

2011

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

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

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

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2011

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 20, 2010	January 3, 2011
2	December 27, 2010	January 7, 2011
3	January 3, 2011	January 14, 2011
4	January 10, 2011	January 21, 2011
5	January 18, 2011	January 28, 2011
6	January 24, 2011	February 4, 2011
7	January 31, 2011	February 14, 2011
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10	February 22, 2011	March 4, 2011
11	February 28, 2011	March 11, 2011
12	March 7, 2011	March 18, 2011
13	March 14, 2011	March 25, 2011
14	March 21, 2011	April 1, 2011
15	March 28, 2011	April 8, 2011
16	April 4, 2011	April 15, 2011
17	April 11, 2011	April 22, 2011
18	April 18, 2011	April 29, 2011
19	April 25, 2011	May 6, 2011
20	May 2, 2011	May 13, 2011
21	May 9, 2011	May 20, 2011
22	May 16, 2011	May 27, 2011
23	May 23, 2011	June 3, 2011

24	May 31, 2011	June 10, 2011
25	June 6, 2011	June 17, 2011
26	June 13, 2011	June 24, 2011
27	June 20, 2011	July 1, 2011
28	June 27, 2011	July 8, 2011
29	July 5, 2011	July 15, 2011
30	July 11, 2011	July 22, 2011
31	July 18, 2011	July 29, 2011
32	July 25, 2011	August 5, 2011
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42	October 3, 2011	October 14, 2011
43	October 11, 2011	October 21, 2011
44	October 17, 2011	October 28, 2011
45	October 24, 2011	November 4, 2011
46	October 31, 2011	November 14, 2011
47	November 7, 2011	November 18, 2011
48	November 14, 2011	November 28, 2011
49	November 21, 2011	December 2, 2011
50	November 28, 2011	December 9, 2011
51	December 5, 2011	December 16, 2011
52	December 12, 2011	December 27, 2011
53	December 19, 2011	December 30, 2011

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Storage, Transportation, Sale, and Use of Liquefied Petroleum Gas
- 2) Code Citation: 41 Ill. Adm. Code 200
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
200.7	Amendment
200.10	Amendment
200.30	Amendment
200.55	Repeal
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Liquefied Petroleum Gas Regulation Act [430 ILCS 5/3]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates certain standards used to regulate the liquefied petroleum gas industry. It eliminates the Section on converting anhydrous ammonia storage tanks to LPG storage because that language is now incorporated in the 2011 edition of NFPA 58, and NFPA 58 (2011) is a standard incorporated in this rulemaking. Even though NFPA 58 (2011) eliminated the requirement found in NFPA 58 (2008) that the pressure relief valve discharge on each aboveground container of LPG that contains more than 2000 gallons of water capacity be piped vertically upward to a point at least 7 ft. above the top of the container, this rulemaking retains that requirement.
- 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 has no impact on local government.
- 12) Time, place, and manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit

OFFICE OF THE STATE FIRE MARSHAL

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comments no later than 45 days after the publication of this Notice to:

Kenneth Wood, P.E. EFO, Fire Protection Engineer
Director, Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601

Telephone: 312/814-2962

Facsimile: 312/814-3459

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses that install gas appliances and gas piping would be affected. Small municipalities and not for profit corporations would not be affected.
 - 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: None

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

TITLE 41: FIRE PROTECTION

CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 200

STORAGE, TRANSPORTATION, SALE, AND USE
OF LIQUEFIED PETROLEUM GAS

Section

200.5	Introduction
200.7	Incorporations by Reference
200.10	Storage and Handling of Liquefied Petroleum Gases
200.20	Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants
200.30	Rules for Installation of Gas Appliances and Gas Piping
200.40	Storage and Handling of Liquefied Petroleum Gas at Gas Processing Plants
200.50	Installations Must Be in Compliance
200.55	Conversion of Anhydrous Ammonia Storage Tanks to LPG Storage <u>(Repealed)</u>
200.60	Submittal of Plans
200.70	Applications, Plans and Blueprints; Fencing Standards
200.80	Operation of Installation Prohibited Until Final Inspection and Approval
200.90	No Supplier Shall Service Any Installation Not In Compliance With Law
200.100	Personnel Must be Properly Trained
200.110	No Self Service Permitted
200.120	Interstate Commerce Commission or Department of Transportation Containers (Repealed)
200.160	Cylinder System Installations (Bottled Gas) (Repealed)
200.170	Minimum Safety Requirements for Manifolding American Society of Mechanical Engineers Containers (Repealed)
200.180	Location of Containers (Repealed)
200.190	Abandoned Tanks (Repealed)
200.200	Marking of Tank Trucks and Trailers (Repealed)
200.210	Lighting Requirements on Trucks and Trailers (Repealed)
200.230	Drivers of Trucks and Trailers Must Be Properly Trained (Repealed)
200.240	When Tank Truck May Not Be Left Unattended (Repealed)
200.250	Tank Trucks and Tractors Must Be In Good Repair (Repealed)
200.260	Parking In Congested Areas Prohibited (Repealed)
200.270	Travel In Heavy Traffic Districts To Be Avoided (Repealed)
200.280	Gear Shift Requirements for Loaded Tank Trucks (Repealed)
200.290	Semi-Trailers Loading and Unloading (Repealed)
200.300	Fire Extinguisher Requirements (Repealed)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

200.310	Excess Flow Valves Not To Be Tampered With (Repealed)
200.320	When Transportation and Sale Prohibited (Repealed)
200.330	Containers To Be Transported In Upright Position (Repealed)
200.340	Fireworks Prohibited
200.350	Additional Safety Measures Authorized

AUTHORITY: Authorized by and implementing Section 3 of the Liquefied Petroleum Gas Regulation Act [430 ILCS 5/3].

SOURCE: Rules for the Storage, Transportation, Sale and Use of Liquefied Petroleum Gases, filed October 15, 1971; codified at 5 Ill. Reg. 10697; amended at 8 Ill. Reg. 2467, effective June 1, 1984; amended at 19 Ill. Reg. 11455, effective August 1, 1995; amended at 21 Ill. Reg. 4999, effective April 15, 1997; amended at 23 Ill. Reg. 4227, effective April 1, 1999; amended at 25 Ill. Reg. 3655, effective March 1, 2001; amended at 26 Ill. Reg. 10814, effective July 1, 2002; amended at 30 Ill. Reg. 9325, effective May 2, 2006; amended at 32 Ill. Reg. 16850, effective October 1, 2008; amended at 35 Ill. Reg. _____, effective _____.

Section 200.7 Incorporations by Reference

- a) The following materials are incorporated by reference in this Part:
- 1) The American Petroleum Institute (API), 1220 L Street, NW, Washington, DC 20005-4070.

API 2510	Design and Construction of LPG Installations (2001)
----------	---
 - 2) The National Fire Protection Association (NFPA); 1 Batterymarch Park, Quincy MA 02169-7471.

A) NFPA 54	National Fuel Gas Code (2009)
B) NFPA 58	Liquefied Petroleum Gas Code (2011)
C) NFPA 59	Utility LP-Gas Plant Code (2008)
D) NFPA 1192	Standard on Recreational Vehicles (2011)

OFFICE OF THE STATE FIRE MARSHAL

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- b) No incorporation by reference in this Part includes any later amendment or edition beyond the date stated in the text of this Part.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 200.10 Storage and Handling of Liquefied Petroleum Gases

Requirements for the storage and handling of liquefied petroleum gases as contained in the ~~2011~~2008 Edition of NFPA 58 (Liquefied Petroleum Gas Code) are mandatory with the following additional requirements: The pressure relief valve discharge on each aboveground container of more than 2000 gal. water capacity shall be piped vertically upward to a point at least 7 ft. above the top of the container, and the discharge opening shall be unobstructed to the open air.-

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 200.30 Rules for Installation of Gas Appliances and Gas Piping

Requirements for the installation of gas appliances and gas piping as published in the ~~2009~~2006 Edition of NFPA 54 (National Fuel Gas Code) are mandatory. Standards for fuel systems and equipment in recreational vehicles as published in the ~~2011~~2008 Edition of NFPA 1192 (Standard on Recreational Vehicles) are mandatory.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 200.55 Conversion of Anhydrous Ammonia Storage Tanks to LPG Storage

(Repealed)

~~Except for containers used in cargo tank vehicle service, ASME containers of 3,000 gallons water capacity or less used to store anhydrous ammonia shall not be converted to LP-Gas fuel service. For other size containers, when a container of approved construction and design has been used to contain anhydrous ammonia or any other product, the container shall be thoroughly purged of the other product before it is placed into service for LP-Gas and a tag attesting to the thorough purging of the container shall be placed near the fill valve of the container before LP-Gas is placed into the container.~~

(Source: Repealed at 35 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Collection Agency Act
- 2) Code Citation: 68 Ill. Adm. Code 1210
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1210.10	Amendment
1210.25	Amendment
1210.60	Amendment
1210.70	Amendment
1210.80	Repealed
1210.90	Repealed
1210.105	Amendment
1210.110	Amendment
1210.140	Amendment
1210.170	Amendment
1210.235	Amendment
1210.237	Amendment
1210.240	Amendment
- 4) Statutory Authority: Collection Agency Act [225 ILCS 425]
- 5) Effective Date of Amendments: July 20, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: July 30, 2010; 34 Ill. Reg. 10609
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Section 1210.260, Unprofessional Conduct, was originally proposed but has now been removed in response to public comment.

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- 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 rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: This rulemaking, with the removal of the proposed Section 1210.260, merely cleans up Part 1210. The fee for restoration of a lapsed license has been added. Numerous non-substantive changes are made, including changing references throughout the entire Part from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation. Obsolete language is also removed and other technical changes made, especially relating to branch offices.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
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 VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1210

COLLECTION AGENCY ACT

Section

1210.10	Definitions
1210.20	Officer
1210.25	Application for Registration
1210.30	Harassment Defined (Repealed)
1210.40	Section 9.21 of Act Defined (Repealed)
1210.50	Posing as an Attorney (Repealed)
1210.60	Communication by Agency
1210.70	Use of Pseudonyms
1210.80	Doing Business at More Than One Office or Location <u>(Repealed)</u>
1210.90	Additional <u>Offices</u> Office or <u>Changes</u> Change of Location of Office <u>(Repealed)</u>
1210.100	Notices (Repealed)
1210.105	Change of Ownership
1210.110	Termination or Change in Registration
1210.120	Address for Notice (Repealed)
1210.130	Use of Street Addresses (Repealed)
1210.140	Records and Documents to be Kept by Collection Agency
1210.150	Recording of Payments
1210.160	Multiple Creditors
1210.170	Availability of Books, Records, Forms and Stationery
1210.180	Accounting and Remitting Collected Funds
1210.190	Creditor Accounts
1210.200	Trust Accounts (Repealed)
1210.210	Notice for Hearing (Repealed)
1210.220	Procedures for Hearing (Repealed)
1210.230	Default Disposition of a Hearing (Repealed)
1210.235	Renewals
1210.237	Fees
1210.240	Granting Variances
1210.250	Construction of Rules and Regulations (Repealed)

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AUTHORITY: Implementing the Collection Agency Act [225 ILCS 425] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Collection Agency Act, effective December 3, 1976; codified at 5 Ill. Reg. 11025; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; transferred from Chapter I, 68 Ill. Adm. Code 210 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1210 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2919; amended at 17 Ill. Reg. 1535, effective January 25, 1993; amended at 22 Ill. Reg. 16479, effective September 4, 1998; amended at 24 Ill. Reg. 508, effective December 31, 1999; amended at 35 Ill. Reg. 12872, effective July 20, 2011.

Section 1210.10 Definitions

The following definitions shall apply to this Part:

"Act" means the Collection Agency Act [225 ILCS 425]~~(Ill. Rev. Stat. 1991, ch. 111, par. 2001 et seq.)~~.

"Agency" means a collection agency as defined in Section 2.02 of the Act.

"Board" means the Collection Agency Licensing and Disciplinary Board.

"Branch Office" means another location with the same name and ownership as the main collection agency license.

"Creditor" means individual, sole proprietorship, partnership or corporation ~~that~~which engages or retains the agency to collect debts due ~~thesueh~~ individual, sole proprietorship, partnership or corporation.

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

"Director" means Director of the Division~~Department~~ of Professional Regulation with the authority delegated by the Secretary of the State of Illinois.

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

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"Managerial or Administrative Control" means having authority to conduct the affairs of the agency and direct others in the conduct of the affairs or business of the agency.

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

"Trust Account" means the special account ~~that~~^{which} all licensed collection agencies shall maintain in accordance with Section 8c of the Act.

(Source: Amended at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.25 Application for Registration

a) All applications for registration as a collection agency shall be submitted to the ~~Division~~^{Department}, on forms provided by the ~~Division~~^{Department}, and include:

1)a) Collection Agency Application

A) The name and address of all officers of the collection agency (as defined in Section 1210.20). The address shall be an actual street address and shall include the city, state and zip code. A post office box number is not acceptable as an address;

B) 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 issued by the Secretary of State is also required;

C) A copy of the authority to transact business under the Assumed Business Name Act [805 ILCS 405], issued by the Secretary of State or county clerk's office, if required by law;

D)b) Proof of a \$25,000 surety bond;

E)e) The name of the bank, savings and loan association or other

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required depository in which the trust account shall be maintained;
and

~~F)Ⓓ~~ The required fee set forth in Section 1210.237.

2) Branch Office Application

A) The name and license number of the main collection agency office;

B) Name of the manager at that location; and

C) The required fee set forth in Section 1210.237.

b) If a collection agency intends to conduct business as a collection agency as defined in the Act at more than one office or location and the ownership and name used at each location are identical, the applicant shall file an application for a branch office as referenced in subsection (a)(2). If the ownership and name are not identical, a collection agency application shall be filed in accordance with subsection (a)(1).

c) A licensed collection agency shall notify the Division in writing of a change in location of an existing office within 10 days after the change.

(Source: Amended at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.60 Communication by Agency

a) A collection agency shall use only the agency name or tradestyle exactly as it appears on the agency's certificate of registration (the certificate) issued by the ~~Division~~~~Department~~ in all communications; (e.g., ABC Collection Agency cannot use a name such as ABC Acceptance Company), except for skiptracing and envelopes as prohibited by 15 ~~USCU.S.C.~~ 1692b.(5).

b) When an agency communicates with a debtor, the agency must state in a written or telephone communication the specific reason for the communication, the name of the creditor, the registered name of the agency, the date of written communication, ~~in written communication~~; and, in oral communication, the identity of the collector making the contact.

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(Source: Amended at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.70 Use of Pseudonyms

The agency shall maintain a listing of all pseudonyms used by an office, employee, or agent of the collection agency in relation to collection agency activities. A listing of pseudonyms shall be maintained by the collection agency one year after termination of employment. This shall be available upon request by the ~~Division~~Department.

(Source: Amended at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.80 Doing Business at More Than One Office or Location (Repealed)

~~If a collection agency intends to do business at more than one office or location within the State of Illinois, the ownership and name used at each location shall be identical, otherwise a separate application and bond shall be required for each location at which the agency conducts or intends to conduct business.~~

(Source: Repealed at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.90 Additional Offices or Changes of Location of Offices (Repealed)

- ~~a) If an agency opens an additional office(s) or changes the location of an existing office(s) other than at the time of renewal, the agency shall notify the Department in writing of the new address at least 30 days prior to the opening of the office(s) or change of location(s).~~
- ~~b) If, prior to the issuance of a certificate of registration, an agency changes the location of an office or adds an additional office, the agency shall immediately notify the Department, in writing, of the new address.~~

(Source: Repealed at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.105 Change of Ownership

When ~~one share more than 50%~~51% of the assets, stock or equity of a collection agency are ~~transferred~~sold, a new collection agency application shall be filed with the ~~Division~~Department in accordance with Section 1210.25.

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(Source: Amended at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.110 Termination or Change in Registration

- a) The certificate of registration shall terminate:
 - 1) When the agency ceases operation;
 - 2) ~~When the agency ceases to operate under the name on the certificate of registration;~~ 3) When the bond is nonrenewed or cancelled; or
 - ~~3)4)~~ 4) When the certificate of registration is revoked.
- b) The agency shall notify the ~~Division~~Department in writing by certified mail within 10 days when the agency ceases to operate or ceases to operate under the name on the certificate. Notice of bond termination is set forth in Section 8 of the Act.
- c) In the event of a change of the agency name, the registrant shall notify the Division, submit proof of the name change, return the original license and pay the fee required in Section 1210.237. A new license will be issued with the corrected name~~may apply for a new certificate of registration in advance of the effective date of such change by filing an application and paying the appropriate fee as set forth in Section 1210.237. The application shall be handled as an original application.~~
- d) All notices required by this Section shall be sent to the Department of Financial and Professional Regulation-Division of Professional Regulation, at 320 West Washington, 3rd Floor, Springfield, Illinois 62786.

