opportunity for placement exists.

6) The Department will develop Work First/Pay After Performance positions with private employers or not-for-profit or public agencies. The Department shall provide workers' compensation~~Worker's Compensation~~ coverage for participants. The Department will ensure all applicable employer safety laws are met for Work First/Pay After Performance assignments. Failure of an employer to do so will result in termination of the contract.

7) Work First/Pay After Performance is subject to the provisions of subsection (p) of this Section.

8) Individuals who fail to participate, without good cause, are determined to have not availed themselves of the Work First opportunity. If good cause is not determined, the entire case is ineligible for TANF assistance. Upon reapplication for TANF, the individual may be reassigned to a Work First position.

9) Failure to participate is determined to have occurred:

A) if the participant does not report to the provider or employer. Participants are deemed to have failed to report if they have not contacted the provider or employer in person, by telephone or mail, or by a third party; or

B) if the participant has engaged in misconduct connected with the Work First assignment. The term "misconduct" means deliberate and willful violation of a reasonable rule or policy of the employer governing the individual's behavior in performance of work, provided such violation has harmed the employer or other employees or has been repeated by the individual despite a warning or the explicit instruction from the employer.

n) Substance Abuse

1) Selection of Participants
If alcohol or substance abuse is suspected as a barrier to employment during the family assessment process or at an intake interview, the client will be referred for a clinical assessment by an alcohol/substance abuse counselor. If treatment is indicated, the client will be required to follow-up as a condition of eligibility, unless the client is employed more than 30 hours per week or if treatment resources are not available.

2) Work Activity
Clients participating in alcohol/substance abuse treatment in accordance with their Responsibility and Services Plan are participating in a work activity.

3) Supportive Services
Supportive services, i.e., child care and transportation, will be provided to enable clients' participation in treatment, to the extent resources are available.

4) Sanctions

A) Reconciliation will be attempted with clients who fail to cooperate with their treatment plan. Cooperation with the treatment plan will be defined by the alcohol/substance abuse provider, based on uniform guidelines.

B) When reconciliation is unsuccessful, the TANF sanctions will apply.

o) Domestic Violence

1) Selection of Participants
All clients receiving TANF will have a family assessment completed. If domestic violence is a barrier to employment, the client will be referred to a domestic violence service provider.

2) Work Activity
Clients participating in domestic violence abuse treatment are in accordance with their Responsibility and Services Plan and are participating in a work activity.

3) Supportive Services
Supportive Services, i.e., child care and transportation, will be provided to enable clients' participation in treatment, to the extent resources are available.

4) Sanctions
If the individual does not comply with the Responsibility and Services Plan relating to domestic violence, a sanction will not be imposed. The Responsibility and Services Plan will be reviewed, and other work related activities will be developed. Compliance will be required for the new activities.

p) Anti-Displacement and Grievance Procedure

1) An employer may not utilize a work activity participant if such utilization would result in:

A) the displacement or partial displacement of current employees, including but not limited to a reduction in hours of non-overtime or overtime work, wages, or employment benefits; or

B) the filling of a position that would otherwise be a promotional opportunity for current employees; or

C) the filling of a position created by or causing termination, layoff, a

hiring freeze, or a reduction in the workforce; or

D) the placement of a participant in any established unfilled vacancy; or

E) the performance of work by a participant if there is a strike, lockout, or other labor dispute in which the employer is engaged.

2) An employer who wishes to utilize work activity participants shall notify the appropriate labor organization in accordance with the applicable State statute [305 ILCS 5/9A-13].

3) Participants, other employees at the work site or their representative, may file a grievance with the Department if they believe the participant's work assignments are causing displacement. In order for the Department to consider a grievance, it must be in writing and contain the following information:

A) the name and address of the participant or other employee at the work site (the grievant);

B) the participant's case number (if grievant is participant);

C) the grievant's Social Security number;

D) Work Experience (work site); and

E) a statement as to why the grievant believes the participant is causing displacement.

4) Within ten days after receipt of a written grievance, the Department shall arrange an in-person conference with:

A) the grievant;

B) the grievant's representative, if any;

C) the Work Experience Sponsor;

D) the Work Experience Sponsor's representative, if any; and

E) the Department's representative.

5) At the in-person conference, the Department shall solicit and receive from the grievant and the Work Experience Sponsor any documents and statements relevant to the matters alleged in the grievance. The Work Experience Sponsor shall provide whatever documents or other information is requested by the grievant and/or the Department.

6) Within 15 days after the in-person conference, the Department shall advise the participant or other employee at the work site and the Work Experience Sponsor in writing of the information obtained in the investigation and of the findings and conclusions as to the matters alleged in the grievance.

7) If the Department concludes that displacement occurred (as described in subsection (p)(1) of this Section), the Department shall terminate the participant's assignment to that Work Experience Sponsor. If the Department concludes, as a result of the evidence presented at the conference, that the Work Experience Sponsor has caused displacement by use of TANF participants in addition to the participants involved in the grievance, the Department shall terminate those TANF participants' assignment to that work assignment Sponsor.

8) The Department, its employees or the Work Experience Sponsor shall not retaliate for filing a grievance or otherwise proceeding under this policy. Retaliation will result in the termination of the Work Sponsor contract.

(Source: Amended at 30 Ill. Reg. 11202, effective June 12, 2006)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Food Stamps

2) Code Citation: 89 Ill. Adm. Code 121

3) Section Number: 121.182 — Adopted Action: Amendment

4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Pubic Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

5) Effective Date of Amendment: June 12, 2006

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain any incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: October 21, 2005; 29 Ill. Reg. 15779

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: No substantive changes were made in the text of the proposed amendment.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this adopted amendment replace any emergency amendment currently in effect? No

14) Are there any other amendments pending on this Part: Yes

Section Numbers	Proposed Action	Illinois Register Citation
121.63	Amendment	29 Ill. Reg. 16344; October 28, 2005
121.63	Amendment	30 Ill. Reg. 6673; April 21, 2006

15) Summary and Purpose of Amendment: In accordance with provisions of Public Act 94-533, the use of the State minimum wage ($6.50) is being implemented to determine the

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

required number of hours of participation in Food Stamp Employment and Training Earnfare and Food Stamp Employment and Training Work Experience. This change in State law requires that the State or federal minimum wage, whichever is higher, be used to calculate the number of participation hours in work and training activities. A companion amendment is also being adopted to 89 Ill. Adm. Code 112.

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

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, Illinois 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section
121.1 Application for Assistance
121.2 Time Limitations on the Disposition of an Application
121.3 Approval of an Application and Initial Authorization of Assistance
121.4 Denial of an Application
121.5 Client Cooperation
121.6 Emergency Assistance
121.7 Expedited Service
121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
121.18 Work Requirement
121.19 Ending a Voluntary Quit Disqualification (Repealed)
121.20 Citizenship
121.21 Residence
121.22 Social Security Numbers
121.23 Work Registration/Participation Requirements
121.24 Individuals Exempt from Work Registration Requirements
121.25 Failure to Comply with Work Provisions
121.26 Period of Sanction
121.27 Voluntary Job Quit/Reduction in Work Hours
121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section
121.30 Unearned Income
121.31 Exempt Unearned Income

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

121.32 Education Benefits (Repealed)
121.33 Unearned Income In-Kind
121.34 Lump Sum Payments and Income Tax Refunds
121.40 Earned Income
121.41 Budgeting Earned Income
121.50 Exempt Earned Income
121.51 Income from Work/Study/Training Programs
121.52 Earned Income from Roomer and Boarder
121.53 Income From Rental Property
121.54 Earned Income In-Kind
121.55 Sponsors of Aliens
121.57 Assets
121.58 Exempt Assets
121.59 Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section
121.60 Net Monthly Income Eligibility Standards
121.61 Gross Monthly Income Eligibility Standards
121.62 Income Which Must Be Annualized
121.63 Deductions from Monthly Income
121.64 Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section
121.70 Composition of the Assistance Unit
121.71 Living Arrangement
121.72 Nonhousehold Members
121.73 Ineligible Household Members
121.74 Strikers
121.75 Students
121.76 Households Receiving AFDC, SSI, Interim Assistance and/or GA – Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section
121.80 Fraud Disqualification (Renumbered)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

121.81 Initiation of Administrative Fraud Hearing (Repealed)
121.82 Definition of Fraud (Renumbered)
121.83 Notification To Applicant Households (Renumbered)
121.84 Disqualification Upon Finding of Fraud (Renumbered)
121.85 Court Imposed Disqualification (Renumbered)
121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
121.91 Monthly Reporting (Repealed)
121.92 Budgeting
121.93 Issuance of Food Stamp Benefits
121.94 Replacement of the EBT Card or Food Stamp Benefits
121.95 Restoration of Lost Benefits
121.96 Uses For Food Coupons
121.97 Supplemental Payments
121.98 Client Training for the Electronic Benefits Transfer (EBT) System
121.105 State Food Program (Repealed)
121.107 New State Food Program
121.108 Transitional Food Stamp (TFS) Benefits
121.120 Redetermination of Eligibility
121.125 Redetermination of Earned Income Households
121.130 Residents of Shelters for Battered Women and their Children
121.131 Fleeing Felons and Probation/Parole Violators
121.135 Incorporation By Reference
121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
121.145 Quarterly Reporting (Repealed)

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section
121.150 Definition of Intentional Violations of the Program
121.151 Penalties for Intentional Violations of the Program
121.152 Notification To Applicant Households
121.153 Disqualification Upon Finding of Intentional Violation of the Program
121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section
121.160 Persons Required to Participate
121.162 Program Requirements

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

121.163 Vocational Training
121.164 Orientation (Repealed)
121.165 Community Work
121.166 Assessment and Employability Plan (Repealed)
121.167 Counseling/Prevention Services
121.170 Job Search Activity
121.172 Basic Education Activity
121.174 Job Readiness Activity
121.176 Work Experience Activity
121.177 Illinois Works Component (Repealed)
121.178 Job Training Component (Repealed)
121.179 JTPA Employability Services Component (Repealed)
121.180 Grant Diversion Component (Repealed)
121.182 Earnfare Activity
121.184 Sanctions for Non-cooperation with Food Stamp Employment and Training
121.186 Good Cause for Failure to Cooperate
121.188 Supportive Services
121.190 Conciliation
121.200 Types of Claims (Recodified)
121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203 Collecting Claim Against Households (Recodified)
121.204 Failure to Respond to Initial Demand Letter (Recodified)
121.205 Methods of Repayment of Food Stamp Claims (Recodified)
121.206 Determination of Monthly Allotment Reductions (Recodified)
121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
121.208 Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section
121.220 Work Requirement Components (Repealed)
121.221 Meeting the Work Requirement with the Earnfare Component (Repealed)
121.222 Volunteer Community Work Component (Repealed)
121.223 Work Experience Component (Repealed)
121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October

16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17

Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; peremptory amendment at 26 Ill. Reg. 15099, effective October 1, 2002; amended at 26 Ill. Reg. 16484, effective October 25, 2002; amended at 27 Ill.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Reg. 2889, effective February 7, 2003; expedited correction at 27 Ill. Reg. 14262, effective February 7, 2003; amended at 27 Ill. Reg. 4583, effective February 28, 2003; amended at 27 Ill. Reg. 7273, effective April 7, 2003; amended at 27 Ill. Reg. 12569, effective July 21, 2003; peremptory amendment at 27 Ill. Reg. 15604, effective October 1, 2003; amended at 27 Ill. Reg. 16108, effective October 6, 2003; amended at 27 Ill. Reg. 18445, effective November 20, 2003; amended at 28 Ill. Reg. 1104, effective December 31, 2003; amended at 28 Ill. Reg. 3857, effective February 13, 2004; amended at 28 Ill. Reg. 10393, effective July 6, 2004; peremptory amendment at 28 Ill. Reg. 13834, effective October 1, 2004; emergency amendment at 28 Ill. Reg. 15323, effective November 10, 2004, for a maximum of 150 days; emergency expired April 8, 2005; amended at 29 Ill. Reg. 2701, effective February 4, 2005; amended at 29 Ill. Reg. 5499, effective April 1, 2005; peremptory amendment at 29 Ill. Reg. 12132, effective July 14, 2005; emergency amendment at 29 Ill. Reg. 16042, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; peremptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005; amended at 30 Ill. Reg. 11236, effective June 12, 2006.

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section 121.182 Earnfare Activity

a) Assignment to the Earnfare activity is limited to adults who receive food stamps and who volunteer or are court-ordered to participate.

b) Eligibility Criteria

1) Eligibility for the Earnfare activity shall be limited to six months out of the fixed 12-month period July through June. Court-ordered participants shall participate for six months unless the court orders participation for less than six months out of the 12-month period.

2) Individuals are not entitled to be placed in an Earnfare slot. Earnfare slots shall be made available only as resources permit.

3) To the extent resources permit, the Earnfare program will allow individuals to work for monthly payments and to improve their employability in order to succeed in obtaining employment.

c) Administration and Contracts

1) The Illinois Department shall administer the Earnfare program in Chicago.

2) The Illinois Department may enter into cooperative agreements with local governmental units in selected geographic areas which want to participate in the operation of the Earnfare program outside the City of Chicago. The Department shall establish the policies and procedures for the program and monitor Earnfare programs in local governmental units. Local governmental units will be eligible to participate in the operation of an Earnfare program in the following priority order as resources permit:

A) Local governmental units that receive State funds.

B) Local governmental units that neither receive State funds nor are under a current contract with the Department will be eligible to contract with the Department to administer Earnfare. The Department will reimburse client payments, transportation and up to 50% of allowable administrative staff costs. The Department will select non-receiving units to participate in the program from the applications received based on, but not limited to, the unemployment rate, percentage of the population receiving food stamps, outreach and recruitment plans, linkage with employers and connection to a court of competent jurisdiction to enable operation of the Non-custodial Parent/Earnfare Initiative.

3) The Illinois Department may enter into contracts with other public agencies, including State agencies, local governmental units, and not-for-profit community based organizations, to help develop Earnfare opportunities and otherwise administer the program.

4) The Illinois Department may enter into contracts with community based organizations as comprehensive providers to administer and operate Earnfare in the City of Chicago.

5) The Illinois Department shall provide workers' compensation~~Worker's Compensation~~ coverage for each individual assigned to Earnfare.

d) Notification and Referrals

1) In areas where an Earnfare program is operating, when the Illinois Department or the local governmental unit learns that individuals are in the following categories, it shall inform them in writing and, whenever possible, orally of the existence of Earnfare and the method for requesting

an Earnfare referral.

A) Households approved or certified for non-assistance food stamps which do not have net food stamp income in excess of $154~~$154.00~~ per month;

B) All persons denied or terminated from State Transitional Assistance because they are employable; and

C) All Earnfare participants shall be given a written notice at the time they leave the Earnfare program specifying when they will re-qualify.

2) The Illinois Department, comprehensive providers and participating downstate units shall make referrals to the Earnfare program as follows:

A) Any individual may request a referral.

B) Exempt and nonexempt food stamp individuals and individuals not receiving food stamps who are non-custodial parents of TANF children may be ordered by a court of competent jurisdiction to participate in the Earnfare Component.

C) Within 30 days after a request for an Earnfare referral:

i) individuals who do not qualify for the Earnfare program shall be given or sent a notice informing them that they do not qualify and will not receive a referral;

ii) individuals who request a referral and who qualify for the Earnfare program shall be provided with a written document that acknowledges the request and informs the individual that he/she is qualified.

3) When possible, within 30 days after notice of eligibility, individuals shall be assessed and referred to appropriate Earnfare slots, if slots are available.

e) For the purposes of Earnfare, a "suitable" Earnfare slot must meet the following requirements:

1) there are no questions as to the individual's ability to engage in such employment for medical reasons or because the individual has no way to get to or from the particular job;

2) there are no questions of working conditions, such as risks to health, safety, or lack of workers'~~worker's~~ compensation protection;

3) the individual may not be required, as a condition of employment, to join, resign from, or refrain from joining any legitimate labor organization;

4) there is no unreasonable degree of risk to the individual's health and safety; and

5) the individual is physically and mentally competent to perform the work.

f) Individuals participating in Earnfare shall not displace or substitute for regular, full-time or part-time employees, regardless of whether the employee is currently working, on a leave of absence, or in a position or similar position where a layoff has taken place or the employer has terminated the employment of any regular employee or otherwise reduced its work force with the effect of filling the vacancy so created with an individual subsidized under this program, or is or has been involved in a labor dispute between a labor organization and the sponsor.

g) Earnfare Activity Requirements

1) To the extent appropriate slots are available, individuals will be referred to suitable Earnfare activities based on an assessment of the individual's age, literacy, education, educational achievement, job training, work experience, and recent institutionalization, whenever these factors are known and are relevant to the individual's success in carrying out the assigned activities and in ultimately obtaining employment. The Department or the participating local governmental unit shall discuss with the individual available Earnfare assignments, together with any restrictions and qualifications the Earnfare employers have specified for the assignments. The individual's personal preferences for available Earnfare assignments and the individual's employment goals shall be ascertained and considered in making the Earnfare referral.