(Source: Amended at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.140 Records and Documents to be Kept by Collection Agency

- a) The current certificate of registration shall be prominently displayed at each location where the agency conducts business.
- b) At each office of a registered collection agency, for each individual debtor's account, the agency shall keep the following:

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- 1) Account records for each account in excess of \$100.00 being processed.
 - A) These records shall contain:
 - i)A) Name, address and phone number, if available, of debtor and all individuals contacted, at any time concerning thesueh collection account, including debtor, debtor's employer and relatives;
 - ii)B) Dates and record of contents of all communications mailed regarding debtor's account;
 - iii)C) Dates and record of contents of each telephone contact with all individuals regarding debtor's account, including identification of individual who made thesueh contact and to whom that individual spoke;
 - iv)D) Name of the creditor, date account was opened with the agency and the amount of the account. The address of the creditor shall be maintained in the agency's records;
 - v)E) Docket information pertaining to all court suits concerning account;
 - vi)F) The date and amount of each collection on each account; and
 - vii)G) Additional charges, which are fees authorized by contract or by court of law. These charges shall be documented by court records or other records available for inspection by the Division~~Department~~.
 - B)H) This subsection does not apply to the report status of the accounts.
- 2) Correspondence files for collection accounts, which shall contain:
 - A) Copies of all correspondence between the agency and creditor concerning accounts;

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- B) Copies of all correspondence between the agency and debtor, debtor's employer, debtor's family and debtor's attorney;
 - C) Instructions from debtor on disbursement of funds among multiple accounts; and
 - D) Copies of all correspondence concerning account between agency and agency's attorney.
- c) When an account is closed by the agency, the account record shall be clearly and boldly marked that the account is closed, and all records shall be kept for a period of ~~twelve (12)~~ months ~~after~~~~from~~ date on which the account was closed.
 - d) A collection agency may utilize an electronic data processing system ~~that~~~~which~~ includes the information set forth in this Section.

(Source: Amended at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.170 Availability of Books, Records, Forms and Stationery

All books, records, forms, and stationery kept or used by an agency at each office of the agency shall be made available to agents of the ~~Division~~~~Department~~ upon request. Failure or refusal to make these records available by the agency shall be grounds for denial, suspension, or revocation of the agency's registration under Section 12(a) of the Act in accordance with 68 Ill. Adm. Code 1110.

(Source: Amended at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.235 Renewals

- a) Every certificate of registration issued under the Act shall expire on May 31, 2000 and every ~~3~~~~three~~ years thereafter. The holder of a certificate of registration may renew the certificate during the month preceding the expiration date by paying the required fee.
- b) It is the responsibility of each registrant to notify the ~~Division~~~~Department~~ of any change of address. Failure to receive a renewal form from the ~~Division~~~~Department~~ shall not constitute an excuse for failure to pay the renewal

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fee or to renew one's license.

- c) Practicing or offering to practice on a certificate of registration ~~that~~which has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 9 of the Act.

(Source: Amended at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.237 Fees

- a) The following fees shall be paid to the ~~Division~~Department and are not refundable:
- 1) Application Fees
 - A) The fee for application for a certificate of registration as a collection agency is \$750.
 - B) The fee for application for a certificate of registration to operate as a branch office is \$250.
 - 2) Renewal Fees
 - A) The fee for the 3-year renewal of a certificate of registration as a collection agency is \$750.
 - B) The fee for the 3-year renewal of a certificate of registration for a branch office is \$150.
 - 3) General Fees
 - A) The fee for the restoration of a license is \$50 plus payment of all lapsed renewal fees.
 - B) The fee for the issuance of a duplicate certificate of registration, for the issuance of a replacement certificate for a certificate that has been lost or destroyed, or for the issuance of a certificate with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on

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~~Division~~~~Department~~ records when no duplicate license is issued.

~~C)B)~~ The fee for a certification of a registrant's record for any purpose is \$20.

~~D)e)~~ The fee for a wall certificate showing registration shall be the actual cost of producing the certificate.

~~E)D)~~ The fee for a roster of registrants shall be the actual cost of producing the roster.

b) All fees collected under the Act and this Part shall be deposited into the General Professions Dedicated Fund. All monies in the fund shall be used by the ~~Division~~~~Department of Professional Regulation~~, as appropriated, for the ordinary and contingent expenses of the ~~Division~~~~Department~~.

c) ~~Returned Checks~~~~Fees~~

1) Any person who delivers a check or other payment to the ~~Division~~~~Department~~ that is returned to the ~~Division~~~~Department~~ unpaid by the financial institution upon which it is drawn shall pay to the ~~Division~~~~Department~~, in addition to the amount already owed to the ~~Division~~~~Department~~, a fee of \$50.

2) ~~If the check or other payment was for a renewal or issuance fee and that person practices without paying the renewal fee or issuance fee and the fee for the returned check, an additional fee of \$100 shall be imposed.~~ 3) The ~~fees~~~~fee~~ imposed by this Section are in addition to any other discipline provided under the Act for unlicensed practice or practice on a nonrenewed license. The ~~Division~~~~Department~~ shall notify the person that fees shall be paid to the Department by certified check or money order within 30 calendar days after the notification.

~~3)4)~~ If, after the expiration of 30 days from the date of notification the person has failed to submit the necessary remittance, the ~~Division~~~~Department~~ shall automatically terminate the license or certificate or deny the application, without hearing.

~~4)5)~~ If, after termination or denial, the person seeks a license or certificate, he

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or she shall apply to the ~~Division~~Department for restoration or issuance of the license or certificate and pay all fees due to the Department. The Director may waive the fees due under this Section in individual cases ~~when~~where the Director finds the fees would be unreasonable or unnecessarily burdensome.

(Source: Amended at 35 Ill. Reg. 12872, effective July 20, 2011)

Section 1210.240 Granting Variances

- a) The Director may grant variances from ~~this Part~~these rules in individual cases ~~when~~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 granting 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 shall notify the Board in writing of the granting of ~~a~~such variance, and the reasons ~~for granting the variance~~therefor, at the next meeting of the Board.

(Source: Amended at 35 Ill. Reg. 12872, effective July 20, 2011)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Massage Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1284
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1284.10	Repealed
1284.30	Amendment
1284.40	Amendment
1284.45	New Section
1284.50	Amendment
1284.80	Amendment
1284.90	Amendment
- 4) Statutory Authority: Massage Licensing Act [225 ILCS 57]
- 5) Effective Date of Amendments: July 20, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: April 11, 2011; 35 Ill. Reg. 6038
- 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 agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: A new Section 1284.45 is added requiring every holder of a massage therapist license to display it in the licensee's principal place of

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practice and a copy of the license at all other places of practice. An additional competency examination is added under both Sections 1284.30 (Application for Licensure) and 1284.40 (Endorsement). Various technical and clean-up changes are also included, including repealing the obsolete grandfather provisions (Section 1284.10).

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
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 VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1284

MESSAGE LICENSING ACT

Section

1284.10	Requirements for Licensure Under Section 20 of the Act (Grandfather) <u>(Repealed)</u>
1284.20	Approved Massage Therapy School
1284.30	Application for Licensure
1284.40	Endorsement
<u>1284.45</u>	<u>Display of License</u>
1284.50	Fees
1284.60	Renewals
1284.70	Inactive Status
1284.80	Restoration
1284.90	Continuing Education
1284.110	Granting Variances

AUTHORITY: Implementing the Massage Licensing Act [225 ILCS 57] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 28 Ill. Reg. 13366, effective September 21, 2004; amended at 30 Ill. Reg. 12114, effective June 29, 2006; amended at 35 Ill. Reg. 12885, effective July 20, 2011.

Section 1284.10 Requirements for Licensure Under Section 20 of the Act (Grandfather)**(Repealed)**

- a) ~~Until October 31, 2005, the Department of Financial and Professional Regulation Division of Professional Regulation (Division) may issue a license to an individual who, in addition to meeting the requirements set forth in Section 15 of the Massage Licensing Act (Act), produces proof that he or she met at least one of the following requirements prior to the effective date of the Act (June 1, 2003):~~
- 1) ~~Has been an active member of a national professional massage therapy organization for a period of at least one year. The organization shall offer professional liability insurance and a code of ethics and must have been~~

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- ~~established prior to the year 2000. For purposes of this Section, active member does not include students;~~
- ~~2) Has passed the National Certification Exam of Therapeutic Massage and Bodywork and has kept his or her certification current;~~
 - ~~3) Has practiced massage therapy an average of at least 10 hours per week for at least one year prior to June 1, 2003 and has completed 100 hours of formal training in massage therapy; or~~
 - ~~4) Has practiced massage therapy an average of at least 10 hours per week for at least 10 years prior to June 1, 2003.~~
- b) ~~An individual who has practiced massage therapy for at least 10 hours per week for a minimum of one year prior to June 1, 2003, but has less than 100 hours of formal training, or an individual who has practiced for less than one year, but has 100 hours of formal training, may be issued a license under this Section, but must complete at least 100 additional hours of formal training consisting of at least 25 hours in anatomy and physiology by January 1, 2005.~~
- e) ~~For purposes of this Section, "formal training" is described as a massage therapy curriculum approved by the Illinois State Board of Education or the Illinois Board of Higher Education or course work approved by the Division.~~

(Source: Repealed at 35 Ill. Reg. 12885, effective July 20, 2011)

Section 1284.30 Application for Licensure

- a) Any applicant for a massage therapy license ~~who does not meet the requirements of Section 1284.10 (grandfather)~~ shall meet all of the following requirements:
 - 1) The applicant is at least 18 years of age and of good moral character;
 - 2) ~~The applicant has~~ Certification of one of the following: A) ~~Has successfully completed an approved massage therapy program in accordance with Section 1284.20~~ the curriculum or curriculums of one or more massage therapy schools that require a minimum of 500 hours and passed the National Certification Board ~~for~~ Therapeutic Massage ~~&and~~ Bodywork's (NCBTMB) examination or ~~the Massage & Bodywork~~

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~~Licensing Examination (MBLEx) administered by the Federation of State Massage Therapy Boards (FSMTB), another massage therapist certifying examination approved by the Division; or~~

~~B) Has moved to Illinois from a jurisdiction with no licensure requirement and has provided documentation that he or she has successfully passed the National Certification Board of Therapeutic Massage and Bodywork's examination or another massage therapist certifying examination approved by the Division and maintains current certification;~~

3) Either:

A) Verification of electronic fingerprint processing from the Illinois Department of State Police or one of the Illinois State Police approved vendors. Applicants shall contact one of the approved vendors for fingerprint processing; or

B) Out-of-state residents unable to utilize the Illinois State Police electronic fingerprint process may submit to one of the Illinois State Police approved vendors one fingerprint card issued by the Illinois State Police, accompanied by the fee specified by the vendor; and

4) Pay the required fee specified in Section 1284.50.

b) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Massage Licensing Board (Board) to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 35 Ill. Reg. 12885, effective July 20, 2011)

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Section 1284.40 Endorsement

a) An applicant who is currently licensed under the laws of another jurisdiction and who wishes to be licensed as a massage therapist by endorsement shall file an application with the Division, on forms provided by the Division, that shall include:

a)1) Certification, on forms provided by the Division, of successful completion of an approved massage therapy program in accordance with Section 1284.20. Should an applicant not meet the required number of classroom/hands-on hours, the Division may require completion of additional coursework prior to licensure;

b)2) Certification from the jurisdiction of original licensure and the state in which the applicant is currently licensed and practicing, if other than the original, stating the time during which the applicant was licensed in that state, whether the file on the applicant contains records of any disciplinary actions taken or pending, and the applicant's license number;

c)3) A report of the applicant's examination record forwarded directly from NCBTMB or FSMTB~~the test reporting service~~;

d)4) ~~Complete work history since graduation from the massage therapy program;~~5) Either:

1)A) Verification of electronic fingerprint processing from the Illinois Department of State Police or one of the Illinois State Police approved vendors. Applicants shall contact one of the approved vendors for fingerprint processing; or

2)B) Out-of-state residents unable to utilize the Illinois State Police electronic fingerprint process may submit to one of the Illinois State Police approved vendors one fingerprint card issued by the Illinois State Police, accompanied by the fee specified by the vendor; and

e)6) The required fee specified in Section 1284.50.

b) ~~The Division shall examine each endorsement application to determine whether the requirements in the jurisdiction on the date of licensure met the requirements then in force in this State and whether the applicant has otherwise complied with the Act.~~

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(Source: Amended at 35 Ill. Reg. 12885, effective July 20, 2011)

Section 1284.45 Display of License

Every holder of a license as a massage therapist shall display the license in a conspicuous place in the licensee's place of practice, in the place of practice in which the licensee is employed, or, if the licensee is engaged in massage therapy at more than one place of practice, in the licensee's principal place of practice or the principal place of practice of the licensee's employer. If the licensee practices in more than one location, a copy of the license shall be displayed in a conspicuous place at all other places of practice.

(Source: Added at 35 Ill. Reg. 12885, effective July 20, 2011)

Section 1284.50 Fees

The following fees shall be paid to the Division and are not refundable:

- a) Application Fees
The fee for application for a license as a massage therapist is \$175.
- b) Renewal Fees
The fee for the renewal of a license shall be calculated at the rate of \$87.50 per year.
- c) Sponsor Fees
 - 1) The fee for licensure as a continuing education sponsor shall be \$500.
 - 2) The fee for renewal as a continuing education sponsor shall be \$250 every two years.
- d) General Fees
 - 1) The fee for the restoration of a license other than from inactive status is ~~\$50~~\$20 plus payment of all lapsed renewal fees, not to exceed \$470.
 - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that has been lost or destroyed, or for the

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issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.

- 3) The fee for a certification of a licensee's record for any purpose is \$20.
- 4) The fee to have the scoring of an examination authorized by the Division reviewed and verified is \$20 plus any fees charged by the applicable testing service.
- 5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
- 6) The fee for a roster of persons licensed as massage therapists in this State shall be the actual cost of producing the roster.

(Source: Amended at 35 Ill. Reg. 12885, effective July 20, 2011)

Section 1284.80 Restoration

- a) A person seeking restoration of a license ~~after it that~~ has expired or has been placed on inactive status for less than 5 years ~~or less~~ shall file an application with the Division, with the fee specified in Section 1284.50 ~~have the license restored upon payment of all lapsed renewal fees and, after December 31, 2008, providing proof of 24 hours of meeting the continuing education as defined in requirements of Section 1284.90 of this Part in during~~ the 2 years immediately preceding the prior to restoration application.
- b) ~~A person seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee and, after December 31, 2008, providing proof of meeting the continuing education requirements of Section 1284.90 of this Part during the 2 years prior to restoration. c)~~ A person seeking restoration of a license after it has expired or has been placed on inactive status for ~~more than 5 years~~ or more shall file an application ~~with, on forms supplied by~~ the Division, with the ~~required fee specified in Section 1284.50~~ and proof of 24 hours of meeting continuing education ~~as defined in requirements of Section 1284.90 of this Part in during~~ the 2 years immediately preceding the prior to restoration application. The person shall also submit one of the following:

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- 1) Certification of current licensure from ~~another state or territory, completed by~~ the appropriate state board or licensing authority in another jurisdiction in which the registrant was authorized to practice, and proof of current active practice. Proof of current active practice shall include one verification of employment completed by the applicant's supervisor or, if self-employed, by a peer or colleague who is familiar with the applicant's work; or
- 2) An affidavit attesting to military service as provided in Section 70 of the Act. Any person seeking restoration of a license~~If application is made~~ within 2 years ~~after~~ discharge from military service pursuant to, and if all other provisions of Section 70 of the Act ~~are satisfied, the applicant shall pay the current renewal fee and but will not be required to submit proof of meeting the continuing education requirements; or pay a restoration fee or any lapsed renewal fees.~~
- 3) Proof of successful completion of an exam approved by the Division within 2 years prior to the restoration application.

(Source: Amended at 35 Ill. Reg. 12885, effective July 20, 2011)

Section 1284.90 Continuing Education

- a) Continuing Education Hours Requirements
 - 1) Beginning with the December 31, 2008 renewal and every renewal thereafter, in order to renew a license, a licensee shall be required to complete 24 hours of continuing education, including at least 2 hours ~~of~~ ethics.
 - 2) A prerenewal period is the 24 months preceding December 31 of each even-numbered year.
 - 3) One CE hour shall equal 50 minutes.
 - 4) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE

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hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.

- 5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.
- 6) Massage therapists licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.
- 7) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

b) Approved Continuing Education (CE)

- 1) CE hours shall be earned by verified attendance at (e.g., certificate of attendance or certificate of completion) or participation in a program or course (program) that is offered or sponsored by an approved continuing education sponsor;
- 2) Up to 12 hours of CE credit per renewal may be earned as follows:
 - A) For completion of a self-study course that is offered by an approved sponsor who meets the requirements set forth in subsection (c). Each self-study course shall include an examination.
 - B) Credit may be earned for papers prepared and delivered before recognized massage therapy organizations; papers published in nationally recognized massage therapy journals; or a chapter published in a book on massage therapy, each appropriately verified.
 - C) First time presentation of an academic course or workshop, seminar, in-service, electronic or Web-based course. Speeches made at luncheons or banquets or any other presentation not within the guidelines of this Section are not eligible for CE credit.

c) Approved CE Sponsors and Programs

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- 1) Sponsor shall mean:
 - A) Entities approved by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB);
 - B) The American Massage Therapy Association (AMTA) and its chapters;
 - C) Any approved massage therapy program or accredited school, college, university or State agency; and
 - ~~D)~~ E) Any other person, firm, or association that has been approved and licensed by the Division pursuant to subsection (c)(2) to coordinate and present continuing education courses and programs in conjunction with this Section.
- 2) An entity seeking licensure as a CE sponsor shall submit an application, on forms supplied by the Division, along with the fee set forth in Section 1284.50. The applicant shall certify to the following:
 - A) That all programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3) and all other criteria in this Section. A sponsor shall be required to submit a CE program with course materials for review prior to being approved as a CE sponsor;
 - B) That the sponsor will be responsible for verifying attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9);
 - C) That, upon request by the Division, the sponsor will submit evidence (e.g., certificate of attendance or course materials) as is necessary to establish compliance with this Section. Evidence shall be required when the Division has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.
- 3) All programs shall:

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- A) Contribute to the advancement, extension and enhancement of the professional skills and knowledge of the licensee in the practice of massage, which shall include, but not be limited to, ethical reasoning, critical reasoning, interpersonal abilities and performance skills;
 - B) Be developed and presented by persons with 2 years of education and/or experience in the subject matter of the program;
 - C) Specify the course objectives, course content and teaching methods to be used; and
 - D) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.
 - 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs.
 - 6) All programs given by approved sponsors shall be open to all licensed massage therapists and not be limited to members of a single organization or group.
 - 7) To maintain approval as a licensed sponsor, each sponsor shall submit to the Division by each even-numbered year a renewal application, the renewal fee specified in Section 1284.50 of this Part, and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given.

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- 8) It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
 - A) The name, address and license number of the sponsor;
 - B) The name and license number of the participant;
 - C) A brief statement of the subject matter;
 - D) The number of hours attended in each program;
 - E) The date and place of the program; and
 - F) The signature of the sponsor or person responsible for the CE program.
 - 9) The sponsor shall maintain attendance records for not less than 5 years.
 - 10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
 - 11) Upon the failure of a sponsor to comply with any of the requirements of this Section, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at, or participation in any of that sponsor's CE programs until such time as the Division receives assurances of compliance with this Section.
 - 12) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.
- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements.

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- 2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Division's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.
 - 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time, the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- e) Continuing Education Earned in Other Jurisdictions
- 1) If a licensee has earned or is seeking CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a \$25 processing fee, prior to participation in the program or within 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
 - 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$25 processing fee plus a \$50 per CE hour late fee not to exceed \$300. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
- f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with the current CE requirements, the Division shall restore the license upon payment of the required fee as provided in Section 1284.50.
- g) Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application, along with the required fee set forth in Section

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1284.50, a statement setting forth the facts concerning noncompliance and request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds, from such affidavit or any other evidence submitted, that extreme hardship has been shown warranting granting a waiver, the Division shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
 - B) An incapacitating illness documented by a statement from a currently licensed physician;
 - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
 - D) Any other similar extenuating circumstances.
- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Division.

(Source: Amended at 35 Ill. Reg. 12885, effective July 20, 2011)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Practice in Administrative Hearings
- 2) Code Citation: 89 Ill. Adm. Code 104
- 3) Section Number: 104.102 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: July 25, 2011
- 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 materials 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: February 14, 2011; 35 Ill. Reg. 2545
- 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This proposed rulemaking implements Public Act 96-1072, effective January 1, 2011, that provides a monetary child support or maintenance order shall not be suspended or stayed due to a post-judgment motion.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Jeanette Badrov
General Counsel

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER a: GENERAL PROVISIONS

PART 104

PRACTICE IN ADMINISTRATIVE HEARINGS

SUBPART A: ASSISTANCE APPEALS

Section

104.1	Assistance Appeals
104.10	Initiation of Appeal Process
104.11	Pre-Appeal Review
104.12	Notice of Hearing
104.20	Conduct of Hearings
104.21	Representation
104.22	Appellant Participation in Hearing
104.23	Evidentiary Requirements
104.30	Subpoenas
104.35	Amendment of Appeal
104.40	Consolidation of Appeals
104.45	Postponement or Continuation of Hearings
104.50	Withdrawal of Appeal
104.55	Closing of Hearing Record
104.60	Dismissal of Appeal
104.70	Final Administrative Decision
104.80	Public Aid Committee

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section

104.100	Support Order, Responsible Relative and Joint Payee Petitions
104.101	Petition for Hearing
104.102	Conduct of Administrative Support Hearings
104.103	Conduct of Hearings to Contest the Determination of Past-Due Support or of a Failure of a Licensee to Comply with a Subpoena or Warrant in a Paternity or Child Support Proceeding or of Share of Jointly-Owned Federal or State Income Tax Refunds or Other Joint Federal or State Payments
104.104	Conduct of Other Hearings

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 104.105 Conduct of Hearings on Petitions for Release from Administrative Paternity Orders
- 104.106 Conduct of Hearings on Petitions for Family Financial Responsibility Driving Permits
- 104.110 Conduct of Hearings on Joint Owner's Contest of Levy of Jointly-Owned Personal Property

SUBPART C: MEDICAL VENDOR AND ALTERNATE PAYEE HEARINGS

Section

- 104.200 Applicability
- 104.202 Definitions
- 104.204 Notice of Denial of An Application
- 104.206 Notice of Intent to Recover Money
- 104.207 Notice of Contested Paternity Hearing
- 104.208 Notice of Intent to Terminate, Suspend or Not Renew Provider Agreement or to Revoke Alternate Payee
- 104.209 Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to, or Failure to Comply with a Subpoena or Warrant from, a State Licensing Agency and to Take Disciplinary Action (Repealed)
- 104.210 Right to Hearing
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FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

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104.400	Suspected Intentional Violation of the Program
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104.440	Failure to Appear
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104.470	Administrative Disqualification Hearing Decision and Notice of Decision
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SUBPART F: INCORPORATION BY REFERENCE

Section

104.800 Incorporation by Reference

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 151, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 26, 1978; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; preemptory amendment at 3 Ill. Reg. 11, p. 38, effective March 1, 1979; amended at 4 Ill. Reg. 21, p. 80, effective May 8, 1980; preemptory amendment at 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10, 1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days;

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emergency amendment at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14977, effective November 7, 1997; emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2393, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11734, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 2418, effective January 27, 2000; amended at 25 Ill. Reg. 5351, effective April 1, 2001; amended at 26 Ill. Reg. 9836, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11022, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 12306, effective July 26, 2002; amended at 26 Ill. Reg. 17743, effective November 27, 2002; amended at 27 Ill. Reg. 5853, effective March 24, 2003; amended at 27 Ill. Reg. 13771, effective August 1, 2003; amended at 28 Ill. Reg. 2735, effective February 1, 2004; emergency amendment at 29 Ill. Reg. 2735, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10187, effective June 30, 2005; amended at 31 Ill. Reg. 2387, effective January 19, 2007; amended at 32 Ill. Reg. 16797, effective October 6, 2008; amended at 33 Ill. Reg. 6283, effective April 15, 2009; amended at 35 Ill. Reg. 2030, effective January 21, 2011; amended at 35 Ill. Reg. 12900, effective July 25, 2011.

SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

Section 104.102 Conduct of Administrative Support Hearings

- a) Hearing De Novo
 - 1) The hearing shall be de novo and the Department's determination of liability or non-liability pursuant thereto shall be independent of the prior determination of liability.
 - 2) In Title IV-D cases, the hearing shall only consider such matters as are relevant for a determination of the duty and financial ability to support under 89 Ill. Adm. Code 160.60 and 160.65.
- b) Rules Governing Hearing
 - 1) Hearings on petitions for release from or modification of the Administrative Support Order shall be governed by Sections 104.10 through 104.70, except that "appellant" as used within this Part shall refer to the responsible relative or Title IV-D client who petitions and except as set out in subsection (b)(2) of this Section.

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- 2) In Title IV-D cases, the following additional rules shall govern:
- A) A request for appeal must be filed with the regional or central office of the Division of Child Support Enforcement at the address furnished in the administrative support order.
 - B) For purposes of notice and of presenting evidence, the Title IV-D client and the responsible relative shall be considered interested parties.
 - C) Hearings shall be conducted by a hearing officer authorized by the Director of the Department to consider issues under appeal by Title IV-D clients and responsible relatives.
 - D) In the event of cross appeals, if the client is an Illinois resident, the hearing shall be held in the client's county of residence. Otherwise, if the appellant is an Illinois resident, the hearing shall be conducted in the appellant's county of residence. If the appellant is not an Illinois resident but the client is an Illinois resident, the hearing shall be conducted in the client's county of residence. If neither the appellant nor the client is an Illinois resident, the hearing shall be conducted in the appropriate regional office of the Division of Child Support Enforcement. In any event, the hearing may be conducted in a county acceptable to the appellant, the client, and the Division of Child Support Enforcement. If a party is outside the State, he or she may, in a manner consistent with Section 11-8.2 of the Public Aid Code [305 ILCS 5/11-8.2], present his or her case through depositions and witnesses. In addition, a party may request to participate in the hearing by telephone, at his or her own expense.
 - E) Documents certified by a clerk of court or a Title IV-D agency shall be admitted into evidence without further proof. (Refer to Section 104.23 for admission of other evidence.)
 - F) In addition to the appellant, the Division of Child Support Enforcement or Title IV-D client may request and receive a continuance for good cause shown (for example, illness or other circumstance which prevents a party from continuing in the normal course of the hearing).

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- G) Effective January 1, 2011, enforcement of administrative support orders entered under 89 Ill. Adm. Code 160.60 or modified under 89 Ill. Adm. Code 160.65 shall not be stayed pending the filing and resolution of a petition for release from or modification of the administrative support order.
- HG) Following the hearing, the Director of the Department shall make a Final Administrative Decision. A copy of the decision shall be mailed to each interested party and the parties' representatives, if any, within 90 days after the Department's receipt of the request for hearing, extended by any delay caused by any party other than the Department. The Department shall take appropriate action implementing the results of the decision within 30 days after its release.
- c) A hearing to vacate registration or to modify the administrative income withholding notice of the Department shall consider only matters which would be available to the responsible relative as defenses in a civil action in Illinois to enforce a foreign money judgment (such as, payment, partial payment, or identification of the party against whom the judgment was entered). If the responsible relative shows the Department that an appeal from the registered support order is pending or will be taken in the court or administrative body of the jurisdiction which originally entered the order, or that a stay of execution has been granted, the Department shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the stay order is vacated.

(Source: Amended at 35 Ill. Reg. 12900, effective July 25, 2011)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.438 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: July 25, 2011
- 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 materials 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: August 6, 2010; 34 Ill. Reg. 10967
- 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? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.414	Amendment	35 Ill. Reg. 12600; July 29, 2011
140.445	Amendment	35 Ill. Reg. 12600; July 29, 2011
140.446	Amendment	35 Ill. Reg. 12600; July 29, 2011
140.80	Amendment	35 Ill. Reg. 12202; July 22, 2011
140.82	Amendment	35 Ill. Reg. 12202; July 22, 2011
140.84	Amendment	35 Ill. Reg. 12202; July 22, 2011
140.462	Amendment	35 Ill. Reg. 11126; July 15, 2011

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- 15) Summary and Purpose of Amendments: This rulemaking adds Independent Diagnostic Testing Facilities (IDTFs) as eligible providers of service. The technical services provided by IDTFs, which are all covered by the State's Medical Assistance programs, were once available only at hospitals but are more frequently performed by hospital-based clinics and other off-site providers. Under current practice, an IDTF can only be reimbursed for the professional interpretation of the test by billing under the referring physician's provider number. This amendment provides a mechanism for the IDTF to receive payment for the technical component of the service. These services include, but are not limited to: diagnostic sonograms (abdominal, pelvic and small parts ultrasound); echocardiography, arterial, venous and carotid examination, with Doppler and color flow analysis; cardiac monitoring; cardiac diagnostic testing; mammography; radiological imaging; mobile imaging services; and sleep studies.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

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

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	Suspension or Barring
140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Sanctioned Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.44	Withholding of Payments Due to Fraud or Misrepresentation
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)

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140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)
140.373	Utilization (Repealed)
140.374	Alternatives (Recodified)
140.375	Exemptions (Recodified)
140.376	Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390	Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391	Definitions (Recodified)
140.392	Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394	Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396	Rate Appeals for Subacute Alcoholism and Substance Abuse Services

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NOTICE OF ADOPTED AMENDMENT

(Recodified)

140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section

- 140.400 Payment to Practitioners
- 140.402 Copayments for Noninstitutional Medical Services
- 140.403 Telehealth Services
- 140.405 SeniorCare Pharmaceutical Benefit (Repealed)
- 140.410 Physicians' Services
- 140.411 Covered Services By Physicians
- 140.412 Services Not Covered By Physicians
- 140.413 Limitation on Physician Services
- 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
- 140.416 Optometric Services and Materials
- 140.417 Limitations on Optometric Services
- 140.418 Department of Corrections Laboratory
- 140.420 Dental Services
- 140.421 Limitations on Dental Services
- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
- 140.425 Podiatry Services
- 140.426 Limitations on Podiatry Services
- 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
- 140.428 Chiropractic Services
- 140.429 Limitations on Chiropractic Services (Repealed)
- 140.430 Independent Clinical Laboratory Services
- 140.431 Services Not Covered by Independent Clinical Laboratories
- 140.432 Limitations on Independent Clinical Laboratory Services
- 140.433 Payment for Clinical Laboratory Services
- 140.434 Record Requirements for Independent Clinical Laboratories
- 140.435 Advanced Practice Nurse Services
- 140.436 Limitations on Advanced Practice Nurse Services
- 140.438 [Diagnostic Imaging ServicesCenters](#)
- 140.440 Pharmacy Services
- 140.441 Pharmacy Services Not Covered
- 140.442 Prior Approval of Prescriptions

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140.443	Filling of Prescriptions
140.444	Compounded Prescriptions
140.445	Legend Prescription Items (Not Compounded)
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140.448	Returned Pharmacy Items
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140.450	Record Requirements for Pharmacies
140.451	Prospective Drug Review and Patient Counseling
140.452	Mental Health Services
140.453	Definitions
140.454	Types of Mental Health Services
140.455	Payment for Mental Health Services
140.456	Hearings
140.457	Therapy Services
140.458	Prior Approval for Therapy Services
140.459	Payment for Therapy Services
140.460	Clinic Services
140.461	Clinic Participation, Data and Certification Requirements
140.462	Covered Services in Clinics
140.463	Clinic Service Payment
140.464	Hospital-Based and Encounter Rate Clinic Payments
140.465	Speech and Hearing Clinics (Repealed)
140.466	Rural Health Clinics (Repealed)
140.467	Independent Clinics
140.469	Hospice
140.470	Eligible Home Health Providers
140.471	Description of Home Health Services
140.472	Types of Home Health Services
140.473	Prior Approval for Home Health Services
140.474	Payment for Home Health Services
140.475	Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.476	Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
140.477	Limitations on Equipment, Prosthetic Devices and Orthotic Devices
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140.479	Limitations, Medical Supplies
140.480	Equipment Rental Limitations

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140.481	Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
140.482	Family Planning Services
140.483	Limitations on Family Planning Services
140.484	Payment for Family Planning Services
140.485	Healthy Kids Program
140.486	Illinois Healthy Women
140.487	Healthy Kids Program Timeliness Standards
140.488	Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.494	Record Requirements for Medical Transportation Services
140.495	Psychological Services
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SUBPART E: GROUP CARE

Section	
140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR
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140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered By Department Payment
140.512	Utilization Control
140.513	Notification of Change in Resident Status
140.514	Certifications and Recertifications of Care (Repealed)
140.515	Management of Recipient Funds – Personal Allowance Funds
140.516	Recipient Management of Funds
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140.518	Facility Management of Funds
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140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	County Contribution to Medicaid Reimbursement (Repealed)
140.527	Quality Incentive Survey (Repealed)
140.528	Payment of Quality Incentive (Repealed)
140.529	Reviews (Repealed)
140.530	Basis of Payment for Long Term Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
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140.539	Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
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140.541	Salaries Paid to Owners or Related Parties
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140.543	Time Standards for Filing Cost Reports
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140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs Updates
140.552	Nursing and Program Costs
140.553	General Administrative Costs Updates
140.554	Component Inflation Index (Repealed)
140.555	Minimum Wage
140.560	Components of the Base Rate Determination
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140.566	Out-of-State Placement
140.567	Level II Incentive Payments (Repealed)
140.568	Duration of Incentive Payments (Repealed)
140.569	Clients With Exceptional Care Needs
140.570	Capital Rate Component Determination
140.571	Capital Rate Calculation
140.572	Total Capital Rate
140.573	Other Capital Provisions
140.574	Capital Rates for Rented Facilities
140.575	Newly Constructed Facilities (Repealed)
140.576	Renovations (Repealed)
140.577	Capital Costs for Rented Facilities (Renumbered)
140.578	Property Taxes
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140.580	Mandated Capital Improvements (Repealed)
140.581	Qualifying as Mandated Capital Improvement (Repealed)
140.582	Cost Adjustments
140.583	Campus Facilities
140.584	Illinois Municipal Retirement Fund (IMRF)
140.590	Audit and Record Requirements
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140.643	In-Home Care Program
140.645	Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Repealed)
140.646	Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
140.647	Description of Developmental Training (DT) Services
140.648	Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
140.649	Effective Dates of Reimbursement for Developmental Training (DT) Programs
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140.652	Terms of Assurances and Contracts
140.680	Effective Date Of Payment Rate
140.700	Discharge of Long Term Care Residents
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140.835	Determination of Cap on Payments for Long Term Care (Repealed)

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NOTICE OF ADOPTED AMENDMENT

SUBPART F: FEDERAL CLAIMING FOR STATE AND
LOCAL GOVERNMENTAL ENTITIES

Section

140.850	Reimbursement of Administrative Expenditures
140.855	Administrative Claim Review and Reconsideration Procedure
140.860	County Owned or Operated Nursing Facilities
140.865	Sponsor Qualifications (Repealed)
140.870	Sponsor Responsibilities (Repealed)
140.875	Department Responsibilities (Repealed)
140.880	Provider Qualifications (Repealed)
140.885	Provider Responsibilities (Repealed)
140.890	Payment Methodology (Repealed)
140.895	Contract Monitoring (Repealed)
140.896	Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900	Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901	Functional Areas of Needs (Recodified)
140.902	Service Needs (Recodified)
140.903	Definitions (Recodified)
140.904	Times and Staff Levels (Repealed)
140.905	Statewide Rates (Repealed)
140.906	Reconsiderations (Recodified)
140.907	Midnight Census Report (Recodified)
140.908	Times and Staff Levels (Recodified)
140.909	Statewide Rates (Recodified)
140.910	Referrals (Recodified)
140.911	Basic Rehabilitation Aide Training Program (Recodified)
140.912	Interim Nursing Rates (Recodified)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

Section

140.920	General Description
140.922	Covered Services
140.924	Maternal and Child Health Provider Participation Requirements
140.926	Client Eligibility (Repealed)

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- 140.928 Client Enrollment and Program Components (Repealed)
 140.930 Reimbursement
 140.932 Payment Authorization for Referrals (Repealed)

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

Section

- 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
 140.942 Definition of Terms (Recodified)
 140.944 Notification of Negotiations (Recodified)
 140.946 Hospital Participation in ICARE Program Negotiations (Recodified)
 140.948 Negotiation Procedures (Recodified)
 140.950 Factors Considered in Awarding ICARE Contracts (Recodified)
 140.952 Closing an ICARE Area (Recodified)
 140.954 Administrative Review (Recodified)
 140.956 Payments to Contracting Hospitals (Recodified)
 140.958 Admitting and Clinical Privileges (Recodified)
 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
 140.964 Contract Monitoring (Recodified)
 140.966 Transfer of Recipients (Recodified)
 140.968 Validity of Contracts (Recodified)
 140.970 Termination of ICARE Contracts (Recodified)
 140.972 Hospital Services Procurement Advisory Board (Recodified)
 140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
 140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

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140.1003	Recovery of Money for Alternate Payees
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140.TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

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SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill.