2) The Department, comprehensive providers and local governmental units

shall maintain up-to-date public listings by area of Earnfare employers and current information regarding openings in those projects. These listings and the information shall be available to the public, in writing or by phone, during regular business hours.

h) Payments

1) Individuals participating in Earnfare shall engage in hours of work equal to the amount of the food stamp benefits divided by the State or federal minimum wage, whichever is higher,~~federal minimum wage~~ up to a maximum of 26 hours and subsequently shall earn assistance at minimum wage for each additional hour of performance in Earnfare activity, up to a maximum of $294 per month. ~~Effective September 1, 1997, the date the federal minimum wage is increased to $5.15 per hour, individuals participating in Earnfare shall be able to earn a maximum of $294 per month.~~An individual is considered to have participated in Earnfare in any month he or she earns a payment.

A) If a court of competent jurisdiction orders an individual to participate in the Earnfare program, hours engaged in employment-assigned activities multiplied by the State or federal minimum wage, whichever is higher,~~federal minimum wage~~ shall first be applied as a $50 payment made to the custodial parent as a support obligation. If the individual receives food stamps, the individual shall engage in hours of employment-assigned activities equal to the amount of the food stamp benefits divided by the State or federal minimum wage, whichever is higher,~~federal minimum wage~~ up to a maximum of 26 hours and subsequently shall earn assistance at minimum wage for each additional hour of performance in Earnfare activity, up to~~. The individual can earn a maximum of $231 each month including the amount of the support obligation. Effective September 1, 1997, the date the federal minimum wage is increased to $5.15 per hour, individuals participating in Earnfare shall be able to earn~~ a maximum of $294 per month, including the amount of the support obligation.

B) Individuals will be assigned hours of Earnfare based upon their initial food stamp authorization amount. An individual living in a multi-person food stamp household shall be deemed to be receiving a per capita share of the household's food stamp

allotment, for purposes of calculating the Earnfare hours.

C) During an individual's Earnfare participation, the Department or the local governmental unit shall alter the Earnfare hours each time the individual's monthly food stamp benefit changes by at least $20~~.00~~, effective the same month as the change in the food stamp benefit. Individuals and contractors will be notified by the Department or the local governmental unit of the number of hours of work to be performed by an individual in Earnfare.

2) Individuals remain financially eligible for Earnfare and Earnfare job search activity so long as they receive food stamps. Receipt of food stamps is not an eligibility requirement of Earnfare when a court of competent jurisdiction orders an individual to participate who is a non-custodial parent of TANF-children.

3) The Department may pay participants directly or may contract for the Earnfare employer to pay the individual. Payments shall be made no less frequently than monthly. Individuals shall be paid only for the hours they have actually worked in excess of the food stamp hours of work obligation and, if ordered by a court of competent jurisdiction, in excess of food stamp hours and the support obligation.

4) Individuals shall be credited with hours of work that the Earnfare employer certifies them to have completed, according to criteria set forth in the contract with the Illinois Department, comprehensive providers or the local governmental unit. The Department, comprehensive providers or the local governmental unit staff shall attempt to resolve disputes between the Earnfare employer and the individual when there is disagreement over the number of hours worked. If the dispute cannot be resolved, the individual may utilize the Illinois Department's appeal process.

5) The Illinois Department or the provider shall, in advance, provide individuals participating in Earnfare who need transportation with the cost of transportation in getting to and from the Earnfare site and to Earnfare participants who are not in the job search component for specific job interviews arranged by their Earnfare employer. Individuals obtaining unsubsidized employment while participating in Earnfare may be eligible for initial employment expenses as stated in Section 121.188.

6) Participants in the Earnfare job search activity are eligible for employer contact related expenses not to exceed $20 every 30 days for a maximum of two months in a 12 consecutive month period.

7) The Illinois Department will provide necessary clothing to enable participants to report to their Earnfare job site.

i) Participation Requirements

1) Earnfare participants may be assigned up to a maximum of 80 hours per month.

2) Individuals are required to report as scheduled and on time to their Earnfare employer when notified of a referral. When they cannot report to their Earnfare assignment or if they will be late, they are to immediately notify their Earnfare employer.

3) If the individual demonstrates an inability to sustain the work that has been assigned and the Earnfare assignment was appropriate to the individual's abilities, the Illinois Department shall re-assess the individual and, if appropriate, shall refer the person to apply for Transitional Assistance or federal SSI benefits. If the person is ordered by a court of competent jurisdiction to participate in the Earnfare Component, that person shall also be referred back to the court when unable to perform the work that has been assigned.

4) An individual may be dismissed by the employer from an Earnfare assignment prior to its completion. The Department, comprehensive providers or local governmental unit shall return an individual dismissed by an employer to the client pool. An individual dismissed by an employer shall be treated as a new program entrant for the purpose of Earnfare assignments. A dismissal from an Earnfare assignment shall not cause a food stamp sanction.

5) During Earnfare assignment, individuals are required to accept bona fide offers of suitable employment

6) During the Earnfare assignment, participants are required to apply for suitable jobs for which the provider makes a referral.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

7) Earnfare clients may participate in a voluntary job search activity as resources permit. Earnfare clients may participate for two months in the 12- month period, either concurrently or following the six-month eligibility period for Earnfare. Clients are required to make a minimum of 20 employer contacts each month while in the Earnfare job search activity.

(Source: Amended at 30 Ill. Reg. 11236, effective June 12, 2006)

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

1) Heading of the Part: Americans with Disabilities Act Grievance Procedure

2) Code Citation: 4 Ill.Admn.Code 1750

3)

Section Numbers:	Adopted Action:
1750.10	New
1750.20	New
1750.30	New
1750.40	New
1750.50	New
1750.60	New
1750.70	New
1750.80	New

4) Statutory Authority: 605 ILCS 10/10(a)

5) Effective Date of Rulemaking: June 9, 2006

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 rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 29 Ill.Reg. 19812; December 9, 2005

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: Minor grammatical changes suggested by JCAR have been incorporated into the final rulemaking.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

15) Summary and Purpose of Rulemaking: This rulemaking codifies the Tollway's Americans with Disabilities Act complaint and grievance procedures as required by 28 CFR 35.107.

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

Robert T. Lane
Illinois State Toll Highway Authority
Assistant Attorney General
2700 Ogden Avenue
Downers Grove, IL 60515

630/241-6800 x1530
Fax 630/271-7559

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

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER LV: ILLINOIS STATE TOLL HIGHWAY AUTHORITY

PART 1750
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section
1750.10 Definitions
1750.20 Purpose
1750.30 Grievance Procedure
1750.40 Grievance – ADA Coordinator Level
1750.50 Grievance – ADA Committee Level
1750.60 Accessibility
1750.70 Case-By-Case Resolution
1750.80 ADA Notice

AUTHORITY: Implementing the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and authorized by Section 10 of the Toll Highway Act [605 ILCS 10/10].

SOURCE: Adopted at 30 Ill. Reg. 11253, effective June 9, 2006.

Section 1750.10 Definitions

"ADA" is the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.).

"ADA Committee" is a consulting group consisting of the Chief of Operational Services, the Manager of Maintenance and Traffic, the Employee Services Manager, the Safety and Training Administrator, the IT operations and Customer Support Manager, the Administrative Support Manager and an Assistant Attorney General.

"ADA Coordinator" is the person appointed by the Tollway, or that person's designee, to coordinate the Tollway's efforts to comply with and carry out its responsibilities under Title II of the ADA. The ADA Coordinator for the Tollway is the EEO/AA Officer, 2700 West Ogden Avenue, Downers Grove, Illinois 60515. Phone: (630) 241-6800 ext. 1010. Telecommunications Device for Deaf Persons: (630) 241-6898.

"Department Chief" is an individual reporting to the Executive Director with responsibility for the management of a department of the Authority.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

"Complainant" is a qualified individual with a disability who files a request for reasonable accommodation in accordance with this Part.

"Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of that individual; a record of the impairment; or being regarded as having an impairment. (See 28 CFR 35.104.)

"Grievance" is a written appeal of the denial of an accommodation request under the ADA made by an individual who believes that he or she has been excluded from participation in, or denied the benefits of, any program, service or activity of the Tollway or has been subject to discrimination by the Tollway based on a disability.

"Major Life Activities" means functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. (See 28 CFR 35.104.)

"Physical or Mental Impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal (including speech organs), cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. (See 28 CFR 35.104.)

"Qualified Individual with a Disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Tollway. (See 28 CFR 35.104.)

"Reasonable Accommodation" means modifications or adjustments to services, programs or activities that enable a qualified individual with a disability to participate in, or enjoy the benefits of, those services, programs or activities.

"Tollway" means the Illinois State Toll Highway Authority.

"Undue Hardship" means, with respect to the provision of an accommodation, significant difficulty or expense incurred by the Tollway.

Section 1750.20 Purpose

a) This grievance procedure is established pursuant to the Americans With Disabilities Act of 1990 (ADA) (42 USC 12101 et seq.) and specifically 28 CFR 35.107 requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. The rights and protections afforded by the ADA are intended to benefit both employees and non-employees.

b) It is the intention of the Tollway to foster open communication with all individuals requesting readily accessible programs, services and activities. Questions pertaining to the ADA or the rights, privileges and remedies afforded by the ADA should be directed to the ADA Coordinator. Tollway employees seeking a reasonable accommodation must submit a written request to the employee's supervisor or to the Tollway's EEO Officer/ADA Coordinator.

c) The grievance procedure set forth in this Part is designed to be an appeal process for a request for a reasonable accommodation that has been denied through the process set forth in the Tollway's Personnel Policies and Procedure Manual or Affirmative Action Plan.

d) The ADA grievance procedure is independent and exclusive of the complainant's rights and protections under other statutes and does not preclude the complainant's right to file a charge directly with the Illinois Department of Human Rights or the United State Equal Employment Opportunity Commission.

Section 1750.30 Grievance Procedure

a) Grievances shall be submitted in accordance with the procedures established in Sections 1750.40 and 1750.50 of this Part, in the form and manner described and within specified time limits. Time limits established in this procedure are in calendar days and, unless otherwise stated, may be extended by the ADA Committee with just cause.

b) A complainant's failure to appeal the denial of a request for a reasonable accommodation within the specified time limit shall mean that the complainant has accepted the Tollway's response to his/her request for a reasonable accommodation.

c) A complainant may use the assistance of an advocate in any stage of the grievance procedure.

Section 1750.40 Grievance − ADA Coordinator Level

a) A request for a reasonable accommodation shall be filed with the Tollway's ADA Coordinator.

b) In order to be considered by the ADA Coordinator, the request for a reasonable accommodation shall be in writing and contain the following information:

1) The complainant's name, address and daytime telephone number;

2) The exact nature of complainant's disability;

3) A statement detailing why the complainant believes he or she is a qualified individual with a disability;

4) The accommodation the complainant seeks;

5) The signature of the complainant; and

6) Date of request.

c) The ADA Coordinator shall investigate the request and shall make reasonable efforts to resolve the matter up to the level of a Department Chief.

d) If the reasonable accommodation request is outside of the Department Chief's scope of authority, the matter may be brought to the ADA Committee for consideration.

e) The ADA Coordinator shall notify the complainant of his/her decision within 120 days.

Section 1750.50 Grievance − ADA Committee Level

a) If the request for reasonable accommodation is not resolved to the satisfaction of the complainant, the complainant may submit a grievance to the ADA Committee

within 15 days after receipt by the complainant of the ADA Coordinator's determination.

b) The complainant shall submit a statement explaining the basis of the grievance and attach copies of any documents supporting the appeal.

c) Within 30 days after the Committee's receipt of the complainant's submission, the ADA Committee may request that the complainant either appear in person or by a designated representative, or respond to pertinent questions in writing. The Committee shall review and base its decision on the statements of the complainant, written materials submitted by the complainant, and the ADA Coordinator's response, and may conduct interviews and seek additional information, evidence and/or advice, as it deems appropriate.

d) The ADA Committee shall approve, disapprove, or modify the recommendation of the ADA Coordinator and shall render a written decision within 30 days after meeting to decide the matter. The Committee shall state the reasons for its decision and shall serve by certified mail a copy upon the complainant and the ADA Coordinator. The ADA Coordinator shall be responsible for notifying the complainant of the decision of the ADA Committee.

e) The grievance, the ADA Coordinator's response, the complainant's statement of reasons for dissatisfaction and the decision of the Committee shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

Section 1750.60 Accessibility

The Tollway shall ensure that all stages of the grievance procedure are readily accessible to and usable by individuals with disabilities.

Section 1750.70 Case-By-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service, or activity or undue hardship on the Tollway. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainants should rely.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

Section 1750.80 ADA Notice

A public notice shall be posted informing applicants, participants, beneficiaries and other interested persons of the Tollway's compliance with the ADA as applicable to the services, programs, or activities of the Tollway.

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: State Toll Highway Rules

2) Code Citation: 92 Ill. Adm. Code 2520

3)

Section Numbers:	Adopted Action:
2520.105	Repeal
2520.110	Repeal
2520.200	Repeal
2520.201	Repeal
2520.202	Repeal
2520.203	Repeal
2520.204	Repeal
2520.205	Repeal
2520.206	Repeal
2520.207	Repeal
2520.208	Repeal
2520.209	Repeal
2520.210	Repeal
2520.211	Repeal
2520.212	Repeal
2520.213	Repeal
2520.214	Repeal
2520.215	Repeal
2520.216	Repeal
2520.217	Repeal
2520.218	Repeal
2520.219	Repeal
2520.220	Repeal
2520.221	Repeal
2520.222	Repeal
2520.223	Repeal
2520.224	Repeal
2520.225	Repeal
2520.226	Repeal
2520.300	Repeal
2520.301	Repeal
2520.302	Repeal
2520.303	Repeal
2520.304	Repeal
2520.305	Repeal

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED REPEALER

2520.400	Repeal
2520.401	Repeal
2520.402	Repeal
2520.403	Repeal
2520.404	Repeal
2520.405	Repeal
2520.406	Repeal
2520.500	Repeal
2520.501	Repeal
2520.502	Repeal
2520.503	Repeal
2520.504	Repeal
2520.600	Repeal
2520.700	Repeal
2520.701	Repeal
2520.702	Repeal
2520.703	Repeal
2520.704	Repeal
2520.705	Repeal
2520.706	Repeal
2520.707	Repeal
2520.708	Repeal
2520.709	Repeal
2520.710	Repeal
2520.711	Repeal
2520.712	Repeal
2520.713	Repeal
2520.714	Repeal
2520.715	Repeal
2520.716	Repeal
2520.717	Repeal

4) Statutory Authority: 605 ILCS 10/10(a)

5) Effective Date of Repealer: June 9, 2006

6) Does this repealer contain an automatic repeal date? No

7) Does this repealer contain incorporations by reference? No

ILLINOIS TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED REPEALER

8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 29 Ill. Reg. 19856; December 9, 2005

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no agreements.

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

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Repealer: The purpose of this rulemaking is to clarify existing policies and procedures and create additional rules necessary to enforce new toll violation collection remedies created by recent amendments to the Toll Highway Act [605 ILCS 10]. In light of the fact the Tollway sought to reorganize and renumber an entire Part of its administrative rules, JCAR suggested that it would be procedurally correct to repeal the existing rules and replace them with the new reorganized version.

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

Robert T. Lane
Assistant Attorney General
2700 Ogden Avenue
Downers Grove, IL 60515

630/241-6800 x1530
Fax: 630/271-7559

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

1) Heading of the Part: State Toll Highway Rules

2) Code Citation: 92 Ill. Adm. Code 2520

3)

Section Numbers:	Adopted Action:
2520.100	New
2520.110	New
2520.120	New
2520.130	New
2520.200	New
2520.203	New
2520.206	New
2520.209	New
2520.212	New
2520.215	New
2520.218	New
2520.221	New
2520.224	New
2520.227	New
2520.230	New
2520.233	New
2520.236	New
2520.239	New
2520.242	New
2520.245	New
2520.248	New
2520.251	New
2520.254	New
2520.257	New
2520.260	New
2520.263	New
2520.266	New
2520.269	New
2520.272	New
2520.275	New
2520.278	New
2520.281	New
2520.300	New
2520.310	New
2520.320	New

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

2520.340	New
2520.350	New
2520.410	New
2520.420	New
2520.430	New
2520.440	New
2520.450	New
2520.460	New
2520.510	New
2520.520	New
2520.530	New
2520.540	New
2520.550	New
2520.700	New
2520.705	New
2520.710	New
2520.715	New
2520.720	New
2520.725	New
2520.730	New
2520.735	New
2520.740	New
2520.745	New
2520.750	New
2520.755	New
2520.760	New
2520.765	New
2520.770	New
2520.800	New
2520.APPENDIX A	New

4) Statutory Authority: 605 ILCS 10/10(a)

5) Effective Date of Rules: June 9, 2006

6) Do these rules contain an automatic repeal date? No

7) Do these rules contain incorporations by reference? No

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 29 Ill.Reg. 19819; December 9, 2005

10) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version: In addition to minor grammatical and stylistic changes, at the suggestion of JCAR, there were substantive changes made to Section 2520.550. Section 2520.550 covers penalties for I-PASS account holders cited for traffic violations (e.g., driving without a valid license or permit, driving on a suspended or revoked license, ect.) within ½ mile before, at and beyond a toll collection point. ISTHA also addresses returned check fees, V-Toll penalties, sub-zero account balance policy and due process provisions in this Section.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these rules replace any emergency rules currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: The purpose of this rulemaking is to clarify existing policies and procedures and create additional rules necessary to enforce new toll violation collection remedies created by recent amendments to the Toll Highway Act [605 ILCS 10]. In light of the fact the Tollway sought to reorganize and renumber an entire Part of its administrative rules, JCAR suggested that it would be procedurally correct to repeal the existing rules and replace them with the new reorganized version.

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

Robert T. Lane
Assistant Attorney General
2700 Ogden Avenue
Downers Grove, IL 60515

630/241-6800 x1530
Fax 630/271-7559

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

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

TITLE 92: TRANSPORTATION
CHAPTER IV: ILLINOIS STATE TOLL HIGHWAY AUTHORITY

PART 2520
STATE TOLL HIGHWAY RULES

SUBPART A: AUTHORITY AND DEFINITIONS

Section
2520.100 Authority
2520.110 Authority Rulemaking
2520.120 Related Statutes
2520.130 Definitions

SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

Section
2520.200 Illinois Vehicle Code
2520.203 Use of Tollway Prohibited or Restricted
2520.206 Vehicles Excepted from Provisions of Section 2520.203
2520.209 Transportation of Hazardous Materials
2520.212 Special Usage Toll
2520.215 Loading or Unloading of Vehicles
2520.218 Full Stop at All Toll Plazas
2520.221 Entering and Leaving the Tollway
2520.224 "U" Turns, Etc.
2520.227 Backing Up of Vehicles
2520.230 Parking, Standing or Stopping
2520.233 Relocating of Vehicles
2520.236 Pushing or Towing of Vehicles
2520.239 Stopping or Halting Vehicles by the Authority
2520.242 Destruction of Authority Property
2520.245 Picnics
2520.248 Aircraft
2520.251 Sale of Goods and Services
2520.254 Solicitation of Rides
2520.257 Loitering or Interfering with Traffic
2520.260 Approaching/Departing a Toll Plaza
2520.263 Compliance with Orders or Directions of State Troopers, Etc.
2520.266 Duty Upon Striking Fixtures, Structures or Other Property on Tollway

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

2520.269 Payment of Tolls
2520.272 I-Pass Registration
2520.275 Prohibited and Restricted Lanes
2520.278 Traffic Control Devices
2520.281 Penalty for Violation

SUBPART C: TRESPASS

Section
2520.300 Authority
2520.310 Restriction of Vehicles Using the Tollway
2520.320 Restriction on Nature of Use of Tollway
2520.340 Persons and Vehicles Excepted from the Requirements of Subpart C
2520.350 Penalties

SUBPART D: SPEED RESTRICTIONS

Section
2520.410 Maximum Speed Limits for Passenger Cars
2520.420 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers
2520.430 Maximum Speed Limits for Designated I-Pass Lanes, Service Areas, Parking Areas, Access Roads and Ramps, and Barrier Toll Plaza Approaches
2520.440 Road Hazards and Construction Zones
2520.450 Special Road Conditions
2520.460 Minimum Speed Limits

SUBPART E: FINES AND PENALTIES

Section
2520.510 Violations
2520.520 Littering – Penalty
2520.530 Spurious or Counterfeit Tickets, Coupons or Tokens – Penalty
2520.540 Toll Collection Devices – Penalty for Breaking
2520.550 I-PASS Customer − Penalties

SUBPART F: TOLL VIOLATIONS – ADMINISTRATIVE ADJUDICATION SYSTEM

Section
2520.700 Authority

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

2520.705 Notice of Violation to Respondent
2520.710 Effective Date of Notices
2520.715 Establishment of the Toll-Free Telephone Number
2520.720 Timely Request for Hearing
2520.725 Hearing Officers – Appointment, Disqualification, Powers and Duties
2520.730 Discovery
2520.735 Continuance
2520.740 Hearings Format
2520.745 Failure to Respond to Notice of Violation − Default
2520.750 Penalties
2520.755 Liability of Lessor
2520.760 Liability of Registered Owner
2520.765 Enforcement of Final Order
2520.770 Judicial Review

SUBPART G: EMPLOYMENT

2520.800 Tollway Employees

2520.APPENDIX A Rules and Regulations for Overweight and Overdimension Vehicles and Loads

AUTHORITY: Implementing and authorized by the Toll Highway Act [605 ILCS 10].

SOURCE: Filed January 3, 1973; effective February 1, 1973; codified at 8 Ill. Reg. 19884; Part repealed, new Part adopted at 17 Ill. Reg. 8539, effective May 27, 1993; amended at 20 Ill. Reg. 10200, effective July 12, 1996; emergency amendment at 24 Ill. Reg. 2737, effective February 4, 2000, for a maximum of 150 days; emergency expired July 2, 2000; emergency amendment at 24 Ill. Reg. 4234, effective February 29, 2000, for a maximum of 150 days; emergency expired July 27, 2000; amended at 24 Ill. Reg. 16078, effective October 11, 2000; emergency amendment at 26 Ill. Reg. 16325, effective October 31, 2002, for a maximum of 150 days ; amended at 27 Ill. Reg. 6325, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 18238, effective November 6, 2003, for a maximum of 150 days; emergency expired April 5, 2004; emergency amendment at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 6911, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 7688, effective May 24, 2004, for a maximum of 150 days; emergency expired October 20, 2004; amended at 28 Ill. Reg. 14530, effective October 25, 2004; old Part repealed at 30 Ill. Reg. 11261 and new Part adopted at 30 Ill. Reg. 11264, effective June 9, 2006.

SUBPART A: AUTHORITY AND DEFINITIONS

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

Section 2520.100 Authority

This Part is adopted and promulgated by the Authority, pursuant to the powers vested in the Authority by the Toll Highway Act, and supersedes all previous rules adopted and promulgated by the Illinois State Toll Highway Commission and the Illinois State Toll Highway Authority.

Section 2520.110 Authority Rulemaking

This Part shall be liberally construed to accomplish the purposes of the Toll Highway Act and the laws of the State of Illinois. This Part shall be available to the general public at the main administrative office of the Authority during regular business hours and on the Authority's web site. This Part is subject to modification, under the Illinois Administrative Procedure Act, at any time by the Authority's Board of Directors.

Section 2520.120 Related Statutes

The following statutes are referenced in this Part:

a) The Toll Highway Act [605 ILCS 10].

b) The Illinois Vehicle Code [625 ILCS 5].

c) The Administrative Review Law [735 ILCS 5/Art. III].

d) The Illinois Procurement Code [30 ILCS 500] and 44 Ill. Adm. Code 1.

e) The Illinois Administrative Procedure Act [5 ILCS 100].

Section 2520.130 Definitions

The following words and phrases, when used in this Part, shall have the following meanings:

"Authority" means the Illinois State Toll Highway Authority, an instrumentality and administrative agency of the State of Illinois, formerly known as the Illinois State Toll Highway Commission.

"Authorized Emergency Vehicles" means vehicles of fire departments and police departments, ambulances, emergency vehicles of public service companies, and

other vehicles performing emergency services approved and authorized by the Authority.

"Barrier Toll Plaza" means all toll collection facilities located on the Tollway's traffic lanes, but does not include ramp or open road toll collection facilities.

"Certified Report" means the documents the Authority sends the Illinois Secretary of State pursuant to 625 ILCS 5/3-704.2 and 6-306.7.

"Department of Transportation" means the Illinois Department of Transportation.

"Hazardous Materials" means explosives, radioactive materials, etiologic agents, flammable liquids and other dangerous materials.

"Hearing" means a hearing conducted by the Authority or appointed hearing officer to determine whether a violation of the Toll Highway Act and/or any of this Part has occurred.

"Hearing Officer" means a hearing officer appointed pursuant to Section 2520.705.

"I-PASS" means the Authority's electronic toll collection system.

"I-PASS Only Lanes" means those lanes restricted to vehicles, other than Open Road Toll Lanes, that have I-PASS transponders.

"I-PASS Transponder" means the Authority-issued electronic toll collection device, E-Z Pass or other Authority-authorized electronic toll collection device.

"Motor Driven Cycles" means a motorcycle or motor scooter with less than 150 cubic centimeter piston displacement, including motorized pedalcycles.

"Notice of Violation " means the information sent by the Authority to the respondent notifying the respondent of an alleged violation of Tollway rules.

"Oases" means property along the Tollway occupied by restaurants, buildings and service stations, and adjacent parking and landscaped areas.

"Open Road Toll" means those lanes that are restricted to vehicles with I-PASS transponders traveling at highway speed.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

"Person" means any individual, firm, corporation, cooperative, association, trust, partnership, joint venture or other legally recognized entity.

"Respondent" means any person charged with violating the Tollway Highway Act or this Part.

"Right-of-Way" means the entire area of the Tollway within the fence lines (or the barrier walls, where no fence exists), including, but not limited to, the roadways, shoulders, plazas, and landscaped areas. The right-of-way does not include the Tollway's oases, maintenance buildings, central administration building or other Tollway buildings and their parking lots.

"Shoulder" means the portion of the roadway contiguous with the traveled way that accommodates stopped vehicles, is intended for emergency use, and, with proper signage, may provide limited duration use as a traffic lane.

"State Police" means the Illinois State Police.

"Toll" means the compensation to be paid to the Authority for the privilege of using the Tollway.

"Toll Highway Act" means 605 ILCS 10.

"Toll Plaza" means any toll collection facility located on the Tollway.

"Tollway" means any and all toll highways operated and maintained by the Authority pursuant to State and federal laws.

"Traffic Control Devices" means all directional devices, controls and markings installed by the Authority, its agents, or governmental partners for the purpose of regulating, warning, or guiding traffic.

"Traffic Lanes" are the lanes designated for vehicular travel on the Tollway that are designated numerically, with the extreme left lane of each directional roadway being numbered "Lane No. 1" and each lane to the right of Lane No. 1 carrying traffic in the same direction being numbered consecutively higher.

"Vehicle Code" means the Illinois Vehicle Code [625 ILCS 5].

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

"Violation" means one or more acts prohibited by the Toll Highway Act and/or this Part.

"V-Tolled" means the Tollway service that debits an unpaid toll from an I-PASS customer's valid account when a transaction is not read by the I-PASS electronic toll collection equipment and license plate information is captured by the Authority's video or photo surveillance system.

Any and all terms that are not specifically defined in this Section shall have the meanings ascribed to them in the Vehicle Code and the Toll Highway Act.

SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

Section 2520.200 Illinois Vehicle Code

This Subpart B is applicable to traffic on the Tollway and is adopted and prescribed by the Authority pursuant to the power vested in the Authority by the Toll Highway Act. Except when inconsistent with this Part, the Illinois Vehicle Code regulates traffic and the operation of motor vehicles on the Tollway.

Section 2520.203 Use of Tollway Prohibited or Restricted

The following are prohibited on the Tollway or any part of its right-of-way:

a) Pedestrians, except at authorized areas at oases, toll plazas and maintenance areas.

b) Animals led, ridden or driven on the hoof.

c) Bicycles or motor driven cycles.

d) Vehicles transporting animals or poultry not properly secured or confined.

e) Vehicles with deflated pneumatic tires, metal tires, caterpillar treads, studded tires or tires with chains.

f) Vehicles with loads improperly secured or vehicles transporting gravel, sand, limestone or like materials capable of being windblown or escaping from the vehicles in any manner, unless such load is securely covered.

g) Farm implements and machinery, whether self-propelled or towed, excluding

those properly and safely loaded onto a vehicle.

h) Vehicles exceeding the size, weight and load limitations set out in the Vehicle Code; however, subject to Tollway approval, oversized and overweight vehicles may be permitted on the Tollway pursuant to the terms and conditions contained in Appendix A.

i) Vehicles incapable of maintaining a minimum speed of 45 miles per hour on a level grade.

j) House trailers, during extreme wind, adverse weather or unusual traffic conditions.

k) Convoys, processions or assemblages of more than 10 vehicles without the prior approval of District 15 of the State Police.

l) Vehicles that are in such disrepair, are so poorly equipped or loaded, or are so lacking in equipment that they create a hazard to other vehicles.

m) Vehicles equipped with tinted plastic or tinted glass registration plate covers or any covers, coating, wrappings, materials, streaking, distorting, holographic, reflective, or other devices that obstruct the visibility or electronic image recording of the plate. This prohibition shall not apply to automatic vehicle identification transponder devices, cards or chips issued by a governmental body or authorized by a governmental body for the purpose of electronic payment of tolls or other authorized payments.

Section 2520.206 Vehicles Exempted from Provisions of Section 2520.203

Vehicles may be exempted from the provisions of Section 2520.203 of this Part while actively engaged in construction, maintenance and/or landscaping work for the Authority if the owner or operator of the vehicle secures prior written approval from an authorized representative of the Engineering Department of the Authority. Such approval shall not relieve the person from full and complete liability and responsibility for the condition of the vehicle and the actions or inactions of the owners and operators of the vehicle and for any damage or injury caused by the vehicle or its operation.

Section 2520.209 Transportation of Hazardous Materials

No person directly or through any agent or employee may use the Illinois Tollway for

transporting hazardous materials unless in compliance with all applicable laws, including 49 CFR 171-180 and 263.

Section 2520.212 Special Usage Toll

No person shall operate a vehicle on the Tollway that exceeds the size and load limitations set forth in Sections 15-100 through 15-107 of the Vehicle Code without paying the special usage toll as provided in Appendix A. Any person who uses or attempts to use the Tollway without proper payment of the Special Usage Toll or fee as required by this Section shall be deemed guilty of a petty offense under Section 27.1 of the Toll Highway Act. A Special Usage Toll Permit will be issued on the following terms and conditions:

a) A Special Usage Toll Permit may be obtained electronically from the Tollway or from the plaza supervisor or collector in charge of the first manned toll plaza reached upon entering the Tollway. The vehicle shall not proceed any farther on the Tollway until a Permit is issued and the proper Special Usage Toll is paid.

b) The Special Usage Toll Permit must be exhibited at all toll plazas during the course of the permitted trip on the Tollway.

Section 2520.215 Loading or Unloading of Vehicles

Loading or unloading vehicles on the right-of-way is prohibited without prior Tollway approval.

Section 2520.218 Full Stop at All Toll Plazas

Except at lanes marked "I-PASS Only" or "Open Road Toll", all vehicles must come to a full stop at all toll plazas at the time of payment of tolls. When red/green signal lights control a toll plaza lane, the driver of a vehicle shall not proceed until receiving the green light signal.