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Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill.

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Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of

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150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December

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19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897,

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effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective

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August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010;

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amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.438 Diagnostic Imaging Services Centers

- a) Payment for diagnostic and imaging services may be made to the following providers that are independent of both a physician's office and a hospital:~~Definitions~~
- 1) "Imaging Centers that are Center" means any distinct entities operating entity that operates primarily for the purpose of providing diagnostic imaging services. ~~Services provided at an imaging center shall be reimbursed on a fee-for-service basis only and shall not include hospital-based clinics that are adjacent to or on the premises of a hospital.~~
 - 2) Mammography Screening Centers.~~"Imaging Services" include the technical services, the professional services or both the technical and professional services provided at an imaging center.~~
 - 3) Portable X-ray Facilities.~~"Technical Component" includes services that are furnished in connection with imaging services such as the use of the equipment.~~
 - 4) Independent Diagnostic Testing Facilities (IDTFs) that are a fixed location, a mobile entity, or an individual non-physician practitioner.~~"Professional Component" includes services that are furnished by a medical professional in reading the image provided by an imaging center. The professional must be practicing within the scope of his or her specific practice Act and professional license.~~
 - 5) "Mammography Screening Centers" provide low level preventive, diagnostic, or maintenance screening mammography services, and must be Illinois Department of Nuclear Safety certified screening mammography centers see (32 Ill. Adm. Code 370) that are registered with the Medicare

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~~program.~~

~~6) "Portable X-ray Services" are imaging services limited to x-ray and certain other diagnostic procedures, certified by Medicare, that are performed at the client's place of residence and that are ordered by a referring physician.~~

b) Participation Requirements ~~for Imaging Centers~~

1) To participate in the Illinois Medical Assistance program, an ~~Imaging Center~~imaging center must, in addition to any other Department requirements, be licensed or certified:

A) for participation in the Medicare program; or

B) by the Joint Commission on Accreditation of Health Care Organizations (JCAHO); or

C) by ~~a state~~a local or public health department; or

D) by any government agency having jurisdiction over the services provided and/or the equipment being used.

2) Portable ~~X-ray Facilities~~x-ray facilities shall be approved and certified for participation in the Medicare program. ~~Portable x-ray services may also include diagnostic procedures other than x-rays (for example, EKGs).~~

3) Mammography ~~Screening Centers~~screening centers shall be certified by the Illinois Department of Nuclear Safety or the certifying agency in the state where the center is located.

4) Independent Diagnostic Testing Facilities shall be approved and certified for participation in the Medicare program.

c) ~~Reimbursement~~Services Covered by Imaging Centers

1) Diagnostic and imaging services shall be reimbursed on a fee-for-service basis only. ~~The Department will reimburse imaging centers for the following services that are paid on a fee-for-service basis only:~~

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- A) ~~Magnetic Resonance Imaging (MRI);~~
 - B) ~~Mammograms;~~
 - C) ~~Fluoroscopy services;~~
 - D) ~~Ultra-sound;~~
 - E) ~~CT-scans;~~
 - F) ~~Nuclear medicine; and~~
 - G) ~~X-rays.~~
- 2) Reimbursement may include the technical services, the professional services or both the technical and professional services.
- ~~32)~~ Reimbursement shall be made for only those diagnostic or imaging services that have been ordered in writing by the referring practitioner as being essential to diagnosis and treatment. The practitioner must include the diagnosis or condition on the written request.
- ~~43)~~ Reimbursement shall be made only to providers who meet all applicable license, enrollment and reimbursement conditions of the Department.
- 5) Reimbursement to IDTFs shall be made for only those diagnostic and imaging tests certified by Medicare.
- 6) Except for mammograms, reimbursement shall not be made for routine screening x-rays.
- ~~d)~~ Services Not Covered by Imaging Centers
- 1) ~~Portable x-ray services provided at a place other than the recipient's place of residence.~~
 - 2) ~~Routine screening x-rays, except for mammograms.~~
- de) Record Requirements for Imaging Centers

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- 1) In addition to the record requirements specified in Section 140.28, [providers of diagnostic and imaging services](#) ~~centers~~ must comply with the administrative rules of the Illinois Department of Public Health governing the maintenance of medical records (77 Ill. Adm. Code 450, Illinois Clinical Laboratories Code).
- 2) The basic records that must be retained include:
 - A) Patient identification.
 - B) Medical records containing the dates of service and the name of the referring physician.
 - C) The referring practitioner's written orders.
 - D) Copies of reports to referring practitioners.
 - E) The report of the reading by the professional practitioner if both professional and technical components are billed [by the imaging center](#).
 - F) The report of the reading by the professional practitioner that must be retained in the professional practitioner's office if only the professional component is billed by the practitioner.
 - G) Records that verify usual and customary charges to the general public.
- 3) Medical records for Medical Assistance program clients must be made available to the Department or its designated representative in the performance of audits or investigations.

(Source: Amended at 35 Ill. Reg. 12909, effective July 25, 2011)

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- 1) Heading of the Part: Payment and Collection of Wages or Final Compensation
- 2) Code Citation: 56 Ill. Adm. Code 300
- 3)

<u>Section Number</u> :	<u>Adopted Action</u> :
300.450	Amended
300.510	Amended
300.520	Amended
300.600	Amended
300.620	Amended
300.630	Amended
300.640	Amended
300.700	Amended
300.720	Amended
300.730	Amended
300.760	Amended
300.800	Amended
300.810	Amended
300.930	Amended
300.940	Amended
300.941	New
300.942	New
300.950	Amended
300.960	Amended
300.970	Amended
300.980	Amended
300.990	Amended
300.1000	Amended
300.1020	Amended
300.1040	New
300.1050	New
300.1060	New
300.1070	New
300.1080	New
300.1090	New
300.1100	New
300.1110	New
300.1120	New
300.1130	New

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300.1140	New
300.1150	New
300.1160	New
300.1180	New
300.1190	New
300.1200	New
300.1210	New

- 4) Statutory Authority: 820 ILCS 115
- 5) Effective Date of Amendments: July 20, 2011
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Labor's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 3663; March 4, 2011
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Nonsubstantive changes were made to the reference to the Fair Labor Standards Act of 1938; a nonsubstantive change was made under the Section "Personal Liability of Officers and Agents" referencing the statute; and the Sections regarding applicability of the rule (300.1030 and 300.1170) were deleted at the request of JCAR, as they were found to be unnecessary.
- 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? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The primary purpose of this rulemaking is to establish an administrative procedure to adjudicate claims for \$3000 or less, including

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entering default judgments when an employer fails to respond to a claim. In addition, this rulemaking streamlines and updates the Department's overall process for investigating and resolving wage claims.

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

Sara Meek
Legislative Liaison
Illinois Department of Labor
900 South Spring Street
Springfield, Illinois 62704

217/558-1270

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

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER I: DEPARTMENT OF LABOR
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 300

PAYMENT AND COLLECTION OF WAGES OR FINAL COMPENSATION

Section

300.100	Cash or Inventory Shortages (Repealed)
300.110	Failure to Follow Credit Card, Check-Cashing, Accounts Receivable Procedures (Repealed)
300.120	Acceptance of Disputed Paycheck (Repealed)
300.200	Cash Advance Repayment Agreement (Repealed)
300.210	Deduction Limit (Repealed)
300.220	Balance Due at Termination (Repealed)
300.230	Acceptance of Disputed Paycheck (Repealed)
300.300	Damaged Property (Repealed)
300.310	Acceptance of Disputed Paycheck (Repealed)
300.400	Return of Employer's Property (Repealed)
300.410	Deposit (Repealed)
300.420	Conditions of Return of Deposit (Repealed)
300.430	Time for Return of Deposit (Repealed)

SUBPART A: GENERAL PROVISIONS

Section

300.440	Application
300.450	Definitions
300.460	Independent Contractor Exemption

SUBPART B: WAGES OR FINAL COMPENSATION

Section

300.500	Earned Bonuses
300.510	Earned Commissions
300.520	Earned Vacations

SUBPART C: PAYMENT OF WAGES OR FINAL COMPENSATION

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Section	
300.600	Direct Deposit
300.610	Gratuitous Payments at Separation
300.620	Personal Liability of Officers and Agents
300.630	Records and Notice Requirements
300.640	Refusal to Pay Wages or Final Compensation

SUBPART D: DEDUCTION FROM WAGES OR FINAL COMPENSATION

Section	
300.700	Scope of Subpart D
300.710	Burden of Proof
300.720	Written Agreement Authorizing Deductions
300.730	Cash or Inventory Shortages
300.740	Failure to Follow Credit Card, Cash Checking, or Accounts Receivable Procedures
300.750	Cash Advance Repayment Agreement
300.760	Advanced Vacation Pay
300.770	Tuition Reimbursement
300.780	Training and Educational Expenses
300.790	Cash Advance Exception
300.800	Deduction Limit
300.810	Balance Due at Termination
300.820	Damaged Property
300.830	Return of Employer's Property
300.840	Uniforms Required by an Employer
300.850	Equipment Required by an Employer
300.860	Medical Examinations and Records
300.870	Deposit
300.880	Conditions of Return of Deposit
300.890	Time for Return of Deposit
300.900	Overpayment
300.910	Deductions From Bank Accounts
300.920	Acceptance of Disputed Paycheck
300.930	Notice of Disputed Deductions

SUBPART E: [FILING OF A CLAIM](#)~~INVESTIGATION OF CLAIMS~~ FOR WAGES OR FINAL COMPENSATION

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Section

300.940 Filing of ~~a Claim and the Employer's Response~~
[300.941 Employer and Employee Response](#)
[300.942 Withdrawal of a Claim](#)

SUBPART F: INFORMAL INVESTIGATIVE HEARING

300.950 Scheduling and Notice of [an Informal](#) Investigative Hearing
 300.960 Continuances
 300.970 Application of the Rules of Evidence, Pleadings and Procedures in an [Informal](#) Investigative Hearing
 300.980 ~~Participants at Informal~~[Attorneys and Witnesses in](#) Investigative Hearings
 300.990 Contumacious Conduct ~~at Informal~~[in](#) Investigative Hearings
 300.1000 [Informal](#) Telephone Hearings
 300.1010 Issuance of Administrative Subpoena
 300.1020 Review of Hearing Officer ~~Determination~~[Decisions](#)

SUBPART G: FORMAL DEFAULT HEARINGSSection

[300.1040 Scheduling and Notice of a Formal Default Hearing](#)
[300.1050 Manner and Service of Notice](#)
[300.1060 Formal Default Hearing Continuances](#)
[300.1070 Application of the Rules of Evidence, Pleadings and Procedures in a Formal Default Hearing](#)
[300.1080 Participants at a Formal Default Hearing](#)
[300.1090 Conduct in a Formal Default Hearing](#)
[300.1100 Telephone Hearing for a Formal Default Hearing](#)
[300.1110 Subpoenas](#)
[300.1120 Ex Parte \(One Party Only\) Communications](#)
[300.1130 Disqualification of a Hearing Officer](#)
[300.1140 Consolidation/Severance](#)
[300.1150 Failure of a Party to Appear at a Formal Default Hearing](#)
[300.1160 Notice and Appeal of Department's Default Order](#)

SUBPART H: DAMAGES, PENALTIES AND FEESSection

[300.1180 Non-Waivable Administrative Fee to the Department](#)

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300.1190	Statutory Damages Due to the Employee
300.1200	Additional Penalties Due to the Department and Employee
300.1210	Payment of Demands or Final Orders; Penalties and Fees

AUTHORITY: Implementing and authorized by Section 9 of the Illinois Wage Payment and Collection Act [820 ILCS 115/9].

SOURCE: Filed October 16, 1975, effective October 26, 1975; codified at 8 Ill. Reg. 18488; amended at 16 Ill. Reg. 13828, effective September 1, 1992; emergency amendment at 35 Ill. Reg. 3805, effective February 22, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 12933, effective July 20, 2011.

SUBPART A: GENERAL PROVISIONS

Section 300.450 Definitions

Except for the terms set forth in Section 2 of the ~~Wage Payment and Collection~~ Act, all other terms used in this Part ~~300~~ shall have the meanings ~~as set forth~~ [in this Section](#)~~herein~~.

- a) "Act" means the [Illinois](#) Wage Payment and Collection Act, ~~as amended [820 ILCS 115](Ill. Rev. Stat. 1991, ch. 48, pars 39m-1 et seq.)~~.
- b) "Administrative employee" means an employee as defined by [Section 13\(a\)\(1\) of the Fair Labor Standards Act of 1938 \(29 U.S.C. 213\(a\)\(1\)\) and regulations promulgated thereunder \(29 CFR Part 541, as it existed on March 30, 2003, \(1992, no subsequent dates or editions\), as amended at 56 FR 8251\)](#).
- c) "Claim" means a signed application alleging a violation of the Act, accompanied by supporting documentation required by the Department.
- d) "Claimant" means any person who submits a claim.
- e) "Day" means a calendar day.
- f) "Department" means the Illinois Department of Labor, its ~~Director~~[director](#), and his/her authorized representatives.
- g) "Executive employee" means an employee as defined by [Section 132\(a\)\(1\) of the Fair Labor Standards Act of 1938 \(29 U.S.C. 213\(a\)\(1\)\) and regulations](#)

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~~promulgated thereunder at 29 CFR Part 541, as it existed on March 30, 2003, (1992, no subsequent dates or editions), as amended at 56 FR 8251.~~

- h) "Hearing Officer" means an individual authorized by the Department to determine the merits of claims alleging violations of the Act.
- i) "Other representative" means any person with a direct relationship to the party, who is not an attorney or legal representative, who can address the substance of the claim, including a spouse, relative or friend who can provide further clarification on the issues being considered or assist with translation for the party he or she represents.
- ji) "Party" means a claimant and any employer whose payment of wages or final compensation is in question.
- kj) "Professional employee" means an employee as defined by Section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)) and regulations promulgated thereunder at 29 CFR Part 541, as it existed on March 30, 2003, (1992, no subsequent dates or editions), as amended at 56 FR 8251.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

SUBPART B: WAGES OR FINAL COMPENSATION

Section 300.510 Earned Commissions

- a) Absent an express agreement to the contrary, an employee who is the procuring cause of a sale or other transaction is entitled to commission, notwithstanding the fact that the sale or other transaction was consummated by the principal personally or through another agent.
- b) ~~When~~Where the employer and employee agree that the employee is to be advanced a commission in anticipation of a particular sale, and the sale is subsequently voided, the employer may not deduct from the employee's wages or final compensation any amount greater than the amount of the commission previously advanced on that particular sale.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

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Section 300.520 Earned Vacations

- a) Whenever an employment contract or an employment policy provides for paid vacation earned by length of service, vacation time is earned pro rata as the employee renders service to the employer.
- b) Oral promises, handbooks, memoranda, and uniform patterns of practice may create a duty to pay the monetary equivalent of earned vacation.
- c) Claims for vacation pay must be brought to the Department within ~~3~~three years from the date the vacation is earned.
- d) Nothing in this ~~Section~~provision shall be construed to reduce or impair the right of the claimant to maintain a civil action to recover additional vacation pay found due by ~~a court~~such courts.
- e) An employment contract or an employer's policy may require an employee to take vacation by a certain date or lose the vacation, provided that the employee is given a reasonable opportunity to take the vacation. The employer must demonstrate that the employee had notice of the contract or policy provision.
- f) The Department recognizes ~~policies under which~~provisions whereby:
 - 1) no vacation is earned during a limited period at the commencement of employment. The employer must demonstrate that the ~~policy~~provision is not a subterfuge to avoid payment of vacation actually earned by length of service and, in fact, no vacation is implicitly earned or accrued during that period.
 - 2) vacation is earned and accrues at an accelerating rate during the year. The ~~policy~~provision is acceptable when the acceleration period and the changes in accrual rates are reasonable, and the policy is uniformly applied.
 - 3) the employer does not have separate arrangements for vacation and sick leave. Under the ~~policy~~provision, employees earn a certain ~~amount~~number of "paid ~~time~~days off" ~~that~~which they can use for any purpose, including vacation and sick leave. Because employees have an absolute right to take ~~this time~~these days off (unlike traditional sick leave

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~~in which~~where using ~~such~~sick leave is contingent upon illness), the Department ~~will~~shall treat "paid ~~time~~days off" as earned vacation days.