Section 2520.221 Entering and Leaving the Tollway

Entering or exiting the Tollway at any location other than designated entrance ramps or traffic lanes is prohibited. The use of service roads for entry and exit to the Tollway is prohibited. This Section shall not prohibit the use of the service roads by Authority vehicles, Authorized Emergency Vehicles or any other vehicle authorized by the Authority.

Section 2520.224 "U" Turns, Etc.

The making of "U" turns on the Tollway, driving around toll barriers or driving through

maintenance areas is prohibited, except by Authorized Emergency Vehicles, Authority vehicles, and any other vehicle authorized by the Authority.

Section 2520.227 Backing Up of Vehicles

The backing up of a vehicle on any ramp or traffic lane or improved shoulder adjacent to the ramp or lane is prohibited.

Section 2520.230 Parking, Standing or Stopping

Parking, standing or stopping on the right-of-way is prohibited. In emergencies, stopped vehicles shall be immediately driven or moved off the traveled portion of the traffic lane or ramp. Except where otherwise posted, no vehicle shall be left unattended or abandoned on the right-of-way by the owner or operator of the vehicle for more than 2 hours without a permit issued by the State Police.

Section 2520.233 Relocating of Vehicles

Any vehicle left unattended or abandoned in violation of Section 2520.230 or any vehicle constituting a traffic hazard shall be subject to immediate relocation at the expense of the owner or operator of the vehicle. State Police and Authority personnel are authorized to remove or cause to be removed any unattended or abandoned vehicle by an authorized towing service or by other means that may be available, at the sole expense of the owner or operator of the vehicle.

Section 2520.236 Pushing or Towing of Vehicles

a) Pushing. The pushing of any vehicle by another vehicle is prohibited except in emergencies. In such an emergency, a disabled vehicle may be pushed off the traffic lanes onto the adjacent shoulder for the purpose of parking, standing or stopping, as provided in Section 2520.230 of this Part.

b) Towing. Except in emergencies, no vehicle shall be towed by another vehicle without a rigid hitch designed and installed so as to give the operator of the towing vehicle full and complete control of the towed vehicle. In an emergency, a disabled vehicle may be towed off the traffic lanes onto the adjacent shoulder for the purposes of parking, standing or stopping, as provided in Section 2520.230 of this Part.

Section 2520.239 Stopping or Halting Vehicles by the Authority

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

The Authority, the Illinois State Police and persons authorized by the Authority may stop or halt vehicles as necessary to conduct traffic surveys, in emergencies, and for any other lawful purpose.

Section 2520.242 Destruction of Authority Property

No person shall cut, mutilate, deface, damage or remove any property or equipment of the Authority or of its vendors, operators, licencees, lessees, agents or contractors.

Section 2520.245 Picnics

Picnicking within the right-of-way is prohibited.

Section 2520.248 Aircraft

No aircraft, except those authorized by the Authority or the State Police, shall take off, land or otherwise be operated within the right-of-way.

Section 2520.251 Sale of Goods and Services

No person shall offer or display goods or services for sale or promotion, or post, display or distribute signs, circulars, or printed matter, or operate public address equipment on Authority property, including its right-of-way, except as authorized by the Authority.

Section 2520.254 Solicitation of Rides

No person shall solicit or attempt to solicit rides from the driver of any vehicle using the Tollway.

Section 2520.257 Loitering or Interfering with Traffic

No person shall loiter on Tollway property or in any manner interfere with traffic or the control of traffic.

Section 2520.260 Approaching/Departing a Toll Plaza

The driver of a vehicle approaching or departing a toll plaza shall approach or depart from a toll plaza in as direct a manner as possible and adjust vehicular speed and lateral position so as to avoid collision with other vehicles or property.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

Section 2520.263 Compliance with Orders or Directions of State Police Troopers, Etc.

No person shall willfully fail or refuse to comply with any lawful order or direction of any State Police trooper or any Authority employee or agent.

Section 2520.266 Duty Upon Striking Fixtures, Structures or Other Property on Tollway

Any person involved in any damage to fixtures, structures, or other property of the Authority or of its vendors, operators, licensees, lessees, agents or contractors shall notify the Authority immediately of the damage and of the details surrounding the occurrence. For the purpose of this Section, notice to the State Police, District 15, shall also constitute notice to the Authority.

Section 2520.269 Payment of Tolls

a) All persons driving vehicles on the Tollway, except as provided in subsection (b), are required to pay the prescribed toll at each toll plaza. Tolls may be paid in the following manner:

1) By currency or change in legal tender of the United States of America presented to a toll collector, or by correct change deposited in the automatic coin machine;

2) By I-PASS; or

3) By an electronic toll collection account in good standing with a toll agency that has entered into a reciprocity agreement with the Tollway.

b) Tolls are not required of Authority officers and employees while on Authority business, or of public police, public fire or public ambulance vehicles when on emergency business or duty necessitating the use of the Tollway system, and when the vehicle is readily identifiable.

d) Coin and currency lying in and around toll collection facilities are the Authority's property. Any person other than an authorized Authority employee or agent who removes any coin from the pavement or from the ground surface within 25 feet of a toll collection facility shall be guilty of a petty offense.

e) No vehicle shall be driven through a toll plaza collection facility without payment of the proper toll. In the event of non-payment of the proper toll, as evidenced by video or photo surveillance system or toll collector's sworn statement, the

registered owner of that vehicle shall, upon notice to the registered owner, be liable to make prompt payment to the Authority of the proper toll charge as well as applicable fines and fees. This subsection shall not apply if the driver of the vehicle is fined or otherwise penalized for the same violation under the Vehicle Code or other rule or regulation regarding failure to pay the prescribed toll.

Section 2520.272 I-PASS Registration

a) A license plate may not be registered to or utilized with any I-PASS account if the person to whom the license plate was registered has been adjudicated liable for utilizing the Tollway without the payment of the proper toll and there remains a balance for unpaid tolls, fines, and/or other fees.

b) No person may open or utilize an I-PASS account or associated toll collection services if that person has been adjudicated liable for utilizing the Tollway without the payment of the proper toll and the person has unpaid tolls, fines and/or other fees.

c) Use of I-PASS by a person or license plate with an unpaid toll violation balance shall be deemed a toll violation subject to full enforcement measures and sanctions provided by law.

Section 2520.275 Prohibited and Restricted Lanes

a) No vehicle on the Tollway shall pass through any lane designated "DO NOT ENTER" except authorized State Police, Authority, Authority agent or authorized emergency vehicles.

b) Only vehicles equipped with a properly mounted I-PASS transponder may use lanes designated as Open Road Toll Lanes or I-PASS Express.

Section 2520.278 Traffic Control Devices

a) All persons driving vehicles upon the Tollway are required to obey all traffic control devices on the Tollway, unless otherwise directed by a member of the State Police, Authority employees or agents, or emergency service providers.

b) The Engineering Department of the Authority shall have the power to establish specifications for traffic control devices on the Tollway; provided, however, that unless the Authority or its Engineering Department has established contrary

specifications, the current Department of Transportation specifications for traffic control devices shall apply.

Section 2520.281 Penalty for Violation

Except when a different penalty is expressly provided, any person who violates any provision of this Subpart B shall be deemed guilty of a petty offense and, upon conviction, shall be subject to punishment as provided by law for petty offenses.

SUBPART C: TRESPASS

Section 2520.300 Authority

This Subpart C is applicable to persons and vehicles on Authority right-of-way and is adopted by the Authority pursuant to the power vested in the Authority by the Toll Highway Act.

Section 2520.310 Restriction of Vehicles Using the Tollway

Use of the Tollway, including the entering of the Tollway right-of-way at any point by any motor vehicle or by any other method for the purpose of proceeding on, across or along the Tollway, is restricted to vehicles not prohibited by Section 2520.203 of this Part, and use of the Tollway is further restricted to:

a) Vehicles that have paid tolls as required by Sections 2520.212 and 2520.269 and, where applicable, the overweight permit fee provided in Section 2520.203 and Appendix A; and

b) Vehicles that have entered the Tollway as part of travel to or from highways on ramps provided for that purpose.

Section 2520.320 Restriction on Nature of Use of Tollway

a) Any person may use the Tollway only as a transportation facility in accordance with the rules adopted by the Authority pursuant to its powers under Section 10 of the Toll Highway Act and shall not use the Tollway or the right-of-way for any other purposes.

b) Any person using any part of the Tollway or right-of-way except as provided in this Part is guilty of a trespass.

c) Any person who fails to immediately depart from Authority property after being directed to leave by the State Police or the Authority is subject to arrest and/or immediate removal from Authority property.

Section 2520.340 Persons and Vehicles Excepted from the Requirements of Subpart C

Nothing contained in this Subpart C shall be construed as applying to the Authority, its Directors, officers, employees, agents, or contractors in the conduct of the Authority's business or to persons having a written license or permit from the Authority authorizing uses otherwise prohibited by this Subpart C, or to the activities of police, public fire, public ambulance or tow truck vehicles properly called upon the Tollway for emergency purposes while carrying out such purposes.

Section 2520.350 Penalties

Any person who violates any provision of this Subpart C shall be guilty of a trespass and shall be subject to prosecution and, upon conviction, shall be subject to punishment in accordance with Section 21-3 of the Illinois Criminal Code [720 ILCS 5/21-3].

SUBPART D: SPEED RESTRICTIONS

Section 2520.410 Maximum Speed Limits for Passenger Cars

The following shall be the maximum speed limits for passenger cars on the Tollway, except as provided by Sections 2520.430 and 2520.440:

a) Tri-State Tollway (I-294/I-94):

55 miles per hour south of Waukegan Toll Plaza – Plaza 21 (M.P. 73.5).

65 miles per hour north of Waukegan Toll Plaza – Plaza 21 (M.P. 73.5).

b) Northwest Tollway (I-90):

55 miles per hour east of Randall Road (M.P. 26.6).

65 miles per hour west of Randall Road (M.P. 26.6).

c) Ronald Reagan Memorial Highway (I-88):

55 miles per hour between the Eisenhower Expressway I-290 and ½ mile west of Farnsworth Avenue (M.P. 140.5 to M.P. 118.6).

45 miles per hour between ½ mile west of Farnsworth Avenue and Illinois Route 31 (M.P. 118.6 to M.P. 117.1).

55 miles per hour between Illinois Route 31 and Orchard Road (M.P. 117.1 to M.P. 115.5).

65 miles per hour west of Orchard Road (M.P. 115.5).

d) North-South Tollway (I-355):

55 miles per hour for the entire length.

Section 2520.420 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers

The maximum speed for trucks, buses, and passenger cars towing trailers, house trailers and campers is 55 miles per hour on all Tollways except as provided by Sections 2520.430 and 2520.440.

Section 2520.430 Maximum Speed Limits for Designated I-PASS Lanes, Service Areas, Parking Areas, Access Roads and Ramps, and Barrier Toll Plaza Approaches

a) The maximum speed limit for I-PASS Only electronic toll collection lanes shall be 30 m.p.h. or as otherwise posted.

b) The maximum speed limit for Open Road Toll electronic toll collection lanes shall be 55 m.p.h., or as otherwise posted.

Section 2520.440 Road Hazards and Construction Zones

The Authority may temporarily alter and post maximum and minimum speed limits for all vehicles due to road hazards or for construction work. All vehicles shall comply with the posted speed limits in those zones.

Section 2520.450 Special Road Conditions

Motorists on the Tollway are required, in accordance with Section 11-601 of the Vehicle Code,

to reduce their speed because of special traffic, highway and weather conditions, road hazards, curves, ramps, merging traffic and other like conditions to a speed that is reasonable under the circumstances, so as not to endanger the safety of any person or property.

Section 2520.460 Minimum Speed Limits

Minimum speed limits for all vehicles operated on the Tollway shall be 45 miles per hour, except as posted or otherwise indicated in this Part.

SUBPART E: FINES AND PENALTIES

Section 2520.510 Violations

Any person who violates any rule or regulation adopted or promulgated by the Authority pursuant to Section 10(b) of the Toll Highway Act shall be guilty of a petty offense.

Section 2520.520 Littering − Penalty

It is unlawful for any person to deposit within the right-of-way or other property of the Tollway any trash, glass, weeds, garbage or other offensive matter. Any person so offending shall be guilty of a petty offense and shall be fined not less than $5 nor more than $50.

Section 2520.530 Spurious or Counterfeit Tickets, Coupons, or Tokens − Penalty

It is unlawful for any person to use any spurious or counterfeit tickets, coupons, tokens, electronic toll collection devices or tags in payment of any toll required to be paid to the Authority under the provisions of this Part. Any person who attempts to use the Tollway without payment of the tolls required by the Authority through the use of any spurious or counterfeit method shall be deemed guilty of a petty offense and shall be fined not less than $5 nor more than $100 for each offense. Each day any Tollway is used by such person in violation of this Act shall constitute a separate offense.

Section 2520.540 Toll Collection Devices − Penalty for Breaking

Any Person who *willfully, maliciously and forcibly breaks any mechanical or electronic toll collection device of the Authority or any appurtenance thereto with intent to commit larceny shall be deemed guilty of a Class 4 felony* [605 ILCS 10/28].

Section 2520.550 I-PASS Customer – Penalties

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

a) The registered owner of a vehicle cited by the Illinois State Police for traffic violations that pose a significant public safety risk occurring within ½ mile prior to a toll collection point, at a toll collection point, or within ½ mile beyond a toll collection point will be suspended from the Tollway's I-PASS program for a period of 180 days. The I-PASS suspension shall commence no sooner than 30 days after the citation is disposed of with a finding of guilty and 10 days after the registered owner is supplied a final notice of suspension based on this subsection. The suspension shall apply to all I-PASS accounts registered to the owner of the vehicle who was the subject of the citation. For purposes of this subsection, traffic violations that pose a significant public safety risk shall be limited to violations of the following Sections of the Illinois Vehicle Code: Sections 6-101 (driving without a valid license or permit), 6-303 (driving on suspended or revoked license), 6-507 (driving a commercial motor vehicle without a valid commercial driver's license), 6-515 (driving under the influence on a CDL), 11-501 (driving under the influence), 11-502 (open alcohol in vehicle), 11-503 (reckless driving or aggravated reckless driving), 11-504 (drag racing), 11-601.5 (driving 40 mph or more over applicable limit), 11-709 (improper lane usage), 11-907 (improper operation near emergency vehicle) and 11-908 (improper operation near or in a construction or maintenance zone).

b) The author of any check that is returned to the Authority unpaid will be subject to a $25 administrative fee. If payment in the amount of the check plus the $25 fee is not received from the customer within 10 days after final notification that the check has been returned and that the administrative fee is being charged, the customer's account will be suspended and all transponders assigned to the account will be deactivated.

c) I-PASS customers who are V-Tolled more than 10 times in a 30 day period will be issued a notice informing the account holder that the transponder is improperly mounted or is otherwise not being read by the electronic toll collection equipment. If the customer is V-Tolled an additional 10 times in the following 30 day period, the customer will be issued a final warning and assessed a $5 administrative fee. If the customer is V-Tolled 5 or more times in the next 30 day period, the customer's account will be suspended and all transponders assigned to the account will be deactivated.

d) An I-PASS customer whose account balance falls below $0 for 30 or more days will be assessed an administrative fee of $5 if the tolls owed are less than $25. The account holder will be assessed an administrative fee of $25 if the amount of the unpaid tolls is $25 or more. If the customer fails to pay the unpaid tolls and

administrative fee within 21 days from the date of final notification that his or her account balance is insufficient, the customer's account will be suspended and all transponders assigned to the account will be deactivated.

e) Final notices of fees due or I-PASS account suspensions issued under this Section shall be considered final administrative orders of the Authority subject to judicial review in accordance with the Illinois Administrative Review Law [735 ILCS 5/Art. III].

SUBPART F: TOLL VIOLATIONS − ADMINISTRATIVE ADJUDICATION SYSTEM

Section 2520.700 Authority

Pursuant to 605 ILCS 10/10(a-5), Subpart F provides for an administrative adjudication system with respect to the alleged operation of a vehicle on the Tollway without the required toll having been paid, as detected by the Authority's video or photo surveillance system, and post-adjudication enforcement.