- g) Any employer that provides paid vacation to its employees must maintain true and accurate records of the number of vacation days earned for each year and the dates on which ~~such~~vacation days were taken and paid.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

SUBPART C: PAYMENT OF WAGES OR FINAL COMPENSATION

Section 300.600 Direct Deposit

An employer shall not require an employee to enroll in a direct deposit arrangement or make payment of wages or final compensation by direct deposit unless the employee designates a bank or a financial institution.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.620 Personal Liability of Officers and Agents

- a) In addition to an individual who is deemed to be an employer pursuant to Section 2 of the Act, any officers of a corporation or agents of an employer who knowingly permit the employer to violate the provisions of the Act shall be deemed to be employers of the employees of the corporation and shall be personally liable for a claimant's wages or final compensation under Section 13 of the Act.~~An officer of a corporation or an agent of an employer may be personally liable under Section 13 of the Act for a claimant's wages or final compensation when the officer or agent actively asserted substantial control over the management and financial affairs of the corporation or employer.~~
- b) As used in Subpart A of this Part~~Section 13 of the Act:~~
- 1) "Knowingly" means knowledge of the existence of facts constituting the alleged violation, rather than a knowledge of the unlawfulness of the act or omission.
 - 2) "Permit" means to allow to happen or to fail to prevent.

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(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.630 Records and Notice Requirements

- a) Every employer shall make and maintain~~keep~~, for a period of not less than 3~~three~~ years, the following true and accurate records for each employee~~of~~ the name and address ~~of each employee~~, the hours worked each day in each work week ~~by each employee~~, the rate of pay, the amount paid each pay period ~~to each employee~~ and all deductions made from wages or final compensation. Additionally, any employer that provides paid vacation to its employees must maintain, for a period of not less than 3 years, true and accurate records of the number of vacation days earned for each year and the dates on which ~~such~~ vacation days were taken and paid ~~for a period of not less than three years~~.
- b) In the absence of employer records, a claimant may not be denied recovery of wages or final compensation on the basis that the employee is unable to prove the precise extent of uncompensated work or final compensation. An employee need only produce sufficient evidence to demonstrate the amount and extent of work or time earned as a just and reasonable inference. The employer must then produce evidence of the exact amount of work or time earned or produce evidence to negate the reasonable inferences drawn from the employee's evidence. The employer's failure to make and maintain records as required under subsection (a) shall not preclude a finding based on the information available that wages or final compensation are due, even though the award may be only approximate.
- c) Every employer shall furnish each employee with an itemized statement of deductions made from wages for each pay period.
- ~~db~~) The employer shall bear the burden of showing that it was not possible to notify the employee in writing, at the time of hiring, of the rate of pay and of the time and place of payment. "Rate of pay" shall include a description of all wages and final compensation, as defined by Section 2 of the Act and this Partas ~~further defined herein and hereafter~~.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.640 Refusal to Pay Wages or Final Compensation

- a) The duty to pay wages or final compensation arises out of a contract of

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employment, an employment policy, or an agreement between the parties. The Department ~~will~~ make a determination in accordance with Subpart ~~F or GE~~ of these rules as to whether the duty to pay exists.

- b) An employer doing business at the time the duty to pay wages or final compensation arises is presumed to have the ability to pay.
- c) A willful refusal to pay is a voluntary, conscious and intentional act. An employer who subordinates the wage claims of employees to the claims of other creditors has ~~willfully~~ refused to pay wages or final compensation, in violation of the Act.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

SUBPART D: DEDUCTION FROM WAGES OR FINAL COMPENSATION

Section 300.700 Scope of Subpart D

Nothing in this Subpart shall be construed to permit an employer to violate the provisions of the Minimum Wage Law [820 ILCS 105]~~(Ill. Rev. Stat. 1991, ch. 48, pars. 1001 et seq.)~~ or the Fair Labor Standards Act of 1938, as amended (29 USC~~U.S.C.~~ 201 et seq.).

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.720 Written Agreement Authorizing Deductions

Any written agreement between employer and claimant permitting or authorizing deductions from wages or final compensation must be given freely at the time the deduction is made. In the case of cash advances, the agreement may be made either at the time of the deduction or at the time of the advance itself.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.730 Cash or Inventory Shortages

An employer shall not deduct from an employee's pay or otherwise demand reimbursement from an employee for cash~~Cash~~ and/or inventory shortages ~~shall not be deducted from an employee's pay~~ unless the employee's express written consent is given freely at the time the deduction or demand for reimbursement is made.

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(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.760 Advanced Vacation Pay

If an employer permits an employee to take a vacation ~~that~~which has not yet been earned, and the employee resigns or is terminated, the employer may not deduct the unearned vacation pay from the employee's wages or final compensation without a written agreement as set forth in ~~the rules pertaining to cash advances~~ (see Sections 300.720 and 300.750).

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.800 Deduction Limit

No cash advance repayment agreement shall provide for a repayment schedule of more than 15% of an employee's gross wages or final compensation per paycheck.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.810 Balance Due at Termination

If, upon termination, an employee owes an amount greater than 15% of gross wages or final compensation, that amount may be withheld from the employee's wages or final compensation, but only if such an arrangement was included in the agreement signed when the advance was made.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.930 Notice of Disputed Deductions

- a) Notice by an employer of disputed deductions from wages under Section 9 of the Act shall be either typewritten or clearly handwritten and shall include: the name and last known address of the employee from whose wages or final compensation the deduction is being made; the amount that is being withheld; the reason for which the deduction is being made; the date on which payment would have been made; and the name, business address and telephone number of the employer and any officer or agent of the employer who will present the employer's position to the Department during its investigation of the deduction. ~~The~~Such notice shall be prominently marked "Notice of Disputed Deduction" on both the letter and the

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envelope and shall be mailed or delivered to the Department's Chicago office on or before the day the money is due to the employee.

- b) The Department ~~will~~shall notify the employee of the proposed deduction and provide an opportunity for the employee to contest the deduction. The employee's response shall be typewritten or clearly handwritten and shall state the ~~reasons~~reason(s) why the employee contests the deduction. ~~The~~Such response shall be prominently marked "DISPUTED DEDUCTION RESPONSE" on both the letter and the envelope and shall be mailed or delivered to the Department's Chicago office. If the employee does not respond within 10 days after receipt of the Department's ~~notice~~communication, the deduction shall be permitted and the Department will take no further action. Acceptance of late responses by the employee shall be at the sole discretion of the Department.
- c) The Department may permit a deduction when an employer can establish by clear and convincing evidence that:
- 1) the employee is indebted to the employer in an amount equal to or greater than the amount sought to be withheld;; and
 - 2) it would be inequitable to require the employer to make payment to the employee prior to the employee satisfying his/her obligation to the employer.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

SUBPART E: ~~FILING OF A CLAIM~~INVESTIGATION OF CLAIMS FOR WAGES OR FINAL COMPENSATION

Section 300.940 Filing of a Claim ~~and the Employer's Response~~

- a) An employee may file a complaint with the Department alleging violations of the Act by submitting ~~2~~a signed ~~copies of a~~completed wage claim application on the form provided by the Department and by submitting ~~2~~2 copies of all supporting documentation. Complaints shall be filed within ~~one year~~180 days after the wages or final compensation were due.
- b) Applications shall be reviewed by the Department to determine whether there is cause for investigation. The Department will limit its investigation to reviewing

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the ~~3~~ years prior to the date the complaint was filed.

- c) ~~The Department will seek to verify the accuracy of the employer's address, as provided by the claimant, using one or more of the following: When appropriate, the Department will notify the employer of the existence of the claim.~~
- 1) ~~address on file with the Department;~~
 - 2) ~~address on file with the Secretary of State;~~
 - 3) ~~address on file with any other State agency with which the employer has the duty to maintain a current address; or~~
 - 4) ~~any other address the Department reasonably calculates to be a true and current address for the employer.~~
- d) ~~The Department will notify the employer of the existence of the claim. The employer must remit payment of all undisputed amounts and submit a written explanation of all the amounts remaining in dispute within 10 days after receipt.~~
- e) ~~The employer's response shall include the reason(s) for non-payment and any business records and other documentation to support the employer's position.~~
- f) ~~Upon receipt of an employer's response disputing the claim, the Department may, when appropriate, send a copy of the employer's response to the claimant.~~
- g) ~~If the employee disagrees with the employer's response, he/she must submit a response to the Department within 10 days stating his/her reasons for the disagreement. If the employee fails to submit a written response, the Department shall dismiss the claim.~~
- h) ~~If the employer fails to respond within the prescribed deadlines, the Department shall review the information offered by the employee in order to determine whether the wages are due.~~
- i) ~~The Department may consider untimely submissions by either party upon written request by the party within a reasonable period of time, if there is a showing that the delay was occasioned by good cause beyond the party's control.~~

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(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.941 Employer and Employee Response

- a) The employer must remit payment of all undisputed amounts and submit a written explanation of all the amounts remaining in dispute within 15 days from the date of the Department's notice.
- b) The employer's response shall include the reasons for non-payment and any business records and other documentation to support the employer's position. Two copies of all supporting documentation shall be provided to the Department.
- c) Upon receipt of an employer's response, the Department may send a copy of the employer's response to the claimant.
- d) Within 15 days after receiving the employer's response from the Department, the employee must submit a response to the Department in order to continue the Department's investigation. If the employee fails to submit a written response, the Department may dismiss the claim.
- e) If the employer fails to respond to the Department's notice, the claim is \$3000 or less per employee and the Department can verify the accuracy of the employer's address consistent with Section 300.940(c), a formal default hearing will be conducted in accordance with Subpart G.
- f) If the employer fails to respond within the prescribed deadlines, the Department will review the information offered by the employee in order to determine whether wages or final compensation are due and may make a determination that the Act has been violated based upon the evidence available to the Department. The Department will notify both parties of its determination.
- g) The Department may consider untimely submissions by either party, upon written request by the party within a reasonable period of time, if there is a showing that the delay was occasioned by good cause beyond the party's control. Examples of good cause include the non-receipt or delayed receipt of mail, accident, illness or other circumstances beyond the party's control.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

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Section 300.942 Withdrawal of a Claim

An employee may voluntarily withdraw his or her claim by submitting a written statement to the Department or making a verbal statement on the record during the hearing or at any time prior to the issuance of the Hearing Officer's decision. The Department will provide written notice to all parties of the withdrawal of the claim.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

SUBPART F: INFORMAL INVESTIGATIVE HEARING**Section 300.950 Scheduling and Notice of an Informal Investigative Hearing**

- a) When the Department is unable to resolve a dispute ~~after~~upon review of the information submitted by the parties, the Department may schedule an informal investigative hearing before a Hearing Officer. The Department conducts hearings to obtain further information; to determine if any violation of the Act exists; to attempt to resolve the matter equitably; and to decide whether there is sufficient evidence to recommend court action.
- b) A written notice of hearing shall be sent to the parties not less than 10 days prior to the date of the hearing.
- c) On the day of a scheduled in-person hearing, the parties may be given a grace period of an additional 10 minutes to arrive at the hearing.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.960 Continuances

Parties shall be prepared to proceed at the informal hearing. Absent an emergency, all requests ~~A request by one party for a continuance will be granted prior to the hearing only if the other party agrees and the Hearing Officer grants permission. Otherwise, a request for continuances a~~ continuance must be made in ~~writing~~person to the Hearing Officer ~~prior to at the time of the~~ scheduled informal hearing and will be granted only upon a showing of good cause. Examples of good cause include the non-receipt or delayed receipt of mail or the unavailability of a witness or a party due to accident, illness or other circumstances beyond the party's control. The Department may also cancel and continue a hearing due to an emergency or the unavailability of a Hearing Officer. If granted, the Department will provide the parties with notice of the

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[continuance of the hearing.](#)

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.970 Application of the Rules of Evidence, Pleadings and Procedures in an Informal Investigative Hearing

When a Hearing Officer makes an investigation or conducts a hearing, the Hearing Officer is not bound either by the rules of evidence or by any technical or formal rules of pleading or procedure.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.980 Participants at Informal~~Attorneys and Witnesses in~~ Investigative Hearings

- a) A party may be accompanied at an informal investigative hearing by his/her attorney; ~~or other representative and by a translator, if necessary.~~ The participation of the other representative in the informal hearing shall be limited to fact-finding and support functions. Other representatives shall not be permitted to engage in any conduct or function that constitutes or reasonably approximates the practice of law. Other representatives shall not: examine or cross-examine any party or witness; offer any documents or other exhibits into evidence; make evidentiary, procedural or other legal objections; cite, file or interpret case law, statutes, administrative rulings or other legal authority; make legal arguments or interpretations; or give legal advice or opinions to parties or witnesses. Other representatives must provide to the represented party for signature a written disclosure document that explicitly states that the representative is not an attorney and that the representative is not permitted to present legal arguments or otherwise engage in any function that reasonably approximates the practice of law as described in this subsection (a). The document shall be signed by both the representative and the represented party.
- b) The parties may bring witnesses to the hearing, ~~and~~but the Hearing Officer shall ~~hear~~decide which witnesses with information related to the claim. The Hearing Officer shall determine~~be heard and~~ the order in which the witnesses are to~~they shall~~ be heard and shall limit testimony to that which is relevant, not cumulative in nature, not unduly repetitious and material to the claim. In deciding whether to permit a witness to testify, the Hearing Officer may consider the relevance and materiality of the testimony. The Hearing Officer may exclude witnesses ~~and~~

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~~other persons~~ from the hearing when they are not giving testimony. The Hearing Officer shall conduct and control the proceedings. No tape recordings, stenographic report or other verbatim record of the hearing shall be made. The Department will provide translation services for the proceedings as necessary.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.990 Contumacious Conduct at Informal Investigative Hearings

If any person becomes so disruptive or abusive that a full and fair informal investigative hearing cannot be conducted, the Hearing Officer shall exclude the person from the hearing. The Hearing Officer, in his/her discretion, may take any of the following actions: continue the hearing without the participation of the excluded individual; render a decision based upon the evidence previously presented; dismiss the employee's claim; or strike the employer's response.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1000 Informal Telephone Hearings

- a) The Department does not routinely hold informal investigative hearings by telephone. Written requests to participate by telephone must be received by the Department's Chicago office no later than 7 days prior to the hearing date. The ~~request~~Request shall be prominently marked "REQUEST FOR TELEPHONE HEARING" on both the letter and the envelope. ~~The~~Such request shall be ~~typewritten or clearly written in writing~~ and ~~shall~~ contain a compelling reason why the party needs to participate by telephone and the name, address and telephone number of the person to be contacted.
- b) On its own initiative, the Department may also schedule a matter for telephone hearing without regard to the 7 day notice requirement.
- c) The Department may consider untimely requests for telephone hearings upon a showing that the delay was occasioned by good cause beyond the party's control. Examples of good cause include the non-receipt or delayed receipt of mail, accident, illness or other circumstances beyond the party's control.
- bd) A party shall not consider its request granted unless the participant receives notice of the Department's approval prior to the hearing date by telephone or ~~letter~~in writing.

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(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1020 Review of Hearing Officer Determination Decisions

- a) Requests for review of a Hearing Officer's determination must be made in writing to the Department's Chicago office, within 15 days ~~after the~~ after the date of the Department's determination decision. The request shall be prominently marked "REQUEST FOR REVIEW" on both the letter and the envelope. The request must set forth the reasons why the party believes the Hearing Officer ~~misconstructed~~ misconstrued the evidence or misapplied the law to the facts, and any newly discovered evidence ~~which~~ the party could not have discovered by the hearing date or, if applicable, why the party failed to attend the informal hearing.
- b) The Department may consider untimely submissions by either party upon written request by the party, made within a reasonable period of time, if there is a showing that the delay was occasioned by good cause beyond the party's control. Examples of good cause include the non-receipt or delayed receipt of mail, accident, illness or other circumstances beyond the party's control.

(Source: Amended at 35 Ill. Reg. 12933, effective July 20, 2011)

SUBPART G: FORMAL DEFAULT HEARINGS**Section 300.1040 Scheduling and Notice of a Formal Default Hearing**

- a) If the employer does not timely respond to the written notice of claim issued by the Department in accordance with Section 300.941 and the claim is for wages or final compensation totaling \$3000 or less per employee, and the Department can verify the accuracy of the employer's address consistent with Section 300.940(c), the Department will schedule a formal default hearing before a Hearing Officer pursuant to this Subpart.
- b) A written notice of the formal default hearing shall be served on the parties not less than 21 days prior to the date of the hearing. The notice shall advise all parties that a failure to appear at the default hearing may result in the entry of an enforceable judgment against a party not appearing. The notice shall further advise all parties that, should the employer appear at the default hearing, the Hearing Officer may terminate the formal default hearing pursuant to this Subpart

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and conduct the matter as an informal investigative hearing in accordance with Subpart F.

- c) On the day of the scheduled in-person default hearing, the parties may be given a grace period of an additional 10 minutes to arrive at the hearing.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1050 Manner and Service of Notice

- a) Service of notice of a formal default hearing shall be complete when the notice of hearing is:
- 1) Personally served; or
 - 2) Sent not less than 21 days prior to the date designated for the default hearing by:
 - A) Regular US mail, postage prepaid, to the parties' addresses; or
 - B) Certified US mail, postage prepaid, to the parties' addresses.
- b) For purposes of subsection (a), notice of a formal default hearing shall be deemed properly served if sent to the parties at an address:
- 1) On file with the Department;
 - 2) On file with the Illinois Secretary of State;
 - 3) On file with any other State agency with which the party has a duty to maintain a current address; or
 - 4) The Department reasonably calculates to be a true and current address for the party.
- c) The notice of a formal default hearing under this Subpart shall include:
- 1) The time, place and nature of the hearing;

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- 2) A copy of the claim;
- 3) The legal authority and jurisdiction under which the hearing is to be held;
- 4) Notice that, upon appearance by the employer, the formal default hearing may be terminated and converted to an informal investigative hearing conducted in accordance with Subpart F;
- 5) Instructions for all parties to bring all evidence and/or witnesses that support or dispute the employee claims;
- 6) A description of the procedure to request a continuance or to appear at the hearing telephonically; and
- 7) A designation of a Hearing Officer to preside over the default hearing and the address of the Hearing Officer.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1060 Formal Default Hearing Continuances

Parties shall be prepared to proceed at the hearing. Absent an emergency, all requests for a continuance must be made in writing to the Hearing Officer prior to the scheduled default hearing and will be granted only upon a showing of good cause. Examples of good cause include the non-receipt or delayed receipt of mail or the unavailability of a witness or a party due to accident, illness or other circumstances beyond the party's control. The Department may also cancel and continue a hearing due to an emergency or the unavailability of a Hearing Officer. If granted, the Department will provide the parties with notice of the continuance of the hearing.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1070 Application of the Rules of Evidence, Pleadings and Procedures in a Formal Default Hearing

- a) Technical rules of evidence do not apply in a default hearing before a Hearing Officer. The decision of the Hearing Officer will be based upon the evidence and testimony. The Hearing Officer may rely upon evidence of a type commonly relied upon by a reasonably prudent person in the conduct of his or her affairs. Absence of employer records required to be made and kept by an employer

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pursuant to Section 300.630 and Section 10 of the Act shall not deny a claimant recovery of wages or final compensation on the basis that the employee is unable to prove the precise extent of uncompensated work or final compensation. An employee need only produce sufficient evidence to demonstrate the amount and extent of work or time earned as a just and reasonable inference. The employer must then produce evidence of the exact amount of work or time earned or produce evidence to negate the reasonable inferences drawn from the employee's evidence. The employer's failure to make and maintain records as required under Section 300.630 shall not preclude a finding based on the information available that wages or final compensation are due, even though the award may be only approximate.

- b) A complete record of all proceedings before the Hearing Officer at the default hearing shall be maintained. The record will consist of: a verbatim record of the parties and witnesses; all pleadings, motions, rulings, evidence received, matters officially noticed, offers of proof, objections and rulings thereon; decision and findings of fact; and any ex parte communications.
- c) The testimony of a party or witness shall be sworn or affirmed. If a party or witness refuses to consent to the recording of the default hearing by the Hearing Officer or refuses to take the oath or affirmation when requested, the participation of that individual in the default hearing shall be terminated, and the default hearing shall be conducted as if the individual failed to appear.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1080 Participants at a Formal Default Hearing

- a) A party may be accompanied at a formal default hearing by his/her attorney or other representative. The participation of the other representative in the default hearing shall be limited to fact-finding and support functions. Other representatives shall not be permitted to engage in any conduct or function that constitutes or reasonably approximates the practice of law. Other representatives shall not: examine or cross-examine any party or witness; offer any documents or other exhibits into evidence; make evidentiary, procedural or other legal objections; cite, file or interpret case law, statutes, administrative rulings or other legal authority; make legal arguments or interpretations; or give legal advice or opinions to parties or witnesses. Other representatives must provide to the represented party for signature a written disclosure document that explicitly states

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that the representative is not an attorney and that the representative is not permitted to present legal arguments or otherwise engage in any function that reasonably approximates the practice of law as described in this subsection (a). The document shall be signed by both the representative and the represented party.

- b) The parties may bring witnesses to the default hearing and the Hearing Officer shall determine the order in which the witnesses are to be heard and shall limit testimony to that which is relevant, not cumulative in nature, not unduly repetitious and material to the claim. In deciding whether to permit a witness to testify, the Hearing Officer may consider the relevance and materiality of the testimony. The Hearing Officer may exclude witnesses when they are not giving testimony. The Department will provide translation services for the default hearing as necessary.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1090 Conduct in a Formal Default Hearing

- a) The Hearing Officer shall conduct and control the default hearing, which will be confined to the factual and/or legal issues of the claim. The Hearing Officer will ensure that all parties who have appeared have a reasonable opportunity to present all relevant evidence and testimony regarding the issues.
- b) Following examination of each witness by the Hearing Officer, that witness may be questioned and cross-examined by any other party, except the other representative, and further questioned by the Hearing Officer, if necessary, to ensure clarity and completeness of the issues and of the record.
- c) If any person becomes abusive or disruptive so that a full and fair hearing cannot be conducted, the Hearing Officer shall exclude that person from the hearing. The Hearing Officer shall then move forward with the hearing without the participation of the excluded individual and will render a decision based on the evidence in the record.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1100 Telephone Hearing for a Formal Default Hearing

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- a) Written requests to participate via telephone must be received by the Department's Chicago office no later than 7 days prior to the hearing date. The request shall be prominently marked "REQUEST FOR TELEPHONE HEARING" on both the letter and envelope. The request shall be in writing and contain a compelling reason why the party needs to participate by telephone and the name, address and telephone number of the person to be contacted.
- b) On its own initiative, the Department may also schedule a matter for telephone hearing without regard to the 7 day notice requirement.
- c) The Department may consider untimely requests for telephone hearings by the party upon a showing that the delay was occasioned by good cause beyond the party's control. Examples of good cause include the non-receipt or delayed receipt of mail, accident, illness or other circumstances beyond the party's control.
- d) A party shall not consider the request granted unless the participant receives notice of the Department's approval prior to the hearing date by telephone or in writing.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1110 Subpoenas

The Department may issue an administrative subpoena to compel the attendance of a witness and/or the production of documents upon the Department's determination that the information to be produced by a subpoena is necessary and relevant to the Department's adjudication of the claim and cannot be obtained by any other reasonable means.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1120 Ex Parte (One Party Only) Communications

- a) A Hearing Officer may not engage in ex parte communications, directly or indirectly, in any matter in connection with any substantive issue, with any interested person or party. If the Hearing Officer receives any ex parte communication, including any documents, the Hearing Officer shall inform the parties of the substance of any such communication and provide copies of any written communication or documents. The other party shall be given an opportunity to review any ex parte communication.

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- _____ b) Nothing shall prevent the Hearing Officer from communicating ex parte about routine matters such as requests for continuances or opportunities to inspect the file as long as the parties are informed of the substance of the ex parte communication. The date and type of communication, the persons involved and the results of those routine communications shall be part of the record.
- _____ c) When a party fails to appear at the default hearing, the other parties' participation at the hearing shall not be considered ex parte communication.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1130 Disqualification of a Hearing Officer

At any time prior to the issuance of a substantive ruling by a Hearing Officer, a party may move to disqualify the Hearing Officer on the grounds of bias or conflict of interest. The motion shall be made in writing to the General Counsel or Chief Administrative Law Judge, with a copy to the Director and the Hearing Officer, setting forth the specific instances of bias or conflict of interest. The Director and/or her/his designee will assign the matter for a determination to a Hearing Officer not challenged in the motion. An adverse decision or ruling, in and of itself, is not grounds for disqualification. The Hearing Officer's employment or contract as a Hearing Officer by the Department is not, in and of itself, a conflict of interest. The case shall be suspended until the neutral Hearing Officer rules on the motion. The neutral Hearing Officer may decline to disqualify the presiding Hearing Officer or appoint another Hearing Officer to hear the case.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1140 Consolidation/Severance

- a) The Department may, on its own or at the request of a party, consolidate hearings if it believes a common question of fact or law is involved, consolidation will expedite the hearings and no right of any party will be prejudiced.
- b) All parties will be given an opportunity to be heard on the issue of consolidation and may be severed from the proceeding upon a showing of good cause.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

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Section 300.1150 Failure of a Party to Appear at a Formal Default Hearing

- a) Failure of a claimant to appear at a scheduled formal default hearing may result in dismissal of the claim. If the hearing or any party's appearance is by telephone, failure of that party to inform the Hearing Officer of the telephone number at which he or she can be reached, or failure to answer the telephone at the scheduled time, may result in dismissal of the claim.
- b) Failure of the employer to appear at a scheduled formal default hearing shall cause the Hearing Officer to issue a decision based on the evidence introduced and the evidence of record. If the hearing or the employer's appearance is by telephone, failure of the employer to inform the Hearing Officer of the telephone number at which the employer can be reached, or failure to answer the telephone at the scheduled time, shall cause the Hearing Officer to issue a decision based on the evidence introduced and the evidence of the record. Failure of the employer to appear may also result in an entry of default judgment against the employer.
- c) Failure of any witness to appear at a scheduled formal default hearing shall cause the Hearing Officer to conduct the hearing with those parties and witnesses who have appeared, and to issue a decision based on the evidence introduced and the evidence of record. If the hearing or the witness' appearance is by telephone, failure of that witness to inform the Hearing Officer of the telephone number at which he or she can be reached, or failure to answer the telephone at the scheduled time, shall cause the Hearing Officer to conduct the hearing with those parties and witnesses who have appeared and to issue a decision based on the evidence introduced and the evidence of record.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1160 Notice and Appeal of Department's Default Order

- a) Following the entry of a final default order, the Department will send written notice of its order to the parties by regular U.S. mail, setting forth the amount of the judgment, if any, including all damages, administrative fees and penalties, as well as the parties' appeal rights. Service shall be presumed to be accomplished upon mailing.
- b) A party may file a motion to reconsider with the Department within 15 days of the Department's order and such motion will only be considered by the

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Department for procedural issues. A motion to reconsider should be sent to the Chief Administrative Law Judge at the Department's Chicago office. The Department will issue a written decision on any motions to reconsider and serve such decision on all parties via regular US mail. No further appeal process or administrative remedies may be sought at the Department level.

c) Any party may appeal the Department's order or dismissal to the circuit court within 35 days in accordance with the provisions of the Administrative Review Law [735 ILCS 5/Art. III]. If a motion to reconsider is filed with the Department, the time period to appeal to the circuit court shall begin when the Department issues its written decision on any motion to reconsider via regular US mail.

d) The order of the Department will become final and enforceable if no appeals are filed within 35 days after the Department's order or after all appeals are exhausted.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

SUBPART H: DAMAGES, PENALTIES AND FEES**Section 300.1180 Non-Waivable Administrative Fee to the Department**

If the Department determines that an employer owes wages or final compensation to the claimant, it shall assess a \$250 non-waivable administrative fee payable to the Department and make the administrative fee against the employer a part of the determination. The administrative fee shall be due to the Department within 15 days after the demand or order becomes final.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1190 Statutory Damages Due to the Employee

If the Department determines that an employer owes wages or final compensation to the claimant, statutory damages shall be assessed at 2% of the amount owed, multiplied by the number of months that elapse between the time of initial underpayment and the time the demand or order is paid. The total amount due to the employee, including the unpaid wages and/or final compensation plus statutory damages, shall be due to the employee within 15 days after the demand or order becomes final.

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(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1200 Additional Penalties Due to the Department and Employee

If an employer fails to comply with the demand or order within 15 days after the demand or order becomes final, the employer shall also be liable to the Department for a statutory penalty in the amount of 20% of the amount owed and shall be additionally liable to the claimant for a statutory penalty in the amount of 1% per day of the amount owed. The Department may periodically seek to amend the demand or final order to incorporate these penalties.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

Section 300.1210 Payment of Demands or Final Orders; Penalties and Fees

An employer shall mail 2 separate checks or money orders to pay the amount of a demand or final order, one for the amount of any wages or final compensation, statutory damages and statutory penalties owed to the employee, the other for the amount of any penalties and fees owed to the Department.

(Source: Added at 35 Ill. Reg. 12933, effective July 20, 2011)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Fire Sprinkler Dormitory Revolving Loan Program
- 2) Code Citation: 41 Ill. Adm. Code 293
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
293.10	New
293.20	New
293.30	New
293.40	New
293.50	New
293.60	New
293.70	New
293.80	New
293.90	New
- 4) Statutory Authority: Implementing and authorized by Section 15 of the Fire Sprinkler Dormitory Act [110 ILCS 47/15]
- 5) Effective Date of Adopted Amendments: August 1, 2011
- 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 materials incorporated by reference, is on file in the principal office of the State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois, and is available for public inspection at that location.
- 9) Notice of Proposal published in the Illinois Register: September 3, 2010; 34 Ill. Reg. 12647
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Changes made between the proposed and adopted versions:

In the first line of Section 293.50(e), immediately after "applications", the following was inserted: "subject to the criteria in Section 293.60". Grammatical changes and corrections were made, also.

OFFICE OF THE STATE FIRE MARSHAL

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- 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 rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending to this Part? No
- 15) Summary and Purpose of Rules: These rules provide for low-interest loans to Illinois public or private colleges or universities for the planning, purchasing, installing, upgrading, altering, modifying, fixing or repairing of a fire sprinkler system or systems in dormitories. Procedures are established to apply for and grant these loans.
- 16) Information and questions regarding these adopted rules shall be directed to:

William Barnes
General Counsel
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago, IL 60601

312/814-6322
Fax: 312/814-3459

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF ADOPTED RULES

TITLE 41: FIRE PROTECTION

CHAPTER I: OFFICE OF THE STATE FIRE MARSHAL

PART 293

FIRE SPRINKLER DORMITORY REVOLVING LOAN PROGRAM

Section	
293.10	Definitions
293.20	Purpose and Qualifications
293.30	Eligible Expenditures
293.40	Loan Application Review Committee
293.50	Application Procedure and Content
293.60	Loan Application Review Committee Criteria
293.70	Appeal Process
293.80	Repayment Procedures
293.90	Terms and Conditions of Loan Agreement

AUTHORITY: Implementing and authorized by Section 15 of the Fire Sprinkler Dormitory Act [110 ILCS 47/15].

SOURCE: Adopted at 35 Ill. Reg. 12962, effective August 1, 2011.

Section 293.10 Definitions

The following definitions are used in this Part:

"Act" means the Fire Sprinkler Dormitory Act [110 ILCS 47].

"Applicant" means a post-secondary educational institution applying to OSFM and the Authority for a low-interest loan under the program.

"Authority" means the Illinois Finance Authority created by the Illinois Finance Authority Act [20 ILCS 3501] or its successor agency.

"Authority's Administrative Rules" means the Authority's administrative rules for the Fire Sprinkler Dormitory Revolving Loan Fund (74 Ill. Adm. Code 1100).

"Committee" means the Loan Application Review Committee established in Section 293.40 of this Part.

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"Fire Sprinkler System" means a fire sprinkler system located in an existing or newly constructed dormitory or residence hall of a post-secondary educational institution that has received the permits, certifications and inspections required by federal, State and local law, rule, guideline or ordinance.

"Fund" means the Fire Sprinkler Dormitory Revolving Loan Fund.

"Low-Interest Loan" means a loan with a rate of interest to be charged under the program as determined by the Board of the Authority at the time of the loan approval, at a rate lower than current market rates.

"OSFM" means the Office of the Illinois State Fire Marshal.

"Post-Secondary Educational Institution" or "Institution" means an Illinois public or private college or university offering degrees and instruction above the high school level. This term does not include:

any public or private college or university that does not provide on-campus housing for its students in dormitories or equivalent facilities that are owned, operated or maintained by the public or private college or university;

any public or private junior college or community college; or

any institution offering degrees and instruction that uses correspondence as its primary mode of student instruction.