Section 2520.705 Notice of Violation to Respondent

The Authority, or its duly authorized agent, shall give a Notice of Violation to the respondent of the alleged toll violation. The Notice of Violation shall be served on the respondent by First Class United States Mail or other means as provided by law, postage prepaid, to the address of the registered owner of the cited vehicle as recorded with the Secretary of State's vehicle registration records or to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of the lease. The Notice of Violation shall specify the date, approximate time and location of the violations cited, the regulation violated, the State registration number of the cited vehicle (if available), the amount of the unpaid tolls, and the applicable fines and fees. The Notice of Violation shall include a statement that failure to satisfy any fine or fee imposed by the Authority may result in the Secretary of State suspending the driving privileges, vehicle registration, or both, of the person failing to satisfy the fines or fees imposed by the Authority for non-payment of tolls. The Notice of Violation shall inform the respondent of the availability of a hearing in which the violation may be contested on its merits and the manner in which the hearing may be conducted. The Notice of Violation shall inform the respondent that failure to contest the alleged violations in the manner and time provided shall be deemed an admission of liability and that a final order of liability may be entered on that admission. The Notice of Violation shall further state that failure to either pay the indicated toll, fine or fee or to request a hearing on the merits will result in a final order of liability in the amount of the toll, fine or fee indicated. A duly authorized agent of the Authority may perform or execute the preparation, certification, affirmation, or mailing of the Notice of Violation.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

Section 2520.710 Effective Date of Notices

Unless otherwise specified in this Part, service of any notice contained in this Subpart F shall be deemed complete 3 calendar days after the date indicated on the notice.

Section 2520.715 Establishment of the Toll-Free Telephone Number

The Authority shall establish a toll-free telephone number to receive, during its regular business hours, inquiries concerning alleged violations.

Section 2520.720 Timely Request for Hearing

Upon receipt of a timely request for a hearing from the registered vehicle owner, the Authority or its duly authorized agent shall provide notice of the date, time and location of the hearing to the respondent. The hearing shall be scheduled during regular business hours and shall be held at the main office of the Authority or at any other location designated by the Authority for the hearings.

Section 2520.725 Hearing Officers – Appointment, Disqualification, Powers and Duties

a) The Authority shall appoint independent attorneys to serve as hearing officers in administrative hearings under this Subpart F. Hearing officers shall be attorneys admitted to the practice of law in the State of Illinois for at least 5 years and shall participate in a formal training program on the relevant substantive and procedural law and judicial conduct before assuming their duties as hearing officers.

b) A motion to disqualify a hearing officer may be made for bias, conflict of interest or other good cause and must be made prior to the commencement of the hearing.

c) The powers and duties of the hearing officer at the hearing include, but are not limited to:

1) presiding over the hearing;

2) explaining the procedures of the hearing to the parties;

3) administering oaths and listening to testimony;

4) ruling on the admissibility of evidence and permitting parties to present evidence;

5) permitting parties to examine and cross-examine witnesses; and

6) issuing a final order indicating his/her findings.

Section 2520.730 Discovery

a) The respondent will be permitted to schedule an appointment to review video or photo surveillance evidence pertaining to the Notice of Violation. These appointments shall be made during regular business hours of the Authority and shall take place at the Violation Administration Center in the Authority's central office located at 2700 Ogden Avenue, Downers Grove, Illinois 60515, or any other location designated by the Authority.

b) Written discovery shall be limited to the production of documents and identification of witnesses that each party intends to introduce or call at the hearing. Nothing in this subsection (b) shall impose a duty upon the Authority to serve respondent with documents that the Tollway had previously sent to the respondent.

Section 2520.735 Continuance

The hearing officer may grant a continuance only upon a finding of good cause. A respondent may be granted one continuance to seek retention of legal counsel, but that motion must be made before the introduction of any testimony or other evidence on the merits. A disruption in the automated adjudicatory file system shall also be grounds for an additional continuance.

Section 2520.740 Hearings Format

a) Each toll violation shall be considered an individual violation.

b) The Authority may be represented by an employee or duly authorized agent at the hearing or may proceed on the Notice of Violation. The hearing officer shall not present any evidence on behalf of the Authority; provided, however, that the Notice of Violation may be placed into the record by the hearing officer. A respondent may represent himself or herself or be represented by a duly authorized agent.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

c) The Authority and the respondent may introduce into evidence, and the hearing officer may consider, all video or photo surveillance evidence relating to the alleged violations, the evidentiary foundation for which shall be presumed valid subject to rebuttal. A Notice of Violation or facsimile of the notice, sworn or affirmed to or certified by a duly authorized agent of the Authority based upon an inspection of photographs, microphotographs, videotape, or other recorded images produced by a video or photo surveillance system, shall be admitted as prima facie evidence of the correctness of the facts contained in the Notice of Violation.

d) Each party to the hearing may make an opening statement, call, examine and cross-examine witnesses, and offer evidence for the record. Evidence may be written or oral.

e) Each party may make a closing argument at the conclusion of the hearing.

f) No testimony shall be given or received at the hearing relating to discussions, offers, counter offers, rejections or admissions at any settlement conferences that may have occurred.

g) Any written stipulations of the parties may be introduced as evidence at the hearing. These stipulations shall be introduced at the beginning of the hearing and shall become part of the record of the hearing.

h) The Authority may, at its sole discretion, establish a process in which respondents may contest alleged violations by a telephonic hearing or mail-in hearing as opposed to an in-person hearing.

i) The hearing officer shall have full authority to conduct and control the procedure at the hearing. The hearing officer shall not be bound by the strict rules of evidence applicable to the courts; irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Evidence not admissible under the rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made, shall be ruled upon by the hearing officer, and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Oral testimony in in-person or telephonic hearings may be recorded by audio or electronic means, provided that, in the event of a recording loss or malfunction, the hearing officer

may prepare a written summary of the oral testimony for purposes of administrative review.

j) The hearing officer shall apply a preponderance of the evidence standard to determine respondent's liability for the alleged violations.

k) Upon completion of a hearing on the merits, the hearing officer shall issue a final order setting forth his or her findings as to liability or non-liability of the respondent. If the hearing officer finds for the Authority, the final order of liability shall assess the tolls, fines and fees that the respondent owes to the Authority. The final order of liability shall state that an additional fine of $50 per violation will be assessed, by operation of law and without further notice or order, if respondent fails to pay the proper toll, fine and/or fee to the Authority within 14 calendar days after the issuance of a final order of liability. A final order of liability shall inform the parties of their right to seek judicial review under the Administrative Review Law and include a statement that failure to satisfy any toll, fine or fee imposed by the final order of liability may result in the Secretary of State suspending the driving privileges, vehicle registration, or both of the registered vehicle owner.

Section 2520.745 Failure to Respond to Notice of Violation – Default

A registered vehicle owner who fails to either pay in full all outstanding tolls, fines and fees set forth in the Notice of Violation or to file a request for a hearing within the time permitted shall be deemed to have admitted liability and to have waived his or her right to a hearing and the Authority may enter a final order of liability against the registered vehicle owner.

Section 2520.750 Penalties

The Authority shall assess the registered owner of any vehicle driven through a toll plaza without the payment of the proper toll the following penalties:

a) Upon a finding of liability, the registered owner of the vehicle shall be liable for the outstanding toll, a $20 fine per violation and applicable fees.

b) Upon the failure of the registered owner to pay the toll, fine and/or fee to the Authority within 14 days after notice of a final order of liability, the Authority shall assess the registered owner an additional fine of $50 for each violation without further notice or order.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

c) Upon failure of a registered owner of a vehicle to satisfy any toll, fine or fee resulting from a final order or orders of liability relating to 5 or more toll violations, the Authority shall notify the Secretary of State to suspend the registered owner's vehicle registration and/or driver's license.

1) A prerequisite to the suspension of vehicle registration and/or driver's license by the Secretary of State, under 625 ILCS 5/3-704.2 or 6-306.7, shall be the submission to the Secretary of State, by the Authority, of a Certified Report containing the following information:

A) The name, last known address as recorded with the Secretary of State or, for a lessee of a cited vehicle, at the last address known to the lessor of the cited vehicle at the time of the lease, and the driver's license number of the person who failed to satisfy the final order of liability and the registration number of any vehicle known to be registered in this State to the person.

B) A statement that the Authority sent a notice of impending suspension of the person's driver's license, vehicle registration, or both, to the person named in the report at the address recorded with the Secretary of State, the date on which the notice was sent, and the address to which the notice was sent.

2) The person to whom the notice of impending suspension was sent may challenge the accuracy of the information contained in the Certified Report by submitting his/her challenges, within 21 days after the date of the notice, in writing, to:

The Illinois State Toll Highway Authority
ATTN: Violation Administration Center
2700 Ogden Avenue
Downers Grove, Illinois 60515

Challenges to the accuracy of the information contained in the Certified Report shall be limited to the following:

A) The person who received the notice was not the registered owner of the vehicle in question at the time of the alleged violations.

B) The person who received the notice has already paid the fine and any fees.

3) The Authority shall notify the Secretary of State whenever a person named in the Certified Report has satisfied the previously reported fines or penalties or whenever the Authority determines that the original report was in error. Upon receipt of the Authority's notification, the Secretary of State shall terminate the suspension. (See 625 ILCS 5/6-306.7.)

4) In addition to any tolls, fines or fees assessed by the Authority for toll violations, the registered owner of the vehicle involved in the toll violations at issue shall be required to reimburse the Authority for all fees paid to the Illinois Secretary of State for the enforcement of this Section.

d) Upon failure of a registered owner of a vehicle to satisfy any toll, fine or fee resulting from a final order issued by the Authority relating directly or indirectly to 5 or more toll violations, any and all vehicles registered to the registered owner shall be subject to immobilization, towing and/or impoundment.

1) If the vehicle was immobilized, a sticker shall be affixed to the vehicle in a conspicuous space. The sticker shall state:

A) that the vehicle has been immobilized pursuant to Section 10(a-5) of the Toll Highway Act for non-payment of 5 or more toll violations;

B) that all immobilized vehicles are subject to immediate tow and impoundment;

C) the procedures for making payment to obtain release of the immobilization;

D) the procedures for contesting the immobilization; and

E) that any unauthorized attempt to remove the immobilizing device shall constitute a petty offense.

2) If the vehicle was towed and/or impounded, the Tollway shall notify the registered owner of the vehicle by First Class Mail or other means provided by law at the registered owner's address of record as recorded

with the Secretary of State's vehicle registration records. The notification shall state:

A) that the vehicle has been towed and/or impounded pursuant to Section 10(a-5) of the Toll Highway Act for non-payment of 5 or more toll violations;

B) the entity that is currently storing the vehicle;

C) the procedures for making payment to obtain release of the towed and/or impounded vehicle;

D) the procedures for contesting the tow and/or impoundment; and

E) that the vehicle may be sold or otherwise disposed of in accordance with Section 4-208 of the Vehicle Code if the vehicle is not retrieved within 30 days after the date of the notification.

3) The registered owner may challenge the immobilization, tow and/or impoundment within 21 days after the date of the notification specified in subsection (d)(1) or (d)(2), in writing, to:

The Illinois State Toll Highway Authority
ATTN: Violation Administration Center
2700 Ogden Avenue
Downers Grove, Illinois 60515

4) Challenges to the immobilization, tow and/or impoundment of a vehicle shall follow the procedures set forth in this Subpart F.

5) If a hearing officer determines that the registered owner was not the registered owner of the vehicle in question at the time of the alleged violations or the registered owner has already paid the outstanding fines and fees, the hearing officer shall order the Authority to release the vehicle without any costs to the registered owner.

6) If a hearing officer determines that the registered owner was not the registered owner of the vehicle in question at the time of the alleged violations or the registered owner has not already paid the fines and any fees, the hearing officer may order the Authority to release the vehicle

only upon payment in full to the Authority of any and all outstanding final order judgment totals plus all fees paid by the Authority relating to the immobilization, tow, impoundment and/or storage of the registered owner's vehicle.

7) The Authority may contract with other public or private entities to carry out the provisions of this subsection (d). If the immobilization is performed by the State Police utilizing an Authority-owned immobilization device, an additional immobilization administrative release fee of $50 shall be applied. If the immobilization, tow and/or impoundment is performed by another public or private entity, the additional administrative release, tow and/or storage fees shall be set by contract between the Authority and the public or private entity.

8) Judicial review of all final orders of the Authority with respect to immobilized, towed or impounded vehicles shall be conducted in accordance with the Administrative Review Law.

Section 2520.755 Liability of Lessor

No commercial entity that is the lessor of a vehicle pursuant to a written lease agreement shall be liable for the violation involving that vehicle during the period of the lease if the lessor provides a copy of the leasing agreement to the Authority within 21 days after the issue date of the Notice of Violation. The lease agreement must inform the lessee that the lessee is liable for payment of all tolls, as well as all fines and fees incurred in connection with non-payment of tolls. The copy of the leasing agreement must contain the name, address and driver's license number of the lessee; vehicle check-out and return dates and times; license plate number; and the vehicle make and model. "Lessor", for purposes of this Section, includes commercial leasing and rental entities, but does not include public passenger vehicle operators.

Section 2520.760 Liability of Registered Owner

In cases in which the operator of the vehicle is not the registered vehicle owner, the establishment of ownership of the vehicle creates a rebuttable presumption that the vehicle was being operated by an agent of the registered vehicle owner. If the registered vehicle owner liable for a violation under this Section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator in the circuit court. [605 ILCS 10(a-5)]

Section 2520.765 Enforcement of Final Order

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

The Authority may exercise any of its remedies listed under Section 2520.750, Section 10(a-5) of the Toll Highway Act and other remedies provided by law. Those remedies will be cumulative and the exercise of any remedy does not preclude the use of any other remedy by the Authority. *Any outstanding toll, fine, additional late payment fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of, or the failure to exhaust, judicial review procedures under the Administrative Review Law are a debt due and owing the Authority and may be collected in accordance with applicable law. After expiration of the period in which judicial review under the Administrative Review Law may be sought, unless stayed by a court of competent jurisdiction, a final order of the Authority may be enforced in the same manner as a judgment entered by a court of competent jurisdiction. The Authority may, with the approval of the Attorney General, retain a law firm or law firms with expertise in the collection of government fines and debts for the purpose of collecting fines, costs, and other monies due.* [605 ILCS 10/10(a-5)]

Section 2520.770 Judicial Review

Judicial review of all final orders of the Authority shall be conducted in the Circuit Court of the county in which the administrative decision was rendered in accordance with the Administrative Review Law.

SUBPART G: EMPLOYMENT

Section 2520.800 Tollway Employees

Employees of the Authority are not subject to the Illinois Civil Service Rules (80 Ill. Adm. Code 1). Except for those employees covered by a collective bargaining agreement that provides otherwise, Authority employees are "at will" employees.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

Section 2520.APPENDIX A Rules and Regulations for Overweight and Overdimension Vehicles and Loads

Overweight and overdimension permits should be ordered a day ahead of the date the vehicle is to travel. Call (630)241-6800 ext. 3822.

a) Overweight Vehicles

1) The following are the overweight limitations on the Illinois Tollway. Vehicles exceeding these absolute limitations are not permitted on the Tollway. The gross weight of any vehicle may not exceed 120,000 pounds.

Vehicle Weight	Permit Fee
80,000 to 104,000 lbs.	$35
104,001 to 120,000 lbs.	$150
double tandem 34,001 to 44,2000 lbs.	$35
double tandem 44,201 to 52,000 lbs	$150

2) Vehicles under Own Power. Any vehicles under their own power, such as cranes, drill rigs, concrete pumps, etc., require overweight permits under different guidelines. If the vehicle is required to have a State permit for overweight, a Tollway overweight permit is also required.

3) Vehicles must have a State overweight permit number prior to requesting a Tollway overweight permit.

4) Overweight vehicles with legal dimensions may travel 24 hours a day, 7 days a week, including holidays, in accordance with Illinois Department of Transportation policy.

5) The Tollway will obtain prior approval from its traffic engineering consultants for any overweight permit for a vehicle that exceeds 104,000 lbs.

b) Overdimension Vehicles. The following are the overdimension limitations on the Illinois Tollway. Vehicles exceeding these absolute limitations are not permitted on the Tollway.

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

1) Overlength

A) Any vehicle whose overall length exceeds 100', or whose load length exceeds 80', must have prior approval from the Authority before entering the Tollway and will require a permit based on the following information:

i) Overall length of the vehicle, including over-hang, if any.

ii) The points at which the vehicle is to enter and exit the Tollway.

B) Overlength vehicle permits are subject to routing. These permits can be obtained at toll plazas. The following is the required permit fee:

Vehicle Length	Permit Fee
100'1"-145'	$15

C) Maximum vehicle length may determine the route the vehicle is to travel and a vehicle may be required to have rear steering.

D) Vehicles must have a State overdimension permit prior to requesting a Tollway overlength permit.

E) Escorts are required if the overall length exceeds 110'.

F) The Tollway will obtain prior approval from its traffic engineering consultants before issuance of any overlength permit.

2) Overwidth

A) Vehicles exceeding 8'6" in width, but not exceeding the limitations specified in subsection (b)(2)(C), are required to have an overwidth permit.

B) Overwidth vehicle permits can be obtained at toll plazas. The following is the required permit fee:

Vehicle Width	Permit Fee
8'7"-10'0"	$15

C) Absolute Width

i) The absolute width for all vehicles is 10', except for buses and travel described in subsection (b)(2)(C)(ii).

ii) Vehicles traveling east or west on I-80/294 between M.P. 0.0 and 5.2, toll plazas 43/45 on the Tri-State Tollway, or traveling north or south on I-90 between M.P. 61.4 and 76.1, toll plazas 3 and 1 (Rockford/Cherry Valley and Wisconsin) on the Northwest Tollway, may be 12' wide.

iii) The absolute width for buses is 8'8".

3) Overheight

A) Vehicles exceeding 13'6" in height, but not exceeding 14'6", are required to have an overheight permit.

B) Overheight vehicle permits can be obtained at toll plazas. The following is the required permit fee:

Vehicle Height	Permit Fee
13'7"-14'6"	$15

C) The absolute height for all vehicles is 14' 6".

c) Hours for Permit Usage for Overdimension Vehicles. Vehicles with overdimension permits are restricted to the following hours of operation, except as provided in subsection (e).

Day	Permitted Hours
Monday through Friday	½ hour before sunrise to ½ hour after sunset
Saturday	½ hour before sunrise to 12:00 noon

ILLINOIS STATE TOLL HIGHWAY AUTHORITY

NOTICE OF ADOPTED RULES

Sunday may not travel on the Tollway

d) Restrictions for Overdimension Vehicles. In conformance with Illinois Department of Transportation Policy, overdimension vehicles shall not be operated on the Tollway on the following holidays, except as provided in subsection (e):

1) New Year's Day

2) Memorial Day

3) Independence Day

4) Labor Day

5) Thanksgiving Day

6) Christmas Day

e) Overwidth Farm Equipment. Vehicles that are of legal weight, length and height hauling overwidth farm equipment and that are exempt from the State permit requirement are also exempt from the Tollway's overwidth permit requirement. In accordance with Illinois Department of Transportation policy, these vehicles may travel on the Tollway ½ hour before sunrise to ½ after sunset 7 days a week, including holidays.

f) Military Vehicles. Military vehicles are not exempt from the requirements and restrictions of this Part.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Cancellation, Revocation or Suspension of Licenses or Permits

2) Code Citation: 92 Ill. Adm. Code 1040

3) Section Number: 1040.42 — Adopted Action: Amendment

4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)], Section 11-204 of the Illinois Vehicle Code [625 ILCS 5/11-204], and Section 6-206 of the Illinois Vehicle Code [625 ILCS 5/6-206].

5) Effective Date of Amendment: June 12, 2006

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 amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposed Published in Illinois Register: 29 Ill. Reg. 12231; August 5, 2005

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: At the request of JCAR during the second notice period, new language was added to subsection (e) and subsequent subsections were renumbered.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? No

15) Summary of Purpose of Amendment: The adopted rulemaking is pursuant to Public Act 93-120, which was passed into law effective January 1, 2004. P.A. 93-120 changes the word "police" officer to "peace" officer in statute 625 ILCS 5/11-204, 11-204.1, 6-205 and 6-206. This rulemaking also amends sanctions for the offense of fleeing and eluding a peace officer in compliance with P.A. 90-134 that became effective July 22, 1997.

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

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

Office of the Secretary of State
Driver Services Department
JoAnn Wilson, Legislative Liaison
c/o Director's Office
2701 South Dirksen Parkway
Springfield, IL 62723

217/785-1441

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

SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1040
CANCELLATION, REVOCATION OR SUSPENSION
OF LICENSES OR PERMITS

Section
1040.10 Court to Forward Licenses and Reports of Convictions
1040.20 Illinois Offense Table
1040.25 Suspension or Revocation for Driving Without a Valid Driver's License
1040.29 2 or More Traffic Offenses Committed within 24 Months by a Person Under the Age of 21 Years
1040.30 3 or More Traffic Offenses Committed Within 12 Months
1040.31 Operating a Motor Vehicle During a Period of Suspension or Revocation
1040.32 Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently
1040.33 Suspension or Revocation of Driver's Licenses/Permits for Fictitious or Unlawfully Altered Person-with-Disabilities License Plate or Parking Decal or Device or Fraudulent Person-with-Disabilities License Plate or Parking Decal or Device
1040.35 Commission of an Offense Requiring Mandatory Revocation Upon Conviction, and Suspension or Revocation Upon a Local Ordinance Conviction
1040.36 Suspension for Violation of Restrictions on Driver's License
1040.37 Suspension for Violation of Restrictions on Instruction Permit
1040.38 Commission of a Traffic Offense in Another State
1040.40 Repeated Convictions or Collisions
1040.41 Suspension of Licenses for Curfew Violations
1040.42 Fleeing and Eluding
1040.43 Illegal Transportation
1040.46 Fatal Accident and Personal Injury Suspensions or Revocations
1040.48 Vehicle Emission Suspensions
1040.50 Suspension of License of Commercial Vehicle Driver
1040.52 Driver Remedial Education Course
1040.55 Suspension for Driver's License Classification Violations
1040.60 Release of Information Regarding a Disposition of Court Supervision
1040.65 Offenses Occurring on Military Bases
1040.66 Invalidation of a Restricted Driving Permit
1040.70 Problem Driver Pointer System
1040.80 Cancellation of Driver's License Upon Issuance of a Handicapped Identification

NOTICE OF ADOPTED AMENDMENT

	Card
1040.100	Rescissions
1040.101	Reinstatement Fees
1040.102	Bankruptcy for Suspensions, Cancellations, Failure to Pay and Returned Checks Actions
1040.105	Suspension for 5 or More Tollway Violations and/or Evasions
1040.107	Suspension for Violation of 625 ILCS 5/11-907, Approaching a Stationary Emergency Vehicle
1040.108	Suspension for Failure to Make Report of Vehicle Accident Violations
1040.110	Bribery
1040.111	Suspension for Violation of 625 ILCS 5/11-908(a-1) for Failure to Yield upon Entering a Construction or Maintenance Zone When Workers Are Present

AUTHORITY: Implementing Articles II and VII of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Arts. II and VII] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed September 22, 1972; amended at 3 Ill. Reg. 26, p. 282, effective June 30, 1979; amended at 5 Ill. Reg. 3533, effective April 1, 1981; amended at 6 Ill. Reg. 4239, effective April 2, 1982; codified at 6 Ill. Reg. 12674; amended at 8 Ill. Reg. 2200, effective February 1, 1984; amended at 8 Ill. Reg. 3783, effective March 13, 1984; amended at 8 Ill. Reg. 18925, effective September 25, 1984; amended at 8 Ill. Reg. 23385, effective November 21, 1984; amended at 10 Ill. Reg. 15265, effective September 4, 1986; amended at 11 Ill. Reg. 16977, effective October 1, 1987; amended at 11 Ill. Reg. 20659, effective December 8, 1987; amended at 12 Ill. Reg. 2148, effective January 11, 1988; amended at 12 Ill. Reg. 14351, effective September 1, 1988; amended at 12 Ill. Reg. 15625, effective September 15, 1988; amended at 12 Ill. Reg. 16153, effective September 15, 1988; amended at 12 Ill. Reg. 16906, effective October 1, 1988; amended at 12 Ill. Reg. 17120, effective October 1, 1988; amended at 13 Ill. Reg. 1593, effective January 23, 1989; amended at 13 Ill. Reg. 5162, effective April 1, 1989; amended at 13 Ill. Reg. 7802, effective May 15, 1989; amended at 13 Ill. Reg. 8659, effective June 2, 1989; amended at 13 Ill. Reg. 17087, effective October 16, 1989; amended at 13 Ill. Reg. 20127, effective December 8, 1989; amended at 14 Ill. Reg. 2944, effective February 7, 1990; amended at 14 Ill. Reg. 3664, effective February 7, 1990; amended at 14 Ill. Reg. 5178, effective April 1, 1990; amended at 14 Ill. Reg. 5560, effective March 22, 1990; amended at 14 Ill. Reg. 14177, effective August 21, 1990; amended at 14 Ill. Reg. 18088, effective October 22, 1990; amended at 15 Ill. Reg. 14258, effective September 24, 1991; amended at 17 Ill. Reg. 8512, effective May 27, 1993; amended at 17 Ill. Reg. 9028, effective June 2, 1993; amended at 17 Ill. Reg. 12782, effective July 21, 1993; amended at 18 Ill. Reg. 7447, effective May 3, 1994; amended at 18 Ill. Reg. 10853, effective June 27, 1994; amended at 18 Ill. Reg. 11644, effective July 7, 1994;

amended at 18 Ill. Reg. 16443, effective October 24, 1994; amended at 20 Ill. Reg. 2558, effective January 26, 1996; amended at 21 Ill. Reg. 8398, effective June 30, 1997; amended at 21 Ill. Reg. 10985, effective July 29, 1997; amended at 21 Ill. Reg. 12249, effective August 26, 1997; amended at 21 Ill. Reg. 12609, effective August 29, 1997; amended at 22 Ill. Reg. 1438, effective January 1, 1998; amended at 22 Ill. Reg. 5083, effective February 26, 1998; amended at 22 Ill. Reg. 13834, effective July 10, 1998; amended at 24 Ill. Reg. 1655, effective January 11, 2000; emergency amendment at 24 Ill. Reg. 8398, effective June 2, 2000, for a maximum of 150 days; emergency expired October 29, 2000; emergency amendment at 24 Ill. Reg. 16096, effective October 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16689, effective October 30, 2000; amended at 25 Ill. Reg. 2723, effective January 31, 2001; amended at 25 Ill. Reg. 6402, effective April 26, 2001; emergency amendment at 26 Ill. Reg. 2044, effective February 1, 2002, for a maximum of 150 days; emergency expired June 30, 2002; emergency amendment at 26 Ill. Reg. 3753, effective February 21, 2002, for a maximum of 150 days; emergency expired July 20, 2002; amended at 26 Ill. Reg. 12373, effective July 25, 2002; amended at 26 Ill. Reg. 13684, effective August 28, 2002; amended at 29 Ill. Reg. 2441, effective January 25, 2005; amended at 29 Ill. Reg. 13892, effective September 1, 2005; amended at 29 Ill. Reg. 15968, effective October 7, 2005; amended at 30 Ill. Reg. 11299, effective June 12, 2006.

Section 1040.42 Fleeing and Eluding

a) For purposes of this Section, the following definitions shall apply:

1) "Auto Emissions Suspension" – Suspension~~suspension~~ for failing to have vehicle tested pursuant to the Vehicle Emissions Inspection Law of the Illinois Vehicle Code [625 ILCS 5/Ch.13B]~~(Ill. Rev. Stat. 1989, ch. 95½, pars. 13A-101 et seq.)~~.

2) *"Conviction" – A~~a~~ final adjudication of guilty by a court of competent jurisdiction either after a bench trial, trial by jury, plea of guilty, order of forfeiture, or default as defined in Section 6-100(b) of the Illinois Driver Licensing Law of the Illinois Vehicle Code* [625 ILCS 5/6-100(b)]~~*(Ill. Rev. Stat. 1989, ch. 95½, par. 6-100(b))*~~*.*

3) "Curfew Violation Suspension" – Suspension~~suspension~~ when a minor operates a vehicle on a highway during the prescribed hours without an adult or as otherwise provided for in Section 1 of "the Child Curfew Act [720 ILCS 555/1]~~An Act relating to a curfew for certain children", (Ill. Rev. Stat. 1989, ch. 23, par. 2371)~~ in accordance with Section 6-206(a)(13) of the Illinois Driver Licensing Law of the Illinois Vehicle

Code [625 ILCS 5/6-206(a)(13)]~~(Ill. Rev. Stat. 1989, ch. 95½, par. 6-206(a)(13))~~.

4) "Department" – Department of Driver Services within the Office of the Secretary of State.

5) "Failure to Appear Suspension" – Suspension~~suspension~~ for failing to pay fines or appear in court following the issuance of a traffic ticket as defined in Section 6-306.3 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-306.3]~~(Ill. Rev. Stat. 1989, ch. 95½ par. 6-306.3)~~.

6) "Financial Responsibility Suspension" – Suspension~~suspension~~ in accordance with Section 7-304 and Section 7-305 of the Illinois Safety Responsibility Law of the Illinois Vehicle Code [625 ILCS 5/7-304 and 7-305]~~(Ill. Rev. Stat. 1989, ch. 95½, pars. 7-304 and 7-305)~~.

7) "Like Period of Time" – Equal~~equal~~ amount of time as the original suspension specified.

8) "Miscellaneous Suspensions" – Suspensions~~suspensions~~ for safety responsibility, financial responsibility, warrant parking/traffic ticket, auto emissions, failure to appear, curfew or unsatisfied judgment.

9) "Parking/Traffic Suspension" – Suspension~~suspension~~ for failure to pay fines for traffic or parking violations as described in ~~Section 6-306.1 and/or~~ Section 6-306.5 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-306.5]~~(Ill. Rev. Stat. 1989, ch. 95½, par. 6-306.1 and/or 6-306.5)~~.

10) *"Revocation" – The~~the~~ termination by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highway which termination shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the Secretary after the latest projected eligibility date has passed as defined in Section 1-176 of the Illinois Vehicle Code* [625 ILCS 5/1-176]~~*(Ill. Rev. Stat. 1989, ch. 95½, par. 1-176)*~~.

11) "Safety Responsibility Suspension" – Suspension~~suspension~~ in accordance with Section 7-205 and/or Section 7-208 of the Illinois Safety

Responsibility Law of the Illinois Vehicle Code [625 ILCS 5/7-205 and 7-208]~~(Ill. Rev. Stat. 1989, ch. 95½, pars. 7-205 and 7-208)~~.

12) *"Suspension" – Temporary~~temporary~~ withdrawal by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary, as defined in Section 1-204 of the Illinois Vehicle Code* [625 ILCS 5/1-204]~~*(Ill. Rev. Stat. 1989, ch. 95½, par. 1-204)*~~.

13) "Suspension or Revocation in Effect" – Suspension~~suspension~~ or revocation that~~which~~ has not terminated.

14) "Terminated Revocation" – Revocation that~~revocation which~~ is no longer in effect.

15) "Terminated Suspension" – Suspension that~~suspension which~~ is no longer in effect.

16) "Unsatisfied Judgment Suspension" – Suspension~~suspension~~ in accordance with Article III of the Safety Responsibility Law of the Illinois Vehicle Code [625 ILCS 5/Ch.7, Art. III]~~(Ill. Rev. Stat. 1989, ch. 95½, pars. 7-301 et seq.)~~.

b) A person who has been convicted of fleeing or attempting to elude a peace~~police~~ officer in a motor vehicle shall have his/her driving privileges suspended or revoked by this Department. ~~The length of the suspension shall not be for a period of more than six (6) months as prescribed by Section 11-204(b) of the Illinois Rules of the Road of the Illinois Vehicle Code (Ill. Rev. Stat. 1989, ch. 95½, par. 11-204(b)).~~

c) If the driving record contains no suspensions or revocations, the Department shall take the following action:

ACTION TABLE

1st conviction – 6~~3~~ month suspension

2nd ~~or more~~ conviction – 12~~6~~ month suspension

3rd or subsequent conviction – Revocation

d) If the driving record contains one or more suspensions~~suspension(s)~~ and/or cleared revocations~~revocation(s)~~ excluding miscellaneous suspensions, the Department shall take the following action:

ACTION TABLE

1st conviction~~1 or more convictions~~ – 6 month suspension

2nd conviction – 12 month suspension

3rd or subsequent conviction – Revocation

e) If the driving record contains one or more open or pending revocation excluding miscellaneous suspensions, and the arrest date of the incoming conviction falls occurred prior to commencement of the period of revocation, the Department shall take the following action:

ACTION TABLE

1st conviction – No action

2nd conviction – No action

3rd or subsequent conviction – Revocation

f~~e~~) If the driving record contains one ~~(1)~~ or more open revocations~~revocation(s)~~ one of which may be concurrent with one ~~(1)~~ or more open or pending suspensions~~suspension(s)~~ excluding miscellaneous suspensions and the arrest date of the incoming conviction falls during the revocation, then the Department shall extend the projected eligibility date of the revocation one year from the conviction date or to the latest projected eligibility date on record. If the arrest date of the incoming conviction falls outside the period of revocation but within the period of an open suspension, then the Department shall extend the suspension for an additional like period of time.

g~~f~~) Only prior suspensions or revocations terminating within ~~seven (~~7~~)~~ years of the forthcoming suspension's effective date shall be considered.

h~~g~~) When considering prior convictions, only convictions for fleeing or attempting to

elude a peacepolice officer with conviction dates within seven (7) years of the forthcoming suspension's effective date shall be used.