"Program" means the Illinois Fire Sprinkler Dormitory Revolving Loan Program.

Section 293.20 Purpose and Qualifications

- a) OSFM and the Authority will jointly administer a program to provide low-interest loans to post-secondary educational institutions for the planning, purchasing, installing, upgrading, altering, modifying, fixing or repairing of a fire sprinkler system or fire sprinkler systems.
- b) OSFM will determine loan awards based on system needs, financial need and how recently the applicant has received a previous loan under this program,

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supplemented by recommendations from the Authority based on creditworthiness. A loan for the purchase of fire sprinkler systems shall not exceed \$1,000,000 in any single fiscal year to any post-secondary educational institution.

Section 293.30 Eligible Expenditures

Subject to the availability of funds, low-interest loans to post-secondary educational institutions will be available for the purpose of paying all or a portion of the costs associated with planning, purchasing, installing, upgrading, altering, modifying, fixing or repairing a fire sprinkler system.

Section 293.40 Loan Application Review Committee Criteria

The State Fire Marshal shall appoint a Loan Application Review Committee to determine, based on system needs, financial need, and how recently the applicant has received a previous loan under this program, which eligible post-secondary educational institution will be recommended to the Authority to receive a low-interest loan under this program.

- a) The Committee shall consist of the following seven members:
 - 1) The State Fire Marshal, as chair;
 - 2) One Fire Chief (from a community having a post-secondary educational institution within its protection area);
 - 3) One representative from the Associated Fire Fighters of Illinois;
 - 4) One representative from the Illinois Finance Authority, as vice chair;
 - 5) One member from the Illinois Fire Inspectors Association;
 - 6) One member from the Illinois Association of Fire Protection Districts; and
 - 7) One member representing the post-secondary educational institutions.
- b) No Committee member who has a pending application for a loan under this program shall participate in the review process in which that application is pending. Any Committee member who has such a conflict shall notify the Fire Marshal of the conflict, so that the Fire Marshal can replace that Committee member for the relevant program application cycle as soon as possible.

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- c) Members shall serve without salary, but may receive reimbursement for reasonable expenses from OSFM from appropriations for those purposes.
- d) All members shall have one vote, except for the State Fire Marshal, who shall only vote to break a tie.
- e) Members shall serve a term of four years.
- f) Upon the expiration of a member's term of office, the State Fire Marshal shall reappoint that member, or appoint a successor who is a representative of the same interests with which his or her predecessor was identified.
- g) The State Fire Marshal may, at any time, remove any of the respective appointees for inefficiency or neglect of duty in office. In such instances, the State Fire Marshal shall fill the vacancy for the remainder of the unexpired term by appointing a member who is a representative of the same interests with which his or her predecessor was identified. Upon the death or incapacity of a member, the State Fire Marshal shall fill the vacancy for the remainder of the unexpired term by appointing a member who is a representative of the same interests with which his or her predecessor was identified.
- h) Appointments shall be made to geographically represent the State.
- i) As determined by the State Fire Marshal, the Committee shall meet and organize within ten days after the appointment of its members and, at that meeting, shall select a recording secretary.
- j) Meetings of the Committee shall occur as deemed necessary by the State Fire Marshal, at a date, time and place to be fixed by the Committee (or by the State Fire Marshal, should he or she call for the meeting) and at such additional times as the Committee deems necessary for the consideration of loan applications, reviews or appeals and the transaction of any other business as properly may come before it.
- k) A quorum shall be five members in attendance. Electronic attendance, as permitted by the Open Meetings Act [5 ILCS 120], may be permitted once a quorum is physically present either at the location set for the meeting or via video conference.

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Section 293.50 Application Procedure and Content

- a) Subject to the availability of funds, OSFM will post application forms for low-interest loans under this program on the OSFM website. Each application form provided shall identify the information applicants must include in their loan requests and shall require that the loan application be returned to OSFM no later than the late date specified in the application form. Applications shall be returned to the Office of the Illinois State Fire Marshal, Attention: Fire Sprinkler Dormitory Revolving Loan Program, 1035 Stevenson Drive, Springfield, Illinois 62703-4259. Applications will be reviewed as provided in this Part and subject to the funding criteria and credit review process outlined in 74 Ill. Adm. Code 1100.1017.
- b) Each loan application shall include the following components:
 - 1) A completed application form supplied by OSFM and signed by the duly authorized administrators of the post-secondary educational institution.
 - 2) Information on the dormitory or dormitories or residence hall or halls for which the loan is being sought and whether the funding is for a new fire sprinkler system or for repairs, alterations, modification or upgrades to an existing fire sprinkler system. The estimated costs associated with planning, purchasing, installing, upgrading, altering, modifying, fixing or repairing a fire sprinkler system must also be included.
 - 3) Contact information for personnel able to provide additional information if necessary.
 - 4) Policies and procedures related to the expenditures (if any), as established by the institution.
 - 5) Budget information, including copies of the three most recent audits (and/or income and expense reports) for the institution, as well as information on the source of loan repayment funds. If repayment plans are based on charitable contributions (i.e., alumni fundraisers), the applicant must provide a history of amounts raised in prior years.

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- 6) Other certifications and assurances OSFM and/or the Authority may require. Such requirements will be explicitly requested in the loan application.
 - 7) All other information as requested on the loan application form and in the program guidance section of the application.
- c) Applications received by OSFM shall be logged in as received and assigned an application number.
 - d) Applications shall be assessed by blind review, meaning the Committee shall not see the name, address or any specific information that identifies the institution. The Committee shall review and rank the applications based on information provided in the loan application and based upon system needs, financial need and how recently the applicant has received a previous loan under this program.
 - e) After the Committee's review and ranking of applications subject to the criteria in Section 293.60, loan dollar amounts will be assigned to the loan applications up to the maximum amount of funding available either for loans under this program or to the individual applicant in the then-current fiscal year. Approval of an application by the Committee shall not constitute any form of commitment or guarantee that the proposed loan will be made.
 - f) Those loan applications recommended for approval shall be forwarded to the Authority for review under its guidelines of funding criteria and creditworthiness. The Authority, after completion of its review, will promptly notify the Committee as to which loan applications it will approve.

Section 293.60 Loan Application Review Committee Criteria

- a) Institutions receiving a loan in previous loan application cycles will not be considered until all applicants who have never received a loan but are requesting a loan have been considered.
- b) The institutions will be order-ranked based on:
 - 1) system needs;
 - 2) financial need; and

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- 3) how recently the applicant has received a previous loan under this program.
- c) The Committee will review the ranked applications and assign a point value (0-5, with 5 being the greatest) based on need. Criteria for evaluating need include:
 - 1) Information on the dormitory or residence hall for which the loan is being sought.
 - 2) Whether the funding is for a new fire sprinkler system or for repairs, alterations, modification or upgrades to an existing fire sprinkler system.
- d) If the institution does not demonstrate that there is sufficient annual revenue to permit the applicant to repay the loan under the terms required, either the Committee or Authority may deny the application for lack of ability to pay.

Section 293.70 Appeal Process

- a) Institutions whose loans were denied by the Committee or the Authority shall be notified via First Class Mail by OSFM.
- b) Notice of denial shall be deemed received on the date of mailing. The institution has 30 calendar days from that date to forward to the Committee a Request for Reconsideration.
- c) The Request for Reconsideration shall be sent to the Office of the Illinois State Fire Marshal, Attention: Fire Sprinkler Dormitory Revolving Loan Program, 1035 Stevenson Drive, Springfield, Illinois 62703-4259.
- d) The Request for Reconsideration may be accompanied by supporting documents and information not previously considered by the Committee or Authority. The Committee or, if appropriate, the Authority shall review the Request for Reconsideration. A denial of the Request for Reconsideration shall be final. While a Request for Reconsideration is pending, the application that is the subject of the Request for Reconsideration shall be deemed complete for the purposes of this Part.

Section 293.80 Repayment Procedures

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- a) The maturity date of the loans shall be determined by OSFM and the Authority, but shall not exceed 20 years.
- b) The rate of interest to be charged under the program will be determined by the Authority at the time of the loan approval, at a rate lower than current market rates.
- c) Payments of principal and interest on the loan shall be made according to the schedule determined by OSFM and the Authority.
 - 1) The Authority will provide invoices to loan recipients for these payments. Checks shall be made payable to the "Illinois Finance Authority – Fire Sprinkler Dormitory Revolving Loan Fund" and mailed to the Illinois Finance Authority, Fire Sprinkler Dormitory Loan Program, Two Prudential Plaza, 180 North Stetson, Suite 2555, Chicago IL 60601.
 - 2) Payments not received within 15 calendar days after the due date shall be assessed a penalty of five percent of the payment due; however, the late payment penalty will be waived when the postmark date on the envelope used to submit the payment is five days or more before the end of the 15-day grace period.
- d) A post-secondary educational institution may prepay the balance due on the loan in its entirety, or a portion of the balance, on any scheduled payment date, provided that the post-secondary educational institution first contacts the Authority to determine the total amount of the principal and interest due at that time.

Section 293.90 Terms and Conditions of Loan Agreement

An approved loan application with OSFM and the Authority is subject to the following terms:

- a) Loan proceeds under this program shall be used exclusively for the purposes listed in Section 293.30 and shall be expended in accordance with the approved application and the applicant's policies and procedures related to the expenditures.
- b) Orders for payment will be submitted to the Office of the Comptroller by the Authority.

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- c) Loan proceeds shall be spent no later than six months following the receipt of the loan.
- d) Use of loan proceeds shall be accounted for in accordance with standard accounting practices. Loan recipients shall submit to OSFM a report detailing and accounting for how the loan proceeds were spent. This expenditure report, to be submitted on a form supplied by OSFM, shall attach invoices and other documentation necessary to prove payment and shall be due no later than nine months following receipt of the loan.
- e) In the event that the loan proceeds are not expended in the manner approved, the recipient, upon written notification from the Authority, shall be required to submit, by the next payment due date, payment of the outstanding principal and interest of the loan.
- f) Loan proceeds shall be included in the institution's budget.
- g) In the event of default that is not cured within 90 calendar days, the Authority shall notify the Office of the Comptroller to deduct the amount owed from any payments from other State agencies, and the institution shall be ineligible for additional loans until good standing has been restored. In addition, OSFM and/or the Authority may avail itself of all remedies, rights and provisions of law applicable in the circumstances, and the failure to exercise or exert any rights or remedies provided by law may not be raised as defense by the institution in default.
- h) The institution agrees to pay the Authority a processing fee of up to \$5,000, upon approval of the loan, separate from the loan proceeds, to defray the costs of the loan to the Authority.

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- 1) Heading of the Part: Campaign Financing
- 2) Code Citation: 26 Ill. Adm. Code 100
- 3) Section Number: 100.80 Adopted Action: Amendment
- 4) Statutory Authority: Implementing Article 9 and authorized by Section 9-15(3) of the Illinois Election Code [10 ILCS 5/Art.9]
- 5) Effective Date of Rulemaking: July 19, 2011
- 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 Proposal Published in Illinois Register: 35 Ill. Reg. 7297; May 6, 2011
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Changed the first 2 lines of subsection (m) to read as follows:
 - m) Inactive Status
 - 1) The provisions of this subsection apply to a business entity required to register with SBEL under Section 20-160 of the Procurement Code, that had an existing contract or had bid on a contract within the time periods set out in subsection (h), and that had a duty to maintain the accuracy of its registration. A business entity that has registered with SBEL may change its status to "inactive" provided that:

Changed subsections (m)(1), (2) and (3) to subsections (m)(1)(A), (B) and (C).

Changed subsections (n), (o) and (p) to subsections (m)(2), (3) and (4).

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- Changed subsection (q) to (n).
- 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
- 15) Summary and Purpose of Rulemaking: This rulemaking provides a mechanism for business entities that do not have existing State contracts or pending bids on State contracts to include, on their registration, the fact that they are currently inactive.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Steven S. Sandvoss
General Counsel
State Board of Elections
1020 S. Spring St.
Springfield IL 62708

217/782-0608

The full text of the Adopted Amendment begins on the next page.

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TITLE 26: ELECTIONS

CHAPTER I: STATE BOARD OF ELECTIONS

PART 100

CAMPAIGN FINANCING

Section	
100.10	Definitions
100.20	Official Forms
100.30	Forwarding of Documents (Repealed)
100.40	Vacancies in Office – Custody of Records
100.50	Multiple Filings by State and Local Committees (Repealed)
100.60	Filing Option for a Federal Political Committee
100.70	Reports of Contributions and Expenditures
100.75	Limitation on Campaign Contributions
100.80	Report Forms
100.85	Independent Expenditures
100.90	Provision Circumvention
100.100	Proof of Identification; Application for Inspection and Copying (Repealed)
100.110	Loans by One Political Committee to Another
100.120	Receipt of Campaign Contributions
100.125	Receipt by Mail of Quarterly Reports of Campaign Contributions and Expenditures
100.130	Reporting by Certain Nonprofit Organizations (Repealed)
100.140	Prohibited Contributions – State Property
100.150	Electronic Filing of Reports
100.160	Good Faith
100.170	Sponsoring Entity
100.175	Audit Findings for Political Committees
100.180	Business Entity Registration Procedures
100.185	Assessment of Civil Penalties
100.APPENDIX A	Contributions Allowed Per Election Cycle
100.TABLE A	Contribution Limits Per Election Cycle
100.TABLE B	Election Cycles

AUTHORITY: Implementing Article 9 of the Election Code [10 ILCS 5/Art. 9] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5/9-15(3)].

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SOURCE: Amended at 5 Ill. Reg. 1337, effective January 30, 1981; amended at 5 Ill. Reg. 12115, effective October 26, 1981; codified at 6 Ill. Reg. 7211; amended at 7 Ill. Reg. 225, effective December 16, 1982; amended at 14 Ill. Reg. 10824, effective June 22, 1990; amended at 16 Ill. Reg. 6982, effective April 21, 1992; amended at 18 Ill. Reg. 14707, effective September 9, 1994; amended at 21 Ill. Reg. 10044, effective July 21, 1997; emergency amendment at 23 Ill. Reg. 719, effective January 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6796, effective May 24, 1999; emergency amendment at 24 Ill. Reg. 13039, effective August 9, 2000, for a maximum of 150 days; emergency expired January 5, 2001; amended at 24 Ill. Reg. 14214, effective September 11, 2000; amended at 29 Ill. Reg. 18785, effective November 7, 2005; amended at 30 Ill. Reg. 10261, effective June 1, 2006; amended at 30 Ill. Reg. 17496, effective November 3, 2006; amended at 31 Ill. Reg. 7142, effective May 1, 2007; emergency amendment at 33 Ill. Reg. 332, effective January 1, 2009, for a maximum of 150 days; emergency expired May 30, 2009; emergency amendment at 33 Ill. Reg. 9809, effective June 29, 2009, for a maximum of 150 days; emergency expired November 25, 2009; amended at 34 Ill. Reg. 274, effective December 15, 2009; amended at 34 Ill. Reg. 10521, effective July 9, 2010; amended at 35 Ill. Reg. 2295, effective February 4, 2011; amended at 35 Ill. Reg. 12973, effective July 19, 2011.

Section 100.180 Business Entity Registration Procedures

- a) This Section and Section 100.185 are adopted to comply with Public Act 95-971, as amended by Public Act 96-848. Any business entity whose existing State contracts, whose bids and proposals on State contracts or whose bids and proposals on State contracts combined with the business entity's existing State contracts in aggregate annually total more than \$50,000 shall register with SBEL in accordance with Section 9-35 of the Election Code [10 ILCS 5/9-35]. Those business entities that wish to submit a bid or proposal on a State contract must register with SBEL prior to submitting their bid or proposal. SBEL will provide a certificate of registration upon successful completion of the registration process.
- b) Definitions
 - 1) For purposes of this Section, the terms "business entity", "contract", "State contract", "contract with a State agency", "State agency", "affiliated entity", "affiliated person", and "executive employee" shall have the meanings ascribed to those terms in Section 50-37 of the Illinois Procurement Code [30 ILCS 500/50-37] (Procurement Code).

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- 2) The term "annually", as used in Section 20-160 of the Procurement Code, when referring to the aggregation of State contracts, shall mean the calendar year in which the contracts are bid on or awarded.
 - 3) Unless otherwise indicated, any time frame involving a certain number of days shall refer to business days. Business days shall be those days in which the office of SBEL is open to the public for a minimum of 7 hours.
 - 4) The term "political committee" shall mean any political committee required to file as such under the provisions of Article 9 of the Election Code (campaign disclosure law), regardless of whether the committee has filed a Statement of Organization pursuant to Section 9-3 of the Election Code.
 - 5) The term "minor child" shall mean any affiliated person who has not attained 18 years of age as of the time of registration of the business entity with which the person is affiliated.
- c) Business entities shall register on a secure website provided by SBEL by first creating an on-line account. SBEL will verify the authenticity of that account at the time of registration.
- d) Registration Procedures
- 1) The following information must be supplied at the time of, and for the purpose of listing in, the registration:
 - A) The name and address of the business entity. The address shall be the office designated by the entity as its principal office or its headquarters.
 - B) The name and address of each affiliated entity of the business entity, including a description of the affiliation. The address shall be that of the principal office or headquarters of the affiliated entity.
 - C) The name and address of each affiliated person of the business entity, including a description of the affiliation. (Every affiliated person or persons within a business entity that is required to

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register electronically must be listed on the registration form. If there are no affiliated persons, the person whose position within the business entity comes closest to meeting the definition of affiliated person shall be listed on the registration form. The electronic registration system will not accept a blank entry where a name is required.) The name and address of a minor child who must be disclosed on the business entity's registration by virtue of the fact that such person falls under the definition of affiliated person shall not be posted on the SBEL website.