(Source: Amended at 30 Ill. Reg. 11299, effective June 12, 2006)

JOINT COMMITTEE ON ADMINISTRTIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notice was received by the Joint Committee on Administrative Rules during the period of June 6, 2006 through June 12, 2006 and has been scheduled for review by the Committee at its July 11, 2006 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
7/22/06	Health Facilities Planning Board, Health Facilities Planning Procedural Rules (77 Ill. Adm. Code 1130)	10/28/05 29 Ill. Reg. 16173	7/11/06

ILLINOIS DEPARTMENT ON AGING

JULY 2006 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Americans with Disabilities Act Grievance Procedure; 4 Ill. Adm. Code 1725

1) Rulemaking:

A) Description: New rules will be added as Part 1725 to establish a grievance procedure as required under the Americans with Disabilities Act of 1990.

B) Statutory Authority: 42 USC 12131-12134, 28 CFR 35.107, and 20 ILCS 105/4.01(11)

C) Schedule meeting/hearing dates: No meetings or hearings are scheduled or anticipated.

D) Date agency anticipates First Notice: The Department anticipates filing this rulemaking during the next six months of this year.

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Name: Karen Alice Kloppe, Assistant General Counsel
Address: Illinois Department on Aging
421 East Capitol Avenue, #100
Springfield, Illinois 62701-1789
Telephone: (217) 785-3346

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citations): Community Senior Services and Resource Act; 89 Ill. Adm. Code 235

1) Rulemaking:

A) Description: New rules will be added as Part 235 to reflect recent statutory changes as a result of Public Act 93-246.

B) Statutory Authority: 320 ILCS 60/20

C) Schedule meeting/hearing dates: No meetings or hearings are scheduled

or anticipated.

D) Date agency anticipates First Notice: The Department anticipates filing this rulemaking during the next six months of this year.

E) Effect on small businesses, small municipalities or not for profit corporations: Any community senior services and resource center that applies for a grant from the Department will be affected by this rulemaking.

F) Agency contact person for information:

Name: George M. Sisk, General Counsel
Address: Illinois Department on Aging
421 East Capitol Avenue, #100
Springfield, Illinois 62701-1789
Telephone: (217) 785-3346

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citations): Community Care Program; 89 Ill. Adm. Code 240

1) Rulemaking:

A) Description: The following changes will be made to Part 240: (1) add new rules and amend existing rules as necessary to change a statewide demonstration project for Emergency Home Response into a permanent program for this core service under the Community Care Program and (2) amend existing rules as necessary to increase the non-exempt asset level from $12,500 to $17,500 for eligibility determinations under the Community Care Program as a result of a higher funding allocation in the Department's budget for fiscal year 2007.

B) Statutory Authority: 20 ILCS 105/4.02 and 4.01(11), respectively

C) Schedule meeting/hearing dates: No meetings or hearings are scheduled or anticipated.

D) Date agency anticipates First Notice: The Department anticipates filing the first rulemaking during the next six months of this year and the second

rulemaking in July 2006.

E) Effect on small businesses, small municipalities or not for profit corporations: Any entity providing emergency home response services under a provider agreement with the Community Care Program will be affected by the first rulemaking. Small businesses, small municipalities or not for profit corporations will not be affected by the second rulemaking.

F) Agency contact person for information:

Name: George M. Sisk, General Counsel
Address: Illinois Department on Aging
421 East Capitol Avenue, #100
Springfield, Illinois 62701-1789
Telephone: (217) 785-3346

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citations): Elder Rights; 89 Ill. Adm. Code 270

1) Rulemaking:

A) Description: New rules relating to the use of volunteers by elder abuse provider agencies will be added under a new Subpart in Part 270 to implement Public Act 94-431.

B) Statutory Authority: 20 ILCS 105/4.01(11) and 320 ILCS 20/14

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.

D) Date agency anticipates First Notice: The Department anticipates filing this rulemaking during the next six months of this year.

E) Effect on small businesses, small municipalities or not for profit corporations: Any entity serving as an elder abuse provider agency will be affected by this rulemaking.

F) Agency contact person for information:

Name: Karen Alice Kloppe, Assistant General Counsel

ILLINOIS DEPARTMENT ON AGING

JULY 2006 REGULATORY AGENDA

Address: Illinois Department on Aging
421 East Capitol Avenue
Springfield, Illinois 62701-1789
Telephone: (217) 785-3346

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citations): Community Based Residential Facilities Demonstration Project; 89 Ill. Adm. Code 280

1) Rulemaking:

A) Description: Part 280 will be amended as necessary to reflect recent statutory changes as a result of Public Act 93-775 by repealing the Community Based Residential Facilities Demonstration Project and establishing the Comprehensive Care in Residential Settings Demonstration Project in its place.

B) Statutory Authority: 20 ILCS 105/4.02b, 4.02c

C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled or anticipated.

D) Date agency anticipates First Notice: The Department anticipates filing this rulemaking during the next six months of this year.

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Name: George M. Sisk, General Counsel
Address: Illinois Department on Aging
421 East Capitol Avenue
Springfield, Illinois 62701-1789
Telephone: (217) 785-3346

G) Related rulemakings and other pertinent information: None

f) Parts (Heading and Code Citation): Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act; 89 Ill. Adm. Code 295

ILLINOIS DEPARTMENT ON AGING

JULY 2006 REGULATORY AGENDA

1) Rulemaking:

A) Description: New rules will be added as Part 295 to recodify the provisions under 86 Ill. Adm. Code 530 to reflect the re-assignment of administration responsibility for the "Circuit Breaker" Property Tax Relief and Pharmaceutical Assistance Programs which were transferred from the Department of Revenue to the Department on Aging and Department of Public Aid as a result of Executive Order 2004-3, effective July 1, 2004.

B) Statutory Authority: 320 ILCS 25/12 and Executive Order 2004-3

C) Schedule meeting/hearing dates: No meetings or hearings are scheduled or anticipated.

D) Date agency anticipates First Notice: The Department anticipates filing this rulemaking during the next six months of this year.

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Name: Karen Alice Kloppe, Assistant General Counsel
Address: Illinois Department on Aging
421 East Capitol Avenue, #100
Springfield, Illinois 62701-1789
Telephone: (217) 785-3346

G) Related rulemakings and other pertinent information: The Department of Healthcare and Family Services (formerly Public Aid) has recodified certain provisions relating to the Circuit Breaker Pharmaceutical Assistance Program (which was joined together with SeniorCare to form Illinois Cares Rx at the beginning of this year) as Part 119 of Title 89.

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): State Universities Civil Service System, 80 Ill. Adm. Code 250.140

1) Rulemaking:

A) Description: The purpose of this rulemaking is to revise and update various subsections to section 250.140, Delegation of Authority and Responsibilities.

B) Statutory Authority: Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70].

C) Scheduled meeting/hearing dates: None at this time. The proposed amendment will be submitted to various agency Advisory Committees for comments and recommendations prior to the First 45-day notice period.

D) Date agency anticipates First Notice: Unknown

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mary C. Follmer
Assistant Director, Legal Services
State Universities Civil Service System
1717 Philo Road, Suite 24
Urbana, IL 61802
217/278-3150, ext. 226

G) Related rulemakings and other pertinent information: None.

b) Part(s) (Heading and Code Citation): State Universities Civil Service System, 80 Ill. Adm. Code 250.150

1) Rulemaking:

A) Description: The purpose of this rulemaking is to revise and update section 250.150, Training.

B) Statutory Authority: Implementing and authorized by the State Universities Civil

Service Act [110 ILCS 70].

C) Scheduled meeting/hearing dates: None at this time. The proposed amendment will be submitted to various agency Advisory Committees for comments and recommendations prior to the 1st 45-day notice period.

D) Date agency anticipates First Notice: Unknown

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mary C. Follmer
Assistant Director, Legal Services
State Universities Civil Service System
1717 Philo Road, Suite 24
Urbana, IL 61802
217/278-3150, ext. 226

G) Related rulemakings and other pertinent information: Various subsections of 250.70, Nonstatus Appointments, will be deleted and moved to section 250.150.

c) Part(s) (Heading and Code Citation): State Universities Civil Service System, 80 Ill. Adm. Code 250.110

1) Rulemaking:

A) Description: The purpose of this rulemaking is to revise and update section 250.110, Separations and Demotions.

B) Statutory Authority: Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70].

C) Scheduled meeting/hearing dates: None at this time. The proposed amendment will be submitted to various agency Advisory Committees for comments and recommendations prior to the 1st 45-day notice period.

D) Date agency anticipates First Notice: Unknown

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF REGULATORY AGENDA

E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mary C. Follmer
Assistant Director, Legal Services
State Universities Civil Service System
1717 Philo Road, Suite 24
Urbana, IL 61802
217/278-3150, ext. 226

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF TRANSPORTATION

JULY 2006 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Minimum Safety Standards for Construction of Type I School Buses; 92 Ill. Adm. Code 440

1) Rulemaking:

A) Description: The Department intends to promulgate this rulemaking pursuant to 625 ILCS 5/12-815.2 that requires school buses manufactured on or after January 1, 2006 to be equipped with a noise suppression switch capable of turning off noise-producing accessories. The Department is also updating, clarifying and correcting standards throughout this Part.

B) Statutory Authority: 625 ILCS 5/Ch. 12, Art. VIII

C) Scheduled meeting/hearing date: None scheduled

D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is not aware of any small business manufacturer; therefore, no impact is anticipated.

F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 311
Address: 2300 South Dirksen Parkway
Springfield, IL 62764
Telephone: (217) 782-3215

G) Related rulemakings and other pertinent information:
92 Ill. Adm. Code 442 (see below)

b) Part(s) (Heading and Code Citation): Minimum Safety Standards for Construction of Type II School Buses; 92 Ill. Adm. Code 442

1) Rulemaking:

DEPARTMENT OF TRANSPORTATION

JULY 2006 REGULATORY AGENDA

A) Description: The Department intends to promulgate this rulemaking pursuant to 625 ILCS 5/12-815.2 that requires school buses manufactured on or after January 1, 2006 to be equipped with a noise suppression switch capable of turning off noise-producing accessories. The Department is also updating, clarifying and correcting standards throughout this Part.

B) Statutory Authority: 625 ILCS 5/Ch. 12, Art. VIII

C) Scheduled meeting/hearing date: None scheduled

D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: The Department is not aware of any small business manufacturer; therefore, no impact is anticipated.

F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 311
Address: 2300 South Dirksen Parkway
Springfield, IL 62764
Telephone: (217) 782-3215

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Illinois Motor Carrier Safety Regulations (IMCSR); 92 Ill. Adm. Code 340, 380, 382, 383, 385, 386, 387, 390, 391, 392, 393, 395, 396, and 397

1) Rulemaking:

A) Description: The Department will update existing Parts and add three new Parts to the IMCSR in accordance with the federal Motor Carrier Safety Reauthorization Act of 2005, statutory updates from the 2005 legislative session, and changes to 49 CFR.

DEPARTMENT OF TRANSPORTATION

JULY 2006 REGULATORY AGENDA

B) Statutory Authority: 625 ILCS 5/Ch. 18B

C) Scheduled meeting/hearing date: None scheduled

D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: This amendment will affect small businesses that own or operate applicable commercial motor vehicles in Illinois.

F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 311
Address: 2300 South Dirksen Parkway
Springfield, IL 62764
Telephone: (217) 782-3215

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Business Logo Signing Program; 92 Ill. Adm. Code 542

1) Rulemaking:

A) Description: The Department will propose an amendment to allow for signing to indicate businesses that can accommodate large recreational vehicles in parking areas or at fueling facilities as permitted by a recent revision to the national Manual on Uniform Traffic Control Devices.

B) Statutory Authority: 225 ILCS 440/4.08, 605 ILCS 5/4-201.1, and 225 ILCS 440/14.01

C) Scheduled meeting/hearing date: None scheduled

D) Date agency anticipates First Notice: Within six months

DEPARTMENT OF TRANSPORTATION

JULY 2006 REGULATORY AGENDA

E) Effect on small businesses, small municipalities or not for profit corporations: These amendments will affect small businesses desiring to participate in the program.

F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 311
Address: 2300 South Dirksen Parkway
Springfield, IL 62764
Telephone: (217) 782-3215

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Engine Braking Signs; 92 Ill. Adm. Code 547

1) Rulemaking:

A) Description: This new Part will regulate the use of "EXCESSIVE ENGINE BRAKING NOISE PROHIBITED" signs to be displayed along various streets and highways. P.A. 094-0756, effective January 1, 2007, requires the Department to adopt rules providing for the erection and placement of engine braking signs.

B) Statutory Authority: 625 ILCS 5/12-602.1(new)

C) Scheduled meeting/hearing date: None scheduled

D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: This Part will affect small municipalities who voluntarily choose to install engine braking signs.

F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 311

DEPARTMENT OF TRANSPORTATION

JULY 2006 REGULATORY AGENDA

Address: 2300 South Dirksen Parkway
Springfield, IL 62764
Telephone: (217) 782-3215

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): Tourism Attraction Signing Program; 92 Ill. Adm. Code 543

1) Rulemaking:

A) Description: The 2000 edition of the Federal Highway Administration's national Manual on Uniform Traffic Control Devices added an attraction category to Chapter 2F on Specific Service Signs. Signing for the attraction category will be similar to that of the business logo signs (92 Ill. Adm. Code 542) that are currently installed on interstate highways. The program will include signing for attractions such as wineries, amusement parks, arenas/auditoriums/convention centers, fairgrounds, museums, nature preserves, auto/horse race tracks, stadiums, state/national parks, and state historic sites.

B) Statutory Authority: 225 ILCS 440/4.08, 605 ILCS 5/4-201.1, and 225 ILCS 440/14.01

C) Scheduled meeting/hearing date: None scheduled

D) Date agency anticipates First Notice: Within six months

E) Effect on small businesses, small municipalities or not for profit corporations: These amendments will affect small businesses desiring to participate in the program.

F) Agency contact person for information:

Name: Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
Office of Chief Counsel, Room 311
Address: 2300 South Dirksen Parkway
Springfield, IL 62764

DEPARTMENT OF TRANSPORTATION

JULY 2006 REGULATORY AGENDA

Telephone: (217) 782-3215

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF REFUSAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) Heading of the Part: Real Estate License Act of 2000

2) Code Citation: 68 Ill. Adm. Code 1450

3) Section Number: 1450.140 Action: Refusal

4) Date Notice of Proposed Amendments Published in the Register: November 4, 2005; 29 Ill. Reg. 17959

5) Date JCAR Statement of Objection Published in the Register: May 26, 2006; 30 Ill. Reg. 9925

6) Summary of Action Taken by the Agency: Section 1450.140 is being amended to clarify what constitutes "misleading advertising." The amendment to Section 1450.140 is intended to clarify what constitutes "misleading advertising."

JCAR objected to the above-cited Section because it felt Section 1450.140 lacks clarity in regard to what constitutes prohibited advertising for a property zoned single family. However, this section is intended to safeguard Illinois buyers of real property who reasonably rely on statements of licensed real estate professionals. This Section provides direction to licensed real estate agents as to additional types of misleading advertisements.

IDFPR will adopt the amendments as submitted to JCAR at Second Notice.