- D) The Federal Employer Identification Number (FEIN), if the business has obtained such a number. If the business does not have a FEIN, an Illinois Business Tax Number (IBT) must be provided. If the business has neither of these numbers, it must provide an identifying number unique to that business that is capable of verification by SBEL. A sole proprietorship may use a social security number as a unique identifier if it does not have a FEIN or an IBT.
- 2) Registration shall be accomplished in one of the two following methods:
- A) A web-based program through which information may be entered, saved and transmitted upon completion. Changes may be made by accessing the program, making the changes, and submitting those changes to SBEL via the program contained on SBEL's website.
 - B) A format, provided by SBEL, designed specifically for large business entities through which data may be submitted in lieu of completion of the web-based option. Though this method is geared toward larger business entities, any business entity may choose to use this method.
- e) The Board shall provide a certificate of registration to the business entity upon registration and upon any change of information submitted by the entity. The certificate shall be electronic and accessible to the business entity through the SBEL website and shall be password protected.
- 1) Any business entity required to register under Section 20-160 of the Procurement Code shall provide a copy of the registration certificate, by

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first class mail, e-mail or hand delivery within 10 days after registration, to each affiliated entity and each affiliated person listed by the registrant.

- 2) Any business entity required to register under Section 20-160 of the Procurement Code shall provide a copy of the registration certificate, by first class mail, e-mail or hand delivery within 10 days after the addition of any affiliated entity or affiliated person whose identity is required to be disclosed, to that affiliated person or entity. The delivery of the registration certificate to a minor child who is an affiliated person shall be accomplished by providing it as described in this Section to either parent or the legal guardian of the minor child. The business entity shall document in writing the date of submission of the certificate of registration to the appropriate entities and persons.
- 3) Any business entity required to register under Section 20-160 of the Procurement Code shall notify each political committee to which it makes a contribution, in writing at the time of the contribution, that the business entity is registered with SBEL under Section 20-160. The business entity shall document in writing the date of submission of the notice of registration to the appropriate political committee. A copy of the certificate of registration may serve as the required written notice.
- 4) Any affiliated entity or affiliated person of a business entity required to register under Section 20-160 of the Procurement Code shall notify each political committee to which it makes a contribution that it is affiliated with a business entity registered with SBEL under Section 20-160 and the business entity with which it is affiliated. The notification shall be in writing and shall occur at the time the contribution is made to the committee. The affiliated entities or persons shall document in writing the date of submission of the notice of registration to the appropriate political committee. A copy of the certificate of registration may serve as the required written notice.
- 5) In the determination of a complaint alleging a failure to comply with any notification requirement contained in this subsection (e), the failure of a party responsible for providing the required notification to submit written documentation of compliance shall create a rebuttable presumption of noncompliance against that party.

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- f) Pursuant to 30 ILCS 500/20-160, each bid submitted to and every contract executed by the State on or after January 1, 2009 shall contain:
- 1) A certification by the bidder or contractor that either:
 - A) the bidder or contractor is not required to register as a business entity with SBEL pursuant to this Section; or
 - B) the bidder or contractor has registered as a business entity with SBEL and acknowledges a continuing duty to update the registration; and
 - 2) A statement that the contract is voidable under Section 50-60 of the Procurement Code as a result of the bidder's or contractor's failure to comply with Section 20-160 of the Procurement Code.
- g) A business entity whose aggregate bids and proposals on State contracts annually total more than \$50,000, or whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the contract is awarded. Any change of information, including but not limited to changes in affiliated entities or affiliated persons, must be reported to SBEL within 5 business days following the change or no later than a day before the contract is awarded, whichever date is earlier (see Section 100.185(a)).
- h) A business entity whose contracts with State agencies, in the aggregate, annually total more than \$50,000 has a continuing duty to ensure that the registration is accurate for the duration of the term of office of the incumbent officeholder awarding the contract or for a period of 2 years following the expiration or termination of the contract, whichever is longer.
- 1) Any change in information, including but not limited to changes in affiliated entities or affiliated persons, shall be reported to SBEL on a quarterly basis within 10 business days following the final day of January, April, July and October of each year (see Section 100.185(c)).
 - 2) If a business entity required to register under Section 20-160(d) of the Procurement Code has a pending bid or proposal on a State contract, then

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any change in information shall be reported to SBEL within 5 business days or no later than a day before the contract is awarded, whichever date is earlier (see Section 100.185(c)).

- i) Pursuant to 30 ILCS 500/20-160, a copy of the business entity's certificate of registration must accompany any bid or proposal for a contract with a State agency by a business entity required to register. The chief procurement officer of the State agency shall not accept a bid or proposal unless:
 - 1) the certificate of registration is submitted to the agency with the bid or proposal; or
 - 2) a statement that the bidder or contractor is not required to register as a business entity with SBEL is submitted to the agency with the bid or proposal.
- j) A registration, and any changes to a registration, must include the business entity's verification of accuracy.
- k) The requirements of this Section apply regardless of the method of source selection used in awarding the contract.
- l) SBEL will keep and maintain the paper registrations filed in accordance with P.A. 95-1038 and the emergency rules enacted by SBEL in its principal office in Springfield for a period of 3 years following the creation of the electronic registration system on August 1, 2009. The public may view these paper registration submissions of business entities at SBEL's principal office in Springfield during normal business hours. Copies of registrations of business entities submitted to SBEL shall also be available for public inspection at SBEL's principal office in Springfield. The searchable database provided for in Section 9-35 of the Election Code shall be accessible to the public at all times following its creation.
- m) Inactive Status
 - 1) The provisions of this subsection apply to a business entity required to register with SBEL under Section 20-160 of the Procurement Code, that had an existing contract or had bid on a contract within the time periods set out in subsection (h), and that had a duty to maintain the accuracy of its

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registration. A business entity that has registered with SBEL may change its status to "inactive" provided that:

- A) the entity bid on a contract the value of which exceeded the \$50,000 qualifying threshold, but was not awarded that contract;
 - B) the entity had a combination of bids and contracts that exceeded the \$50,000 qualifying threshold; however, the entity was not awarded the contract and/or the two year period following the expiration of the contract has lapsed or the term of office of the officeholder responsible for awarding the contract has concluded;
or
 - C) the entity had contracts exceeding the \$50,000 qualifying threshold; however, the two year period following the expiration of the contract has lapsed or the term of office of the officeholder responsible for awarding the contract has concluded.
- 2) Nothing in this Section shall affect the duty of a business entity to update its registration when required to do so, nor remove the entity from the prohibition against making contributions to the officeholder responsible for awarding the contract.
- 3) This "inactive" designation shall be determined by the business entity. The Board shall provide a form in an electronic format accessible on the SBEL website for the entity to indicate that it is currently in inactive status. The form shall include the name and address of the entity; the contract or bid that created the obligation to register with the SBEL, as well as the agency or office that was responsible for awarding the contract, or, if the entity was not required to register with the SBEL, a designation that registration was not required; and the beginning date on which the obligation to update the entity's registration relative to each contract or bid no longer existed. The form shall be signed by the Chief Executive Officer of the business entity or his/her designee, or a person who serves in that capacity, indicating that the signatory verifies that the entity qualifies to be in inactive status based on the criteria contained in this subsection (m).
- 4) In the event a business entity that had previously declared its inactive status on the form prescribed by subsection (m)(3) submits a bid for a

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State contract whose value exceeds \$50,000, the entity shall rescind its inactive status prior to submitting a bid, shall update its registration so that the information required by Section 9-35(b)(1), (2) and (3) of the Election Code is current. In addition, the entity shall abide by the contribution prohibitions contained in Section 50-37(b) and (c) of the Procurement Code. The rescinding of an entity's inactive status shall be on an electronic form accessible on the SBEL website.

- n) The complaint provisions contained in Sections 9-20 through 9-22 of the Election Code shall apply to complaints filed alleging a violation of this Section.

(Source: Amended at 35 Ill. Reg. 12973, effective July 19, 2011)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of July 19, 2011 through July 25, 2011 and have been scheduled for review by the Committee at its August 16, 2011 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
9/2/11	<u>Department of State Police</u> , Forensic Training (20 Ill. Adm. Code 1299)	6/3/11 35 Ill. Reg. 8409	8/16/11
9/3/11	<u>Department of Financial and Professional Regulation</u> , Licensing and Regulation of Pawnbrokers (38 Ill. Adm. Code 360)	12/27/10 34 Ill. Reg. 19808	8/16/11
9/4/11	<u>Illinois Racing Board</u> , Ownership, Partnership, and Stable Name (11 Ill. Adm. Code 1409)	6/3/11 35 Ill. Reg. 8378	8/16/11
9/7/11	<u>Pollution Control Board</u> , Nitrogen Oxides Emissions (35 Ill. Adm. Code 217)	4/22/11 35 Ill. Reg. 6770	8/16/11
9/7/11	<u>Department of Financial and Professional Regulation</u> , The Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985 (68 Ill. Adm. Code 1175)	4/22/11 35 Ill. Reg. 6626	8/16/11

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the Illinois Register:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue Sales and Miscellaneous Tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 2011. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

C.O.A.D.	Gross Receipts
Computer Software	Hotel Operators' Tax
Construction Contractors	Leasing
Drugs	Local Taxes
Enterprise Zones	Manufacturing Machinery &
Exempt Organizations	Equipment
Food	Miscellaneous
Gas Use Tax	Sale for Resale
Governmental Bodies	Service Occupation Tax
Graphic Arts	Trade-Ins

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

Use Tax

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Marie Keeney
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-2844

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

C.O.A.D.

ST 11-0030-GIL 04/08/2011 In general, machines that allow players to accumulate credits that may be redeemed for gift cards that the players can use to receive property do not meet the definition of a coin-operated amusement device subject to tax under the Coin-Operated Amusement Device and Redemption Machine Tax Act. See 35 ILCS 510/1 *et seq.* and the corresponding regulations at 86 Ill. Adm. Code 460.101 *et seq.*

COMPUTER SOFTWARE

ST 11-0041-GIL 05/26/2011 This letter concerns computer software maintenance agreements. See 86 Ill. Adm. Code 130.1935.

ST 11-0042-GIL 05/26/2011 This letter concerns computer software maintenance agreements. See 86 Ill. Adm. Code 130.1935.

CONSTRUCTION CONTRACTORS

ST 11-0006-PLR 05/18/2011 Construction contractors who physically incorporate tangible personal property into real estate owned by exempt organizations or governmental entities that hold tax exempt "E" numbers can purchase such property tax free by providing their suppliers with the certification described in 86 Ill. Adm. Code 130.2075(d). See 86 Ill. Adm. Code Section 130.2075.

ST 11-0024-GIL 04/01/2011 When a construction contractor permanently affixes tangible personal property to real property, the contractor is deemed the end user of that tangible personal property. As the end user, the contractor incurs Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 130.1940 and 86 Ill. Adm. Code 130.2075.

ST 11-0026-GIL 04/05/2011 When a construction contractor permanently affixes tangible personal property to real property, the contractor is deemed the end user of that tangible personal property. As the end user, the contractor incurs Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 130.1940 and 86 Ill. Adm. Code 130.2075.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

DRUGS

ST 11-0005-PLR 04/15/2011 This letter concerns the low 1% State rate of tax applicable to drugs, medicines and medical appliances. See, 86 Ill. Adm. Code 130.311.

ENTERPRISE ZONES

ST 11-0031-GIL 04/15/2011 The enterprise zone building materials exemption conferred at 35 ILCS 120/5k is explained in Section 130.1951 of the Department's regulations. See 86 Ill. Adm. Code 130.1951.

EXEMPT ORGANIZATIONS

ST 11-0039-GIL 05/26/2011 Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable, receive an exemption identification "E" number. See 86 Ill. Adm. Code 130.2007.

ST 11-0043-GIL 05/27/2011 Governmental bodies incur Retailers Occupation Tax liability when selling tangible personal property to the public for use or consumption. The only exception is the sale of an item by a governmental body in the performance of its governmental function. See 86 Ill. Adm. Code 130.2055.

ST 11-0051-GIL 06/22/2011 Organizations possessing "E" numbers issued by the Department are exempt on purchases used in furtherance of their organizational purposes. See 86 Ill. Adm. Code 130.2007.

FOOD

ST 11-0008-PLR 05/25/2011 This letter sets out the applicable tax rates for sales of different type of foods. See 86 Ill. Adm. Code 130.310.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 11-0037-GIL 05/24/2011 This letter concerns the 6.25% State rate of tax applicable to soft drinks. 86 Ill. Adm. 130.310.

GAS USE TAX

ST 11-0027-GIL 04/06/2011 This letter discusses the exemption under the Gas Use Tax Law for business enterprises located in enterprise zones certified by the Department of Commerce and Economic Opportunity. See 35 ILCS 173/5-50.

GOVERNMENTAL BODIES

ST 11-0033-GIL 05/11/2011 Any governmental body in Illinois, or any agency or instrumentality of any such governmental body, incurs Retailers' Occupation Tax liability when it engages in the selling of tangible personal property at retail to the public other than in the performance of a governmental function. See 86 Ill. Adm. Code 130.2055(a).

GRAPHIC ARTS

ST 11-0048-GIL 06/22/2011 This letter discusses the Graphic Arts Machinery and Equipment Exemption. See 86 Ill. Adm. Code 130.325 and 130.2000.

ST 11-0049-GIL 06/22/2011 The graphic arts machinery and equipment exemption does not include consumable supplies. See Section 130.325(b)(2).

ST 11-0050-GIL 06/22/2011 The graphic arts machinery and equipment exemption does not include consumable supplies. See Section 130.325(b)(2).

GROSS RECEIPTS

ST 11-0029-GIL 04/08/2011 This letter discusses whether layaway service charges/handling charges constitute taxable gross receipts. See 86 Ill. Adm. Code 130.430.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

HOTEL OPERATORS' TAX

ST 11-0036-GIL 05/23/2011 This letter explains the application of the Hotel Operators' Occupation Tax when rentals are made to persons holding "E" numbers.

LEASING

ST 11-0044-GIL 05/31/2011 This letter references the limited exemptions for leasing tangible personal property to certain exempt entities. See 86 Ill. Adm. Code 130.2011 and 130.2012.

Local Taxes

ST 11-0034-GIL 05/11/2011 Non-home Rule Municipal Retailers' Occupation Tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics See 86 Ill. Adm. Code 693.101(a).

MANUFACTURING MACHINERY & EQUIPMENT

ST 11-0021-GIL 04/01/2011 Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption extends to machinery and equipment that is used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330.

ST 11-0038-GIL 05/26/2011 This letter describes the Manufacturing Machinery and Equipment Exemption and the Manufacturer's Purchase Credit. See 86 Ill. Adm. Code 130.330 and 130.331.

MISCELLANEOUS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

- ST 11-0022-GIL 04/01/2011 This letter discusses sales tax liabilities in lease situations and other issues. See 86 Ill. Adm. Code 130.220 and 130.2010.
- ST 11-0035-GIL 05/13/2011 Music or video that is electronically downloaded is not considered the transfer of tangible personal property in this State. See 86 Ill. Adm. Code 130.2105.
- ST 11-0045-GIL 06/20/2011 Information or data that is electronically downloaded is not considered the transfer of tangible personal property in this State. See 86 Ill. Adm. Code 120.2105.
- ST 11-0046-GIL 06/22/2011 This letter discusses the sales of cellular telephones when they are sold. 86 Ill. Adm. Code 130.101.
- ST 11-0052-GIL 06/30/2011 If no tangible personal property is transferred to customers, then no Illinois Retailers' Occupation Tax, Use Tax, Service Occupation Tax Act, or Service Use Tax liability would be incurred on the sales to those customers. See 86 Ill. Adm. Code 130.301.

SALE FOR RESALE

- ST 11-0040-GIL 05/26/2011 This letter addresses sales for resale. See 86 Ill. Adm. Code 130.1405.

SERVICE OCCUPATION TAX

- ST 11-0023-GIL 04/01/2011 The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based on the tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.
- ST 11-0047-GIL 06/22/2011 This letter concerns tax imposed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

TELECOMMUNICATIONS EXCISE TAX

ST 11-0007-PLR 05/18/2011 For purposes of the Telecommunications Excise Tax, “telecommunications” does not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. See 35 ILCS 630/5-7 and 86 Ill. Adm. Code 495.100(d).

ST 11-0028-GIL 04/06/2011 The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 35 ILCS 630/1 *et seq.*

TRADE-INS

ST 11-0025-GIL 04/01/2011 This letter discusses trade-ins of motor vehicles. See 86 Ill. Adm. Code 130.455.

USE TAX

ST 11-0032-GIL 05/10/2011 A person who purchases tangible personal property for the purpose of giving it away makes a taxable use of the property and incurs Use Tax upon such purchase. See 86 Ill. Adm. Code 150.305.

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 35, Issue 32 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

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