DEPARTMENT OF HUMAN SERVICES

AGENCY RESPONSE TO JOINT COMMITTEE OBJECTION TO EMERGENCY RULEMAKING

1) Heading of the Part: Crisis Assistance

2) Code Citation: 89 Ill. Adm. Code 116

3) Section Number: 116.530

4) Date Notice of Emergency Rulemaking Published in the Register: 30 Ill. Reg. 1907; February 10, 2006

5) Date JCAR Statement of Objection Published in the Register: 30 Ill. Reg. 6018; March 31, 2006

6) Agency Response to Joint Committee Objection: At its meeting on March 14, 2006, the Joint Committee on Administrative Rules objected to the above-cited emergency rulemaking because, while there was an emergency situation, the Department conducted and concluded a program to disburse cash assistance payments to applicants during the fall of 2005 before its 1/27/06 adoption of emergency rules.

The Department of Human Services has reviewed the objection from the Joint Committee on Administrative Rules regarding the above-cited emergency rulemaking. The Department will make every attempt to use emergency rulemaking procedures prior to the expiration of the emergency situation in future rulemakings.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/7.2(b)

In this Notice of Public Information under Section 7.2(b) of the Illinois Environmental Protection Act (Act), 415 ILCS 5/7.2(b) (2006), the Board explains why it has extended until September 14, 2006 the deadline for adoption and filing of rules in the following consolidated identical in substance rulemaking: UIC Corrections, USEPA Amendments (July 1, 2005 through December 31, 2005), R06-16; RCRA Subtitle D Update, USEPA Amendments (July 1, 2005 through December 31, 2005 and August 1, 2005), R06-17; RCRA Subtitle C Update, USEPA Amendments (July 1, 2005 through December 31, 2005 and August 1, 2005), R06-18 (consolidated).

The public comment period was scheduled to close June 5, 2006, 45 days after *Illinois Register* publication of the proposal on April 21, 2006. The Board extended the public comment deadline in response to a May 18, 2006 request made by the Illinois Environmental Protection Agency (Agency). In its motion, the Agency stated, "due to the large volume of the consolidated rulemaking and the fact that the new [35 Ill. Adm. Code 727] Part 727 Standardized Permit changes are far reaching, the Illinois EPA needs more time to evaluate how the new regulations are intertwined with the existing regulations." The Board granted the Agency motion by an order dated June 1, 2006, allowing the filing of public comments until June 30, 2006. The extension of the public comment period means the Board cannot meet its planned schedule for timely final rule adoption and filing, requiring an adoption extension for roughly the same period of time as the public comment extension.

The original due date for filing this rulemaking with the Secretary of State's Index department was August 5, 2006 (one year after the earliest federal action that is included in the identical-in-substance update). The Board calculates that the earliest date by which it can complete this proceeding, allow for receipt of any comments from the United States Environmental Protection Agency, and file the adopted amendments with the Office of the Secretary of State is September 14, 2006.

PROCLAMATIONS

2006-210
CULTURAL MONTH OF MICHOACAN

WHEREAS, the Michoacanos represent the largest group of Mexican immigrants living in the United States; and

WHEREAS, of the 500,000 Michoacanos living in the Midwest, 250,000 of those have chosen the State of Illinois to be their newly adopted home; and

WHEREAS, the Federacion de Clubes Michoacanos en Illinois is a not for profit organization that promotes the well-being and advancement of the Michoacanos in the Midwest as well as Mexico through education, cultural, civic and social projects in a bi-natural content to promote the formation of proactive citizens that seek a full participation in the societies in which they live; and

WHEREAS, the Casa Michoacan, headquarters of the Federacion de Clubes Michoacanos en Illinois, has been a focus of social, educational and cultural enrichment, as well as a beacon for the March 10 and May 1 Immigration Rights rallies that put Chicago and Illinois in the forefront of the national immigration debate; and

WHEREAS, The Honorable Lazaro Cardenas Batel, Governor of the Mexican State of Michoacan, will be present June 4 – June 24 to participate in the annual PRESENCIA MICHOACANA 2006, a cultural and civic event that since 2000 has gathered Michoacanos from all over the region to celebrate their culture and history, and strengthen their presence in the Midwest:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 2006 as **CULTURAL MONTH OF MICHOACAN** in Illinois.

Issued by the Governor on June 2, 2006.
Filed by the Secretary of State June 8, 2006.

2006-211
THE 130th ANNIVERSARY OF THE IMPERIAL COUNCIL OF THE ANCIENT ARABIC ORDER OF THE NOBLES OF THE MYSTIC SHRINE FOR NORTH AMERICA DAY

WHEREAS, the Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine for North America is an international fraternity of approximately 500,000 members throughout the United States, Canada,

Mexico, and Panama. The term Imperial refers to the officers and organization of the international fraternity; and

WHEREAS, the Shrine's official philanthropy is the Shriners Hospitals for Children, a network of 22 hospitals that provide expert, no-cost orthopedic and burn care to children under the age of 18; and

WHEREAS, originally established in 1872, the first Shrine Temple proved unsuccessful and a new body was created on June 6, 1876 to help advance the growth of the young fraternity; and

WHEREAS, this governing body was called "The Imperial Council of the Ancient Arabic Order of the Nobles of the Mystic Shrine for North America." From this initial beginning, Shrine has grown to a total 191 Temples located in the United States, Canada, Mexico, and Panama; and

WHEREAS, Ansar Shrine was the 136th Shrine Temple established in 1914 and chartered in 1915 by the Imperial Council. Today, Ansar has 4,679 members; and

WHEREAS, to celebrate the 130th anniversary of Shrine, an all Masonic Parade and membership ceremonial will be held in Springfield, Illinois on June 17, 2006:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 17, 2006 as **THE 130th ANNIVERSARY OF THE IMPERIAL COUNCIL OF THE ANCIENT ARABIC ORDER OF THE NOBLES OF THE MYSTIC SHRINE FOR NORTH AMERICA DAY** in Illinois.

Issued by the Governor on June 8, 2006.
Filed by the Secretary of State June 8, 2006.

2006-212
BETHEL AFRICAN METHODIST EPISCOPAL CHURCH

WHEREAS, organized by laymen in 1862 as Bethel Mission, Bethel African Methodist Episcopal (AME) Church is among the oldest African-American churches in the Midwest, and is the third oldest Black church in Chicago, Illinois; and

WHEREAS, Bethel Church was established primarily to relieve overcrowding at the famed Quinn Chapel African Methodist Episcopal Church; and

WHEREAS, the Bethel AME Church was formed about three years before President Lincoln signed the Emancipation Proclamation, and it soon became a stop on the Underground Railroad; and

WHEREAS, among many renowned leaders, Frederick Douglas, former slave and international spokesman for the abolitionist movement, and President Theodore Roosevelt delivered speeches at Bethel Church's pulpit; and

WHEREAS, many Black Movement activities have taken place and been organized in the Bethel AME Church. Ida B. Wells Barnett organized the National Federation of Colored Women's Clubs at Bethel; Attorney Robert Abbott launched the Chicago Defender Newspaper from the kitchen table of Mrs. Harriet Moore, who was one of the founders of Bethel Church; the 37th Street Wabash YMCA was organized in Bethel; Harold Washington's father was an assistant minister at Bethel; A plebiscite was held at Bethel, which gave rise to the candidacy of Harold Washington for Chicago's Mayor; and the Chicago Urban League and the Chicago Branch NAACP were organized in Bethel; and

WHEREAS, on June 25, 2006, Bethel AME Church will be celebrating their 144th anniversary:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby recognize and commend the **BETHEL AFRICAN METHODIST EPISCOPAL CHURCH** on the occasion of their 144th anniversary of serving their local community and the State of Illinois.

Issued by the Governor on June 8, 2006.
Filed by the Secretary of State June 8, 2006.

2006-213
NATIONAL FLAG DAY

WHEREAS, on August 3, 1949, an act of Congress was signed designating June 14th of each year as **National Flag Day**. This day is significant because it commemorates June 14, 1777 when the Continental Congress adopted the stars and stripes flag as the official flag of the republic; and

WHEREAS, the stars and stripes design is symbolic of qualities the world has come to expect of this great nation – the white stripes signifying purity and innocence, the red stripes signifying valor and bravery, and the blue background signifying perseverance and justice; and

WHEREAS, on December 8, 1982, the National Flag Day Foundation was chartered to conduct educational programs and to encourage all Americans to Pause for the Pledge of Allegiance on National Flag Day, June 14. The annual Pause for the Pledge of Allegiance asks Americans across the nation to pause and recite the Pledge as a way of commemorating Flag Day. The idea originated in 1980 and in 1985 Public Law 99-54 was passed recognizing the Pause for the Pledge as part of **National Flag Day** activities; and

WHEREAS, **National Flag Day** celebrates our nation's symbol of unity, a democracy in a republic, and stands for our country's devotion to freedom, to the rule of law, and to equal rights for all:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 14, 2004 as **NATIONAL FLAG DAY** in Illinois, and encourage all citizens to take time to reflect upon the liberty and freedom we enjoy and that our flag has come to represent.

Issued by the Governor on June 8, 2006.
Filed by the Secretary of State June 8, 2006.

2006-214
HELEN KELLER DEAF-BLIND AWARENESS WEEK

WHEREAS, Helen Keller was one of the most accomplished, respected, and renowned deaf-blind Americans; and

WHEREAS, deaf-blindness is one of the most severe of all disabilities; and

WHEREAS, in today's society, people who have dual-sensory loss, such as hearing or vision, should be able to have options to choose from when making important life-changing decisions; and

WHEREAS, it is in the interest of the State of Illinois to encourage the full participation of American citizens with multi-sensory disabilities in our economy by fostering the employment of, and promoting housing and recreational options for, people who are deaf-blind, thus maximizing their opportunities for a productive life in the community of their choice; and

WHEREAS, it is highly appropriate and necessary to publicize the abilities and potential of our fellow citizens who are deaf-blind, or severely vision and hearing impaired, and to recognize Helen Keller as a guiding example of

courage, hope, determination, and achievement for other individuals who are deaf-blind:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 25 – July 1, 2006 as **HELEN KELLER DEAF-BLIND AWARENESS WEEK** in Illinois, and encourage all citizens to recognize the abilities and talent that people with vision and hearing disabilities can bring to our communities across this great State.

Issued by the Governor on June 8, 2006.
Filed by the Secretary of State June 8, 2006.

2006-215
SOUTHERN ILLINOIS BLUEGRASS AND BBQ FESTIVAL DAY

WHEREAS, on September 9, 2006, the 16th annual "Southern Illinois Bluegrass and BBQ Festival" will be held in Salem, Illinois; and

WHEREAS, the "Southern Illinois Bluegrass and BBQ Festival," as an Illinois State Championship, allows teams to qualify for national level barbeque competitions; and

WHEREAS, like previous years, this event, a Kansas City Barbecue Society (KCBS) sanctioned event, will bring together amazing bluegrass music and award winning BBQ competitors; and

WHEREAS, the State of Illinois is proud to recognize the many talented individuals who are putting their barbeque grilling skills to the test during this event:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 9, 2006 as the **SOUTHERN ILLINOIS BLUEGRASS AND BBQ FESTIVAL DAY** in Illinois, and encourage all citizens to recognize and participate in this entertaining event that will undoubtedly showcase a variety of tasty barbeque recipes.

Issued by the Governor on June 9, 2006.
Filed by the Secretary of State June 9, 2006.

2006-216
NATIONAL CLEAN BEACHES WEEK

WHEREAS, beaches are used for many recreational activities; and

WHEREAS, 180 million Americans make nearly 2 billion annual trips to the ocean, gulf, and inland beaches and contribute significant resources to the local, state, and national economy; and

WHEREAS, 75% of all recreational activity occurs within a half mile corridor around the shorelines of our beaches, rivers, and lakes; and

WHEREAS, coastal tourism and healthy seafood contribute to strong economies, sustaining communities, and supporting jobs along the coastal U.S.; and

WHEREAS, many communities and departments in the State of Illinois have undertaken significant measures to keep beaches clean and healthy; and

WHEREAS, the Clean Beaches Council, as part of Great Outdoors Month, has designated June 29 – July 5, 2006 as National Clean Beaches Week:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 29 – July 5, 2006 as **NATIONAL CLEAN BEACHES WEEK** in Illinois, and encourage all citizens to visit, enjoy, and protect one of our greatest natural resources.

Issued by the Governor on June 9, 2006.
Filed by the Secretary of State June 9, 2006.

2006-217
QUEBEC WEEK

WHEREAS, the links between Illinois and Quebec are numerous and stretch back centuries to the French-speaking missionaries and voyageurs who left Quebec City and Montreal to explore le pays des Illinois and eventually to settle here; and

WHEREAS, in 1969, Quebec established its delegation in the city of Chicago, due to the business and cultural preeminence of the city; and

WHEREAS, Quebec is active, along with Illinois, in both the Council of Great Lakes Governors and the Great Lakes Commission as an associate member; and

WHEREAS, trade between Illinois and Quebec exceeded $3 billion U.S. dollars in 2005; and

WHEREAS, the staff of the Quebec Delegation in Chicago has established commercial links between Illinois and Quebec companies, and has brought Quebec

performing artists, intellectuals, and writers to the theatres and universities of this state; and

WHEREAS, the Quebec Delegation in Chicago seeks to broaden the economic, cultural, educational and tourism links between Quebec and the Midwest; and

WHEREAS, there will be a celebration on June 25, 2006 to celebrate Quebec's National Holiday, La Saint-Jean, which is actually on June 24, 2006 and is the feast day of St. John the Baptist:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 19-25, 2006 as **QUEBEC WEEK** in Illinois, and encourage all citizens to join in this vibrant and spirited commemoration.

Issued by the Governor on June 9, 2006.
Filed by the Secretary of State June 9, 2006.

2006-218
ELZIE L. HIGGINBOTTOM DAY

WHEREAS, Elzie L. Higginbottom is the Chairman and CEO of East Lake Management & Development Corporation, which has become one of the pre-eminent real estate development and management firms in the Midwest; and

WHEREAS, Elzie Higginbottom is a graduate of the University of Wisconsin where he majored in Economics; and

WHEREAS, in 1965, Mr. Higginbottom joined Baird & Warner, Inc. where he established and directed the Government Assisted Multifamily Finance Division that produced an annual loan volume of $50 million to $100 million for 12 consecutive years; and

WHEREAS, in 1975, Elzie Higginbottom created ELH Properties, which is the predecessor firm to East Lake Management & Development Corp.; and

WHEREAS, as principal of East Lake, Mr. Higginbottom currently oversees the management of over 10,000 residential units. In addition, East Lake manages two shopping centers, one downtown food court, several small office buildings, and other commercial sites. East Lake is also joint

venture partner in the management of the new Midway Airport terminal; and

WHEREAS, Elzie Higginbottom is recognized as a major developer within the Chicago Metropolitan Area and is respected for both his commercial and residential work; and

WHEREAS, Elzie Higginbottom is receiving the Man of the Year Award at the Coalition for United Community Action's 34th Annual Unity Testimonial Awards Banquet on June 17, 2006:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 17, 2006 as **ELZIE L. HIGGINBOTTOM** DAY in Illinois.

Issued by the Governor on June 9, 2006.
Filed by the Secretary of State June 9, 2006.

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 30, Issue 25 are listed in the Issues Index by Title number, Part number, Volume and Issue.
Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

38 - 190 10622
38 - 365 10689
38 - 1000 10694
38 - 1075 10772
50 - 902 10988
50 - 2004 10993
17 - 590 11000
86 - 215 11062

ADOPTED RULES

68 - 1450 06/08/2006.....11075
89 - 50 06/06/2006.....11190
89 - 112 06/12/2006.....11202
89 - 121 06/12/2006.....11236
4 - 1750 06/09/2006.....11253
92 - 2520 06/09/2006.....11261
92 - 2520 06/09/2006.....11264
92 - 1040 06/12/2006.....11299

EXECUTIVE ORDERS AND PROCLAMATIONS

06 - 211 06/08/2006.....11326
06 - 210 06/02/2006.....11326
06 - 212 06/08/2006.....11327
06 - 213 06/08/2006.....11328
06 - 214 06/08/2006.....11329
06 - 215 06/09/2006.....11330
06 - 216 06/09/2006.....11330
06 - 217 06/09/2006.....11331
06 - 218 06/09/2006.....11332

REGULATORY AGENDA

4 - 1725 11309
80 - 250 11314
92 - 440 11317

NOTICES REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER

68 - 1450 11323
89 - 116 11324

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